

REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS SPECIAL REPORT:

“REGULARITY OF SPENDING IN EU COHESION POLICY: COMMISSION DISCLOSES ANNUALLY A MINIMUM ESTIMATED LEVEL OF ERROR THAT IS NOT FINAL”

Commission introductory remarks:

Under the shared management mode applicable for Cohesion, despite the annual acceptance of programme accounts that contributes to improving accountability, EU spending programmes are multiannual by design and the related control systems and management cycles also cover multiple years. This means that errors may be detected at any point in the whole of the programme cycle, sometimes several years after the payment took place. Errors may be corrected in the same year or in subsequent years, up to the point of closure at the end of the programmes' life cycle to reach a residual level of error below 2% for all programmes over time.

Control strategies are thus multiannual and risk-differentiated. Member State authorities report each year on their controls on the use of EU funds at national and regional level and on the sound financial management of their respective programmes. This is done through an assurance package containing a management declaration, an annual control report containing an error rate based on representative samples, and an audit opinion on the legality and regularity of expenditure. This reporting is the basis for the Commission's acceptance of programme accounts and the basis to build assurance.

In the annual activity reports (AARs), the Directors-General report on the results achieved, on the functioning of their internal control systems and on the financial management, taking account of the assurance provided by Member States under shared management. The annual activity report contains the Director-General's declaration of assurance. The duty of the Directors-General as authorising officers by delegation is to provide assurance on each operational programme.

The Commission has designed its assurance system for Cohesion policy accordingly. The Commission considers that this system, based on the review of the work of national audit authorities for each individual programmes and further on-the-spot re-performance audit work for a selection of programmes, mainly on a risk basis, provides a robust basis to obtain reasonable assurance on the legality and regularity of underlying expenditure in each account.

The aggregated key performance indicator on legality and regularity (KPI 5) reported each year in the annual activity reports is a range based on a weighted average of confirmed error rates for all individual programmes taking into account all information available at that time and, including a maximum risk level, which reflects any further risks not yet confirmed through audit evidence and still under assessment at the date of the AAR signature. In addition, the Commission can still carry out audits and implement any required additional financial corrections after the acceptance of accounts and the AAR's signature.

Detailed instructions and guidance to services and quality review by Central Services ensure that the information and data contained in the AARs is a relevant and reliable source for the estimate of the risk range to the EU budget in the Annual Management and Performance Report (AMPR). Furthermore, the AMPR is subject to a rigorous preparatory and decision-making process where the Central Services receive detailed orientations concerning its content and structure from the Corporate Management Board, being the apex of the Commission's corporate governance structure.

EXECUTIVE SUMMARY

V. The Commission notes that its estimate of the level of error (KPI) disclosed in the 2019 and 2020 REGIO and EMPL AARs is expressed as a range that includes a maximum risk. While being below

the ECA's estimated level of error, for the last two years this range falls within the interval calculated by the ECA for its Statement of Assurance.

The Commission is therefore convinced that the KPI and its maximum value published in the AAR reflect a reasonable and fair estimate of the error rates for each programme and cumulatively for all programmes, based on all information available at the time of the AAR signature (see Commission's replies to paragraphs 51 and 85).

VI. The regulatory framework for 2014–2020 indeed explicitly separates legality and regularity issues from the acceptance of accounts. Consequently, in presence of an unqualified audit opinion by the audit authority, the Commission has to accept the accounts, whatever is the status of legality and regularity of underlying expenditure. After the acceptance of accounts, the Commission continues its work with regard to any outstanding legality and regularity issues, in full respect of the regulatory conditions. The Commission can always interrupt the payment of the balance (if positive) or, more frequently, proceeds immediately with the resulting recovery order and starts a financial correction procedure, for example as a result of its regularity checks. The Commission considers that, after having accepted the accounts, these subsequent steps appropriately safeguard the EU budget (see Commission's reply to paragraph 77).

The Commission notes that in 2021-2027, the regulation obliges it to reject the submitted accounts if they contain a remaining residual error above 2%.

VII. The Commission seeks to strike a balance between its objectives (assurance), the means (resources and time available) at its disposal to achieve it and the number of assurance packages / programmes to be reviewed.

The Commission underlines the usefulness of the desk reviews it carries out for each and every programme each year.

This approach is particularly efficient for programmes that are found to report reliable low error rates year after year. Based on a thorough assessment of the quality and completeness of the information provided in assurance packages, as well as the Commission's cumulated experience with audit authorities and programmes, desk reviews allow to reach a certain level of assurance for all operational programmes. They are complemented, where needed, by fact-finding missions and in-depth review of working papers in some cases. They also allow to identify risks in view of further on-the-spot re-performance audits (see Commission replies to paragraphs 25, 26 and 30).

