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**Annex to the report from the Commission to the European Parliament on the follow-up
to 2006 Discharge procedure**

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INTRODUCTION

This Working Document completes the Report from the Commission to the Parliament on the Follow-up to 2006 Discharge Decisions {COM(2008)629 final}. It presents in detail the answers to the 208 specific recommendations made by the European Parliament in the comments accompanying its Resolutions on the 2006 Discharges¹.

¹ For each specific recommendation a reference is given to the relevant Parliament document. The references for recommendations 1-190 are all for the 2006 General Budget Discharge.

European Parliament resolutions on 2006 discharge

Main conclusions on national management declarations

1. The European Parliament expects that the Commission and the Member States will ensure that the national summaries fully respect the purposes and spirit of point 44 of the Interinstitutional agreement (IIA). (§ 4)

Commission's response:

The recommended action has been taken. For the 2007 summaries, the Commission has verified that Member States comply with the regulatory requirements and has taken appropriate action in cases of non-compliance. The Commission will present a revised guidance note to Member States with recommendations to improve the quality of their annual summaries for 2008.

2. The European Parliament expects the Commission to insert a new action point on promoting national management declarations as part of the Commission's review and follow-up to the action plan towards an integrated internal control framework. The Commission must react to fulfil important requests made in Parliament's resolution accompanying the discharge decision in respect of the financial year 2005, which is not the case in the field of national declarations, where Parliament asked the Commission to submit to the Council before the end of 2007 a proposal for a national management declaration covering all Community funds under shared management. (§§ 4 and 5)

Commission's response:

The Commission's action plan has been completed and the services are now implementing the actions, so no actions can be added or subtracted from the plan. The Commission will review the implementation for the second year in early 2009.

In line with Action 8 of the action plan, the Commission supports the Member States which decide to issue a national declaration on a voluntary basis through the provision of financial reports from its accounting system and by responding to information requests from national authorities. The Commission notes that at present, there is no legal obligation for Member States to provide national declarations, which were not supported by the Council in November 2005. The Commission also points out that the content and coverage of the national declarations currently produced (and the nature of the declarations themselves) differ between Member States.

In the Inter-Institutional Agreement (paragraph 44), the three institutions agreed that Member States should be required to produce annual summaries of available audits and declarations. This provision was included in the revised Financial Regulation and the summaries were due for the first time in February 2008. The Commission is focussing its attention on rigorous implementation of the provisions for "annual summaries". Overall the outcome of the first round of annual summaries has been positive and the Commission considers this a success that it can build on to make further progress. The formal submission of summaries by a central body reinforces the accountability of Member States for their use of funds. The Commission services responsible will provide feedback and guidance to

Member States aimed at improving the quality of the summaries for the next round and enhancing their contribution to the internal control framework for Community programmes.

3. The Commission must present complete and reliable figures for recoveries, specifying the exact budget line and year to which the recovery relates; any other presentation makes serious control impossible; as the Commission to a large extent has to obtain this information from the Member States, for this purpose, Parliament for the last three years has proposed the introduction of national management declarations in order to put the Commission in a position where it is able to present the missing information and fill the transparency gap. (§ 6)

Commission's response:

The Commission will be taking the recommended action.

The Commission will make all necessary efforts to demonstrate the effectiveness of its controls. Its accounting system is being revamped to allow, from 2008, full reporting on the correction of errors by the Commission, including those relating to payments of earlier years, and to provide fuller information on the Commission's capacity to recover funds on a multi-annual basis.

Concerning Structural Funds the Commission is overcoming the previous difficulties in collecting reliable information on financial corrections and recoveries. It is committed to quarterly reporting of that information to Parliament. The annual accounts provide information on recoveries.

As far as agriculture is concerned, the Commission decisions imposing financial corrections on the Member States for expenditure not effected in compliance with Community law include references to the budget lines and financial years concerned.

The Commission supports the Member States which decide to issue, on a voluntary basis, national declaration but emphasizes that this is a decision for individual Member States and at present, however, there is no legal obligation for Member States to provide national declarations.

Main conclusions on Structural Funds

4. With regard to annual summaries, keep Parliament fully informed of all legal actions brought against, and failures to comply by, Member States and communicate final assessments in the annual activity reports of the different Directorates-General. (§§ 9 and 44)

Commission's response:

The recommended action has been taken. The Commission informed Parliament of the initial results of the submission of annual summaries on 22 February 2008 and provided a detailed analysis on 25 March and in the Annual Activity Reports of the Directorates General for Regional Policy and Employment. The Commission provided Parliament with a further update on 21 April, and at the meeting of the Budgetary Control Committee on 15 July informed Parliament of the infringement proceedings being brought against Germany.

5. Correct all individual errors found in the Court of Auditors' Annual Report, and in particular make 100% corrections in all cases of serious breach of public procurement procedures and apply flat rate or extrapolated financial corrections whenever it finds systemic tendering problems. Present objective, clear and full information on the Commission's capacity to recover unduly paid amounts. (§§ 10 and 11)

Commission's response:

The Commission is taking the recommended action. The follow-up of the error findings of the Court has been incorporated into the Action Plan. In line with its guidelines on financial corrections for public procurement irregularities, the Commission will make 100% corrections for serious breaches of the public procurement rules such as failure to advertise contracts subject to mandatory EU-wide tendering and will apply flat-rate or extrapolated corrections where justified. The Commission publishes information on financial corrections and recoveries as a result of its own or Court of Auditors' audits in its annual accounts and is now providing such reports to Parliament on a quarterly basis under commitments given during the 2006 discharge procedure. It has also explained the terminology used in the area of financial corrections and standardised its reporting accordingly.

6. Apply a policy of suspending payments as soon as possible following detection of serious weaknesses in the system. (§ 12)

Commission's response:

The recommended action has been taken. The Commission has taken steps to speed up the procedure leading to decisions to suspend payments and apply financial corrections.

7. Establish quarterly reports on corrections and recoveries which are to be audited by the Court of Auditors, including the establishment of a system and a reporting

scheme allowing recoveries made ex post to be linked to the year when the actual funding was allocated; in time for the 2007 discharge procedure this should give a good overview of the state of play in this field. The new reporting scheme on recoveries and financial corrections must be developed in close cooperation with the European Court of Auditors, and a detailed timetable for the development and application of this new scheme should be presented. (§§ 13 and 14 b))

Commission's response:

The Commission is taking the recommended action. It is now providing quarterly reports on corrections and recoveries to Parliament. These reports are open to audit by the Court of Auditors. For Structural Funds it is not possible to establish a systematic link between financial corrections applied and specific years when the reimbursements were made by the Commission, because reimbursements are not made for individual projects but for aggregate programme expenditure. Nevertheless, the Commission can and does ensure that the whole period for which the risk of irregularity arose is covered by the financial corrections applied, both in the case of corrections for individual projects and flat-rate corrections for system deficiencies.

8. Present a scoreboard and a final date for the implementation of the action plan to strengthen the Commission's supervisory role under shared management of structural actions. (§ 13)

Commission's response:

The Commission is taking the recommended action. The quarterly reports on the implementation of the Action Plan provide precise information on the progress of each action by reference to the deadlines for completion which are indicated in the Action Plan. A final report will be established in January 2009.

9. As part of the implementation of the action plan to strengthen the Commission's supervisory role under shared management of structural actions, improve audits, decide on and apply the necessary suspension and correction procedures and improve recoveries, and present quarterly reports on the implementation thereof. (§ 14 a))

Commission's response:

The Commission is taking the recommended action. Reference is made to the detailed quarterly reports made to Parliament on the implementation of the Action Plan.

10. Present an action plan with detailed measures on how to prevent extreme errors from occurring. (§ 14 c))

Commission's response:

The Commission is taking the recommended action. The Action Plan to strengthen the supervisory role of the Commission in structural actions contains a wide range of preventive activities. They include guidance and training targeted at the most frequent and serious types of errors, such as failure to comply with tendering

requirements or to reduce the level of grant in relation to the revenue generated by the project. The Commission is also assessing the preventability of errors as part of the work on the costs and benefits of controls and residual risk under action 10 of the Action Plan towards an Integrated Internal Control Framework; it will issue a communication on this subject in autumn 2008. In the legislation for the 2007-13 period, the focus on prevention is increased, with, for example, requirements to inform beneficiaries of funding conditions and to verify their management capacity, and to carry out an ex ante compliance assessment of management and control systems.

11. As regards structural actions, where irregularities are detected, corrective action, including the suspension of payments and the recovery of undue or erroneous payments, should be taken, and the Commission should report to Parliament at least twice a year on the measures it takes in this respect. (§ 15)

Commission's response:

The Commission is taking the recommended action. It is reporting on all its activities in these areas every quarter under the Action Plan to strengthen its supervisory role in the shared management of structural actions.

Main conclusions on External actions

12. The European Parliament invites the Commission to cooperate closely with it in the revision of the Financial and Administrative Framework Agreement between the European Community and the United Nations (FAFA). (§ 17)

Commission's response:

A letter was sent on 6 May to inform the Parliament of the outcome of the 5th FAFA meeting in Vienna on 10-11 April. The Commission will inform the Parliament on improvements in the operation of the FAFA in the future.

13. The European Parliament calls on the Commission to:
- a) provide it with regular information on EU financing of multi-donor trust funds, both on its own initiative and at Parliament's request;
 - b) present measures on how to improve the visibility of EU funds when implementing external aid via other organisations;
 - c) present measures aimed at allowing better access for EU auditors (ECA, Commission or private audit firms) to carry out audits of projects under joint management, especially joint management with the UN.

The European Parliament expects to receive annual reports on budget implementation contracts, an annual list of projects and their location and lists of final beneficiaries; considers that its rapporteur for the discharge should have access to information declared confidential for security reasons; welcomes the Commission's commitment to re-negotiate relevant agreements on trust funds with the UN in order to achieve joint reporting guidelines and disclosure of final beneficiaries; welcomes the Commission's commitment to organise annual meetings between Parliament and senior UN staff responsible for the management of multi-donor trust funds, and is of the opinion that this would provide a framework for the provision by the UN of additional information regarding EU funds. (§§ 20-21, 210)

Commission's response:

The Commission will provide information on multi-donor trust funds annually and at Parliament's request. For Iraq and Afghanistan, the Commission provides periodic states of play and websites are available (see the Commission's response to recommendation no. 106 below). EC-UN Joint Visibility Guidelines were adopted at the 5th FAFA working group meeting (10-11 April 2008). Access for EU representatives to carry out verification missions for projects under joint management was confirmed during the same meeting. Common Terms of Reference (ToR) for verifications are being developed by EC / UN, which aim at facilitating the performance of such verification missions.

Information on beneficiaries of funding through international organisations is published on the EuropeAid website. Full lists of 2007 contracts signed with the UN and the World Bank are available at:

http://ec.europa.eu/europeaid/who/partners/international-organisations/index_en.htm.

Statement of Assurance

14. Address weaknesses in the accounting systems of certain Directorates-General, which still endanger the quality of financial information (in particular for cut-off and employee benefits) and lead to a number of corrections after the presentation of the provisional accounts (§§ 24 and 26)

Commission's response:

The recommendation has been taken. The Commission has continued to improve its accounting practices through efforts such as the Accounting Quality Project, in particular concerning the cut-off exercise. Concerning employee benefits, the issue raised by the Court in 2006 was the absence of a liability in the accounts in relation to obligations towards certain Members of Parliament. For the 2007 accounts the Parliament have now included such a liability in their accounts thus addressing the Court's criticism.

15. Financial documents should be made available to members of the Committee on Budgetary Control in all the official languages of the European Union. (§ 25)

Commission's response:

The annual budget, the key legal texts concerning budget implementation, control and audit, the final annual accounts of the European Communities (being the consolidated financial statements and consolidated reports on implementation of the budget) and the Commission's summary reports on the follow-up to Parliament discharge given for previous financial years are published in all EU official languages.

Due to translation capacity and time constraints set out in the Treaties and the financial rules, the Commission cannot commit itself to translating into all EU languages all the information transmitted to Parliament and Council as part of the budgetary and discharge procedures.

16. Provide the budgetary authority with six-monthly reports on the management of pre-financing operations, as requested in Parliament's resolution accompanying the discharge decision in respect of the financial year 2005 and promised in the follow-up report to the 2005 discharge. (§ 27)

Commission's response:

The recommendation has been taken. On 30 April 2008 the Commission provided the COCOBU with the required report on pre-financing as at 31 December 2007.

17. Address together with the Member States the weaknesses found in the operation of supervisory and control systems and in the reservations on the assurances provided by the Directors-General, in particular as regards the legality and regularity of underlying transactions. (§ 30)

Commission's response:

The Commission will be taking the recommended action.

The Commission acknowledges that further efforts are needed to resolve a number of weaknesses, in particular those highlighted in the reservations of the delegated authorising officers, and in relation to budget areas that were not considered satisfactory by the European Court of Auditors.

The Commission will take vigorous action to address the causes of reservations in the 2007 Annual Activity Reports and will closely monitor progress.

Budgetary management

18. The European Parliament stresses that the Commission should ensure an effective winding-up procedure [concerning the 2000-2006 programme period for the Structural Funds] and emphasises the important role that Member States have in this. (§§ 37-39, 127, 129)

Commission's response:

The Commission is taking the recommended action. It is carrying out audits of winding-up bodies to ensure that their preparations for closure are adequate. In addition, it is raising awareness of the closure guidelines, issued in 2006, and finalising internal procedures. Parliament is referred to points 3.1 to 3.3 of the Action Plan to strengthen the Commission's supervision of structural actions. After closures, the Commission will carry out audits to verify the level of residual error, and if necessary will apply further financial corrections.

19. The European Parliament regrets the fact that the spending rate for the Cohesion Fund, ERDF and ESF was less than expected in the new Member States and linked to difficulties encountered by those Member States in absorbing expenditure; asks the Commission to give a more detailed explanation for lower than nationally forecast spending on structural operations. (§ 40)

Commission's response:

The recommended action has been taken. For Structural Funds, payments to EU-10 Member States in 2007 caught up with those in EU-15 countries at the corresponding point in the programme cycle (see Commission: Analysis of the budgetary implementation of the Structural and Cohesion Funds in 2007, May 2008, p. 14). For the Cohesion Fund, payments in 2007 were still somewhat below forecasts in certain Member States, and at the end of 2007 outstanding commitments overall stood at approximately three years' of payments (see Annual Report on the Cohesion Fund). However, most Cohesion Fund projects can incur expenditure until the end of 2010.

National management declarations and point 44 of the IIA

20. Present the advantages in terms of control relations between the Commission and those Member States that have adopted a national declaration on the management of Community funds, and report on a regular basis to the EP Committee on Budgetary Control on progress made in this respect. (§ 43)

Commission's response:

The Commission will be taking the recommended action.

The Commission supports the Member States which decide to issue, on a voluntary basis, national declarations but emphasizes that this is a decision for individual Member States and at present, however, there is no legal obligation for Member States to provide national declarations.

21. Draw up, before the first reading of the 2009 budget, a document analysing the strengths and weaknesses of each Member State's national system for the administration and control of Community funds and the results of the audits carried out, and forward that document to Parliament and Council. Report also on the quality of the annual summaries and ensure that value is added to the process by such means as the identification of common problems, possible solutions and best practices. (§ 44)

Commission's response:

The recommended action has been taken. The Commission has provided assessments of the effectiveness of Member States' systems for managing the Structural and Cohesion Funds, the results of audits carried out, and the corrective measures being taken, in the Annual Activity Reports of the Directorates General concerned. It is reporting to Parliament on a quarterly basis on its audit work, the progress of action plans, and payment suspension and financial correction procedures, under the Action Plan of 19 February 2008. The Commission has provided Parliament with its analysis of the annual summaries submitted for 2007. It will present a revised guidance note to Member States with recommendations to improve the quality of their annual summaries for 2008.

22. Encourage all Member States to participate in the work of the Contact Committee Working Group responsible for developing common auditing standards and comparable audit criteria tailored for the EU. (§ 45)

Commission's response:

The Commission welcomes the work by the Contact Committee. Under Action 8 of the action plan towards an integrated internal control framework, the Commission is providing payment data to Supreme Audit Institutions to assist their audit work related to EU funds, and is encouraging the Member States to use this work.

Governance

23. Address the lack of the solidity of the basis on which the Commission claims to discharge its political responsibility by means of its synthesis report, whereas the Commission lacks full insight into 80% of funds under shared management and the quality of annual activity reports varies; the source of this lack of insight is two-fold: on the one hand insufficient monitoring and supervision by the Commission, and on the other an absence of concrete solutions and accountability at Member State level. (§ 46)

Commission's response:

The Commission will be taking the recommended action.

The Commission has insight on funds whose management is shared with the Member States. The governance architecture is indeed clear on the share of responsibilities: the Member States have the primary responsibility to take all measures necessary to ensure that the funds are used in accordance with the applicable rules including the setting-up of efficient control mechanisms. The Commission must supervise the whole system and verify that the Member States are carrying out the tasks entrusted to them correctly. Where it concludes that this is not the case, it must use the available mechanisms to suspend payments and apply financial corrections. The Commission is making the necessary checks and taking the appropriate measures so that it can fully assume its responsibility for the management of EU funds. There are however areas for improvement, both for the Commission and for the Member States. In February 2008, the Commission adopted an action plan aimed at further strengthening its supervisory role under shared management of structural actions (COM(2008) 97). The Commission is providing the European Parliament with quarterly reports on the implementation of the action plan, including information on corrections and recoveries imposed by the Commission. In addition, the Commission will provide a progress report on their action plan in October 2008 and a final report in January 2009.

24. Strengthen the collective responsibility of the majority of Member States concerning financial management in the European Union. (§ 47)

Commission's response:

The Commission is taking the recommended action. It is insisting that Member States meet their obligations towards the European Union with regard to the proper management of EU funds and their reporting on that management and is prepared to take corrective measures such as suspension of payments, financial corrections or infringement proceedings when they fail to match up to their responsibilities.

25. As the increased responsibility of Directors-General has not been accompanied by the taking of direct (and not only political) responsibility by Members of the Commission, present proposals to remedy this situation, which is in contravention of Article 274 of the Treaty.

The Director-General of Directorate-General Budget should give a formal opinion on the quality and efficiency of the internal control system. The Secretary-General of the Commission should give a formal statement of assurance as regards the quality of the individual declarations from the Directors-General. The internal auditor of the Commission should assess the Secretary-General's statement of assurance in the form of an audit opinion. A Commission-wide annual institutional statement of assurance should be presented by the President of the Commission to Parliament's Committee on Budgetary Control. (§ 47, 51, 53 and 57)

Commission's response:

The Commission's governance model respects the provisions of Articles 211-219 and 274 of the Treaty and those of the Financial Regulation adopted unanimously by Member States in Council after consultation of the European Parliament (EC Treaty Article 279) and concertation under the 1975 Joint Declaration on acts with important financial implications. The Governance Statement of the Commission, available on the Europa website, describes clearly the way the Commission and its services function, and in particular the responsibility and accountability mechanisms. Directors-General and Heads of Service are assigned management responsibility for the resources that each are allocated by the budgetary authority. Each prepares an end-of-year report and declaration giving assurance on the use of the resources, if necessary with reservations (annual activity report and declaration).

A Synthesis Report is drawn up on the basis of these annual activity reports. The Commission as a college assumes "responsibility for the implementation of the budget as provided for in the Treaty" (Article 274) when adopting the Synthesis report on the Commission's management achievements taking account also of the annual report on the political achievements. The Commission exercises its political responsibility by analysing the services' annual activity reports and their declarations and by adopting a position on major horizontal issues including appropriate actions for issues requiring remedy at Commission level.

Under this governance structure the Director-General for Budget has no competence for giving an opinion on the quality and the efficiency of the internal control systems in the Commission's Services as a whole. As all his counterparts he makes a declaration of assurance on the controls concerning funds implemented directly by the Directorate General.

Nor is the role of the Secretary-General to produce formal declarations of assurance concerning all the Directorates-General's Annual Activity Reports. Such a declaration would make the lines of responsibility less clear as it would blur the responsibilities of Directors-General and lead to potential interference between the central services and the operational services, because of the duplication.

The Directors-General are best equipped to certify the operational management of funds and actions coming under their direct area of competence and responsibility.

The IAS' Charter adopted by the Commission on 24 January 2008 specifies that starting no later than for 2009 the IAS should issue an overall opinion on the state of control in the Commission.

26. Ensure the proper position of staff working in accounting and control functions vis-à-vis their management, their empowerment to enforce action, their skills and their training. (§ 50)

Commission's response:

In the reform launched in 2000, the Commission established a new governance framework, fully empowering authorising officers by delegation and specifying the control and accountability structures to be put in place to facilitate sound management. The revised Financial Regulation constitutes the legal basis for such decentralised financial and accountability arrangements and defines the responsibilities of each financial actor.

27. Ensure the introduction of compulsory functional reporting lines - open communication between the same groups of professional specialist staff in different Directorates-General, such as, for example, IT staff, internal control staff, internal audit staff and accountants - in a silo organisation such as the Commission as soon as possible and report to the EP Committee on Budgetary Control thereon no later than September 2008. (§ 54)

Commission's response:

The Commission has taken the recommended action.

The Commission's governance structure is based on the full responsibility of the directors general, often in their capacity of authorising officer, for the activities of their directorate general, with adequate delegation instruments and with appropriate reporting to the political level. Beyond the traditional hierarchical lines of command, more flexible organisational forms (such as functional reporting lines, matrix-like organisation, shared services e.g. on the basis of Service Level Agreements) have been introduced or developed in the Commission Communication on Organisation Charts of Commission Directorates-General and Services (SEC(2006)1702).

Informal functional collaborative arrangements and mechanisms for open communication between specialist staff are implemented through a number of networks already in place in several domains like the budget, human resources management, internal audit, IT, internal control, ex post control, accounting, document management, internal and external communication, business continuity, etc.