VIII. As stated in the Commission's audit strategy, the audit work focuses on those audit authorities on which the Commission was not yet able to place an adequate level of reliance, for which limited review was performed so far or for which new risks emerged. In addition, a certain audit coverage of other audit authorities as well, is needed over time.

The new Joint audit directorate for Cohesion (the DAC) will ensure to sufficiently document the process for establishing its future audit plans.

IX. Under its compliance audits, when the Commission identifies additional errors in its re-performed samples, it systematically assesses whether such errors can re-occur in the rest of the audit authority's sample and requests additional audit work where necessary. As long as this assessment and any related verifications are on-going, the RTER reported in the AARs as part of the KPI takes account of this uncertainty in the disclosed maximum risk.

X. The Commission is convinced that the KPI and its maximum value published in the AAR reflects a reasonable and fair estimate of the error rates for each programme and cumulatively for all programmes, based on all information available at the time of the AAR's signature.

XI. First indent - The Commission does not accept this recommendation to propose legislative change regarding the payment retention.

The Commission considers that the new condition introduced in the CPR 2021-2027 already strengthens the protection of the EU budget (see Commission's reply to recommendation 1).

Second indent - The Commission partially accepts this recommendation.

In line with its objectives, the Joint audit directorate for Cohesion is currently further strengthening the documentation and the review process of the work carried out (see Commission's reply to recommendation 2).

Third indent - The Commission partially accepts this recommendation.

The Commission will continue to disclose in the AAR, in the vein of the more detailed information provided in the 2020 AAR, how reservations are established for programmes or parts of programmes (see Commission's reply to recommendation 3).

Fourth indent - The Commission partially accepts this recommendation.

The Corporate Management Board, at the apex of the Commission's corporate governance structure, oversees the preparation of the AMPR and is therefore the appropriate body to provide strengthened guidance on the content of the report (see Commission's reply to recommendation 4).

INTRODUCTION

07. The Commission agrees that management verifications are the first line of defence against errors and should be more effective in preventing and detecting errors in the first instance. Each year DG REGIO and DG EMPL report in their annual activity reports (AARs) that a large share of the management and control systems do function and do not trigger high error rates (89% and 82% of programmes respectively for DG REGIO and DG EMPL in their 2020 AARs). Also the ECA does not detect any error in its audits of samples of operations, each year, for a number of programmes that had reported low error rates (below 1%).

10. In practice, the Commission's audit activity as part of its annual control cycle includes the review of national system audit reports, a thorough desk assessment of all annual control reports (part of the assurance packages), fact finding missions and on-the-spot audits. This allows the Commission to confirm the reported error rates for most programmes until the next AAR, except where audits are still on-going.

Moreover, the Commission has the possibility under the CPR to carry out audits under the multi-annual framework within three years following the year in which expenditure was introduced in the annual accounts.

11. The regulation (Art. 139(1)) stipulates that the Commission shall carry out an examination of the documents submitted by the Member State (the assurance package, including the accounts). The acceptance of accounts is based on an unqualified audit opinion on the accounts provided by the audit authority in the assurance package, unless the Commission has specific evidence that the audit opinion on the accounts is unreliable (Art 139(2) of the CPR).

Common Commission reply to paragraphs 12 and 13:

The Commission's desk reviews may also be complemented by fact-finding missions to clarify doubts raised during the desk review of the annual control report and audit opinion. During such fact-finding missions, limited re-performance of some operations was progressively introduced in some cases, to obtain additional assurance about the reliability of the reported errors. This is without prejudice to

identified risks which are taken into account in the Commission's risk assessment and may lead to a formal compliance audits with a re-performance of samples of operations.

Compliance audits can entail also re-performance of system audits, when specific doubts occur. The Commission's methodology for compliance audits has also evolved over time to also include (even before travel limitations imposed by the COVID crisis) desk re-performance of audits of operations, in addition to the possibility for traditional on-the-spot re-performance.

14. In line with the ECA recommendation n°4 in its annual report 2017, the Commission's key performance indicator on legality and regularity is the main error rate reported in the AAR, based on the accounts for which the Commission's audit cycle is to a large extent completed and without taking account of advance payments made to financial instruments.

The Commission also discloses in the AARs and in the AMPR the risk at payment and risk at closure for the relevant expenditure of the funds and the implementing DGs, based on the RTERs established at OP level. Finally, in the AMPR, the Commission also discloses the risks at payment for the three funds combined (see AMPR 2020, Volume III, Annex 5, page 190) in order to address the specific recommendation n°4 from the 2017 ECA's annual report.

15. The Commission agrees that each year additional errors remain undetected and therefore unreported in a number of assurance packages submitted by the audit authorities. However, the Commission assesses the reliability of audit authorities not only on the basis of the recalculated error rates (which can be influenced by single errors having an important statistical impact) but on the basis of a number of criteria which, if not satisfactorily assessed, reflect the presence of systemic weaknesses in their work and in the control systems (see also Commission's reply to paragraph 6.14 and 6.15 of the ECA's Annual Report 2018). Moreover, the Commission and the ECA also find assurance packages for which no additional error is detected in the sample of audits re-performed. Therefore the Commission concludes that the situation varies from programme to programme and from year to year, depending on the complexity of the issues at stake and reports in the AARs on the reliability of the work carried out by the audit authorities (see pages 41 and 47 respectively from the REGIO and EMPL 2020 AAR).

OBSERVATIONS

21. The regulatory framework for 2014–2020 (in particular Article 139(5) CPR) explicitly separates legality and regularity issues from the acceptance of accounts. Consequently, the Commission has to accept programme accounts, that is to say the completeness, accuracy and veracity of the accounting information presented in the accounts, even in the presence of identified material irregular expenditure. The Commission notes that the ECA also provides separate opinions on the reliability of the EU accounts and on the legality and regularity of underlying transactions.

Acceptance of the programme accounts by the Commission can lead to a payment of the balance (if positive) or, more frequently due to the system of high advance payments, to a recovery order. The Commission can still interrupt the payment of the balance of the accepted accounts (provided that conditions of Article 83 CPR are fulfilled) and/or launch a financial correction procedure in line with Articles 144 and 145 CPR. Therefore the work of the Commission continues after the acceptance of accounts with regard to any outstanding legality regularity issues and the Commission has to pursue corrective measures when irregularities are identified, in line with the regulatory framework. The Commission considers that, despite the release of the 10% retention, these subsequent steps safeguard the EU budget.

It is also to be noted that in case the acceptance of accounts results in recovery of the balance (due to pre-financing exceeding the expenditure certified in the accounts), the Commission can immediately

proceed with the recovery order for such amounts without waiting for completion of further procedures related to legality regularity issues. In such cases, the EU financial interests are thus better protected due to this immediate recovery.

Box 1 - Acceptance of accounts with material level of error

In the example quoted by the ECA, the qualified audit opinion on the assurance package of 2017-2018 issued by the audit authority contained qualification on all three elements of the opinion (accounts, legality/regularity and management and control system) due to a high residual total error rate (RTER 8.54%).

The Commission clarified to the audit authority that, in line with the legal provisions (Article 127(5a) and Articles 139(2) and (5) CPR), the audit authority should express its opinion on the accounts only with regard to their completeness, accuracy and veracity. The legality and regularity of expenditure in the accounts (expressed via the RTER) is addressed under other elements of the audit opinion.

Following its review of the assurance package, the Commission accepted the accounts (as relevant legal conditions were fulfilled), issued the recovery order resulting from the calculation of the balance and launched the required financial correction procedure.

22. The Commission is obliged by the legal provisions (Articles 99 and 102 of the CPR 2021/1060 for 2021-2027) to communicate by 31 May to Member States whether it accepts or not the accounts submitted by 15 February of the same year.

Due to this time constraint, the Commission has no possibility to finalise its assessment of the reliability of the reported error rates, in particular when it has to carry out audits on the spot. This is why the legal framework (Article 70(2) of the CPR for 2021- 2027) sets out a timeframe of three calendar years following the acceptance of the accounts in which the expenditure concerned may be subject to Commission audits. Moreover, corrective measures can be launched at any time after the acceptance of accounts and the release of the payment retention (see Commission's reply to paragraph 21).

Common Commission reply to paragraphs 25 and 26:

The Commission's desk review of 100% of received annual control reports and audit opinions is based on the information provided in the assurance package, taking account of cumulative knowledge and previous audit work carried out on the audit authority and OP concerned (including Commission's own audits, ECA audits, and national system audit reports).

It also entails communication with the programmes audit authorities to clarify information from the annual control reports, possibly completed by fact-finding missions to further review the information with the audit authority. Therefore this process may include a review of some working papers of the audit authority and desk re-performance of some elements of audits of operations. Indeed, even though the Commission's methodology for desk reviews and fact finding missions did not explicitly refer to the assessment or verification of the regularity of individual operations or expenditure items until 2020, such assessment/verification has also previously been carried out in many cases in practice.