28. Upgrade the accounting officer to the same grade as the accounting officer's operational counterparts. (§ 55)

Commission's response:

The post of the accounting officer of the Commission is classified under grades AD15/AD16 which are the higher grades senior officials can access , and which are also the grades conferred to authorising officers by delegations (see Annex I of the Staff Regulation in OJ P 45 of 14.6.1962).

29. Change the composition of the Audit Progress Committee (APC) so that the number of external members is the same as the number of the Members of the Commission, and nominate one of the external members of the Audit Progress Committee as its chairman. (§ 56)

Commission's response:

The composition of the Audit Progress Committed (APC) was changed in 2007. The APC agreed at its meeting of 4 May 2007 that it would be both desirable and practical to extend the membership. With the full support of the two external APC Members the Committee proposed to the College to nominate two additional Commissioner Members, increasing the Committee's membership from seven to nine. The College endorsed this enlargement clearly demonstrating its political desire and strong commitment to the good functioning of its governance structure.

The Commission's internal control system

30. Actions 1, 3, 3N, 5, 8 and 13 of the Action Plan towards an Integrated Internal Control framework are to be completed; so far there is a lack of supporting documents or statements justifying the reality of such completion. (§ 59)

Commission's response:

The recommended action has been taken.

The progress report measures the extent to which the framework has been put in place as described in the original Action Plan. This is why additional impact indicators have been given. The indicators also take into account the timescale of the plan, which sought to emphasise tangible improvements in existing systems as identified by the Commission's Gap Assessment of 2005. The Commission will report progress annually on the basis of the impact indicators.

Action 1

This action was targeted on the legislation for the 2007-13 period. As recognised by the Commission, this legislation was well-advanced by the time the Action Plan was adopted. The action has been treated as completed because the 2007-13 legislation is now closed. However services have issued clarifying guidance on the legal provisions and under action 14 the structural funds Directorates-General will produce further guidance notes in 2008. The Commission has committed itself to ensure its future legislative proposals include clear and straightforward rules, but this longer term work is outside the immediate scope of the Action Plan.

Action 3

The Commission is of the view that the sources of assurance are now presented in a harmonised fashion across policy 'families' via the use of Internal Control Templates, which were compulsory for the 2007 Annual Activity Reports, and that the assessment of completion is therefore justified.

Action 3N

Reservations to global assurance and greater correspondence (including as a result of the Structural Funds Action Plan) between evaluation of irregularities and corrections and suspensions is now ensured. Ongoing improvement in the impact of such measures is expected, but at the level of establishing the framework the Commission considers the action to be complete.

Action 5 & 8

In both of these actions, the Commission depends on the cooperation and support of bodies in the Member States. The annual summaries of available audits and declarations, required for the first time for 15 February 2008, are a considerable step forward and meet the target specified in Action 5 of promoting "operational management declarations and synthesis reports at the national level". Regarding action 8, the supreme audit institutions are independent and the Commission's role

is limited to facilitating cooperation and providing data. Based on the cooperation with the Slovenian and German supreme audit institutions, wider contacts with other supreme audit institutions and on the continuing interest shown by the Contact Committee of European Supreme Audit Institutions, the Commission considers that this objective has been achieved and the basis laid for future fruitful collaboration.

Action 13

The original assessment of existing Member State statements and declarations as specified in the Action Plan was provided in the 2006 and 2007 Annual Activity Reports of the Structural Funds Directorates-General. With the provision from 2008 of annual summaries, such analysis and assessment will be an ongoing part of the management and reporting processes of the Structural Funds Directorates-General. The action is therefore considered closed.

31. Use every available tool at disposal to implement Actions 1, 3, 3N, 5, 10, 10N, 11, 11N, 13 and 15 of the Action Plan towards an Integrated Internal Control System as soon as possible. (§ 61)

Commission's response:

The Commission will be taking the recommended action.

The Commission presented in February 2008 a progress report on the Commission Action Plan towards an integrated internal control framework (COM(2008)110) and concluded that most of the "gaps" have been filled. Work will be completed in 2008 and the first impact report will be issued in early 2009.

32. The next half-yearly scoreboard on the implementation of the action Plan towards an Integrated Internal Control Framework should reach Parliament by 1 January 2009 for use in the discharge procedure in respect of the financial year 2007. (§ 62)

Commission's response:

The Commission will be taking the recommended action.

The Commission presented in February 2008 a progress report on the Commission Action plan towards an integrated internal control framework (COM(2008)110) and concluded that most of the "gaps" have been filled. Work will be completed in 2008 and the first impact report will be issued in early 2009.

33. Provide information about the cost-benefit analysis of the control system for EU funds, as requested in the resolution accompanying the 2005 decision on discharge. (§ 63)

Commission's response:

The Commission will be taking the recommended action.

The Commission is completing the assessment of the costs of control in agriculture, the ERDF and direct centralised management. The results will form the basis of a communication by the Commission in autumn 2008 aimed at re-launching the inter-institutional discussion on tolerable risk.

Synthesis Report

34. The European Parliament finds it unacceptable that the Commission [in the Synthesis Report] reduces the European Court of Auditors' audit results, which are based on widely accepted international audit standards, to "differences of opinion on the typology and impact of error and on the evaluation of systems deficiencies, and partly the different perceptions regarding the operation of financial correction mechanisms" (page 2, last paragraph of the 2006 Synthesis). (§ 64)

Commission's response:

The full text reads "In some cases a difference exists between the European Court of Auditors' assessment of the assurance to be drawn from control systems and the assurance given by the responsible Directors General. This reflects partly differences of opinion on the typology and impact of error and on the evaluation of systems deficiencies, and partly the different perceptions regarding the operation of financial correction mechanisms, in particular the fact that the responsible Commission services apply a multi-annual system under which errors in one year may be detected and corrected in subsequent years, whereas the Treaty requires the Court to give an annual opinion".

It is for this reason that "in all instances where there is a difference between the European Court of Auditors' opinion and that of the Director-General, the latter will have to explain it in his/her next year's Annual Activity Report."

35. All reservations concerning a lack of assurance as to the legality and regularity of Community spending should be reflected in the annual activity reports, as well as in the Synthesis Report; it is highly surprising that three Directors-General decided only in 2006 to insert a reservation concerning the management and control of INTERREG, which, as noted by them, had already existed for some years (page 4, last paragraph of the 2006 Synthesis). (§ 65)

Commission's response:

The recommendation is accepted. Nevertheless, only 1 Directorate-General (and not 3 as indicated) is concerned with INTERREG i.e., the Directorate-General for Regional Policy.

The Directorate-General for Regional Policy did not make a reservation for INTERREG in 2005 because the results of the audit work had not yet been confirmed. Directors-General have to examine and weigh up a series of key elements before drawing conclusions on their declarations of assurance.

Concerning the Synthesis Report, it reflects all instances where there were qualifications to assurance on the legality and regularity of Commission spending; the Commission has instructed its services to take vigorous action to address the causes of reservations in the 2007 Annual Activity Reports and the Directorates-General concerned are committed to dealing with these weaknesses through clearly defined action plans.

For the 2008 annual activity report exercise the Commission will provide further guidance on the treatment of reputational risks and on the link between error rates, materiality and reservations.

36. Put more emphasis on the timely implementation of the recommendations made by the Internal Auditor. (§ 66)

Commission's response:

The Commission will be taking the recommended action.

While the number of critical and very important recommendations overdue by more than six months at the end of 2007 remained almost the same as at the end of 2006 (7 critical and 37 very important recommendations), the total number of outstanding critical and very important recommendations grew from 78 to 175 due to the increased number of audit reports issued. Significant differences were noted between the Internal Auditor's view on the state of progress on recommendations and that of the auditee. The Commission needs the reasons for the increase in outstanding recommendations to be examined and addressed including the extent to which differences of view between the auditor and auditees have led to this situation.

In 2007 the Audit Progress Committee (APC) Chair sent letters to Commissioners, drawing attention to the critical and very important recommendations overdue more than six months.

Following the IAS audit on Annual Activity Reports, the standing instructions for the preparation of the annual activity reports for the year 2007 now require disclosure of delays in the implementation of action plans and stipulate that major issues raised by the Internal Audit Service are to be considered a qualitative criterion for assessing reservations.

Political responsibility and administrative responsibility at the Commission

37. Improve the annual activity reports through the establishment of common criteria for the making of reservations and their stronger formalisation so as to allow greater comparability between the annual activity reports of different Directorate-Generals and over time; take also account of the observations made by the European Court of Auditors on the annual activity reports and make improvements in close consultation with it. (§§ 67 to 70)

Commission's response:

The Commission notes that overall progress has been made in the presentation of the Annual Activity Reports. In 2007 internal control templates were introduced allowing a greater comparability between the services' Annual Activity Reports. The standing instructions for Annual Activity Reports also set out the rules and criteria for issuing reservations and require the Commission services to report on major recommendations made by the European Court of Auditors.

The Commission however acknowledges that, in specific fields, further improvements can be made. For the 2008 Annual Activity Reports' exercise the Commission will provide further guidance on the treatment of reputational risks and on the link between error rates, materiality and reservations.

38. Envisage a possible common register with Parliament for the compulsory registration of lobbyists. (§ 72)

Commission's response:

The Commission welcomes the positive reaction of the European Parliament to its suggestion to consider a common approach to registration.

The report is considered as a good starting point for the discussions in an inter-institutional working group, as Parliament and Commission share their views on most fundamental questions.

The Commission has launched its Register on 23 June 2008 and will assess its functioning after 12 months.

The Commission's Register will not prejudice the discussions of the inter-institutional working group to be set up.

The Commission is ready to discuss with the European Parliament and the Council a way of finding a common approach to registration of interest representatives.

39. Establish a new code of conduct for Members of the Commission 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. Ensure that it incorporates the necessary ethical rules and the principal guidelines to be observed by Members of the Commission in the conduct of their

office, in particular when appointing colleagues, especially to their 'cabinets' (cfr § 85 of the 2005 discharge resolution). (§§ 73, 77 and 78)

Commission's response:

The existing Code contains comprehensive rules on the matter.

Furthermore, under the Framework Agreement on relations between the European Parliament and the Commission, 'if the Parliament decides to express lack of confidence in a Member of the Commission, the President of the Commission, having given serious consideration to that decision, shall either request that Member to resign, or explain his or her decisions to Parliament'.

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.

40. Ensure the completeness, searchability and comparability of data provided on the beneficiaries of EU funding, and finalise and reach agreement with Member States before April 2008 on common standards for such data. (§§ 74 and 22)

Commission's response:

The recommendation is accepted. In shared management, sector legislation in each policy area, and/or policy guidelines addressed to Member States foresees common standards of publication across all Member States, thus enabling comparability within each major policy field (CAP, Structural funds...). In decentralised/joint management, discussions still have to take place. Member States (or third countries or international organisations) will be responsible for the publication and, thus, for the completeness of the data. On searchability, the draft implementing rules for agricultural expenditure foresee that the Member States set up a search tool allowing the users to search on the internet for beneficiaries by name, place of residence and amount received. The obligation is on national authorities to ensure completeness of such lists and this will be verified through audits.

For centrally managed expenditure, the Commission will focus on improving and harmonising the presentation of the data on beneficiaries, currently presented in very different formats across Directorates-General.

41. Provide easy access to information on who is represented in the various forms of expert groups and what their tasks are, and publish the names of the people who take part in these groups, and the names of the special advisers which the individual Members of the Commission, Directors-General or cabinets engage; make public the names of all experts and counsellors in the Commission's working groups. (§§ 75, 76 and 22)

Commission's response:

The recommendation is accepted. Related to members of expert groups and working groups, the Commission has undertaken actions to publish information on the lists of members of expert groups in the Commission's Register of Expert Groups. This publication must be done taking into account the composition of each expert groups and requirements of both Regulation 45/2001 and Article 4 of Regulation 1049/2001.

On special advisers, the Commission adopted on 19 December 2007 on a proposal from Vice-President Kallas new rules which foresee a specific information of the Budgetary Authority as part of the budgetary procedure, and the publication of the list of the special advisers and their curricula vitae on the "Europa" Website of the Commission (see C(2007)6655 of 19 December 2007).

42. Ensure the complete transparency and publicity with regard to staff of cabinets of Members of the Commission not recruited in accordance with the Staff Regulations. (§ 79)

Commission's response:

Staff of Members of the Commission are recruited in accordance with Staff Regulations.

Revenue

43. The European Parliament notes with satisfaction, regarding the VAT resource, that the Commission maintained the frequency and quality of its inspections; is concerned, however, at the number of outstanding reservations, and therefore calls on the Commission, in co-operation with the Member States, to continue its efforts to ensure that reservations are lifted within reasonable time frames;

Asks the Commission to communicate to it what action it intends to take in the case of Member States with continued reservations. (§§ 82-83)

Commission's response:

As part of a 3-pronged approach including categorising reservations to identify their relative priority the Commission will, where necessary, make management visits designed to devise - with the Member State concerned - suitable strategies to resolve long-outstanding reservations. Where progress towards the lifting of reservations cannot be shown the Commission will consider whether starting infringement proceedings will be beneficial.

The common agricultural policy

44. Ensure, in accordance with the plans and answers presented to Parliament, that the percentage of agricultural expenditure covered by the IACS will be at least 89 % by 2010 and 91,3 % by 2013. (§ 85)

Commission's response:

The Commission has taken the recommended action. The Integrated Administration and Control System (IACS) currently covers some 84.5% of the EAGF-expenditure. The effects of the different reforms will further enhance this positive evolution and will contribute to reducing the overall risk even further by extending this coverage to some 89% by 2010 and to some 92% by 2013.

45. Urges the Commission to double-check with the Member States that the IACS is fully implemented in all EU-15 Member States and that the weaknesses found in the EU-10 Member States are remedied. (§ 86)

Commission's response:

The Commission is taking the recommended action and continues through its audits to monitor the full and correct application of the IACS tool. In case of deficiencies, the Commission imposes financial corrections. In 2008, six audit missions on IACS to new Member States are planned. The situation of IACS in Greece is subject to a reservation in the DG AGRI Annual Activity Report and is being addressed by an action plan by the Greek authorities. This is being closely followed up by DG AGRI.

46. Considers that the Commission should give due consideration to the pertinence of eligibility conditions for agri-environmental measures in rural development and study the possibility of simplifying those conditions. (§ 88)

Commission's response:

The Commission has taken the recommended action. The Member States are now under the obligation to ensure that all rural development measures, including agri-environmental measures, are verifiable and controllable and that control arrangements at the level of the Member States provide reasonable assurance that eligibility criteria and other commitments are respected. The issue has been taken up also in the context of the rural development programming for the period 2007-2013. Eligibility conditions for agri-environmental measures were one of the most important issues discussed between the Commission and the National Authorities in the context of programme approval. Commitments for which the Member States were not able to explain how they could be verified and controlled were rejected or adjusted accordingly in the process of program approval.

Rules for agri-environmental measures in Community legislation are straightforward and clear. On the basis of the subsidiarity principle they can be designed by Member States to target certain environmental objectives as precisely as possible. Accordingly, Member States have designed specific agri-environmental

measures to address certain environmental needs or to safeguard specific habitats which provide more complex commitments. Agri-environmental measures have a different character as other measures under the CAP as they oblige farmer to enter into specific commitments to provide environmental services. By nature these measures are more demanding as regards their implementation and control but their added value is widely recognized.

Commission services have taken action to raise the awareness of Member States. A working document on agri-environmental commitments and their verifiability has been presented to Member States. The purpose of this working document is to provide guidelines and additional explanations for the implementation of agri-environment measures. In addition, the origin of higher error rates in agri-environmental measures will be further followed up by audit missions.

Based on detailed statistics from the Member States the Commission has found indications that agri-environmental measures are a source for higher errors in rural development. This higher rate seems to be due to the complexity of these measures rather than weaknesses in control systems. For these reasons, the Commission considers that the tolerable risk of error could be set above 2%. However, both the objective of integrating environmental concerns in agriculture, and the added value of such measures are widely recognised.

The Commission will for the continuation of the discussion with the other institutions present a communication on the residual risk in Community programmes in autumn 2008, addressing the error rate in agri-environmental measures.

47. Insists on the correct application and sufficient control of Community spending, and invites the Commission to thoroughly investigate and assess the possible costs and benefits in the area of agro-environmental measures, as well as the connection to other areas of spending, and to present this analysis to the Council, Parliament and the ECA as a minimum basis for discussing the need for reform. (§ 89)

Commission's response:

The Commission is taking the recommended action.

As regards the investigation requested by the Parliament, the Commission has already undertaken an initial estimation of the costs of controls for the EAGGF Guarantee section (now EAGF).

In view of the importance of the agri-environmental measures in the context of Rural Development Policy and EAFRD, the Commission welcomes the Parliament's proposal to investigate costs and benefits of controls in the area of agri-environmental measures. The benefits of agri-environmental measures have already been assessed by the evaluation study carried out for DG AGRI:

http://ec.europa.eu/agriculture/eval/reports/measures/index_fr.htm

The error rate in agri-environmental measures will also be addressed in the Commission's communication on the residual risk in Community programmes, scheduled for autumn 2008.

48. The Commission must carry out a detailed follow-up of irregularities which Member States consider to be irrecoverable, and whose amounts are charged to the Community pursuant to the new financial clearance procedure on the basis of information from the Member States, to ensure that the debts are correct and properly charged to the Community budget. (§ 90)

Commission's response:

The Commission has taken the recommended action.

The application of the new financial clearance procedure for irregularity cases is based on figures provided by Member States and certified by the certification bodies. The Commission is giving a follow-up to the application of this new procedure by means of on-the-spot checks and desk audits, which may lead to financial corrections in case of non-conform practices.

49. Invites the Commission to allocate adequate resources for conformity audits in order to execute corrections for irregular payments within the time limit. (§ 93)

Commission's response:

The Commission has taken the recommended action.

DG AGRI devotes more than 10% of its staff to its Directorate in charge of audits, which is considered adequate to fulfil its function.

50. Considers that all the weaknesses referred to by the ECA in its Annual Report should be resolved by the Commission in order to ensure a higher level of assurance concerning the work of the certification bodies. (§ 94)

Commission's response:

The Commission has taken the recommended action. New guidelines for certification bodies were issued in May 2007. These new guidelines apply in full for the financial year 2007 and onwards, and include the following new elements:

-An instruction to more systemically analyse the effectiveness of each paying agency's internal control system, including on-the-spot controls, and to report on this in more detail;

-An instruction to more systemically verify and validate inspection statistics and post-payment checks statistics.

In order to even further improve the guidelines a revised version was issued in July 2008 which will be applicable for the financial year 2008. The Commission continues also to closely monitor the situation through on-the-spot missions to certification bodies.

51. Urges the Commission to improve checks in the UK, which did not comply with Community legislation when allocating entitlements and paying Single Payment Scheme (SPS) and rural development aid to landlords for land let to and farmed by lessee farmers, and in those Member States (Austria, Ireland and the UK) which failed to correctly apply certain key elements of the SPS and extended consolidation of entitlements beyond the provisions of Council Regulation (EC) No 1782/2003. (§ 95)

Commission's response:

The Commission has taken the recommended action. Cases where entitlements were unduly established or activated are followed-up under clearance of accounts procedure.

Entitlements affected by irregularities or frauds committed by beneficiaries during the reference period should be corrected in order to avoid any cumulative effect over the years.

Moreover, the Commission examines the national management and control systems in the framework of its conformity procedures. In this context, it is verifying, among other things, whether the Member States correctly interpret and apply the eligibility criteria for receiving agricultural support, including the question whether the beneficiaries are exercising an agricultural activity as defined in Community legislation.

The Community rules set out in Council Regulation (EC) n° 1782/2003 and the implementing rules regarding the definitions of eligible activities and beneficiaries are clear.

In addition, legal proposals under the Health Check of the CAP provides for a Regulation that allow Member States to refrain from granting direct payments to companies and firms whose business is not or only marginally targeted at exercising an agricultural activity.

52. Expects the Commission to follow up on the cases identified by the ECA, and to make sure that no payments will be made, and will be recovered where they have been made, to landowners who do not exercise an agricultural activity. (§ 96)

Commission's response:

The Commission has taken the recommended action, see the reply to recommendation no. 51.

53. Invites the Commission, in light of the statement by the ECA that more than 700 new beneficiaries belong to categories such as golf clubs, cricket clubs, leisure parks/zoos, horse riding establishments, railway companies and city councils, to provide an overview and an assessment of the development of allocation of agricultural support to such beneficiaries, who are eligible for funding under the current rules. (§ 97)

Commission's response:

The Commission partly accepts and has partly taken the recommended action.

It is not the title but its activity that allows to judge if claims have to be refused or not. A body can claim direct payments if it exercises any of the typically agricultural activities referred to in Article 2(c) of Regulation (EC) No 1782/2003 ("production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes") or if it maintains land "in good agricultural and environmental condition as established under Article 5" of Regulation (EC) No 1782/2003.

The Community rules set out in Council Regulation (EC) n° 1782/2003 and the implementing rules regarding the definitions of eligible activities and beneficiaries are clear.

The Commission examines the national management and control systems in the framework of its conformity procedures. In this context, it is verifying, amongst others, whether the Member States correctly interpret and apply the eligibility criteria for receiving agricultural support, including the question whether the beneficiaries are exercising an agricultural activity as defined in Community legislation.

DG AGRI has launched clearance of accounts audits for each concerned Member State, in order to verify the procedures in place to identify and correct undue payments, if any, made to such beneficiaries.

Instead of providing an assessment on the development of the allocation of agricultural support to beneficiaries as mentioned in the recommendation, the Commission has taken action in the framework of the Health Check by legal proposals in order to allow Member States to refrain from granting direct payments to companies and firms whose business is not or only marginally targeted at exercising an agricultural activity.

54. Invites the Commission, if appropriate in light of developments and according to its assessment of the intended use of support measures, to present a proposal for amendment or revision of the rules to further narrow the activities and beneficiaries eligible for funding. (§ 98)

Commission's response:

The Commission has taken the recommended action. As part of the Health Check of the CAP the Commission has presented legal proposals in order to prevent agricultural income support being allocated to companies and firms whose business purpose is not or only marginally targeted at exercising an agricultural activity. Under this Regulation, if adopted, Member States may decide not to grant them direct payments.