The desk review allows to verify the sampling methodology and to adjust the reported error rates, whatever the source of the mistake is (quantification of errors, projection of detected errors, level of reported corrections, treatment of some errors etc.). All such identified issues and combined findings allow the Commission to re-calculate a more accurate error rate than the reported one, where necessary. This is being done each year, in a number of programmes. For example, for the assurance packages received in 2020, DG REGIO was able to recalculate the reported residual risk for 19 programmes, based on combined information from its own audits and the extended desk review of

assurance packages (see page 47 and footnote 104 of the REGIO AAR). This desk review of the reportable residual error rates thus led to a recalculation of the average error rate to 2.1%, instead of 1.2% reported by the ERDF/CF programme authorities.

The desk review is however not designed to review all underlying supporting documents and to fully assess the regularity of expenditure. Notwithstanding the additional steps taken by the Commission, for example fact-finding missions, being aware of this inherent limitation of the desk review, the Commission complements this review with further audit work focusing on substantive testing at the level of operations and expenditure items for a sample of assurance packages selected mainly based on risk assessment.

27. Concerning the content of the Commission's checklist for the assessment of around 800 national system audit reports received each year, the Commission considers that the questions in its checklist are specific and target the qualitative assessment of the important elements of the reports such as extent of control testing, consistency between issues detected and conclusions reached, adequacy of the proposed recommendations and follow up etc.

Based on the previous discussions with the ECA on this finding, the Commission has recently further updated this checklist, adding further instructions for the auditors regarding the assessment to be carried out and information to be disclosed to fully justify the yes/no answers, while keeping the administrative burden to a commensurate level.

28. The Commission confirms RTERs in the AAR based on all information available at that time as a result of the desk and/or on the spot audit work carried out. It is expected that the RTERs can be adjusted as a result of compliance audits, in particular when during the desk review the Commission identified important risks related to the work of the audit authority and reliability of the reported error rates and decided to carry out further audit work on the spot to address these risks.

30. The Commission has to achieve a balance between objectives (assurance), the means to attain it (resources and time available) and number of assurance packages / programmes to be reviewed (over 300 assurance packages covering 418 programmes). These desk reviews are step one of the audit process; they cover 100% of assurance packages submitted by the Member States. Based on the Commission's cumulated experience on audit authorities and programmes and previous audit results, they provide a certain level of assurance for all operational programmes and their expenditure. They can also address some legality regularity issues (See also Commission's reply to paragraphs 25 and 26).

Furthermore, when a programme has reported a low error rate year after year and the Commission or the ECA re-performance work did not detect additional errors, a desk review allows to obtain sufficient assurance that the low reported error rate is again reliable in a subsequent year under assessment.

This is illustrated in the case of the largest ERDF/CF programme, where the ECA has not reported any error over the last two years through its re-performance. For such a programme, a desk review of the annual control report is sufficient and repeating re-performance by the Commission year after year would not be an efficient use of audit resources.

33. The inconsistencies noted by the ECA in the application of the risk assessment methodology (attribution of points for particular risks) did not have detrimental consequences on the overall results of the Commission's risk assessment. After simulation of risk scores using the correct range of values, the Commission established that the overall risk score for the individual audit authorities would not have changed significantly and the conclusions with regard to the audit plan would remain the same. However, this ECA finding was addressed and indeed the quality review of the risk assessment

exercise has been strengthened in 2020, including careful verification of the attribution of correct points in all cases.

Common Commission reply to paragraphs 34 and 35:

Any risk assessment is an ex-ante exercise assessing the likelihood and impact of potential risks based on professional judgement and all information available at that moment.

The Commission's risk assessment on audit authorities covers not only the error rates, but also the quality of the work of an audit authority in other areas, including system audits and audits of accounts. Factors related for example to the position of the audit authority within the management and control systems and its administrative capacity are also considered.

Consequently, the revision of the error rates following compliance audits does not necessarily alter the conclusions of the risk assessment. The Commission considers that, overall, the results of its compliance audits confirmed the conclusions of its risk assessment.

36. The risk assessment exercise guides the setting up of the audit plan, but is not the only and exclusive criterion to consider when preparing the audit plan. For example, the Commission included one low-risk audit authority in its 2019 audit plan because of the high amounts declared to the Commission, thus fully justifying this inclusion.

As stated in the Commission's audit strategy, the audit work focuses on those audit authorities on which the Commission was not yet able to place an adequate level of reliance, for which limited review was performed so far or for which new risks emerged.

However, in line with international audit standards and previous ECA recommendations, a certain level of audit work is also to be done for other audit authorities as well, which will ensure the coverage of the main audit authorities over time. Therefore, while the risk element is the main factor to determine the scope of its audit work, the Commission also considers the coverage element. This was in particular the case for DG EMPL in 2019, when it decided to increase its coverage of the ESF audit authorities over time.

The Commission will further strengthen the documentation of its decision-making process for establishing its audit plan in order to ensure that the links to the results of the risk assessment as well as other criteria considered are clearly disclosed and explained.

38. With regard to the two cases raised by the ECA, the Commission notes that in one case the issue has a limited financial impact on the residual risk as re-calculated by the Commission, and that the second case may require further assessment, as explained in its replies to paragraphs 39 and 40.

39. The Commission agrees that the grant agreement of the project contained unclear conditions for the applicable simplified cost option (i.e. reference to a legal basis not corresponding with the indicated percentage of the flat rate) and contained a reference to Article 68.1(b) CPR. On this basis, a flat-rate of 15% of eligible direct staff costs instead of 25% of applicable direct costs (which was the scheme that the managing authority intended to re-use from the Horizon 2020 programme for research and development projects) should have been paid to the beneficiary. The Commission's audit should have noted this discrepancy.

This difference on the project has, however, a minor impact on the programme error rate given that the Commission's audit identified a serious irregularity on this programme with a much more material impact (raising the error rate much above 2%, see description of the issue in box 2).

40. In the second case raised by the ECA, the Commission acknowledges that it did not analyse the group nor the operating agreements at the time of the audit, as the NACE code of the beneficiary was 93.293 (Other amusement and recreation activities, and not transport subject to State aid).

Nevertheless, in case an undertaking performs several activities, regional aid can be granted for economic activities that are not excluded by Article 13 of the GBER if activities are clearly separated from each other. Also, if the operators pay a market price for the right to operate the ships, an advantage at that level can be excluded. Therefore, it cannot be concluded at this stage that the aid benefited the activity of transport performed by the operators and was therefore ineligible under State aid rules.

The Commission will complete the required assessment in cooperation with the national authorities in order to conclude on the eligibility of the expenditure.

41. The Commission notes that in case of a common error rate reported for a multi-fund programme, the DG may decide to use either the common error rate or the Fund specific one if the latter is available (as was done by DG EMPL in this particular case). As the results of the DG REGIO compliance audit only impacted ERDF, DG EMPL considered it had no reason to modify the reported ESF error rate.

The creation of the DAC will help to harmonise the approach taken by the two DGs in such cases (the common error rate will be used for both DGs in case of a common sample).

Box 2 - Compliance audit - Common sample of four OPs covering ERDF and ESF

In the case presented by ECA, the audit authority indeed used a stratified statistical sample for two ERDF and two ESF programmes. Through stratification, the audit authority could report a representative rate per Fund and globally for all four programmes.

The Commission audit (DG REGIO) detected an ERDF irregularity in relation to the rail infrastructure with a material impact on the ERDF stratum and therefore on the common error rate as well (increasing the residual error rate much above 2%). Given that the particular ERDF finding was not pertinent to the ESF in terms of assurance, DG EMPL considered more appropriate to use the error rate of the ESF, while DG REGIO recalculated the common error rate used by the audit authority.

As indicated in paragraph 41, the approach will be fully harmonised in future AARs.

43. The Commission agrees that, while keeping administrative procedures proportionate, audit documentation should be improved for some files and will ensure that all auditors follow the requirements in place.

45. In general, Member State authorities implement the corrections recommended by the Commission in its audit reports, following an exchange of arguments in the contradictory procedures, in order to be able to make use of the possibility under the CPR to re-use the Funds thus made free for other eligible projects (Art.145(5) of the CPR).

If not, the Commission has the obligation under the regulation to launch a financial correction procedure and to engage in a new contradictory procedure with the Member State on the individual or extrapolated corrections required (Articles 85, 144 and 145 of the CPR). A Commission financial correction decision reduces the programme allocation.

46. Under Article 75(2a) of the CPR, the Commission has to finalise its audit report within 3 months, based on the information available to auditors at that stage, even if the Member State does not accept the Commission's findings.

In case of continued disagreement, the Commission has to assess in the follow-up phase all additional information or new facts provided by the Member State in reply to the final audit report, as the Commission has an obligation of loyal cooperation with Member States as recalled by the European

Court of Justice in many rulings on Commission financial correction procedures. This may require additional internal consultations with the competent DGs.

The same occurs for the Commission's follow-up of the ECA's audit results, when Member States provide additional evidence in this process.