Structural measures, employment and social affairs

55. Make use of ex ante checks to verify whether supervisory and control systems for the period 2007 to 2013 are in place in all Member States, and regularly follow up on those checks. (§ 103)

Commission's response:

The Commission is taking the recommended action. Before they submit the first interim application for payment, Member States are required by Article 71 of Council Regulation 1083/2006 to provide a report by an independent audit body setting out the results of an assessment of the systems set up and giving an opinion on their compliance with the requirements of the Community regulations. Only when the Commission has accepted the report and opinion can interim payments begin. The Commission has established detailed guidelines and a model report to be used by the Member States, discussed them with national audit authorities and circulated them to all Member States.

After conclusion of the compliance assessment procedure which will give assurance on the set up of the 2007-2013 systems, the Commission's audit approach for the period is to review the work of the audit authorities in order to conclude whether it can rely on their work, and thus on their annual audit opinions which are required under Article 73 of Council Regulation 1083/2006.

56. Follow up on the recommendation of the European Court of Auditors (point 6.45 of the 2006 Annual Report) concerning the Cohesion Fund, and present further simplification proposals as soon as possible for, inter alia, clear and straightforward rules, guidelines and eligibility criteria. (§§ 105 to 107)

Commission's response:

The recommended action has been taken. For the 2007-2013 period, the Council has already provided for certain simplifications such as the use of flat rates for overheads in ESF, partial closure, and establishment of eligibility rules at national level. The Commission is promoting the use of these possibilities and is working to clarify the application of the rules in practice through guidance, training and information.

57. Reinforce Member States' audits and make additional efforts to supervise the Managing Authorities in the Member States. (§§ 108 and 101 b))

Commission's response:

The Commission is taking the recommended action. As part of the Action Plan of 19 February 2008, it is targeting its 2008 audits on the higher-risk managing bodies in the Member States and is completing remedial action plans which are mainly aimed at improving the performance of management controls. Action plans cover a large proportion of total EU funds committed for the 2000-06 period (for example, 40% for ERDF). In June it held a training seminar for 500 representatives of national managing and certifying authorities, at which guidance

on good practices in management verifications and in the checks made by certifying authorities was presented. Such actions will continue, and the Commission will also continue to suspend payments to bring about necessary improvements in control work and to require financial corrections for past expenditure affected by poor controls.

58. Make sure that in the future only irregularities identified by Member States themselves can be substituted for other expenditure without any loss of funding for the Member State concerned. (§ 109)

Commission's response:

The Commission will not be taking the recommended action. The legislation for both the 2000-06 and the 2007-13 programme periods allows the Member States under certain conditions to re-use EU funding released from projects from which it is withdrawn for other eligible expenditure. This applies whenever the Member States applies the correction, including cases in which it accepts a correction as a result of Commission or Court of Auditors audit work. Net reductions in the EU funding of a programme or a Cohesion Fund project only occur when the correction is imposed by Commission decision or when there is no replacement expenditure available that can be substituted, for example at closure or following partial closure of 2007-2013 programmes.

The Commission considers that even financial corrections that do not involve a net reduction in EU funding can act as an incentive to improve controls, given the impact on the national budget.

59. The Commission, while assuming its Treaty responsibility for the implementation of the budget and respecting the principles of sound financial management, should take, in cooperation with the Member States, the following measures concerning the shared management of Structural Funds:

a) make a formal commitment to fully implement the action plan to strengthen the Commission's supervisory role under shared management of structural actions and agree in particular to:

– quarterly reporting on progress, measured where possible in quantitative rather than qualitative terms, in a form acceptable to the European Court of Auditors, in particular submitting progress reports by 31 October 2008 and 31 January 2009;

– provide complete and accurate quarterly reporting on corrections and recoveries made by it, in particular submitting progress reports thereon by 31 October 2008 and 31 January 2009;

– obtain information from Member States on the corrections they have made by means of the withdrawal of projects or the recovery of errors and in particular by submitting progress reports by 31 October 2008 and 31 January 2009 on its verification of the completeness and accuracy of these corrections;

b) take further measures to prevent errors in the future, in particular by improving first-level checks.

Improve also the reporting scheme with in cooperation with the European court of Auditors. (§ 110)

Commission's response:

The Commission is taking the recommended action. It refers to the quarterly reports it has already delivered on the implementation of the Action Plan.

60. Present a scoreboard with a final date for the implementation of the action plan to strengthen the Commission's supervisory role under shared management of structural actions, including also a common scheme of quantitative indicators and intermediate deadlines for its implementation. (§ 111)

Commission's response:

The Commission is taking the recommended action. The Action Plan has quantitative indicators and clear deadlines for the completion of all actions. The regular reports allow monitoring of progress.

61. Focus on the reliability of national monitoring and reporting systems, on guidance to Member States and on coordination of audit standards, and always give a breakdown per Member State. (§ 112)

Commission's response:

The Commission is taking the recommended action. It is verifying the reliability of Member States' reporting systems for example in the area of financial corrections. Coordination of audit standards is a commitment under the Action Plan towards an Integrated Internal Control Framework (see report on implementation of the Action plan, COM(2008) 110) which has been taken up by the specific Action Plan for structural actions (COM(2008) 97, action 2.6). The Commission always distinguishes between Member States in its reporting (see, for example, its analysis of the responses to the requirement for annual summaries).

62. Initiate infringement procedures against those Member States which have not complied with their obligations under the regulations on Structural Funds, the Financial Regulation and its implementing rules and the Interinstitutional Agreement, in particular those Member States which do not present reports on recoveries and financial corrections, those which do not present annual summaries in conformity with the guidelines and those the quality of the annual summaries of which is inadequate. (§§ 113, 124)

Commission's response:

The Commission is taking the recommended action. As reported in letters to Parliament of 25 March and 21 April 2008 and at the meeting of the Budgetary Control Committee on 15 July 2008, the Commission has begun infringement proceedings against Germany, which was the only Member State to fail to provide an annual summary as required by the Financial Regulation and the Inter-Institutional Agreement. The Commission has received more complete data on recoveries and financial corrections by Member States for 2007 than for 2006. The

data received was summarized in an addendum to the second quarterly report on financial corrections sent to Parliament on 10 July 2008. The Commission is writing to all the Member States to request missing information. In the light of the responses to these requests, it will decide whether further action is required.

63. Commission guidelines for the effective fulfilment of the Interinstitutional Agreement should, as a first step, at least require what is already required by the sectoral regulation in agriculture (i.e. a declaration of assurance signed by the head of the Managing Authority and accompanied by a certification report). (§ 114)

Commission's response:

The Commission will not be taking the recommended action. The provisions implementing paragraph 44 of the Inter-Institutional Agreement, namely Article 53b(3) of the Financial Regulation and Article 42a of the Implementing Rules of the Financial Regulation, require the summary to be provided by "the appropriate authority or body designated by the Member State for the area of expenditure concerned in accordance with the sector-specific rules," and for structural actions stipulate that they should include the audit opinions of the audit authorities and the certifications by the certifying authorities. The Commission considers that a key feature of the annual summaries, which contributes to reinforcing the Member State's accountability for its use of EU funds, is their formal submission by a central body. The Commission will present a revised guidance note to Member States with recommendations to improve the quality of their annual summaries for 2008.

64. Bring suspension proceedings against Member States whose first level control systems are inadequate, and speed up the sanctions system and present to Parliament a concrete plan for the timing and sanctions to be applied in case of identification of irregularities. (§ 115)

Commission's response:

The Commission is taking the recommended action. Under the Action Plan to strengthen its supervisory role in the structural actions area, the Commission has taken steps to speed up decisions to suspend payments or apply financial corrections and is reporting regularly to Parliament on the progress of individual cases. The majority of these cases concern inadequate primary controls. The current suspension and correction procedures cover programmes accounting for a high proportion of annual payments.

65. Provide auditable reporting on corrections and recoveries by the Commission (withdrawals, recoveries by Member States, recoveries by the Commission, net corrections, suspension of payments) in relation to all unduly made payments in connection with all funds, with precise definitions of the different categories of financial correction, and the underlying evidence should be fully accessible to the European Court of Auditors; establish a clear link between the recovery and the year in which the irregularity happened, and to develop these reporting schemes in cooperation with the European Court of Auditors. (§ 116)

Commission's response:

The Commission is taking the recommended action. It is reporting on financial corrections and recoveries resulting from Commission, Court of Auditors or OLAF work in the annual accounts and on a quarterly basis under the Action Plan of 19 February 2008. The data on corrections and recoveries by Member States are presented in the Annual Report on the implementation of the Structural Funds. The Report for 2006 gave definitions of the various categories of corrections and described the relevant procedures. The underlying evidence of the corrections reported is fully accessible to the Court of Auditors, which has also been consulted on the reporting format. For structural actions it is not possible to establish a systematic link between financial corrections applied and specific years when the reimbursements were made by the Commission. Reference is made to the reply to the recommendation in point 13 of Parliament's resolution.

66. Provide Parliament with objective, clear and full information concerning the capacity to recover unduly paid amounts (in connection with the 2006 Court of Auditors' annual report), the underlying proof of which should be presented to Parliament. (§ 117)

Commission's response:

The Commission is taking the recommended action. Under the Action Plan, the Commission has committed itself not only to follow up the individual errors identified by the Court and make the required corrections, but also to bring to a conclusion the remedial action plans for system deficiencies in the Member States and the suspensions and financial corrections in the pipeline. The Commission reports quarterly on the results of the actions together with the financial corrections applied.

67. Implement Action 11N of the action Plan towards an Integrated Internal Control Framework, the deadline for the implementation of which was 31 December 2007, as soon as possible. (§ 118)

Commission's response:

The Commission is taking the recommended action. As noted in the report of 27 February 2008 on the implementation of the Action Plan (COM(2008) 110), the Commission is reconfiguring the central financial and accounting systems so that it can track all corrections resulting from Commission control work. It is also taking action to improve the reporting of financial corrections and recoveries by Member States in the Structural Funds, by closely following up the data submitted and verifying the completeness and reliability of data on the spot in a sample of Member States (see Action Plan to strengthen the Commission's supervisory role (COM(2008) 97), actions 6.1 and 6.2).

68. Record information on the control authority and the type of error in the central financial and accounting system, and to retroactively encode all recoveries for the periods 1994 to 1999 and 2000 to 2006. (§ 119)

Commission's response:

The Commission has added new functionalities to its central accounting system in 2008 in order to record more information on recoveries of undue payments (e.g. type of error/irregularity, way of detection (EU audit, National control authority,...), year of origin if applicable,...)

69. Give an assessment of the efficiency and effectiveness of multi-annual recovery systems and report on this in the 2008 or 2009 accounts. (§ 120)

Commission's response:

The recommended action has been taken. The Commission is now providing information on financial corrections and recoveries resulting both from its own audit work and that of the Member States. Over time this information should gradually build up a picture of the operation of the multi-annual corrective mechanisms that can be compared with the level of irregular expenditure found in audits.

70. Present to Parliament an evaluation of the quality of all the annual summaries received for agriculture, Structural Policies and fisheries; this evaluation should entail a breakdown per Member State and per policy area and should give an opinion on the overall assurance and overall analysis that can be drawn from the summaries. (§ 121)

Commission's response:

The Commission has taken the recommended action.

The Commission has already informed the European Parliament about the quality of the annual summaries for agriculture by a letter from Commissioner Fischer Boel dated 17 March and a follow-up letter dated the 16 April 2008. Information was also provided in the annual activity report of the Directorate-General for Agriculture and Rural Development. Concerning the summaries for structural funds, reference is made to the reply to the recommendation in paragraph 9 of Parliament's resolution. An update of the situation for structural funds was also provided in the Synthesis of management achievements for 2007 (COM(2008) 338).

71. The information provided on financial corrections and recoveries should use exactly the same definitions of financial corrections as in the quarterly reports. (§ 122)

Commission's response:

The recommended action has been taken. Definitions of the various terms used were provided in an annex to the 2006 Annual Report on the Implementation of the Structural Funds (SEC(2007) 1456). The Commission has agreed a standard format and terminology for reporting financial corrections on both an accruals and cash basis and is seeking to ensure that this is consistently used in all its publications.

72. Report during the mid-term review on the results of Contract of Confidence arrangements, including the fundamental question of whether these contracts have added value. (§ 123)

Commission's response:

The Commission is partly taking the recommended action. It will report on the results of the contract of confidence arrangements in the Annual Activity Reports of the responsible Directorates General.

73. Report to Parliament annually on Member States' fulfilment of or non-compliance with their obligations under the Structural Funds regulation and the Interinstitutional Agreement. (§ 124)

Commission's response:

The recommended action has been taken. Concerning annual summaries, the Commission refers to the response to paragraph 114 of the resolution. In their Annual Activity Reports, the Directorates General concerned report on the Member States' submission of annual summaries and also on their compliance with obligations relating to effective management and control or Community funds.

74. For the discharge in respect of the financial year 2007, the Commission should present both cash and accrual based figures, a clear indication of whether the figures are annual or multiannual, a clear explanation of the nature of financial corrections (flat rate corrections, in the case of system weaknesses, or recoveries at the level of the final beneficiary), and improvements in the ABAC system, and the information provided for the discharge should use exactly the same definitions of financial corrections as in the other reports on financial corrections published over the year. (§ 125)

Commission's response:

The recommendation has been implemented. The Commission has included such information in a separate new section of the 2007 annual accounts entitled "6. Recovery of undue payments".

75. Inform Parliament, upon the closure of the last of the projects involved in the 2006 budgetary exercise, of the total sums recovered and, if necessary, of any losses and the reasons therefore. (§ 126)

Commission's response:

The Commission is taking the recommended action. It refers to its answer to the recommendation in paragraph 117 of the resolution. The Commission will in addition report on the corrections made in the process of programme closure in due course.

76. Since the quality of audit systems has a considerable influence on project evaluation, ensure strict regulation of the quality of financial control procedures. (§ 128)

Commission's response:

The Commission is taking the recommended action. Measures in this area include the requirements in the legislation for the Structural and Cohesion Funds for Member States to have the compliance of their management arrangements independently assessed before interim payments can be made and for management bodies to assess the management capacity of beneficiaries before awarding them funding. The Commission is also considering incorporating control considerations in the design of funding programmes in order to reduce the inherent and control risks at the outset.

77. Control systems need to be made more effective early on so as to enable errors to be forestalled when projects are in their initial stages, and national officials involved in project assessment and analysis should be given full training in order to ensure that they act with the necessary speed in the use of Structural Funds. (§ 130)

Commission's response:

The Commission is taking the recommended action. It is emphasising preventive measures such as guidance and training in its recommendations to Member States and is itself contributing to training for the 2007-13 period, such as seminars and workshops on the new regulatory requirements, particularly primary controls, and aspects of the applicable rules that are a frequent source of errors such as public procurement. Reference is made to the actions in groups 4 and 5 of the Action Plan of 19 February 2008 (COM(2008) 97). The legislation for 2007-13 also requires ex ante compliance assessments and assessment of the management capacity of beneficiaries (see response to the recommendation in paragraph 128 of the resolution).

78. Encourage Member States to make use from now on of the simplifications provided for in the new rules governing the Structural Funds for the period 2007 to 2013, for instance by using flat-rate amounts for indirect costs under the European Social Fund, which should, however, be kept to a minimum and expressed as comprehensively as possible. (§ 131)

Commission's response:

The Commission organised two ESF Technical Working Group meetings to further explain and discuss with representatives of the Member States the possibilities offered by art. 11 (3) b of Regulation 1081/2006 to declare indirect costs on a flat rate basis, in Lisbon (October 2007) and in Bucharest (May 2008). An ad hoc mission has also been conducted at the request of the Czech authorities in Prague in May 2008 to raise awareness among the public bodies in charge of ESF implementation.

Although the Commission has received some requests for information and opinion on the schemes envisaged at a national level, only a limited number of Member States or regions have already officially notified the national scheme envisaged for the implementation of the flat rate rule. Only one national scheme (Poland) has up to now received a positive assessment by the Commission.

79. Gauge structural policy trends in the light of meaningful indicators and targets, which should lend themselves to comparison and, as far as possible, aggregation in the short term, thus serving to avoid what would inevitably be rough and hazy assessments that would not leave sufficient time to make corrections. (§ 132)

Commission's response:

The Commission is taking the recommended action. The Commission has issued guidance on indicators in the new programme period (e.g., Working Document No 2 on indicators) and has ensured the adoption of core output and – particularly - result indicators in the new programmes in order to monitor their progress against the objectives set. The guidance emphasises the need for a greater effort to measure results and it also introduces the concept of core indicators which can be used for aggregate reports across the EU. The Commission is working with Member States to help exchange good practices and support new initiatives in the area of indicators and monitoring.

Internal policies

80. The European Parliament notes with concern that, in general in relation to internal policies, once again the ECA's audit revealed two important weaknesses, on the one hand "a material level of error in payments to beneficiaries" and on the other "in the Commission's supervisory and control systems", which "do not sufficiently mitigate the inherent risk of the reimbursement of overstated costs" (Annual Report, conclusions, point 7.30);

Deeply regrets the critical assessment of the ECA in this area, which is under the Commission's direct financial management, and urges the Commission to do its utmost to take the necessary action in order to avoid the same number of weaknesses next year. (§§ 133, 135)

Commission's response:

The recommended action has been taken.

The Commission has addressed these weaknesses reported by the ECA in the research area. Some examples of the actions already undertaken by the Commission are:

a) In order to address the 'material level of error in payments to beneficiaries',

i) The Commission has improved the information available to beneficiaries for them to understand better their own responsibilities vis-à-vis to the Commission. In this point, the Commission website CORDIS provides Guidelines to the beneficiaries in all the aspects related with costs' reimbursement.

ii) For FP7, special rules for audit certificates have been issued by the Commission.

b) In order to address the point that the "Commission's supervisory and control systems", "do not sufficiently mitigate the inherent risk of the reimbursement of overstated costs,

i) The Commission is continuously working on the further enhancement of its internal control system in order to manage the risks linked to its environment. At the end of 2007 most DGs were compliant with the ICS baseline requirements. Therefore, early 2008, the revision of the Internal control standards led to more simplification and rationalisation of the overall framework. This should contribute to an increase of ownership of management and an increased focus on effectiveness.

ii) An Audit Strategy 2007-2010 is now in place (as part of the ICF), in order to (among other objectives) to correct the errors not detected during the desk-review carried out by the operational services of the Commission.

Furthermore, the results of the audits carried out are followed up and recovery orders are issued to beneficiaries on any amount unduly paid. Moreover, the Commission is working on the methodology on extrapolation of any systemic

errors detected to all other non-audited contracts with the same beneficiary. As a result of these measures the Commission expects to ensure that the level of 'residual' errors is significantly reduced.

DG EAC has also taken appropriate actions to address the issues raised: On the one hand an integrated supervision strategy has been adopted and on the other hand simplification measures, such as extensive use of lump sums and/or flat rate grants, have been introduced reducing the risk of errors.

81. The European Parliament notes that, moreover, as in previous years, the ECA also pointed out persistent delays by the Commission in making payments to beneficiaries;

Emphasises that the Commission must comply with the provisions of the Financial Regulation regarding deadlines for expenditure operations, and asks it to take serious measures in order to avoid the current delays in payments, which are persistent. (§§ 134, 137)

Commission's response:

The Commission continues taking the appropriate measures to comply with the European Parliament's recommendation and request related to the delayed payments to beneficiaries and thus to comply with the time limits for expenditure operations set out in the Financial Regulation. The efforts made have increased the percentage of payments made on time. The issue is being monitored closely and is receiving the highest attention to ensure further improvement.

82. The European Parliament considers that the simplification of the calculation rules for claimed costs is a necessary step in improving the situation, and invites the Commission to continue its efforts to have in place the most easily applicable rules for beneficiaries;

Endorses the view of the ECA that the financial management of internal policies needs to be improved and efforts set in motion to simplify the rules applying to programmes by employing lump-sum financing and switching to a results-based financing system. (§§ 136, 140)

Commission's response:

The Commission agrees that further simplification is needed with regard to cost eligibility issues, particularly for personnel and indirect costs.

As regards the research area, it draws attention to the legal limitations of FP7 and to the difficulties to define lump sums and flat rates which are representative.

Furthermore the ex-ante certification of cost calculation methodology introduced in FP7 is a major step towards simplification.

As regards the developments of alternative funding mechanisms for the future (such as lump sums and result based financing), the Commission is open to discussions with the Court and other stakeholders.

In the area of education and culture, the recommendation has been taken into account when designing the rules for the new programmes 2007–2013. The rules have been simplified and lump sums and flat-rate arrangements are largely used.

83. The European Parliament notes with concern the low rate of utilisation of commitment appropriations for transport safety (34 %), for which via a carry-over a large part of the sum initially available in 2006 was committed in 2007, and the low rate of utilisation of payment appropriations for the Marco Polo Programme (44,8 %), and is particularly concerned by the very low rate of utilisation of payment appropriations for the pilot project on safety in the TEN-T road sector (29,6 %), in part due to the late signature of contracts and consequent late start of the project; therefore calls on the Commission to launch in future the call for proposals and tenders as early as possible, so as to make full use of commitment and payment appropriations;

Calls on the Commission and the budgetary authority to ensure that when the budget for pilot projects is adopted, the right balance between the amounts available for commitment and payment appropriations is found, and that that balance reflects the fact that the time needed to bring projects to payment stage is usually longer than one budget year. (§§ 143-146)

Commission's response:

The Commission has taken the recommended action, and the low implementation rates of 2006 were considerably improved in 2007. For transport safety the utilisation rate of commitment appropriations in 2007, including carry-over credits from 2006, was very good and reached 94.2%. The utilisation rate of payment appropriations in 2007 reached 96.9% for the Marco Polo Programme and 100% for the pilot project on the trans-European road network.

84. The European Parliament notes with satisfaction that the ECA's analysis of the implementation of internal control standards on the regularity and legality of underlying financial transactions shows that those carried out by the Directorate-General for Energy and Transport comply with requirements in the areas of risk analysis and management, management information, reporting improprieties and supervision; nevertheless calls on the Directorate-General for Energy and Transport to use analysis of types and rates of errors to develop a risk-based control strategy in its ex ante review of cost statements received from beneficiaries. (§ 147)

Commission's response:

DG TREN modified its financial circuit and control strategy on 01/04/2008 to reflect the control needs and the risks identified. In this context, ex-post control was reinforced, additional resources being affected specifically to desk control, and a second level ex-post financial verification was also introduced with detailed analysis of types and rates of errors.

85. Believes that the execution rate of 48% of budget line 14 02 01 in the area of customs policy is very low, which is, according to the Commission, the result of a policy change in the tendering procedure moving away from the award of separate contracts towards implementing long-term framework contracts; appreciates

therefore the increase in the execution rate to 83% in 2007, which already shows the positive results of this policy change, notwithstanding the need for further improvement. (§ 150)

Commission's response:

The Commission is taking the recommended action. A close monitoring of the procurement procedures and budgetary execution has been introduced within DG TAXUD for the expenditure in 2008 of the budget line 14 02 01 Implementation and development of the internal market. Consequently, the execution rate is expected to further improve in 2008.

86. The European Parliament welcomes the fact that progress has been achieved in the level of implementation of budget payments for the area of freedom, security and justice (86,3% in comparison to 79,8% in 2005); calls on the Directorate-General for Justice, Freedom and Security to continue its efforts in this regard, but deplores the relatively low level of implementation of commitments (94,5% in comparison to 97,7% in 2005); calls on the Directorate-General for Justice, Freedom and Security to try to maximise the level of implementation of commitments and payments in 2007, despite the delays in the legislative procedures for the creation of funds. (§ 152)

Commission's response:

The Commission has pursued its efforts to maximise the implementation of commitment and payment appropriations, through adequate allocation of human resources on the one hand, and more efficient procedures on the other hand. It would like to recall that the execution of commitment appropriations in 2007 amounted to 90 %. The balance is mainly due to under-consumption in the domain of Large Scale IT Systems (where precise needs are difficult to forecast) and community agencies (where assigned revenue has been used in priority in accordance with the legislation in force). The execution of payment appropriations in 2007 amounted to 60%, mainly due to the late adoption of the financial instruments. In 2008, the Commission continues to monitor the progress of consumption of the appropriations at management and College Level (Budget Forecast Alert), allowing it to take appropriate action.

87. The European Parliament takes note of the remarks made by the ECA in its Special Report No 3/2007 concerning the management of the European Refugee Fund from 2000 to 2004; calls on the Commission to take these remarks into account, in particular as regards the implementation of the European Refugee Fund (ERF III) and the other funds created in 2007. (§ 153)

Commission's response:

The conclusions of the Court's special report were included in the annual activity report on Justice-Freedom-Security, as was a specific action plan. The Commission considers that a significant number of the improvements requested by the Court have already been made in the provisions of the legal basis for ERF III (2008-2013) and by the adoption of the statistical regulation in the field of immigration. The Commission has increased its own management capacities for

ERF III and has been able to provide better guidance to the Member States so that they can apply the legal provisions more precisely.

88. The European Parliament reminds the Commission that, under Article 3(2) of the EC Treaty, the promotion of gender equality is a fundamental objective of the Community and should be respected in all Community activities; stresses further that the Commission must ensure that gender equality is taken into account in the implementation of the budget and that actions should be evaluated from the perspective of the difference of their impact on men and women;

Observes with regret that the practice of gender budgeting has still not been implemented; therefore reiterates its demand for gender mainstreaming to become a reality in budgetary planning and the financing of Community programmes. (§§ 154-155)

Commission's response:

Relevant work is being carried out in different policy areas. Moreover, the European Commission has commissioned a feasibility study on gender budgeting. The study focuses on experience of gender budgeting initiatives in relevant countries. The purpose is to support the Commission's exploratory work in order to assess the feasibility of and options for introducing elements of gender budgeting in the EU budgetary process. A few European countries are carrying out or exploring gender budgeting initiatives to their national budgets, but many questions remain on how it can be effectively implemented. The specificity of the EU budget raises further questions in this respect. The Commission will examine the conclusions which can be drawn from this study within the context of the EU budgetary process. The study was recently finalised and it has been sent to the European Parliament.

89. Notes the continuously low payment utilisation rates of the Daphne programme and urges the Commission to take the necessary steps in order to improve the situation and avoid expenditure being decommitted. (§ 156)

Commission's response:

The Commission agrees with the recommendation and has taken the following action to increase payment rates for the Daphne programme: defining better reporting formats for the final implementation report and the final financial statement, including guidelines and a standard format for payment requests. All of these documents are available on the Daphne web page. In 2007 the Daphne team was already assigned three additional members.

The divergence between the appropriations and the actual utilisation of the payment appropriations comes from the difficulty of estimating the real needs for the RAL files. This results in payments that total less than the accepted expenditure. The rate of utilisation shows that the prefinancing of grant agreements following the 2006 call for proposals was paid in good time, during the first quarter of 2007. As the 43 grant agreements arising from this call will be not be closed until 2008 and 2009, it has not yet been possible to improve the rate of utilisation.

90. Considers that greater attention should be paid to promoting women's participation in the knowledge society and labour market and, consequently, to the high-quality training and employment of women in the field of information and communication technologies (§ 157)

Commission's response:

The recommended action has been taken. The Commission continued with the Shadowing activity (visits to companies by school girls to see the different kinds of work that can be done in ICT related jobs) which in 2007 included more companies, more girls and more countries. The results of the shadowing exercise were presented in a conference to mark International Women's Day on 6 March 2008. A study was commissioned in 2007 to collect all available statistics and ensure that the Commission is aware of the state of the art concerning women in the ICT sector. The study also identified indicators which could be used for future collection of statistics. The results of the study are for Best Practices to be used to constitute the basis of a Code of Best Practices for Women in ICT which is being prepared by the Commission in co-operation with the European industry. Commissioner Reding presented the problem of mainstreaming women in the ICT sector at the World Economic Forum in Davos. Her presentation resulted in the setting up of a Gender Parity Group consisting of 50% men and 50% women. These activities are on-going and new ones may stem from them.

91. As regards research and development, the European Parliament notes that the ECA, as in previous years, indicated material errors in this policy area, and invites the Commission to continue its work in order next year to achieve a real decrease in the level of errors. (§§ 158-160)

Commission's response:

The recommended action has been taken.

The principal risk to the legality and regularity of research expenditure is that beneficiaries overstate costs in their cost statements, and that this is not subsequently detected and corrected by the Commission. Many errors affecting legality and regularity can only be detected (and therefore corrected) by performing on-the-spot checks.

To address this problem, the Commission has shifted the focus of its control strategy towards detection and correction of errors ex-post, after the payment has been made. The Research DGs have implemented their FP6 audit strategy consisting of an increase in the number of audits, a new sampling strategy and the correction of systemic errors if they have been repeated by the same beneficiary in other, non-audited contracts.

The audit strategy is being implemented over a period of four years. Because of its multi-annual nature, the effectiveness of the Research DG's control strategy can only be fully measured and assessed at the final stages in the life of the framework programme.

Furthermore, the Research DGs have agreed on materiality criteria to assess whether the control strategy yields satisfactory results.

92. In the area of environment, public health and food safety the European Parliament calls on the Commission to continue its efforts to improve those administrative procedures which have an impact on the implementation of commitment and payment appropriations. (§§ 161-166)

Commission's response:

DG ENV has taken steps to improve the implementation of the budget. The financing decision is approved in year n – 1 under reservation of the approval of the Budget in order to allow the preparation of actions as soon as possible. A monthly reporting of implementation is made, analysed and send to the Units for actions. However it is difficult to plan payments for Civil protection where the payments depend on the occurrence of major emergencies.

93. The European Parliament notes with concern that the audit of contracts in the area of education and culture resulted in adjustment of 12,3% of ineligible costs in favour of the Commission, which leaves open the question of the eligibility of reimbursements in projects which have not been audited. (§ 167)

Commission's response:

The figure of 12.3 % is overstated for 2006 and needs to be revised in order to ensure comparability with the figures for the previous years, as it represents a relation between the value of the contracts and the adjustments following the audits in question.

The recalculated value of adjustments of audited contracts in favour of the Commission established on the basis of a "value of open contracts" is 5.3 %.

The figure cannot be directly extrapolated to non-audited projects. The audit policy of DG EAC includes a percentage of targeted audits on projects recognized to be problematic. They are thus not representative for the entire project population.

DG EAC has established a new audit policy clearly differentiating between targeted audits on high risk projects and random audits allowing for a more objective error rate to be established.

Simplification measures, such as extensive use of lump sum and/or flat rate grants, have been introduced, which should reduce the risk of errors.

94. The European Parliament notes that, concerning culture and education policy, although progress has been made since 2005 with the last series of audits contributing additional information, the instrument for auditing and supervising the national agencies did not in fact change and the Directorate-General for Education and Culture (DG EAC) had to acknowledge a number of weaknesses [§ 168];

Notes with concern that, according to the ECA's Annual Report, "the Commission has not complied with the Financial Regulation to carry out checks on the

management and control systems of the National Agencies before entrusting them with the implementation of Community actions" (Annex, point 7.1) [§ 170];

Asks the Commission to provide its Committee on Budgetary Control with a comprehensive and up-to-date list of national agencies and the state of play of the analysis of the declarations of assurance presented by these agencies, and urges the Commission to improve the scope, quality and follow-up of the system audits of national agencies in the field of education and culture [§ 173];

Notes that about 70% of the budget in the area of education and culture is managed through national agencies; notes with concern that in 2006 in a few cases severe and systematic weaknesses in the management of funds were detected; acknowledges at the same time that the Commission is taking steps to strengthen the control framework; expects the Commission to report back on the results of measures taken before the discharge procedure in respect of the financial year 2007 [§ 176];

Shares the view that Member States should be more aware of their responsibilities as regards the functioning of national agencies; hopes that the new declarations of assurance by national authorities will improve Member States' procedures for the control and auditing of national agencies [§ 177]. (§§ 168, 170, 173, 176, 177)

Commission's response:

The recommended action has been taken.

The Commission (DG EAC) has adopted an integrated supervision strategy that includes, a.o, supervisory processes based, as far as the National agencies are concerned, on the "integrated control framework" approach (primary, secondary and supervisory controls).

Ex-ante declarations of assurance 2007-2013 issued by National Authorities have been screened before entering into a contractual relation with the National Agencies. Additionally, National Authorities will also issue by 30 April (for the first time in 2008) annual ex-post declarations of assurance concerning the use of funds during the previous year. Therefore, the operation of this system will be completely checked once the first annual cycle will be concluded, i.e. when the results of controls carried out on the annual reports of the National Agencies and of the Annual ex-post declaration of assurance covering 2007 are available. Guidelines for the yearly declaration have been issued on February 2008 and two meetings with the National authorities have been held in December 2007 and March 2008.

Follow-up of systems audits recommendations has been incorporated in the assessment process of the ex-ante declarations of assurance 2007-2013 issued by National Authorities and is constantly monitored.

As regards the checks of grant beneficiaries by the National agencies (primary controls) an harmonized approach across the different programmes and actions (including minimum percentages and minimum number of beneficiaries/projects to be checked for each decentralized action) has been developed and integrated in

the contractual obligation of the National Agencies. Reporting formats to the Commission have been issued accordingly.

With the entry into force in 2007 of the new legal bases for programmes implemented in part through National Agencies, the requirements of the Financial Regulation are respected through the Commission's analysis and approval of ex-ante declarations of assurance issued by National Authorities before the Commission enters into a contractual relation with the National Agencies.

A complete list of National Agencies with information on state of play of the analysis was included in the preparation of the hearing in European Parliament. All the declarations of assurance presented by the National Authorities were analysed by the end of 2007. During the analysis, open findings from the system audits were taken into account and they are followed-up systematically (e.g. when assessing the yearly declaration of assurance).

95. The European Parliament regrets the fact that the ECA found delays by the Commission in making payments to beneficiaries and that DG EAC had no reliable information on these late payments [§ 169];

Is concerned at shortcomings in the data available regarding certain aspects of the implementation of the multi-annual programmes; requests in particular full information from the Commission about the extent of late payments to beneficiaries; supports the Ombudsman's new own-initiative inquiry in this respect; notes that 23% of payments were late in 2007; notes that the Commission is currently revising its definition of a late payment, and looks forward to receiving more information in this regard [§ 179]. (§§ 169, 179)

Commission's response:

Since July 2007, DG EAC has established a regular financial reporting to its Directors Board which includes also information on payment delays. This information is taken directly from the Commission's accounting system, ABAC. It shows that on average the given payment delay of 45 days (for grant agreements) has been respected by DG EAC.

However, this does not exclude that certain payments have been in excess of the regulatory delay and the monitoring by DG EAC includes also an analysis of these cases. One result was that reception dates were transmitted to ABAC before a payment request became admissible due to a technical problem in the local IT system. This has led to an overstatement of payment delays and has been corrected in a new release. Internal instructions have also been recalled to insist on the importance of timely payments.

96. The European Parliament notes with great concern that for the e-learning program, the average administrative cost per successful application was EUR 22 000, while the average amount per grant was only EUR 4 931; asks the Commission to explain the large difference between these two figures and to take the necessary measures to decrease it. (§ 171)

Commission's response:

The Commission considers this concern to be unjustified for the following reasons:

The budget of eLearning in 2006 was as follows:

-operational expenditure (budget line 15.02.02.04): € 12.858 million EUR-25 + a complement of €0.403 million (EFTA/EEA countries, Bulgaria ...)

-administrative expenditure (budget line 15.01.04.15): € 0.374 million EUR-25 + a complement of €0.018 million (EFTA/EEA countries, Bulgaria ...)

The realised commitments were made as follows:

The operational budget (15.02.02.04) served two major purposes:

- the eTwinning action (action 3), which facilitates twinning of primary and secondary schools via the internet; this action had a total budget of € 6.51 m in 2006 to co-finance the national support services and to finance the central support; all along the calendar year 2006 more than 2,500 new cooperation initiatives were launched by those schools which registered in eTwinning;

- grants to 19 multilateral cooperation projects (17 in the main selection list + 2 in a reserve list) awarded through a general call for proposals concerning digital literacy (action 1), virtual campuses (action 2) and transversal actions (action 4), for a total budget of €5.99 m.

In addition the following activities were financed

- a subsidy to a Presidency conference in Finland (€0.296 m);

- the external evaluation of the programme (€0.198 m)

The budget line for administrative expenditure (15.01.04.15) funded the following actions:

- development and technical support of the eLearning information portal: €0.331 m (<http://www.elearningeuropa.info>);

- audits of completed projects: €0.020 m;

- contribution to the development of DG EAC's local accounting and management system: €0.033 m

It can therefore be noted that the average administrative cost per selected project when considering the amount spent on budget line 15.01.04.15 divided by the number of projects selected (19) is slightly above €20,000.

However, the average amount which is mentioned to be € 4,931 was actually € 0.315 million as far as direct contributions to selected projects are concerned (€ 5.99 million divided by 19 co-funded projects). It should be noted that the

cooperation initiatives launched by schools through the eTwinning facilities do not receive funding.

It should also be noted that eLearning was an atypical programme for the education sector as it combined the element of granting a direct contribution to a limited number of projects on the basis of a selection process with a web-based service allowing for no-cost cooperation projects to be established (eTwinning). The Commission should like to stress the fact that the recent external evaluation underlined the cost-effectiveness of the eLearning programme. Both multilateral projects and eTwinning are now part of the Lifelong Learning programme.

97. The European Parliament notes that, according to the DG EAC 2006 annual activity report, the Commission is implementing several action plans (at least six) to remedy its management weaknesses, but regrets the fact that the current situation as regards the action plans is not clear; regrets the fact that concrete answers were not given during the hearing in preparation for the discharge. (§ 172)

Commission's response:

As outlined in the framework of the hearing of Commissioner Figel on 27 November 2007, DG EAC establishes Action plans in the follow-up to all evaluations as demonstrated in the documentation provided. As far as management weaknesses are concerned, they have been compiled in one single action plan that was approved by senior management on 10 July 2007.

98. The European Parliament notes the ECA's repeated recommendation that "efforts should be continued to simplify the rules covering these programmes, where possible making more extensive use of lump sum financing and move to a results-based financing system"; calls therefore for greater simplification and more extensive use of flat-rate arrangements;

Welcomes the ECA's recommendation to the Commission to make increased use, in line with the Financial Regulation, of lump-sum and flat-rate financing in order to facilitate the awarding of grants. (§§ 174-175)

Commission's response:

The recommendation has been taken into account when designing the rules for the new programmes 2007 - 2013 in the area of education and culture. The rules are simplified and lump sums and flat-rate arrangements are largely used.

99. The European Parliament calls on the Commission to issue strict guidelines on the transparency of application and selection procedures for the multi-annual programmes; expects it, together with the executive agencies and national agencies, to further improve communication with applicants and beneficiaries; (§ 178)

Commission's response:

The Commission has issued the Guide for the National agencies that is legally binding and set rules for procedures for selection and ex-post publication in compliance with the Financial Regulation requirements.

100. Takes note of the increased efforts undertaken by the Commission to enhance its ability to listen to citizens' concerns via its communication tools; encourages the Directorate-General for Communication to make better use of simplified funding mechanisms for measures targeted at civil society, along the lines foreseen by DG EAC in the Europe for Citizens programme (§ 180)

Commission's response:

The Commission takes note of the Recommendation concerning the need to simplify its tools for financing communication with civil society. DG COMM has stated that it developed the management partnerships (framework agreements governing delegation to intermediary bodies in the Member States) precisely for this purpose. These partnerships are now spreading rapidly throughout the European Union.

It would nevertheless note that the parallel with DG EAC's "Europe for Citizens" programme referred to in this recommendation is limited, insofar as it operates on the basis of the Institution's institutional prerogatives rather than on a specific legal basis.

External action

101. The European Parliament urges the Commission to present its definition of a non-governmental organisation, focussing not only on legal aspects but also on the way the non-governmental financing of these organisations is ensured; accepts the Commission's proposal to discuss the question of a definition of non-governmental organisation (NGO) after the results of the ECA's ongoing audit of NGOs have been made available. (§ 181 (+§ 19))

Commission's response:

The Commission proposes to discuss this matter with members of the EP coming from the different competent Committees following the results of the Court of Auditors' ongoing audit on NGOs. There is no single comprehensive legal definition of an NGO. The Development and Cooperation Instrument, as of January 2007, therefore provides the typology of reference with regard to non state actors eligible for co-financing.

102. The European Parliament notes with concern that the ECA's findings referred to above [in §§ 182-184] were the same in its 2005 Annual Report, i.e. inconsistency of external audit information submitted to headquarters, lack of systematic centralisation of this information in order to reach conclusions and insufficient follow up; therefore asks the Commission to react to these findings urgently [§ 185];

Notes the situation criticised by the ECA as regards the Commission's ex post control activities (points 8.23 and 8.33 of the Annual Report), and calls on the Commission to regularly inform its Committee on Budgetary Control of the steps taken to remedy the situation [§ 188];

Agrees with the ECA that the Commission should include information on all audits of projects in the CRIS and should better link this information to project management information; also asks the Commission's EuropeAid headquarters to review the financial information provided by delegations in order to ensure its completeness and consistency [§ 199]. (§§ 182-185, 188, 199)

Commission's response:

In line with its commitment to further improve its operation, the functionalities of CRIS-Audit have also been reviewed, building on the experience gathered and taking into account the requirements of the new audit module within the Commission's central accounting system (ABAC-Audit). The new CRIS-Audit came into operation in late 2007 and its use became mandatory from 1st January 2008. The entire Annual Audit Plan 2008 has been centrally encoded in CRIS-Audit. Furthermore, the Annual Synthesis Report 2007, issued in February 2008, is a review of the audit reports received in 2007 by Headquarters and Delegations, and aims at giving AIDCO Headquarters an overview of the main audit findings related to its activities.

103. The European Parliament asks the Commission to carry out an annual overall assessment of the state of play of internal control in DG AIDCO and to evaluate whether additional posts are necessary in the IAC service. (§§ 186-187)

Commission's response:

IAC has been reinforced by two new posts and it seems feasible to carry out the full audit coverage, within the three-year cycle proposed.

104. The European Parliament invites the Commission to further improve DG AIDCO's risk assessment by making reference to the findings of auditors at project level and by making a distinction according to the different types of implementing organisation and funding method. (§ 189)

Commission's response:

The annual Risk Self-assessment is carried out in the context of the Annual Management Plan and is a high level risk assessment which complements other and more detailed risk analyses, carried out for instance in the context of the establishment of the Annual Audit Plan. It focuses on residual risk taking account of the mechanisms already in place. The fact that the elements mentioned by the Court might not be specifically referred to in the formulation of the risk (obviously synthetic) does not imply that these elements have not been taken into account during the exercise. Hence, this recommendation is evaluated by the Commission as in place.

105. The European Parliament invites DG AIDCO to improve the terms of reference of its external audits to cover all known risk areas, including the verification of compliance with the Commission's requirements regarding contracting procedures and the eligibility of expenditure. (§ 190)

Commission's response:

In early 2006 the standard grant and fee-based service contracts have been revised. They now include standard terms of reference (ToR) for auditors to perform expenditure verifications to be submitted by the beneficiaries of Community funds prior to final payments. Furthermore, AIDCO adopted new standard ToR for financial and systems audits and for compliance assessments on 16.07.2007.