Box 3 - Final error rates are not final

The observation described by ECA in Box 3 concerns an ineligible direct award of a project, which was re-assessed by the Commission from a random to a systemic error during the follow up stage of the audit, based on additional information from the national authorities. This information clarified that following the approach of the managing authority, any such project (i.e. project classified as pilot and financed under the technical assistance) would be awarded directly, which in the view of the Commission reflects a systemic issue in the work of the managing authority. It was also confirmed by the managing and audit authorities, that so far only one such project had been declared to the Commission. The Commission therefore re-assessed the finding as a systemic error, instead of a random one.

The national authorities have delimited this systemic error in the given audit population and agreed to apply a 100% correction rate within the subsequent payment claim and to stop the incorrect practice. Consequently, the Commission re-calculated the error rates, taking account of this delimited systemic error in line with the Commission guidance on sampling and treatment of errors, reflecting also the proportionality principle under the Treaty and the CPR (Art. 85 CPR).

The Commission therefore maintains that it is correct and proportionate not to extrapolate this error to the entire expenditure declared for the programme and that the RTER, as presented in its final audit report, had to be revised accordingly.

47. The Commission acknowledges that financial correction procedures are lengthy and complex, for reasons explained by the ECA and the obligation of the Commission to take account of any additional information provided by the Member State under the principles of proportionality and loyal cooperation with the Member States in all the steps of the financial correction procedure. Member States may also not always provide all required evidence within the set deadlines or at once, which complicates further the procedure.

The Commission provides in the AAR a state of progress of the different required financial correction procedures for the previous accounting years (see DG REGIO 2020 AAR, pp. 50-51).

49. The Commission needs to respect the strict criteria set by the co-legislator in the CPR for net financial corrections and follow all due contradictory procedures in line with the legal obligations and international auditing standards, before being able to apply financial corrections, including net ones. The Commission therefore cannot confirm whether the requested additional financial corrections should be net or not before completing the financial correction procedure. This depends on a careful analysis and final confirmation of the serious deficiency as defined in the regulation, taking account of any additional information provided by the Member State during the financial correction procedure, including on measures taken, and of the applicability of the conditions set by the co-legislator for net financial corrections under Article 145(7) of the CPR.

Common Commission reply to paragraphs 50 and 51:

The Commission notes that its estimate of the level of error (KPI) disclosed in the 2019 and 2020 REGIO and EMPL AARs is expressed as a range that includes maximum risks (see paragraph 60). While being below the ECA's estimated level of error, this range falls within the interval calculated by the ECA for the 2019 and 2020 Statements of Assurance.

The Commission is therefore convinced that its detailed assessment based on a combination of desk and on-the-spot audit work covering the different individual programmes and assurance packages, depending on the risks attributed to them, allows it to establish a reasonable and fair estimate of the error rates for each programme and cumulatively for all programmes.

Further explanations are provided in the Commission replies to the paragraphs below.

51. The published KPIs are confirmed by the Director-General for the relevant expenditure incurred in the reporting year. They are an estimate of the overall risk at payment for the Cohesion programmes taken together at the moment of their disclosure, and taking account of all information available at that time.

53. In consideration of the cost- effectiveness of audits as well as of available resources, the Commission carries out its re-performance audit work on a sample basis. It selects its samples of operations to be re-audited based on identified risks. The Commission also selects, where relevant and possible, different types of operations in the audit authority's sample or, in certain cases, can alternatively select part of its sample randomly within the sample audited by the audit authority.

However, it is not always feasible to cover all types of operations given the structure of the audit authority's sample: the size of Commission's samples would significantly increase and the required audit work would not be manageable.

The Commission also points out that each year, there are only a few cases where the audit authorities group several programmes in a common sample.

55. When the Commission detects additional errors in the re-performed sample, the audit procedures continue to systematically assess whether such errors can re-occur in the rest of the audit authority's

sample. This is done either through a desk analysis by the Commission or, more often, through additional audit work requested by the Commission to the audit authority, based on a joint understanding of what the issue was and why the audit authority should verify its previous audit work. Thus, the Commission systematically takes steps to ensure that further similar errors, likely to be present in the rest of the audit authority's sample, are further investigated, either through its assessment or by the audit authority (see also Commission's reply to paragraph 56). Therefore the Commission considers that its approach allows to obtain reasonable assurance that no material errors remain undetected in the remaining part of the audit authority's sample.

56. The purpose of Commission compliance audits is to obtain reasonable assurance via re-performance - necessarily carried out on a sample basis due to time and resource constraints, see Commission's reply to paragraph 30 - that the error rates reported by the audit authority are reliable or are not materially misstated. The Commission's approach to reach such reasonable assurance includes elements to address the detection risk (such as risks analysis) but it cannot reduce such a detection risk to zero, which would also not be cost effective, in particular in cases where such risk is not assessed as material. When doubts remain, the Commission uses a maximum risk for the programme, in view of the calculation of the KPI (see Commission's reply to paragraph 60).