106. The European Parliament insists that a harmonised information system should be developed in order to provide the discharge authority in particular, and the public in general, with a fully transparent database containing a full overview of projects financed with EU funds in the world, and the final recipients of these funds; is of the opinion that, preferably, the Common Relex Information System (CRIS) database should be enabled to deliver this kind of information [§ 193];

Calls on the Commission to inform it efficiently and rapidly about the use of EU funds via international trust funds in Iraq; invites the Commission to update and give substance to this information, and to propose a system which enables Parliament to see in a clear and readable way what exactly has been co-financed by EU funds via international trust funds anywhere in the world [§ 220]. (§§ 191-194, 197, 220)

Commission's response:

Periodic states of play of operations in Iraq and Afghanistan are transmitted to the European Parliament. Specific websites have also been created for Iraq and Afghanistan at the following addresses:

http://ec.europa.eu/europeaid/where/gulf-region/country-cooperation/iraq/iraq_en.htm

and

http://ec.europa.eu/europeaid/where/asia/country-cooperation/afghanistan/afghanistan_en.htm.

As regards the publication of beneficiaries of EC Funds, EuropeAid is taking the required measures with a view to meeting the legal requirements defined in Article 30 (3) of the Financial Regulations in line with commitments given to the European Parliament. As announced by letter of 14 July 2008 from Mr Koos Richelle to Mr Herbert Bösch, at the end of July 2008 EuropeAid has published in a consolidated manner on its website the list of beneficiaries of EU funds for external assistance under direct centralised management in 2007. The link to this page is the following:

http://ec.europa.eu/europeaid/work/funding/beneficiaries_en.htm.

In respect of humanitarian aid, DG ECHO publishes annually ex post a detailed list of all grants awarded at the following address:

http://ec.europa.eu/echo/funding/decisions_en.htm.

For decentralised and joint management the obligation to publish information of the beneficiaries of EC funds have been included in all Financing Agreements and contracts signed since May 2007. EuropeAid services are in contact with the entities managing the EC programmes, with a view to ensuring that the obligations are adhered to. Starting six years ago, the first tables of EC funds channelled through the UN and the World Bank were produced for Parliament and Council. Since then, the identification in our information systems of contracts with international organisations has improved continually, both in terms of presentation and also due to the increased accuracy and reliability of the information available. Figures for 2007 have been further improved to provide detailed descriptions of the actions funded and where these actions are taking place. The lists of the contracts signed by by EuropeAid Co-operation Office in 2007 with the UN and the World Bank can be found at:

http://ec.europa.eu/europeaid/who/partners/international-organisations/index_en.htm

These lists effectively enable the reader to see in a clear and readable way exactly what is co-financed by EU funds via international organisations anywhere in the world.

107. The European Parliament notes the ECA's findings as to the legality and regularity of transactions in the field of external actions and of the related supervisory and control systems; invites the Commission to undertake all necessary system improvements so as to ensure that irregularities identified at the level of project-implementing organisations in third countries are removed [§ 207];

Urges the Commission to address very seriously the deficiencies regarding contracting procedures and the eligibility of expenditure, and deeply regrets the critical assessment of the ECA in this area, which is under the Commission's direct financial management [§ 198]. (§§ 198, 207)

Commission's response:

The Commission has taken a series of actions which should progressively allow it to better identify and correct errors detected at the level of implementing organisations: standard Terms of Reference (ToR) for expenditure verifications for grants and fee-based service contracts (mandatory since February 2006); new standard Terms of Reference (ToR) for financial and systems audits (mandatory since October 2007); annual consolidation of external audit results in a synthesis report aimed at identifying a typology of findings and identifying corrective actions; development of CRIS audit which should improve reporting on audit results.

See also the reply to recommendation no. 108.

108. The European Parliament considers that the visibility, political guidance and possibility of control by the Commission of international trust funds (where the EU is a major donor) should be strengthened, without compromising the effectiveness of action in this field [§ 195];

Invites the Commission to present to it a plan to further increase EU ownership of external actions [§ 196];

Looks forward to an increase in the visibility of actions financed by the EU via international trust funds, in particular in the context of the sums totalling more than EUR 1 billion which have been transferred from the EU budget to UN and World Bank funds; urges the Commission to ensure that political guidance, visibility and control of the funds are improved [§ 218];

Invites the Commission regularly to present to it specific measures to further increase EU ownership of its external actions in their geographical contexts, in accordance with the principles of efficiency, accountability and visibility [§ 219]. (§§ 195, 196, 218, 219)

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:

- *Terms of Reference (ToR) for expenditure verifications are mandatory since 2006 and cover 97% of the amount of the grants;*

- *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 EuropeAid;*
 - *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 11 UN Organisation, covering 97% of EuropeAid contributions to the FAFA family;*
 - *The number of verification missions launched by EuropeAid in projects implemented by International Organisations has raised to 50 in 2007, of which 39 to the UN Organisations; DG ECHO has carried out in 2007 two verification missions in the field on three UN managed DG ECHO projects. Two verification missions at UN headquarters covering 6 projects were carried out and three had been initiated at the end of the year.*
 - *Standard ToR for verification missions are used by the Commission since 2006. These ToR are being discussed with the UN in order to adopt "Common ToR for verification missions". The Commission and the UN have signed joint guidelines on reporting to improve the reporting practises;*
 - *The Commission has signed an action plan on visibility in 2006, followed by the approval of joint guidelines indicating how this should be implemented;*
 - *A new version of the Practical Guide to Contract procedures for EC external actions has been released in 2006.*
- The Commission is also increasingly involved in key decision-making in relation to the Trust Funds to which it makes a significant contribution.*

109. The European Parliament invites the Commission to improve transparency and access to documentation relating to projects managed by UN agencies, and to continue to develop clear guidelines and procedures within FAFA, setting out the framework for managing the financial contributions made by the Commission to the UN;

Invites the Commission to report to it on controls undertaken under FAFA. (§§ 200-201)

Commission's response:

The FAFA and the model for the specific contribution agreement signed with the UN (and other international organisations) state that all EC institutions are entitled to checks, including on the spot (verifications). Since May 2007, the specific contribution agreement further explicitly mentions the Court of Auditors. The Commission regularly draws the attention of the UN to the right of the Court of Auditors to have access to the documentation it needs. UN-EC common Terms of Reference (ToR) for verification of projects managed by international organisations are being developed. The reporting on controls undertaken under FAFA is foreseen in the context of the AAR.

110. The Parliament appreciates the results of the audit of the implementation of the Phare and ISPA instruments in Bulgaria and Romania and the assistance programme for Turkey, which identified an insignificant level of error; takes note of the errors and weaknesses found in relation to the implementation of the SAPARD instrument in Bulgaria and Romania; calls on the Commission to continue working with the authorities of both countries to ensure that all requirements for public tendering and sound financial management are met and that adequate assurance of the correctness, regularity and eligibility of claims for Community assistance is provided. (§ 202)

Commission's response:

The Commission has taken the recommended action.

The Commission has followed up the mentioned issues through monitoring activities, checks on payment claims and audits. For the countries that have recently acceded, the periodical meetings of the Joint Monitoring Committees still allow to foster punctual improvements or to strongly invite the beneficiaries to implement corrective measures where deemed necessary.

In the case of Bulgaria, in the last six months the Commission had provisionally suspended EU funding because of irregularities found through the control and auditing system. While significant work has started to address these problems, the Commission is not yet sufficiently reassured to ease the suspensions. On July 23rd, the Commission has therefore formally taken the decision to withdraw the accreditation for two government agencies in charge of managing pre-accession funds. As soon as Bulgaria has taken the necessary corrective measures to improve financial management and tighten control systems, the Commission is prepared to reverse its decision to withdraw the accreditation of the two implementing agencies concerned, namely the Central Financing and Contracting Unit and the Implementing Agency at the Ministry of Regional Development and Public Work. The Commission has also taken a formal decision to suspend infrastructure funding.

Where EDIS has not been granted, or for the countries that still are in the course of accession, the ex-ante controls carried out by the Delegation or the Institution Building projects remain a powerful tool to strengthen the national supervisory system by a permanent learning by doing process.

Regarding SAPARD DG AGRI has suspended SAPARD payments to Bulgaria for three measures and to Romania for all measures, asking the respective authorities to set up an action plan in order to remedy identified deficiencies.

111. The Parliament reiterates its concern at delays in the accreditation of the Extended Decentralised Implementation System (EDIS) in Bulgaria, and urges the Commission and the Bulgarian authorities to step up their cooperation in order to ensure that adequate management and control structures, as well as administrative capacities, are put in place to allow efficient functioning of the EDIS. (§ 204)

Commission's response:

The Commission accepts the recommendation.

The Commission continues to closely monitor the management systems in tight cooperation with the Bulgarian authorities. Where necessary, the national authorities are strongly invited to take urgent action to redress the situation. An action plan is being set up by the beneficiary country to ensure that improvements take place and the proposed measures will be closely monitored and audited to verify that they lead to the desired improvements.

112. The Parliament supports the recommendation of the ECA to the Commission that the Commission closely monitor the effective functioning of national supervisory and control systems, notably the preparation and management of tenders in Turkey, procurement under the EDIS in Bulgaria and Romania and the timely delivery of national co-financing; underlines the need to strengthen the administrative capacity of those Member States that have recently acceded and those countries which are in the course of accession. (§ 205)

Commission's response:

The recommendation is accepted.

The issues have been followed up through monitoring activities, checks on payment claims and audits. For the countries that have recently acceded, the periodical meetings of the Joint Monitoring Committees still allow to foster punctual improvements where deemed necessary. Where EDIS has not been granted, or for the countries that still are in the course of accession, the ex-ante controls carried out by the Delegation or the Institution Building projects remain a powerful tool to strengthen the national supervisory system by a permanent learning by doing process.

113. The Parliament is pleased with the ECA's assessment that several remedial measures were introduced by the Commission in the follow-up to the ECA's special report on twinning from 2003; invites the Commission to motivate beneficiary governments more strongly to make use of the outputs of projects carried out in the context of their reform efforts; supports the ECA's recommendation to the Commission that the Commission reduce the level of detail of the twinning contracts in order to allow greater flexibility of project management. (§ 206)

Commission's response:

The recommendation has been taken and is executed.

The Commission agrees that the commitment of the beneficiary administration to fully use the Twinning expertise and its outcomes is an essential element to enhance Twinning projects sustainability in general. In the same spirit, the Commission has acknowledged the need to step up efforts towards targeted and fully operational programming of Twinning projects.

114. The European Parliament invites the Commission to present to it a report on what exactly has been done to alleviate the situation of Iraqi refugees and displaced persons. (§ 208)

Commission's response:

The Commission is taking the recommended action and will present the requested report to the European Parliament by the end of September 2008.

115. The European Parliament emphasises its interest regarding assistance provided to Afghanistan, and invites the Commission to present to it a report on the state of play of the implementation of EU funds in Afghanistan, and to comment on the expulsion from that country of the acting EU representative on a charge of having communicated with the Afghan Taliban (§ 209)

Commission's response:

A report on the state of play has been completed and placed on the EC website for Afghanistan. Printed copies have been provided to the European Parliament.

The expulsion of a member of the Office of the EU Special Representative for Afghanistan is not of the competence of the European Commission, but of the Council, which should therefore be addressed concerning this matter.

116. The European Parliament fully supports the ECA's conclusions concerning DG ECHO in the Annual Report as follows: "DG ECHO should clarify the rules on eligibility of expenditure to prevent varying interpretations and the balance between DG ECHO's headquarters and field audits of implementing partners should be reviewed, in order to obtain a better view of the reality of project expenditure" (points 8.11 and 8.18 of the Annual Report); (§ 212)

Commission's response:

The recommended action has been taken.

The Commission continued to work with contracting organisations on improving their understanding of the rules, to accommodate varying interpretations. A new Framework Partnership Agreement between DG ECHO and its partners entered into force on 1 January 2008. It contains clear rules on eligibility of expenditures. DG ECHO is currently finalising the revision of Facts Sheets and Guidelines in order to align them with the new rules and to give a clear interpretation on existing rules.

The balance between headquarter and field audits has been reviewed and should be seen in the context of an overall control strategy. The number of field audits has increased to 37 in 2007 compared to 20 field audits performed in 2006.

117. The European Parliament regrets the finding set out at point 2.1 of the annual activity report of the Directorate-General for Development (DG DEV) to the effect that "Ensuring the coherence of Community policies with an impact on developing countries, is a major source of risk. This risk is most relevant to respect to trade, notably Economic Partnerships Agreement (EPA) negotiations. This represents a critical dimension of development policy but the capacity in this area is concentrated in DG Trade. This risk persists in spite of the reinforcement and concentration of the responsibilities related to trade following DEV's reorganisation in July 2006";

Asks the Commission to present to its Committee on Budgetary Control its ideas on how to confront this situation and the measures to be taken in 2008 to improve the functioning of the internal control system in DG DEV with regard to the level of implementation of internal control standards. (§§ 213-214)

Commission's response:

The risks mentioned by DG DEV in its 2006 Annual Activity Report with regard to trade issues, in particular negotiations of the Economic Partnership Agreements (EPAs), are of a political nature. They relate to the intrinsic challenge of conciliating policy objectives, as they result inter alia from the Treaty, of opening trade and fighting against poverty. In the case of the EPAs, they are intrinsically linked to the challenge to transform a 4 decade long trading relationship with countries with low trade and negotiating capacities, also in the light of obligations deriving from the WTO.

The risk identified was addressed in the action plan related to the 2007 AMP and was dealt with by very intensive upstream coordination and strong cooperation between the two DGs over the last two years, by strong involvement of all concerned staff in DG DEV, and by a consistent attention given by DG DEV to policy coherence for development (an objective which furthermore targets all policy areas and for which the Commission adopted a first EU report in September 2007).

118. The European Parliament asks the Commission to regularly inform it of the carrying out of on-the-spot checks and inspections, identifying notable cases of suspected fraud or other financial irregularities during the last year of implementation of the MEDA programme. (§§ 215-217)

Commission's response:

The Commission informs regularly and in accordance with the current legal framework the European Parliament and its Committee on Budgetary Control of all fraud cases and will continue to do so.

Administrative expenditure and issues concerning the agencies

119. The Parliament calls for an analysis of decentralisation and its effects on Commission staff and asks the Commission to present a timetable for a review of its internal organisation in light of decentralisation (§ 232)

Commission's response:

"Decentralisation" as used in this context means externalisation to agencies and therefore covers a heterogeneous reality. The Parliament should differentiate between:

- The many decentralised agencies created by the legislative authority and which exert a wide range of functions. The latter frequently represent a pooling at EU level of competences formerly exerted by Member States' departments in areas of shared competences, rather than performing tasks previously carried out by the Commission. In this sense, their creation had no impact on Commission services, except to add additional coordination and monitoring tasks. There is in principle no rationale for a reorganisation in the Commission after setting-up an agency.

- The 6 executive agencies (including the 2 newly created Research agencies) which do perform implement EU programmes on behalf of the Commission. However, their effect on the Commission staff has already been submitted to the Parliament for each and every agency in accordance with the 2004 working arrangements between the Commission and the Parliament, as further extended at the Parliament's request last fall following the joint declaration of the Parliament and the Council of 13/07/2007 on executive agencies. As foreseen in Reg 58/2003, the financial statement attached to each proposed creation detailed explicitly posts freed in the Commission for redeployment as well as the financial resources liberated as a result of externalisation. This analysis formed the very basis on which the Parliament approved the creation of all 6 executive agencies. In that sense, effects on the Commission staff have already been detailed and the Commission reorganisation following decentralisation is one of the sources of staff redeployment that, together with self-restraint, account for the Commission's modest staff increase since 2002 in comparison with other institutions (see Annex 1 to the 24/04/2007 screening report and subsequent answer to Mrs Grässle's written question 4286/2007).

A meta-evaluation of the Community agency system (decentralised agencies) was conducted in 2003 by DG BUDG and the Commission has committed itself to conducting a new one in the context of the budgetary dialogue of 2007, currently under way. In addition, a horizontal meta-evaluation is to be launched in the context of the Commission's Communication "European Agencies: the way forward" of March 2008. Among other things, the evaluation will also assess the impact of agencies on Commission's internal organisation and activities. In that framework, the inter-institutional working group that the Commission proposes to set up with the European Parliament and the Council will contribute inter alia to defining the objectives and the scope of this horizontal evaluation. The Commission intends to report on the results of this evaluation by 2009-2010.

120. The Parliament requests a peer review after 3 years of existence of each executive agency to assess the added value of programme implementation by executive agencies in comparison with the relevant Directorate-General. (§ 233)

Commission's response:

Article 25 of Regulation (EC) No 58/2003 provides that an external evaluation report on the first three years of operation of each executive agency shall be drawn up by the Commission and submitted notably to the European Parliament. It shall include a fully fledged cost-benefit analysis. Further to the evaluation reports, the Commission will take all appropriate steps to resolve any problems identified.

The process of evaluation of the EAC Executive Agency is currently ongoing, and should be achieved on 31/12/2008.

121. The Parliament asks the Commission to follow more closely the cash balances of the agencies and to impose more stringent obligations on them as regards the submission, in payment requests, of rigorous forecasts of real cash requirements in order to avoid unnecessary cash movements and to have better future estimates. (§ 235)

Commission's response:

The Commission will take the recommended action.

As it has responded to the 2006 Court of Auditors Annual report, the Commission can indicate that the revision of the framework Financial Regulation has been adopted by the Commission on 9 July 2008. Taking account that revision, Commission Regulation (EC, Euratom) N° 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in article 185 of the FR (OJ L 357 of 31.12.2002, page 1) contains provisions reinforcing the agencies' obligation to submit, in their payment requests, rigorous forecasts on their real cash requirements throughout the year in order to avoid unnecessary cash-flows. This would enable the Commission to follow more closely the cash balances of the agencies and hence should lead to a more rigorous planning and increased transparency.

122. The parliament calls for subconsolidation of agencies' accounts. (§ 236)

Commission's response:

The Commission has already included in its accounts a consolidation of the budgetary accounts of the agencies. Further detail can be provided on request.

123. The Parliament expects the Commission to keep its competent committees informed of the outcome of this study and of the planning forecast, with special emphasis on details of the Berlaymont building. (§ 238)

Commission's response:

In order to better quantify the "costs of ownership", OIB commissioned in 2007 a first patrimonial study from a specialised company. This study provides a

structured approach for the necessary works to be carried out over time in order to ensure sound and efficient management of the Commission's property investments. A second study, on the buildings in usufruct, will be launched towards the end of 2008 - beginning of 2009. The results of these studies will be used to support the budget requests in this area and will be communicated to the competent committees.

As regards the 2006 global structural deficit, a solution was found in the framework of the 2006 budget implementation, including for the financing problems of the Berlaymont.

124. The Parliament invites the Commission to inform it of its follow-up to the ECA's Special Report No 2/2007, in particular as regards improved cooperation, including the formulation of a common property policy involving the creation of a Community instrument covering buildings and the financial and staffing arrangements relating thereto. (§ 239)

Commission's response:

The Commission's commitment to interinstitutional cooperation has been reiterated in the Annual Policy Strategy 2009 (COM(2008)72), where "... the Commission confirms that the structure of the three administrative offices is suited to their being turned into inter-institutional bodies and will examine possible options with a view to presenting appropriate proposals involving, where feasible, inter-institutional offices or other forms of cooperation, such as service level agreements."

However, embedding inter-institutional co-operation into appropriate structures is only possible if there is a firm commitment from all the Institutions. The Commission will raise the point when discussing an inter-institutional building policy in the working groups (see also recommendation no. 134).

125. The Parliament requests the Commission to integrate the results of staff screening and of its Communication on policy for the accommodation of commission services in Brussels and Luxembourg (COM(2007)0501), to revise the space need set out therein accordingly and to report on the results of this exercise by September 2008; (§ 240)

Commission's response:

The results of the staff screenings have been already integrated in the building programming of the Preliminary Draft Budgets 2008 and 2009, which give information on new office space needs and buildings (in surface terms) for the years to come.

These planned needs are coherent with the commitment taken by the Commission in its Report "Planning & optimising Commission human resources to serve EU priorities" (SEC(2007)530) not to ask for new staff over the period 2009-2013, under the conditions set out in the same report, and to meet new staffing needs in key policy areas exclusively through redeployment.

**Special Report No 1/2007 concerning the implementation of the mid-term processes,
Structural funds 2000-2006**

126. SR 1/2007: High priority should be given in the future to the setting-up of sound monitoring systems in the Member States as a measure to prevent irregularities and possible fraud. (§§ 250, 249)

Commission's response:

The Commission is taking the recommended action. It has emphasized the establishment of sound monitoring systems in the negotiations on 2007-13 programmes and has asked Member States to adopt core indicators which will allow comparison of data across Member States on a continuing basis.

127. SR 1/2007: Ensure analytical evaluations arriving at operational conclusions and recommendations. (§ 251)

Commission's response:

The Commission is taking the recommended action. In the past year the Commission has launched a range of evaluations of Cohesion Policy programmes with a strong focus on evidence, analysis and operational conclusions and recommendations.

128. SR 1/2007: Draw up an indicator or benchmarking system which will lead in time to more harmonised evaluation reports, thereby improving comparability and, subsequently, the analytical depth of these reports. (§ 252)

Commission's response:

The Commission is taking the recommended action. It has drawn up core indicators which will improve accountability and reporting on Cohesion Policy programmes. The Commission does not, however, believe that a standardised evaluation model would achieve the result sought by the Parliament. Cohesion policy programmes are wide ranging and different evaluation methodologies are appropriate in relation to different areas of intervention. The Commission is committed to using more rigorous evaluation methodologies where appropriate and working with Member States to use such methods in their own evaluations, too. The Commission believes that the new needs-based approach to ongoing evaluation which replaces the mid-term evaluation of all programmes at one fixed point in time will lead to more rigorous evaluations with analytical depth.

129. SR 1/2007: Make clear guidelines available to the Member States at the beginning of the programming period. (§ 259 and §§ 253 to 258)

Commission's response:

The recommended action has been taken. The Commission's guidance on indicators and ex ante evaluation was available and discussed with the Member

States in 2005 in draft form, before being formally adopted in June 2006. The guidance on ongoing evaluation was adopted in April 2007.

130. SR 1/2007: Take the necessary steps to fully involve Parliament in the modifications to the Structural Funds' regulations it intends to introduce in the run-up to the next financing period starting in 2014. (§ 261 and § 260)

Commission's response:

The Commission is taking the recommended action. The Commission is prepared to share emerging results from the ex post evaluations of the 2000-2006 period with the Parliament and to discuss possible modifications to the regulations regarding evaluation arrangements in the run up to 2014.

131. SR 1/2007: The Structural Funds' regulations should provide for an incremental learning process to be reflected in the legal provisions; this seems all the more important as ex-post evaluations at the end of a programming period cannot be concluded in time before a regulation covering the new financing and programming period enters into force; in addition, Parliament's competent committees should be regularly consulted at the different stages during the financing period. (§ 262)

Commission's response:

The Commission is taking the recommended action. It agrees with the recommendation of the Court in its Special Report No 10/2006 on ex post evaluations that such evaluations should be managed as an integral part of an overall process and should make full use of the knowledge gained during an entire programming period. The more flexible arrangements for evaluations during programme implementation also serve this objective. The Commission will continue to inform and consult the competent committees of Parliament about evaluation issues throughout the financing period.

132. SR 1/2007: report back with the European Court of Auditors on measures taken in reaction to Parliament's findings during the 2006 discharge procedure; in addition, present the findings of the 2000-2006 ex post evaluations to the EP Committee on Budgetary Control. (§ 263)

Commission's response:

The Commission is taking the recommended action. First (very preliminary) results will be available in autumn 2008, but the entire exercise and results will not be known until end 2009.

Special Report No 2/2007 concerning the institutions' expenditure on buildings

133. Suggests that there should be a provision in the Union's consolidated accounts for major maintenance work; (§ 265 (+ *General Budget* § 241))

Commission's response:

It is not allowed under the EC accounting rules (or international accounting rules such as IPSAS or IFRS) to make provisions for major maintenance work on the balance sheet for future operating expenditure such as this.

134. Calls on the EU institutions to renew their efforts to develop a common buildings policy and to report to the competent parliamentary committee in time for 2007 discharge procedure. (§ 267)

Commission's response:

The Commission is ready to examine to what extent such an interinstitutional buildings policy can be established, and will do so in the two inter-institutional working groups in Brussels and Luxembourg.

135. Calls on the EU institutions to develop common criteria for calculating office space and costs, and, subsequently, to appraise both short and long-term needs. (§ 268)

Commission's response:

The Commission services (ADMIN, OIB, OIL and BUDG) are in the process of defining a common methodology in this area. As soon as a common position is agreed, the Commission will be willing to discuss it with the other institutions.

136. Asks the Commission why it was indispensable to rent the MONDRIAN building and which alternatives it had considered. (§ 272)

Commission's response:

The owner of the Mondrian building is a German pension fund interested in a stable and long-term income. In spite of the Commission's insistence on purchase, the owner did not want to sell the building.

The Commission finally took the building in usufruct, because, at that time, it was the only building in the area matching the Commission's needs in terms of size, quality and location, as it is near the SDME building, where other parts of the same DG are housed.

137. Calls on the EU institutions to evaluate carefully the necessity of staying in the European quarter when they re-house parts of their services. (§ 276)

Commission's response:

The Commission has repeatedly and officially stated that it favours a combination of central and peripheral presence of its services, so as to decrease the pressure on the European Quarter, and has confirmed this in its communication on the accommodation of its services (COM(2007)501 of 5.9.2007). It does systematically evaluate the necessity of housing particular services in the European Quarter and has in fact developed other poles in Brussels (Beaulieu and Genève), and will continue to do so.

As a follow-up to the above communication, the Commission has published a notice requesting information about possible new poles (OJEU S113 of 12.6.2008).

138. Asks the EU institutions why they made, according to the ECA, such a wide use of the negotiated procedure, avoiding public tender, thereby paying a price for the construction of buildings or for works which was not determined by open competition. (§ 278)

Commission's response:

The public procurement approach in the area of buildings depends on the type of transaction at hand.

For CONSTRUCTION or RENOVATION projects the tendering procedures will be used in full compliance with the Directive.

For RENTING or PURCHASING existing buildings, the Commission applies the procedure foreseen for these operations in the Financial Regulations, including the information of the budgetary authority prior to contract signature. In fact, the Commission has recently adopted not only the principles of a new methodology for finding suitable buildings (COM(2007)501) but also the details of this new methodology (C(2008)2299 of 3.6.2008), based on a better market information, increased competition, greater transparency and improved cooperation between the services. This new methodology will be evaluated after three years and the Commission will share the results of this evaluation with the budgetary authority.

For FITTING-OUT WORKS in existing buildings, the situation is different. The Commission acquires its building completely fitted-out to its specifications under the responsibility of the owner (and therefore not subject to public procurement procedures). In doing so, the Commission avoids spending money on rent while the building is being fitted-out, and it also avoids taking the responsibility for these works. This is entirely in keeping with the rules in force.

139. Insists that the EU institutions should make wide-spread use of competitive tendering. (§ 279)

Commission's response:

As regards the request to make wide-spread use of competitive tendering, the Commission has first defined the principles for a new methodology in its communication COM(2007)501 on the housing policy. This (detailed) methodology

itself was adopted by the Commission on 3.6.2008 (C(2008)2299) and is based on a better information of the market, increased competition, increased transparency of the procedure and better inter-service coordination.

140. Underlines that in the absence of competitive tendering procedures, purchase prices for constructions and/or long-term rents should not exceed construction costs. (§ 280)

Commission's response:

The purchase price or rent of an existing building is only partially determined by the construction cost. The supply and demand conditions (i.e. the physical location and the scarcity of space or of takers) co-determine the actual rent or price.

When a building is constructed for an Institution and on land owned by this Institution, the price paid should indeed closely correspond to the costs incurred by the builder and will include a reasonable profit (as stated even by the Court in its special report). The price will be the result of different calls for tenders for the works, supplies and services necessary to construct the building.

141. Considers that long-term leasehold contracts should indicate the purchase price, and that appropriate financial guarantees should be required from contractors in order to ensure the full performance of contracts until final acceptance. (§ 281)

Commission's response:

It is current practice.

142. Calls on the EU institutions to establish "headquarter agreements" with the host countries of the EU institutions' main working places. (§ 282)

Commission's response:

For the Commission collaboration with the host countries is not only of paramount importance but is in practice very cordial, good and fruitful.

The Commission has since long adopted the spirit of the recommendation, although formally no "headquarters agreements" have been signed.

In their absence, the Protocol on Privileges and Immunities (PPI) has filled the gaps in most areas, and co-operation arrangements have been set up in specific fields, e.g. in security, obviously linked to buildings. The recent Communication COM(2007)501 also aims at strengthening the cooperation with the host countries.

As regards the co-operation with Belgium, the Commission has extended this co-operation by setting up a Task Force (with subgroups if necessary), where Vice-President Kallas' office meets several times a year with the representatives of the Brussels Region. As regards the co-operation with the Grand Duchy of Luxembourg, the Heads of Administration in Luxembourg similarly meet with the Chairman of the "Fonds Urbain et d'Aménagement du Kirchberg" on a regular basis.

143. Suggests that greater use could be made of the financial services of the European Investment Bank, and of tendering procedures on the financial market to determine the interest rate. (§ 283)

Commission's response:

In its communication on building policy (COM(2007)501 §4.2), the Commission has on the one hand announced its intention to investigate possible financing schemes including cooperation with the EIB. A working group chaired by OIL is currently analysing various ways of funding buildings projects based on the experience of the Commission, the Court of Justice and the Court of Auditors.

On the other hand, whenever possible the Commission uses competitive tendering procedures for financing certain types of building expenditure, and when this was done, the margins obtained for financing operations have been very competitive.

144. Emphasises that the EU institutions should have complete administrative, technical and financial control over their building projects; to this end they should either make use of highly qualified consultants or develop appropriate expertise within the inter-institutional framework. (§ 286)

Commission's response:

Since the second half of 2006, the Commission systematically resorts to a comprehensive "due diligence" contract with an external law firm for the buildings it negotiates. This contract covers all the legal aspects, amongst which: contracts with architects and insurance companies; environmental and town-planning permits; tax matters.

Regarding the valuation of buildings, the Commission has a contract with a specialist in this field, and for technical aspects with an engineering company.

On this basis the Commission considers it has fully acted on the EP's request: its own qualified staff, together with the contracts mentioned above, covers all the fields (legal, financial and technical) necessary to have complete control over its buildings projects.

145. Reminds the EU institutions of its demand expressed in paragraph 20 of its above-mentioned resolution accompanying the discharge decision for the financial year 2004: "(...) charges its administration, in consultation with the other Union institutions, to draw up a report examining whether it might be feasible to establish a European Buildings Authority charged with responsibility for the construction and maintenance of the buildings of the EU institutions and bodies; calls for such report to be forwarded to the Committee on Budgetary Control by 1 October 2007 at the latest. (§ 287 (+ General Budget § 242))

Commission's response:

Although this recommendation is addressed to the EP's own administration, the Commission would like to state that it accepts, for its part, the mentioned

recommendation and has committed itself to improve the interinstitutional cooperation in this domain.

Special Report No 3/2007 concerning the management of the European Refugee Fund (2000-2004)

146. ERF III should be closely linked to the implementation of Council Directives 2001/55/EC and 2004/83/EC. (§ 290)

Commission's response:

The Commission considers that it has implemented the recommendation. Under ERF III's basic act, an allocation is set aside (fixed by the budgetary authority at EUR 10 million) for any temporary protection procedure which has to be implemented as provided for by Directive 2001/55/EC. At the request of a Member State, the allocation may also be used for short-term actions, thereby making it possible to respond to a given demand on the entire asylum system at national level.

The Commission has adopted strategic guidelines for ERF III (OJ L 326 of 12 December 2007, p. 29-31) in order to give direction to the actions implemented by the Member States. The obligatory guidelines include implementation of the 'acquis communautaire', and in particular Directive 2004/83/EC. The Commission verifies that the multi-annual programmes comply with the strategic guidelines.

147. Stresses that ERF III should continue to contribute to the further development of an EU policy in the area of freedom, security and justice, in particular the preparation of a review of the "Dublin II convention", including a refocusing on a voluntary redeployment of asylum seekers within the EU in order to come to a burden-sharing arrangement. (§ 291)

Commission's response:

The Commission considers that it has implemented the recommendation. ERF III is an instrument for facilitating the implementation of the 'acquis communautaire' in the field of asylum and also for promoting the convergence of practices in the Member States. ERF III also enables the Commission to manage certain actions (Community actions) directly through calls for proposals and calls for tenders: this makes it possible to finance innovative pilot projects that can then be used to identify and/or confirm development under the European asylum regime.

148. Invites the Commission to continue its efforts to prevent different interpretations of ERF rules by Member States, and welcomes the launch of seminars on good practice disseminating experience gained in some Member States to others, in particular to new Member States still less familiar with the ERF. (§ 292)

Commission's response:

The Commission considers that it has implemented the recommendation. Member States may implement the ERF III differently in order to cope with specific local situations without these differences constituting erroneous interpretations of the rules.

To improve comprehension of the rules to be applied, the Commission closely involved the Member States throughout 2007 in the drafting of the ERF III implementing rules. In order to make it easier for the Member States to apply them correctly, the implementing rules adopted for ERF III in December 2007 (OJ L 7 of 10 January 2008) are almost identical to those governing all the funds of the General programme ‘Solidarity and Management of Migration Flows’.

Despite the significant effort involved in launching the four funds, the Commission was determined to draw up a practical guide to the rules on the eligibility of expenditure in cooperation with the Member States. In parallel, it organised a conference bringing together all the designated authorities from the Member States, in order to explain the implementing rules and to share experiences. These initiatives will be continued in coming years depending on the available resources.

149. Invites the Commission to do everything possible to speed up payments to Member States and to raise awareness among Member States of the need to disburse payments, in particular for smaller beneficiaries, in time in order not to endanger innovative projects and to allow also NGOs with a smaller budget backing to participate in ERF III. (§ 293)

Commission's response:

The Commission agrees with the recommendation. The ERF II and ERF III basic acts enable the Member States to request the payment of a second prefinancing, to supplement initial prefinancing, of up to 100% of the Community share of the actions selected by the Member States. The Commission very regularly suggests that Member States ask for this second prefinancing, but not all Member States wish to benefit from this financial facility. Efforts to raise awareness in the Member States will continue.

150. Insists that national declarations of assurance should cover all areas where Member States are co-responsible for the spending of EU funds, e.g. the ERF. (§ 294)

Commission's response:

The Commission is focusing its attention on the implementation of the provisions for “annual summaries”, as agreed among the three institutions and included in Community legislation.

Overall the outcome of the first round of annual summaries, due in February 2008, has been positive and the Commission considers this a success that it can build on to make further progress. The formal submission of summaries by a central body reinforces the accountability of Member States for their use of funds. The Commission services responsible will provide feedback and guidance to Member States aimed at improving the quality of the summaries for the next round.

The Commission supports the Member States which decide to issue, on a voluntary basis, national declaration but emphasizes that this is a decision for individual

Member States and at present, there is no legal obligation for Member States to provide national declarations.

If a Member State wishes to move in this direction, the Commission would suggest that such declarations cover the programmes in the Justice Freedom, Security field, as is today the case for the report produced by the Netherlands Court of Auditors.

151. Invites the Directorate General for Budget to reconsider its practice of recoveries, as recovery via non-related projects is counterproductive to the functioning of specific programmes (in particular resulting in late payments of pre-financing amounts); recovery orders should be issued to the Ministry of Finance of the Member State concerned, rather than automatically recovering from any upcoming payment to that Member State. (§ 295)

Commission's response:

The Commission rejects this recommendation. DG Budget does not issue Recovery Orders (ROs) for internal polices as this is the role of the relevant Directorates General. DG Budget only authorises ROs relating to its own management and relating to Own Resources and late interest.

If the question concerns the offsetting, the Commission does not deal with the different departments/ministries within each Member States but with the Member State itself. This is in accordance with the Treaty and with the constitutional rules of each Member State: the State has legal personality, individual ministries do not.

The Court of Justice has not questioned the offsetting between different departments/ministries.

152. Invites the Commission to use the ERF even more proactively, in order to enhance progress towards a Common Policy on Asylum. (§ 296)

Commission's response:

The Commission considers that it has implemented the recommendation. ERF III is an instrument for facilitating the implementation of the Common European Asylum System (CEAS) and also for promoting the convergence of practices in the Member States. ERF III also enables the Commission to manage certain actions (Community actions) directly through calls for proposals and calls for tenders: this makes it possible to finance innovative pilot projects that can then be used to identify and/or confirm development under the CEAS.

153. Invites the Commission to continue its efforts to ensure the harmonisation of statistical data in order to avoid distortions with programmes where the sound distribution of funds depends on statistical data provided by Eurostat. (§ 297)

Commission's response:

Regulation 862/2007 offers for the first time a clear and comprehensive legal basis for statistics on international migration and asylum. The Regulation sets

harmonised statistical definitions as well as establishing procedures for the monitoring of data accuracy and quality standards. This Regulation is currently being implemented.

The provision of good quality data for the correct allocation of funds is a high priority. Eurostat is therefore beginning the development of a rolling programme of quality assurance activities focussing on the data needed for the allocation of funds under the 'Solidarity and Management of Migration Flows' programme (which includes the European Refugee Fund).

Special Report No 4/2007 on physical and substitution checks on export refund consignments

154. Urges the Commission to take on board the shortcomings identified in the report, as well as to take action in line with the recommendations of the ECA. (§ 298)

Commission's response:

The Commission has taken the recommended action.

The Council Regulation (EC) No 14/2008, adopted end of 2007, provides for that Member States are allowed to calculate the control percentage of physical checks for their whole territory instead of per customs office if they apply risk analysis in their control selection.

Moreover, by Commission Regulation (EC) No 159/2008 the physical and substitution control system has been modified in the following way:

- *Exporters are more bound to the reliability of the export declaration by requiring them to identify the products before loading;*
- *Reliability of customs seals is improved by additional conformity checks (10%) when customs affixes seals;*
- *In order to inform customs on the risk relevance, exporters must mention the refund rate on customs documents.*
- *In order to target controls to high refund value exports, the threshold below which export declarations are disregarded for the control score has been raised inter alia from €200 to €1000;*
- *In order to safeguard the surprise effect of physical checks, customs must vary its time of starting the physical check;*
- *In order to improve supervision on the quality of physical checks, more relevant data must be mentioned in the control report;*
- *Substitution checks also include exports sealed by customs;*
- *The control rate for substitution checks is now expressed in a percentage (8%) of the customs documents (instead of a norm based on the number of days exports cross the customs office of exit);*
- *In order to increase control pressure at the outer border, customs must check the integrity of seals for a minimum norm of 10% of the customs documents (T5);*
- *In order to improve the quality of substitution checks, the definition has been widened;*

- ***In order to improve interaction between the paying agency and the customs office of exit, the latter must report irregularities and the paying agency must report back on the actions taken.***

155. Expects the Commission to use its power of initiative to come up with concrete proposals in order to improve the situation of the operational control system. (§ 299)

Commission's response:

The Commission has taken the recommended action. The Commission's initiative resulted in the adoption of Council Regulation (EC) No 14/2008 and Commission Regulation (EC) No 159/2008 on physical and substitution control system.

156. Regrets the lack of a clear timeline in the Commission's replies regarding its future proposals on the monitoring of export refunds, given the short time prior to their phasing-out. (§ 300)

Commission's response:

The Commission has taken the recommended action and already proposed legislation, resulting notably in Council Regulation 14/2008 and in Commission Regulation (EC) No 159/2008 of 21 February 2008. The content of the Commission regulation is summarised in the response to § 298.

157. Deplores the several weaknesses reducing the effectiveness of physical checks, in particular the predictability of checks, the high number of low value and low risk exports being checked as well as the method used to check bulk shipments of goods. (§ 301)

Commission's response:

The Commission has taken the recommended action. The questions have been addressed in Commission Regulation (EC) No 159/2008 of 21 February 2008. The Commission's audit services have examined the aspects raised and, where necessary, have taken the necessary action under the clearance procedure.

158. As far as substitution checks are concerned, regrets that the checks were not detailed enough and that the interpretation of the number of checks to be made varied between Member States. (§ 302)

Commission's response:

The Commission has taken the recommended action. Commission Regulation (EC) No 159/2008 of 21 February 2008 addresses the issues of detailing substitution checks. In line with the Court's recommendation the norm for the number of checks is now a flat percentage rate of 8% instead of the "one per day". The Commission's audit services have examined the question of substitution checks and, where necessary have taken the necessary action under the clearance procedure.

159. Shares the ECA's concerns that the Commission has not reacted, with legislative changes or timely financial corrections, despite the fact that it was aware of the weaknesses, highlighted by its key controls when monitoring the checks, for some considerable time. (§ 303)

Commission's response:

The Commission has taken the recommended action. The Commission indicated in its reply to the Special report (4/2007) that it had acted on the findings of the auditors. These findings were discussed with Member States in the Trade Mechanisms Committee and addressed in different working documents to Member States. The legislative result is Council Regulation 14/2008 and Commission Regulation (EC) No 159/2008 of 21 February 2008.

160. Invites the Commission to continue its efforts to modify the relevant legislation with a view of addressing, among others, the issue of "tail-gate inspections", and to introduce the obligatory use of risk analysis for export procedures, in line with the ECA's assessment. (§ 305)

Commission's response:

The Commission has taken the recommended action. In Commission Regulation (EC) No 159/2008 of 21 February 2008 checks on integrity of seals are to be executed at every customs office of exit. The legislation also specifies that substitution checks are to be of a more profound quality than "tailgate checks" only. Application of risk analysis is encouraged by Council Regulation (EC) No 14/2008 and by Commission Regulation (EC) No 159/2008 of 21 February 2008 (modifying Article 2 of Regulation (EC) No 2090/2002). Obligatory use of risk analysis is envisaged in parallel with the introduction of obligatory risk analysis for export procedures in general in the Customs Code, by 1 July 2009.

161. The Parliament regrets the considerable lack of transparency in management by the Commission and its delegations, which renders an evaluation impossible; considers it unacceptable that the Commission has no overview of the projects funded under CARDS, whereas the European Agency for Reconstruction (EAR) has made available to the public the list of contracts it has signed, specifying programmes and projects. (§ 307)

Commission's response:

The Commission has implemented the recommendation.

The Commission has published ample information on the website, both on the Enlargement web-page and on the EuropeAid web-page and is at your disposal for additional information.

As regards the publicising of the results of calls for tenders and calls for proposals as well as subsequent contracts awarded, the Commission has always complied with the legal and procedural requirements of the CARDS Regulation in accordance with the external aid rules as laid down in the Financial Regulation and further detailed in the Practical Guide for EC contract procedures (PRAG).

In accordance with these rules and guidelines, the information was published with all the legally required details on the EuropeAid website for external aid procedures. Interested parties, be they decision makers or potential applicants, as well as beneficiaries are well aware of this tool that has proved its appropriateness over many years.

Furthermore, the IPA Implementing Regulation provides for detailed requirements in terms of information and publicity of programmes and contracts while strictly taking into account the data protection aspects.

The EAR has also been obliged to use the EuropeAid website in accordance with the Financial Regulation and the Financing Decisions of the Commission.

In addition, the Commission gives a full overview of statistical data of supported projects – per country as well as per type of support – on the web site of DG Enlargement as well as a good selection of case studies illustrating the scope of the intervention under the CARDS programme.

The Commission is currently analysing to which extent it can further improve information for the public on its web pages under the IPA programme.

162. The Parliament is of the opinion, in this context, that the Commission did not meet in 2006 the obligations arising from its own decision taken in 2005 on the phasing out of the EAR, which provided that the Commission delegations in the various Balkan countries should take full charge from the beginning of the IPA. (§ 310)

Commission's response:

The Commission's proposal of April 2006 to extend the mandate of the EAR for a final two years received the Parliament's assent before adoption of the Council Regulation in November 2006.