With regard to the cases of errors considered by the Commission as not recurring, the Commission carefully analysed the nature and the root causes of each of such error, having regard to the characteristics of the non-audited operations. Based on this work, the Commission concluded that the likelihood and/or the possible impact of such errors in the rest of the audit authority's sample is low.

Box 4 - Compliance audits – additional errors remained undetected and uncorrected

During its compliance audit on the assurance package cited by the ECA, the Commission detected additional errors in three operations and revised the error rates accordingly. The national authorities

were also requested to re-check the remaining part of the sample of the audit authority not audited by the Commission in view of these three errors. After the Commission's final audit report, the Member State implemented the required additional financial corrections.

With regard to the results of the subsequent ECA audit for the 2018 Statement of Assurance, the Commission points out that three of the additional errors with most impact related to a systemic issue already detected by the Commission during its previous system audit and for which corrective measures have been taken. Furthermore, the Commission services also undertook the follow-up of all the remaining ECA findings accepted by the Commission. The error rates were further revised, new individual corrections proposed and the national authorities were requested to re-check the remaining part of the audit authority sample not audited by the ECA and the Commission in view of these additional findings.

The results of the requested checks were reported by the Member State in June 2021. As part of its diligent follow-up procedures, the auditors of the Commission are currently in touch with the national authorities to obtain detailed information on the work carried out. Internal consultations with other Commission services were also launched to ensure correct interpretation and approach regarding certain complex State aid issues.

Where justified, the Commission services will take further action, including revision of the error rates and/or application of additional corrective measures.

58. The Commission underlines the usefulness of the desk reviews it carries out for each and every programme and assurance package as part of its audit approach. This approach is in particular efficient and makes sense for programmes that are found to report reliable low error rates year after year. Desk reviews are complemented by fact finding missions and in-depth review of working papers in some cases. They also allow to identify risks in view of further on-the-spot re-performance audits (see Commission's reply to paragraphs 25, 26 and 30).

The Commission, according to this differentiated approach, does not consider that errors identified through compliance audits in some programmes and Member States also necessarily occur in other non-audited programmes and Member States.

However, compliance audits on lower risk programmes or authorities have also shown that additional errors can sometimes be found in such cases. The Commission therefore took this information into account in its calculation of the maximum risk level in the AAR for the concerned programmes.

59. The Commission puts in place audit procedures to obtain reasonable assurance whether the error rates reported by 122 audit authorities concerning 418 programmes are acceptable or not, and whether there are indications that material levels of errors may remain at the level of each operational programme. The Commission considers that its approach is fit for the assurance purpose.

As for the KPI on legality and regularity reported at DG level in the AAR, the Commission takes a conservative approach for its calculation which takes into account all confirmed error rates at that date (the vast majority of cases) and the maximum error amounts for audits under contradictory at the time of signature. Moreover, the Commission services have published in the last three AARs a maximum value of the KPI on legality and regularity, taking account of all possible uncertainties and unconfirmed information at the time of signing the AAR.

The Commission is therefore convinced that the KPI and the maximum value published in the AAR are a reasonable and fair estimate of the risk to the budget for the relevant expenditure in the year, based on all information available at the time of signature of the AAR, and in a context of a multiannual programming period (see also the Commission's replies to paragraphs 50, 51, 55 and 56).

60. Since 2019, the risk at payment for Cohesion is presented with a lowest and a highest value, in both the AARs and also in the AMPR per fund, per policy and for the entire Commission.

61. The Commission notes that the creation of the DAC will allow to further align and harmonise the approach for all Funds under the responsibility of the new joint audit service.

The Commission has expressed its views on the usefulness of desk reviews for its assurance process (see Commission's reply to paragraphs 25, 26, 30 and 58). The Commission also agrees that a detection risk is inherent to any audit practice and can be mitigated to some extent through audit procedures in place, but it can never be totally eliminated.

62. The fact that some eligibility criteria can be assessed only at programme closure is inherent to the multiannual framework and the CPR rules. The Commission is aware of such criteria and their risks and reflect this in its approach for closure of the programming period.

At the time of the annual accounts, the expenditure declared cannot be considered as potentially irregular with respect to such eligibility criteria that can only be assessed later or at closure. Consequently, at the time of the given AAR, there cannot be any potential irregularity to be detected and reported and the Commission has no basis to take any such future risks into account for its annual error rates.