The Legislative Financial Statement in annex to the Commission's proposal of April 2006 clearly stated that during the transitional period 2007-2008 the EAR would continue to be fully responsible for CARDS and would also provide the necessary assistance to the Commission towards programming and implementation under the new Instrument for Pre-accession Assistance (IPA) – in line with Council Regulation 2667/2000 on the EAR. The proposal also clearly stated that the EC Delegations in Belgrade, Podgorica and Skopje and the EC Liaison Office in Pristina (ECLO) would be built up progressively with the objective to reach full capacity by the end of 2008.

To this purpose, the Commission has put in place the necessary procedures and structures to ensure a smooth handover from the Agency to the Delegations/ECLO of the management of the CARDS programme. The process of phasing in the Delegations and the ECLO and phasing out the Agency is progressing as planned. The recruitment of staff is generally on schedule and Delegations and the ECLO now have sufficient office space. The physical and electronic transfer of files from the Agency to Delegations and the ECLO has begun and is scheduled to be completed in the autumn. Specifically in Kosovo, the transfer of files was carried out in a single operation at the end of June, at which point the ECLO took over the former premises of the Operational Centre of the EAR and a considerable number of staff formerly in the EAR moved to the ECLO. In all Delegations/ECLO, the necessary staff is in place for ensuring the full financial circuits in line with the Financial Regulation. For newly recruited staff, a comprehensive training programme has been developed including courses on financial and operational aspects of the management of EU assistance.

In the meantime and in accordance with Council Regulation 2667/2000 on the EAR, for as long as the Delegations and the ECLO are not fully fledged, the EAR assists them with the preparation of the files for the implementation of the IPA programme. The assistance by the EAR for the programming and implementation of IPA in no way resembles the practice of TAOs/BATs (Technical Assistance Offices / Bureau d'Assistance Technique) for the simple reason that there is no question of giving away the Commission's discretionary power to an external entity. Signing contracts and making payments under IPA remains fully the responsibility of the Commission Headquarters and Delegations in the respective countries.

Every effort is being made to ensure a smooth and continuous delivery of assistance to our partner countries.

Special Report No 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources

163. SR 7/2007: The sound management of resources in line with the precautionary principle and the principle of sustainable development requires the strengthening of existing control mechanisms so that the flag State and the coastal State where vessels are operating can access information in real time on the vessel's location and the fishing operations being carried out whenever they wish. (§ 314)

Commission's response:

The Commission agrees on importance of the flag state principle on which our existing rules on vessel monitoring (VMS) and electronic reporting (ERS) systems are based. Two dimensions could be developed in the framework of the control reform. First, new technologies could be used for control purposes, to facilitate the systematic use of cross checks and ensure the quality of data received by the Member States. Second, the reform could develop cooperation mechanisms between the flag State and the coastal State to ensure the continuity of the evidence, and prosecution of possible offences wherever they take place.

164. SR 7/2007: Propose measures to guarantee the quality and reliability of catch data when revising Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy (the Control Regulation)(33). (§ 317)

Commission's response:

The Commission is preparing a proposal for the reform of the Common Fisheries Policy (CFP) control framework foreseen for October 2008. The reliability of catch data is key to the overall systems of total allowed catches (TACs) and quotas. The Commission envisages to introduce new mechanisms to ensure systematic and automatic systems for the validation of data. It needs to define minimum standards for cross checking, and would develop and possibly extend the use of modern technologies (ERS, VMS) beyond existing requirements.

165. SR 7/2007: Act against individual Member States where there is a suspicion that they are violating or ignoring the control, inspection or sanctions systems of the CFP. (§ 322)

Commission's response:

The Commission does launch infringement procedures in cases of lack of compliance with the Common Fisheries Policy (CFP). The Commission also believes that it will be necessary to develop mechanisms to redress non-compliance in due time and to avoid the risk to fisheries resources with a view to take preventive measures and strengthen the capacity of the Commission to react quickly. The proposed reform of the CFP control framework will examine the possibility of reducing and suspending structural funds money in cases of inadequate inspection and control by Member States, and adopt a system already existing in Agriculture.

166. SR 7/2007: Use power of initiative to come up with concrete proposals in order to really improve the CFP, in line with the Communication recently adopted by the Commission launching a debate on improving fishing capacity and effort indicators under the common fisheries policy (COM(2007)0039. In particular, make proposals aiming at simplifying and harmonising the CFP legislation , since the current legislative framework is too complex and not up to date. (§§ 324 and 327)

Commission's response:

The Commission's forthcoming proposal on the reform of the Common Fisheries Policy (CFP) control framework will aim at the simplification of current rules. Simplification is one of the objectives of the reform, to bring into one legislation all control measures that are at the moment scattered in more than 20 texts. This would facilitate the understanding of rules by the sector and the Member States. More detailed rules are also envisaged for the control of fishing capacity and fishing effort, as this is one of the main drivers of non compliance.

167. SR 7/2007: Increase mutual assistance and administrative cooperation between Member States' authorities and the exchange of information between competent national officials by creating a system like that already in place for the VAT community system. (§ 330)

Commission's response:

The Commission has included provisions regarding mutual assistance between the European Community and third countries in its proposal for a Regulation to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing. It is already its intention to insert a similar system in its future proposal for a new Control Regulation, which will focus on mutual assistance between the Member States and its services. Both systems are inspired by the current mechanisms to ensure mutual assistance in the agriculture and customs areas, which have proven their efficiency.

168. SR 7/2007: for control and for the whole CFP, put in place a system which allows the follow-up of catches from origin to final consumer, as already exists in the internal market with respect to all other food products. (§ 331)

Commission's response:

The reform of the Common Fisheries Policy (CFP) control framework will put in place a global and integrated approach. The introduction of a comprehensive traceability system from the catch to the plate should form an integral part of the reform. Inspiration from existing experiences in agriculture would be taken. As consumers are becoming increasingly aware of the need to obtain sustainable fisheries products, the traceability system will ensure that at any step of the chain, minimum requirements for labelling will be met and complied with.

169. SR 7/2007: Take strong, resolute action in the event of any suspicion of breaches of, or fraud against, the quota system; (§ 332)

Commission's response:

The Commission does launch infringement procedures in cases of lack of compliance with the Common Fisheries Policy (CFP). However, this system has proven to be long and cumbersome. The Commission is thinking of developing new tools to be able to react quickly and proportionately to any situation where an infringement or a fraud to quota system is detected. On the basis of the precautionary approach, the Commission wants to be able to close a fishery, and reopen it when a Member States is able to demonstrate that a stock can be safely exploited. Other mechanisms like, stronger quotas deductions are also envisaged.

170. SR 7/2007: Together with the Member States, increase the competences of the Community Fisheries Control Agency and promote the Agency's important executive role in the control and harmonisation of the CFP and in improving transparency and coordination by the establishment of common practices under the scope of the joint deployment plans. (§ 333)

Commission's response:

The Community Fisheries Control Agency will play a key role in developing a level playing field. The existing mandate of the agency will be adapted to the future scope of co-operation with Member States and the Commission to ensure the strengthening of our control policy, as part of the reform of the Community Fisheries Policy (CFP) control framework. The agency is operational since 2007 only, however, it is felt that its mandate needs to cover clearly inspection on land (and not just at sea as it is the case at the moment). Also, the mandate of the Community inspectors could be extended.

171. SR 7/2007: Propose to Member States the increasing of the competences of the Commission's controllers, who should have greater powers in order to create a common European control strategy in the CFP. (§ 334)

Commission's response:

It would be desirable that the Commission could carry out on-the-spot checks, without restriction, on implementation of the Common Fisheries Policy (CFP) by the Member States or where enhanced co-operation is required to verify compliance in significant cases of Community relevance. The Commission will propose in its proposal for a reform of the CFP control framework a redefinition of the inspectors' powers, but also of their profile. The Commission wants to develop its auditing powers, to be able to better control the control systems of the Member States. The profiles of the Commission inspectors would be adapted accordingly.

172. SR 7/2007: the cost-benefit ratio existing between the resources dedicated to control activities in the CFP and the results obtained by these controls (the proportionality and cost-effectiveness of controls) should be a key element to be taken into consideration by the Commission in its future proposals concerning the CFP. (§§ 335 and 336)

Commission's response:

The Commission will take appropriate and cost effective measures in its proposal to reform the Common Fisheries Policy (CFP) control framework. A global and integrated approach to control will be introduced, that encompasses control all over the chain from the catch to the net, and will focus on high risk activities, following a risk analysis approach.

173. SR 7/2007: continue efforts to modify the relevant legislation to address, among other things, the issue of overcapacity, and propose measures to reduce structural overcapacity in the fishing industry. (§ 338)

Commission's response:

The Commission is considering ways to maximise and simplify the use of the European Fisheries Fund in order to reduce overcapacity where it is needed.

174. SR 7/2007: Review alternative political solutions under which the need for controls and sanctions would be reduced by increasing individual professional fishermen's responsibility for, and interest in, viable stocks. (§ 339)

Commission's response:

There is a need to develop a culture of compliance and control. This involves more transparency in the implementation of the rules of the Common Fisheries Policy (CFP) and also a better understanding by the stakeholders of the specific control measures which takes into account the views of the fisheries sector. At the same time, there is still a need to have a robust control and sanction systems applicable in the Member States to ensure compliance with CFP rules. Above all, and this is a request from the sector and the Member States themselves, what is needed is an EU level playing field, which ensures the definition of minimum standards for inspection, and a fair treatment (including a more uniform sanction system) for all fishermen wherever they operate).

Special Report No 9/2007 on Evaluating the EU Research and Technological Development (RTD) framework programmes – could the Commission's approach be improved?

175. The European Parliament calls on the Commission to bear in mind the recommendations of the ECA when carrying out the scheduled evaluations in 2008, 2009, 2010 and 2015 [§ 349];

In particular, the European Parliament underlines that objectives must be operational and measurable ("benchmarking") to allow for the use of performance indicators and effective monitoring [§ 344];

Suggests that the Directorate General for Research assume more responsibility and a coordinating role; shares the ECA's view that external expert advice should be established at an early stage and remain in place to guarantee a consistent and coherent approach, in particular as evaluations are scheduled for 2008 (ex-post evaluation of the 6th RTD framework programme), for 2009 (factual interim report on the 7th RTD framework programme), for 2010 (mid-term evaluation of the 7th RTD framework programme) and for 2015 (ex-post evaluation of the 7th RTD framework programme) [§ 346];

Calls on the Commission to consider publishing an evaluation manual [§ 347]; Is of the opinion that the quality of the mid-term and ex-post evaluations will improve the clearer the terms of reference which are provided (i.e. measurable objectives, expected impact, effective monitoring, a sound data base); emphasises that evaluations will be more useful if framework programmes are adaptable ("learning" programmes) and conclusions drawn can be used to improve ongoing programmes [§ 348]. (§§ 344, 346-349)

Commission's response:

The Commission is taking the recommended action. In particular, it is committed towards further improvements of the clarity of future framework programmes including the objectives, which will better support the use of performance measures and monitoring; DG Research will implement initiatives to improve coordination between services engaged in evaluation, including a clearer definition of roles and responsibilities and an evaluation strategy; options are being considered for establishing a source of independent advice to support the planning and design of future evaluations and studies; the development of an evaluation manual is being discussed; the FP7 interim evaluation and future ex post evaluations will be provided with clear terms of reference drawing attention to objectives and impacts achieved, supported by a sound evidence base; note is made of the importance of ensuring that framework programmes are adaptable in the light of operational experience.

European Development Funds

176. The European Parliament requests the Commission to specify the shortcomings of the current system and the measures it takes to compensate them in the forthcoming discharge exercises for the financial years 2007 and 2008;

Expects the new IT system to be operational in time for the start of the financial year 2009; requests the Commission to inform Parliament's Committee on Budgetary Control in the event of further delays. (EDF §§ 7-11)

Commission's response:

The Commission is taking the recommended action. The migration from OLAS to CRIS is foreseen in January 2009.

177. The European Parliament recalls that, in its previous discharge resolutions, Parliament had strongly supported the integration of the EDF in the general budget of the European Union, since this would remove many of the complications and difficulties of implementing successive EDFs, help speed up disbursement and eliminate the current democratic deficit; regrets that the EDF was not budgetised under the financial framework 2007 to 2013, but remained a separate financial instrument; considers that the budgetisation of the EDF should be a priority objective for the financial framework after 2013;

Welcomes the Commission's intention to reopen the debate on EDF budgetisation concurrently with the mid-term review of the Tenth EDF; stresses that budgetisation would greatly favour the democratic control and accountability of the EDF; stresses that integrating the EDF in the general budget of the European Union is also an appropriate way of addressing the recurrent problems linked to the slow and cumbersome nature of the intergovernmental ratification process. (EDF §§ 12-13)

Commission's response:

The Commission would point out that it has on several occasions proposed that the EDFs be incorporated into the budget and that its last proposal, which dates back to 2003, was rejected by the Member States. EDF and budget practices have been harmonised, and the disbursement rates of budget and EDF projects are fairly similar. The Commission will raise again its proposal to fully incorporate the EDF into the budget during discussions on the next financial framework.

178. The European Parliament takes the view that the Commission and the Council should do their utmost to simplify the management of the EDF; considers that simplification should be achieved by closing previous EDFs as early as possible and by simplifying the financial rules applicable to successive EDFs; recalls that simplification of the management of EU funds forms part of the key objectives set out in the Commission's Action Plan towards an Integrated Internal Control Framework (COM(2006)0009);

Notes that the Sixth EDF was closed in 2006, and that the Commission plans to close the Seventh EDF in 2008; notes that, with the start of the Tenth EDF in 2008, the

Commission will continue to implement four EDFs simultaneously; requests the Commission to prioritise the closure of the Seventh, Eighth and Ninth EDFs. (EDF §§ 14-15)

Commission's response:

The Commission shares the view of the European Parliament that simplification should be an important objective in the management of European funds. The Commission would stress that, within the limits imposed by the budget and EDF rules, the manual of procedures it has drawn up brings the applicable rules into line with one another. This constitutes a major simplification of the rules for the Commission. The 7th EDF is well on its way to being closed, and the Commission reaffirms the intention to do so in 2008. The 10th EDF entered into force on 1 July 2008.

179. The European Parliament strongly supports the ECA 's suggestion, as repeated in several opinions, to introduce a single Financial Regulation applicable to all present and future EDFs; agrees with the ECA that a measure of this type would ensure continuity of approach and would greatly simplify management; calls on the Commission to come forward with a legislative proposal. (EDF §§ 16-19)

Commission's response:

Article 156 of the Financial Regulation of 18 February 2008 applicable to the 10th EDF (OJ L 78, 19.3.2008, p. 1) provides that most rules of the 10th EDF will apply to previous EDFs. Although technically, previous EDFs Financial Regulations are not abrogated and replaced by the 10th EDF Financial Regulation, in practice the result will be the same.

The FR applicable to the 10th EDF will therefore greatly simplify the management of the different EDFs, all the more so since its provisions have been aligned as much as possible on the FR applicable to the General Budget, except for those issues which retain specificity in accordance with the revised Cotonou Agreement or the Council internal Agreement.

180. The European Parliament notes that, in its financial management report, the Commission indicated that its objective for 2006 was to keep overall outstanding commitments stable at EUR 10 300 million, and that this objective has been achieved; notes that this means that 25 % of total funds committed remain unspent; urges the Commission to further reduce outstanding commitments, especially old and dormant commitments;

Congratulates the Commission on reducing the level of *reste à liquider* (RAL) dating from pre-2001 EDF commitments by 49% in 2006; requests that it receive regular updates on changes in levels of normal and abnormal RAL; calls on the Commission to draw up, for Parliament and for the ACP-EU Joint Parliamentary Assembly, a three-monthly statement on the disbursement of funds.

As regards the General Budget, the European Parliament congratulates the Commission on reducing the level of *reste à liquider* (RAL) dating from commitments made by EuropeAid before 2001 by 39% in 2006; requests that it

receive regular updates of changes in levels of normal and abnormal RAL. (EDF §§ 28-29 (+ General Budget § 227))

Commission's response:

The Commission is taking the recommended action. Regular follow-up of the indicators mentioned by the Court is assured by the competent services and regular updates of changes in levels of normal and abnormal RAL will be sent to the European Parliament.

181. The European Parliament notes that in 2006, 68% of EDF budget support was delivered in the form of sector budget support [and 91% of budget support from the Community budget], which is more targeted than general budget support and therefore leads to lower risks; questions the Commission's "dynamic interpretation" of the eligibility criteria for budget support, which the ECA has said increases risk; believes that budget support should only be undertaken in countries that already meet a minimum standard of credible public finance management. (EDF §§ 30-32 (+ General Budget § 225))

Commission's response:

The Commission continues to apply its 'dynamic' interpretation of Article 61 (2) of the Cotonou Agreement on a country by country basis. This approach allows the Commission to enhance improvements of Public Finance Management (PFM) systems in the respective countries and make this part of its overall development objectives. The Commission does, therefore, not fix a-priori, and in the absence of international standards, minimum PFM thresholds that would not allow taking into account country specific circumstances, a dynamic evaluation of progress made so far and the credible commitment of governments to introduce further positive reform measures. However, the Commission agrees that assessments of PFM eligibility must be carried out in structured and formalised manner. Specific PFM performance indicators within variable tranches need to be clear and precise allowing to measure progress over time.

182. The European Parliament recalls that, if external aid is granted through budget support, the funds become part of the national budget of the beneficiary countries, which means that the Commission's and the ECA's control powers are limited; reiterates that, in these cases, it is particularly important that the Commission cooperate with national authorities in the beneficiary countries which carry out control tasks;

Recalls that Parliament and the ECA have repeatedly requested that the Commission should improve its cooperation with national supreme audit institutions in budget support recipient countries; notes the ECA's statement, in its annual report, that relations between the Commission and the supreme audit institutions in beneficiary countries have improved recently; requests the Commission to continue its efforts to develop a structured approach in its relations with national audit institutions;

Welcomes the Commission's initiative to develop a structured approach to support national supreme audit institutions in countries receiving budget support; notes however that democratic accountability at the level of partner countries cannot be

achieved without also strengthening parliamentary budget control bodies, as recommended by the ECA in its Special Report No 2/2005. (EDF §§ 33-35 (+ General Budget § 224))

Commission's response:

Following the Court's recommendation the Commission services are finalising a document giving guidance on how to best provide support to Supreme Audit Institutions in ACP countries and other national control bodies, including parliamentary budget control bodies.

183. Invites the Commission to improve transparency and access to documentation relating to budget support actions, particularly by establishing agreements with beneficiary country governments analogous to the Financial and Administrative Framework Agreement between the European Community and the United Nations (FAFA) setting out the framework for managing the financial contributions made by the Commission to the UN. (EDF § 36 (+ General Budget § 226))

Commission's response:

For all development project and programs, including Budget Support, the Commission concludes Financing Agreements (FA) with partner country governments. The FA is the legally binding document and contains a technical Annex that spells out the specific implementation modalities including the framework for managing the financial contributions.

184. The European Parliament notes with interest that the Commission, in particular the European Antifraud Office and EuropeAid, in cooperation with the EIB, has initiated a series of conferences in beneficiary countries in order to improve cooperation in practice with national authorities concerned with the correct use of public funds, for example inspectors and prosecutors; notes that the first conference was held in Rabat in May 2007, followed by a second conference in Brazzaville in November 2007 and a third in Cape Town in April 2008;

Notes that, following the first conferences, cooperation with some national authorities has already been intensified on the basis of specific cooperation agreements between them and the Commission; invites the Commission to provide further information on these activities to Parliament. (EDF §§ 37-38)

Commission's response:

Conferences were held in Rabat, Brazzaville and Cape Town. Cooperation arrangements were signed with Morocco, Senegal, Djibouti, Congo Brazzaville and FIGE (Forum des Inspections Générales d'Etats d'Afrique).

These agreements provide for practical working relations modalities between National General Inspections and Commission services (OLAF and EuropeAid). This covers, inter alia, exchange of information and training.

Another conference - planned for beginning of next year - is in preparation.

185. Congratulates the Commission on its initiative to improve reporting on the effects of development policy interventions towards achieving the Millennium Development Goals (MDGs); trusts that this will make a real contribution to improving accountability in this area; looks forward to receiving details of the evaluation of the pilot phase introduced in 2007. (EDF § 39 (+ General Budget § 222))

Commission's response:

The goal of the pilot phase is to test a mechanism which would allow aggregation of data from different projects and programmes in order to obtain a quantified general overview of the effects of aid in a given sector or region and to allow to obtain trends over a period of time. The intention is to report on the results of projects / programmes financed by the EC in a limited number of sectors selected for the pilot phase and to contribute to better accountability of EC assistance in general. It should be noted therefore that the purpose of this pilot phase is not primarily to measure progress towards achieving the MDGs, an ambition which goes beyond the ongoing exercise.

186. Draws attention to the benchmark, agreed by the Commission, that 20% of geographical funding under the Development Cooperation Instrument should be allocated to basic and secondary education and basic health; looks forward to receiving details of the implementation of the benchmark in 2007; insists that reporting against the same benchmark be provided for the EDF; (EDF § 40 (+ General Budget § 223))

Commission's response:

The commitment made by the Commissions regarding the 20% benchmark only concerns the geographical cooperation under the DCI and states in full that by the year of review 2009, a benchmark of 20% of the Commission's assistance under the country programmes covered by the DCI will be dedicated "to basic and secondary education and basic health, through project, programme or budget support linked to these sectors, taking an average across all geographical areas and recognising that a degree of flexibility must be the norm, such as exceptional assistance."

Although the geographic cooperation with the ACP therefore does not fall under the 20% benchmark, the Commission will nevertheless monitor the benchmark in the EDF context: under the 10th EDF, 6% of the programmable funds under the country programmes is foreseen for direct support to health and education, while general budget support is expected to receive nearly 30% of the national indicative programmes, most of it implying the monitoring of social sector indicators.

187. The European Parliament notes with satisfaction that the Commission followed up on Parliament's request to provide more information in its financial management report on resource constraints and their impact on EDF implementation; notes that the Commission indicates that, within these constraints, it made sound financial management and quality its top priorities; is however worried that the Commission continues to report high vacancy rates in some delegations and low levels of staffing relative to the amounts managed. (EDF § 41)

Commission's response:

Adequate staffing, both in terms of number and skills represent a challenge which must be met by increasing efficiency of aid management and through continuous staff development.

188. The European Parliament notes that, under Regulation (EC) No 215/2008, the Council, following a proposal from the Commission, will undertake an overall performance review of the Tenth EDF in 2010; notes that, in this review, financial performance and qualitative performance, in particular results and impact, measures in terms of progress towards achieving the MDGs, will be assessed; requests that the discharge authority be informed about the results of the performance review. (EDF § 42)

Commission's response:

The Commission will inform the European Parliament of the results of the performance review of the Tenth EDF in 2010.

189. Notes that the ECA, in its annual report, reiterated its recommendation that EuropeAid should develop a coherent overall strategy for its control activities; notes that, following the adoption in January 2006 of the Commission's above-mentioned Action Plan towards an Integrated Internal Control Framework, which covers all policy areas, EuropeAid has been working on a strategy which would be coherent with the Commission's general approach, but would also take account of the specific management methods for implementation of external aid;

Welcomes the fact that the ECA, in its annual report for the financial year 2006, as in its previous annual reports, made detailed recommendations on how the Commission could improve its control strategy; notes that the ECA highlights the positive response given by the Commission to its recommendations; invites the ECA and the Commission to continue their close cooperation in this respect. (EDF §§ 43-44)

Commission's response:

EuropeAid has reported on its improved control strategy in its 2007 Annual Activity Report. The Commission will continue its close follow-up of recommendations from the European Court of Auditors in this respect.

190. The European Parliament notes the criticisms of Commission Technical Assistance projects made by the ECA in its Special Report No 6/2007(15) ; notes further that the Commission will address these questions in its Strategy to meet EU aid effectiveness targets on Technical Cooperation and Project Implementation Units, due by June 2008; looks forward to receiving, in due course, an assessment of the results of the implementation of this strategy;

Welcomes the measures taken by the Commission to promote donor coordination in the area of Technical Assistance; stresses the importance of a coordinated approach, not only at EU level but also among all donors, and looks forward to receiving details of the progress of this initiative. (EDF §§ 45-46)

Commission's response:

The draft strategy was presented to Member States on 16 June and sent to the European Parliament at the end of July 2008.

Recommendations in resolutions concerning individual agencies and the European Court of Justice

191. The Parliament requests that the Commission provide clear explanations regarding the following elements before the creation of a new agency or reform of an existing agency: agency type, objectives of the agency, internal governance structure, products, services, key procedures, target group, clients and stakeholders of the agency, formal relationship with external actors, budget responsibility, financial planning, and personnel and staffing policy. (P6_TA-PROV(2008)0149 §5)

Commission's response:

All legislative proposals for new regulatory agencies after 2002 are preceded by an impact assessment, where the elements mentioned are generally taken into account regarding the structure, tasks and mandate of the agency in case are analysed.

Moreover, in accordance with Point 47 of the Interinstitutional Agreement on budgetary discipline and sound financial management, the two arms of the budgetary authority have committed themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the financing of the agency, on the basis of a Commission assessment of the budgetary implications of the creation of such agency for the expenditure heading concerned.

Concerning executive agencies, the main features of executive agencies are set out in Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes. The obligatory cost-benefit analysis as well as the specific financial statement accompanying the creation or extension of an existing executive agency provide further details.

192. The Parliament requests that each agency be governed by a yearly performance agreement which is formulated by the agency and the responsible DG and which should contain the main objectives for the coming year, a financial framework and clear indicators to measure performance; (P6_TA-PROV(2008)0149 §6)

Commission's response:

The Commission fully agrees with the reasoning underlying this recommendation, which aims at evaluating performance against clear objectives.

In this regard, the Commission considers that this recommendation is already fulfilled by existing provisions, following the adoption by the Commission on 9.7.2008 of the revision of the framework financial regulation (regulatory agencies) and the standard financial regulation (executive agencies). For this reason and in order not to increase the administrative burden on agencies, a new and supplementary exercise does not appear justified to the Commission.

Details are provided below on the provisions which answer to the recommendation:

- executive agencies: new provisions of the FR for executive agencies require that each agency provides more complete information in its annual estimate of revenue and expenditure. This notably include 'information on the achievement of all previously set objectives of the various activities as well as new objectives measured by indicators; evaluation results shall be consulted and referred to as evidence of the likely merits of a proposed budget amendment' (Article 21 (f)). Moreover, as any Commission service, executive agencies need to follow the yearly standing instructions established by the Commission for the elaboration of annual activity reports, which provides for exhaustive information concerning the evaluation of performance against objective indicators.

- regulatory agencies: new provisions of the framework FR notably include 'information on the achievement of all previously set objectives for the various activities as well as new objectives measures by indicators' in the framework of the establishment of the budget (Article 27), complete information on revenue and expenditure to be provided by the agency to the budgetary authority, in particular its draft work programme, its updated annual staff policy plan and information on staff for years N-1 and N+1 (Article 27). Moreover, new Article 60 (3) specifically foresees that 'the work programme shall comprise detailed objectives and performance indicators'.

193. The Parliament notes that it is a serious problem that a number of agencies is criticised for not following rules on public procurement, the Financial Regulation, the Staff Regulations, etc.; considers that the principal reason for this is that most regulations and the Financial Regulation are designed for bigger institutions and that most of the small agencies do not have the critical mass to be able to cope with these regulatory requirements; therefore asks the Commission to look for a rapid solution in order to enhance the effectiveness by grouping the administrative functions of various agencies together, in order to achieve this critical mass (taking into consideration the necessary changes in the basic regulations governing the agencies and their budgetary independence), or urgently to draft specific rules for the agencies (in particular implementing rules for the agencies) which allow them to be in full compliance. (P6_TA-PROV(2008)0149 §9)

Commission's response:

After the revision of the FR applicable to the general budget in 2006, the Commission has presented its proposals for the revision of the framework FR for regulatory and executive agencies which takes stock of the agencies' experience and particularities. These texts were established after consulting the agencies and take into account their specificities.

The texts were adopted on 9.7.2008.

194. The Parliament insists that the Commission, when drafting the Preliminary Draft Budget, take into consideration the results of budget implementation by the individual agencies in former years, in particular in year n-1 , and revise the budget requested by the particular agency accordingly; invites its competent committee to respect this revision and, if not undertaken by the Commission, to revise itself the budget in question to a realistic level matching the absorption and implementation capacity of the agency in question (P6_TA-PROV(2008)0149 §10)

Commission's response:

The Commission will take the recommended action.

The Commission recognises the importance of this question. To this end, since the 2009 PDB, it has intensified its efforts by systematically taking into account the last known surpluses (in this case, those of year n-2) when calculating the Community contribution, in order to avoid any over-budgeting.

It should be noted, however, that many agencies are being phased in, i.e. they are expanding, and the surpluses should be interpreted in a reasonable manner, given the inevitable uncertainty in such circumstances. In addition, for those agencies that receive other income and are only partially subsidised, the surplus may come from variations in this other income.

In conclusion, the very diverse causes of these surpluses make them somewhat unpredictable.

The Commission will nevertheless pay very close attention to this question.

195. The Parliament recalls its decision on discharge in respect of the financial year 2005, in which it invited the Commission to present every five years a study on the added value of every existing agency; invites all relevant institutions in the case of a negative evaluation of the added value of an agency to take the necessary steps by reformulating the mandate of that agency or by closing it; notes that there has not been one single evaluation undertaken by the Commission in 2007; insists that the Commission should present at least 5 such evaluations before the decision on discharge in respect of the financial year 2007, starting with the oldest agencies (P6_TA-PROV(2008)0149 §11)

Commission's response:

The general arrangements on evaluation of decentralised agencies in the Framework Financial Regulation for agencies give the responsibility for evaluation to the agencies, but certain Constituent Acts also foresee a role for the Commission. In this way, in addition to the evaluations carried out by the agencies themselves, the Commission, in 2007, concluded evaluations for the following decentralised agencies: the European Network and Information Security Agency (ENISA), the European Monitoring Centre for Drugs and Drugs Addition (EMCDDA), and the European Centre for the Development of vocational Training (CEDEFOP).

Moreover, the Commission, in October 2007, provided the Budgetary Authority with an overview of the evaluations on individual Community agencies, including a list of finalised evaluations as well as a fact sheet for each evaluation, and a section highlighting the main findings. This document showed that the requirement to carry out evaluations is well respected since all agencies were covered by recent evaluations, or planned ones with a reasonable time schedule.

The Commission is further analysing the agency system through a currently ongoing meta-study of the evaluation findings from the individual agencies. In

addition, in the new Communication to the European Parliament and the Council "European agencies - the way forward", the Commission foresees undertaking a horizontal evaluation of regulatory agencies, by 2009-2010, and to report to the European Parliament and the Council on the results.

196. The Parliament is concerned that a significant number of staff is employed on a temporary basis in a way that could undermine the quality of their work; therefore asks the Commission to improve its monitoring of the implementation of the Staff Regulations by the agencies. (P6_TA-PROV(2008)0149 §13)

Commission's response:

Except for eight of them, the establishment plans of the agencies are mainly composed of temporary posts. This was the option taken by the legislator in the founding regulations and confirmed by the budgetary authority, since each year it approves these plans. Each agency's management is responsible for monitoring the quality of the work delivered, whatever the type of staff employed.

As regards the implementation of the Staff Regulations (SR), the Guidelines on Staff Policy in the European Regulatory Agencies foresee that they produce each year a Multiannual Staff Policy Plan. The standard content was elaborated by the Commission services together with regulatory agencies and the SPP includes a description of the type of posts in the establishment plan and the allocation of tasks to those posts.

As regards the implementing rules, the Commission has co-operated with the agencies in order to produce model implementing rules to the SR. Pursuant article 110 of the SR, the Commission examines the compliance of the draft implementing rules proposed by the agencies before awarding its agreement for their adoption. In a majority of these model decisions, the Commission's rules are applied by analogy.

Through this co-operation and through the analysis of the SPPs, the Commission actually meets the request of the EP.

197. The Parliament recalls paragraph 41 of its resolution of 12 April 2005, inviting the directors of the agencies from now on to accompany their annual activity report, which is presented together with financial and management information, with a declaration of assurance concerning the legality and regularity of operations, similar to the declarations signed by the Directors General of the Commission. The Parliament asks the Commission to amend its standing instructions to the agencies accordingly. (P6_TA-PROV(2008)0149 § 16 ; § 17)

Commission's response:

1. Concerning the executive agencies: the standing instructions mentioned by the Parliament apply only for these executive agencies, which are under the control of the Commission. According to these instructions, all directors of executive agencies make declarations of assurance (covering the operating and operational appropriations implemented by them).

2. Concerning regulatory agencies, due to the legal status of these agencies, no standing instructions of the Commission apply. Such a provision is not foreseen in the basic acts. Although it is up to their management boards to decide whether the director has to make a declaration of assurance and the content thereof, it is nevertheless the regular practice for most agencies' directors.

The Commission considers accordingly it has made all what could be legally done, and that this recommendation is largely done in practice.

198. The Parliament suggests in addition that the Commission should work with the agencies towards producing a harmonised model applicable to all agencies and satellite bodies clearly distinguishing between

- an annual report intended for a general readership on the body's operations, work and achievements;
- financial statements and a report on implementation of the budget;
- an activity report along the lines of the activity reports of the Directors General of the Commission;
- a declaration of assurance signed by the body's director, together with any reservations or observations which he considers it appropriate to draw to the attention of the discharge authority; (P6_TA-PROV(2008)0149 §18)

Commission's response:

Provisions governing the presentation of accounts in the framework financial regulation (regulatory agencies) and the FR for executive agencies have been revised and completed to be as much aligned on the general budget provisions. For some elements mentioned in the present recommendation, harmonisation is therefore effective (both FR have been adopted by the Commission on 9.7.2008). This is notably the case of annual activity reports.

However, as already explained in the reply to recommendation no. 197, harmonisation is not possible in the current legal environment as regards a possible declaration of assurance and the situation differs between executive and regulatory agencies:

- the directors of executive agencies make declarations of assurance (covering the operating and operational appropriations implemented by them), as foreseen in the respective legal bases;***
- in the case of regulatory agencies, a declaration of assurance is not foreseen in the legal bases. However, in practice, the great majority of agencies' directors make such a declaration.***

199. The Parliament notes that at the end of 2006 14 agencies had still to implement the ABAC accounting system (Annual Report, footnote to paragraph 10.31). (P6_TA-PROV(2008)0149 §20)

Commission's response:

Regarding ABAC, whereas not all agencies intend to migrate to ABAC, most of them use or will use it in the medium term. This IT integration project is a major investment of resources on the Commission's side and shows its willingness to support the agencies. All necessary support as regard the organisation and implementation of IT training will be offered by the Commission to Agencies using ABAC.

200. The Parliament notes the ever-growing number of regulatory and executive agencies and joint undertakings required to be audited by the IAS under Article 185 Financial Regulation; asks the Commission to inform its competent committee as to whether the staff resources at the IAS's disposal will be sufficient to conduct an annual audit of all such bodies in the coming years. (P6_TA-PROV(2008)0149 §25)

Commission's response:

The Commission has taken the recommended action. The IAS has received the resources necessary to fulfil, for existing agencies, its obligation assigned by article 185 of the Financial Regulation. In 2007 audits were conducted in 21 operating regulatory agencies. Audits for agencies that started operations in 2007 are planned in 2008. In 2008, audits are planned in all 22 regulatory agencies that are in the IAS' scope. The 2008 audit plan is being executed on a timely basis without delays.

201. EAR - The Parliament believes that the work of the Agency has contributed remarkably to the development of the region and that its mandate has been satisfactorily fulfilled; notes the decision to wind down the Agency by 2008 in order to entrust the management of assistance to Serbia, Kosovo, Montenegro and the Former Yugoslav Republic of Macedonia to the Commission delegations in those countries; insists that accumulated know-how and expertise be transferred to the relevant Commission delegations, including by means of the redeployment of Agency staff to manage the relevant programmes in those delegations.

In this context, the Parliament reiterates its request to be kept regularly informed by the Commission about the transfer of activities from the Agency to delegations (P6_TA-PROV(2008)0149 - §§34-35)

Commission's response:

The Commission accepts the recommendation.

A plan for the transfer of programmes and responsibilities from the EAR to Delegations has been established with gradual transfer of CARDS programmes from May to September 2008. The full transfer of responsibilities, from the EAR to Delegations, is now envisaged to begin in waves of annual programmes, starting in Serbia at the end of May and reaching its conclusion for all locations by the begin of October 2008.

During this transitory period, the EAR continues its operations. The EAR will finalise the contracting of the CARDS programme before the final transfer of

operations to Delegations in September 2008. Delegations start progressively to be involved in the Programming of IPA 2008 and the implementation of IPA 2007. Delegations have provided first forecasts for the implementation of IPA 2007.

The EAR will stop all operational activities by the end of September 2008. The EAR will have three months from October to December 2008 to finalise its administrative closure. Afterwards, in 2009, a closure cell attached to the Commission will undertake the closing of residual administrative activities during a limited period of a few months.

In line with the relevant prescriptions of the Staff Regulations, Agency Staff have been offered the possibility to be redeployed in the Delegations that will take over the programmes managed by the Agency after their transfer.

The Parliament will be kept regularly informed by the Commission about the transfer of activities from the Agency to Delegations.

202. EAR - The Parliament is convinced that, at the point where the Commission takes over the management of the new Instrument for Pre-Accession Assistance in view of the acquis-related tasks related to the Balkans, it should finally present to the Council a new mandate for the Agency, which should, as decided, finish its work in the Balkans by the end of 2008 and be converted into a truly European agency for external actions.

The Parliament considers that a new mandate for this successful agency would be the most efficient way of carrying out the new tasks in external actions, which cannot be carried out by Commission services in Brussels or by Commission delegations.

The Parliament considers that, with this new mandate, the Agency could play a most efficient role in areas where traditional development assistance cannot be implemented; considers also that this would significantly increase the EU's visibility.

The Parliament calls on the Commission to revise the mandate of the Agency, which runs out in 2008, and to transform the Agency into an agency responsible for implementing certain EU measures in the external policy sphere, primarily in regions which are recovering from crises. (P6_TA-PROV(2008)0149 - §§38-40 & §48)

Commission's response:

The Commission's proposal of April 2006 to extend the mandate of the EAR for a final 2 years received the Parliament's assent before adoption of the Council Regulation in November 2006.

At her hearing on 20 November 2007, Commissioner Ferrero-Waldner explained that the Commission chose not to propose to use the EAR in other parts of the world, where a different implementation method, that of de-concentrated management via the EC Delegations, had already been decided by the previous Commission, with the full support of Parliament. It has proven successful. The option of an Agency is not excluded for the future, under conditions foreseen in the Reform Treaty on the establishment of the common external service.

The decision to phase out the EAR was reached following the work of a Task Force set up under Commissioner Rehn's chairmanship to fully assess the delivery of assistance to the Western Balkans and consider the future of the EAR.

On 30 November 2005, the Task Force delivered its conclusions to the RELEX Group of Commissioners chaired by President Barroso. On the basis of the work of the Task Force, the RELEX Group of Commissioners agreed to "discontinue the EAR, but seek the extension for two years, until 31 December 2008".

203. EAR - The Parliament invites the Commission to inform Parliament's competent committee how the balance of appropriations remaining at the end of the Agency's mandate will be dealt with. (P6_TA-PROV(2008)0149 - §45)

Commission's response:

The Commission accepts the recommendation.

The EAR will stop all operational activities by the end of September 2008. The EAR will have three months from October to December 2008 to finalise its administrative closure. Afterwards, in 2009, a closure cell attached to the Commission will undertake the closing of residual administrative activities during a limited period of a few months.

The European Parliament will be provided the relevant information at the different stages of the closure of the Agency.

204. EASA - The Parliament calls on the Agency and the Commission to review the Agency's fee structure to bring costs and revenue for certification activities into balance. (P6_TA-PROV(2008)0155 - §37)

Commission's response:

The agency amended its fees and charges regulation on 31 May 2007 with Commission Regulation 593/2007.

205. ENISA - The Parliament takes note of and rejects the Commission's proposal (COM(2007)0699) to transfer the Agency's responsibilities to a new European Telecom Marketing Authority whose tasks from 2010 would include:

– ensuring that the 27 national regulators work as an efficient team on the basis of common guiding principles;

– delivering opinions and assisting in preparing the single market measures of the Commission for the telecoms sector;

– addressing network and information security issues. (P6_TA-PROV(2008)0157 - §40)

Commission's response:

Pending the first reading in Parliament, the Commission reserved its position in Council while indicating that, subject to submission to the College, and with a view to favouring a first reading agreement in good time before the expiry of the current Regulation, the Commission could accept the Presidency's compromise on the duration of the 3 years extension. The Commission also re-emphasized the importance attached to the extension of ENISA being without prejudice to the outcome of ongoing and future discussions on Network and Information Security policy at EU level.

206. FRONTEX - The Parliament calls on the Agency and the Commission to improve the planning of the budgetary and personnel needs of the Agency in the future (P6_TA-PROV(2008)0158 - §36)

Commission's response:

The Commission considers that it has implemented the recommendation. The Commission contributes actively to discussions with the Board of Directors of the Frontex agency related to the planning of budget resources. In April 2008, it submitted an opinion to the agency recommending that the Multiannual Staff Policy Plan 2009-2011 be revised.

207. CEPOL - The Parliament asks the Commission to closely supervise the implementation of the College's budget. (P6_TA-PROV(2008)0160 - §42)

Commission's response:

Taking account of the legal and budgetary autonomy of the agencies, the Commission has taken the recommended action.

The following measures have been taken at DG JLS aiming at closer monitoring of the Cepol's budget implementation:

- Thorough verification of payment demands handed in by the Agency which should be accompanied by a cash-flow position and a forecast giving details on the requested amount. This is to align the level of subsidy paid to the Agency with the real cash requirements

- Appointment of an official, who is working in close liaison with the Agencies, looking after correctness of financial operations and routine financial actions occurred in the course of time.

Moreover, the Commission will be drafting a new administrative agreement with the Agencies which should provide a framework for actions, setting up roles along with responsibilities and which will include conditions for disbursement of the Community grant. This is to eliminate shortcomings and to ensure common playing field where sound financial management is ascertained.

208. The European Parliament recalls that in point 35 of its Special Report No 2/2007 concerning the Institutions' expenditure on buildings, the Court of Auditors

commented as follows on the financing arrangements for the building of the extension to the Court of Justice in Luxembourg: '(...) the Court of Justice was not involved in the tender and the detailed negotiation of the contract - whose clauses and options it did not agree in advance - and it is not signatory to the financing contracts even though it will have to bear the financial costs (e.g. interest rates, management charges). The Court of Justice's departments examined the procedure followed by the government for awarding the contract concerning the financing of the project and pointed out that there had been a lack of appropriate competition (...)'; calls on the Commission to submit, by July 2008 at the latest, the findings of the further

investigations into possible breaches of the directives on public procurement announced in connection with the Court of Justice extension project in its answer to Written Question E-4016/2007. (P6_TA-PROV(2008)0136 § 13)

Commission's response:

The Commission departments contacted the Luxembourg authorities in a follow-up to written question E-4016/2007, which raised the issue of the conditions governing the award of the financing contract for the extension of the Court of Justice. Information supplied by the authorities demonstrated that the contract had in fact been awarded following a "public procurement" procedure with publicity and competition. A contract notice was published in the OJEU on 3 August 2002 (reference 2002/S 150-119421). Seven economic operators replied to the notice as candidates. Six of them were invited to submit a tender. Given the current state of the file, the Commission does not consider that a breach of Community public procurement law can be established in this case. The Commission also refers to its replies to written question E-4016/2007.