The Commission reiterates that the error rates reported in the AAR are confirmed based on all the relevant information available at the time of the signature of the AAR (See Annex 5 of the DGs' AARs, pages 43 and 58 for REGIO and EMPL respectively, and also the Commission's reply to paragraphs 28, 56 and 59).

63. The responsibility of the Director General as authorising officer is to ensure that payments made in the year, at the level of operational programmes, are not affected by material levels of errors. Under Cohesion policy, Directors General therefore form reservations at programme level or, to take account of proportionality, at the level of the part of the programme concerned (priority or intermediate body) for expenditure paid in the calendar year.

67. The Commission underlines that the reservations are based on the information available at the time of the signature of the AAR, including the impact of previous deficiencies or assessments on the most recent reported error rates and audit opinions. For example, in its 2020 AAR, DG EMPL clearly states that four reservations are based on deficiencies or doubts as to the reliability of error rates reported in previous years and not solved at the time of receiving the new assurance packages. Therefore DG EMPL has put these programmes under reservation, despite positive results reported in the assurance package by the concerned audit authorities. However, the Commission understandably cannot at the time of signature of the AAR anticipate the results of future audits that have not taken place yet.

Box 5 - DG EMPL – Reservations are made in the absence of complete information

The verification of the legality & regularity is a continuous exercise, up to closure.

The AAR provides reasonable assurance at the time of signature (30 April each year), for the relevant expenditure in the reporting year, as required by the Financial Regulation. This is without prejudice to subsequent information coming in particular from further audits carried out.

In the particular case cited by the ECA, the Commission services did not put the programme in reservation at the time of the signature of the AAR, as the latest reported RTER was not above 2% and the Commission had no indication of prior deficiencies. It happened that the subsequent Commission audit discovered errors not detected by the audit authority, which raised the RTER above 2%.

However, this is not always the case and the Commission services cannot pre-judge what the definitive error rates could be following subsequent audits.

Therefore, in this particular case cited by the ECA, a reservation would not have been justified at the time of signature of the AAR. Furthermore, the RTER related to this OP for the accounting year 2017/2018 was effectively updated by DG EMPL in the following AAR to 4,38% to reflect the results of the audit carried out, and upon confirmation of the implementation of the required additional financial corrections the RTER was later adjusted to 2% again.

69. Commissioners are informed about the preparation and content of the AARs before the signature by the AOD.

71. The quality review of the draft AARs is a careful and structured process involving extensive contacts between Central Services and the line DGs. The Central Services check the compliance with the instructions, the quality of information provided, and the consistency of the assessment made with underlying information. They receive the support of other services, including the Internal Audit Service, on the correctness of the information about the IAS audit work.

Peer review meetings are organised with the aim to ensure coherence when addressing similar issues across groups of DGs.

While each Authorising Officer by Delegation retains ownership of and has the final say on their AAR, DGs are invited to consider observations and comments resulting from the quality review and from any peer review to improve the draft AAR.

73. In the AMPR, the Commission uses the risks at payment disclosed by the DGs in their AARs that underwent a careful and structured quality review (see paragraph 71). As explained in the Commission's reply to paragraph 60, the AMPR discloses a lower value as well as a higher value for the risk at payment of the funds under the Cohesion policy corresponding to the maximum risk estimate (worst- case scenario). The Commission considers this range of the risk at payment to be the best estimate to express the exposure to the EU Budget.

74. The Commission considers that the detailed instructions and guidance to services and quality review by Central Services ensure that the information and data contained in the AARs is a relevant and reliable source for the AMPR.

The AMPR is subject to a rigorous preparatory and decision-making process: co-sponsorship by SG and BUDG, inter-service consultations and a full collegial adoption process including dedicated meetings of the Commissioner's private offices.

Moreover, the Central Services receive detailed orientations from the Corporate Management Board concerning the content and structure of the AMPR. This happens at key moments in the preparation of the report: at the outset of the exercise and after the AAR peer reviews.

Based on the process described above (see also Commission's replies to paragraphs 71 and 73), the Commission considers that the information provided in the AMPR is relevant and reliable.

CONCLUSIONS AND RECOMMENDATIONS

75. As also acknowledged by the ECA, the regulation foresees that acceptance of the accounts and the assessment of the legality and regularity of expenditure are two distinct exercises. Verification of the error rates is based on the entire assurance packages, in particular the annual control reports and audit opinions of the audit authorities.

76. The Commission has designed its assurance system to allow the Directors-General to obtain assurance on each of the 418 individual OPs, as per their obligation as authorising officers by delegation. The Commission considers that its approach is fit for its assurance purpose, taking account of the necessary balance to achieve between its objectives (assurance), the means to attain it (resources and time available) and the number of assurance packages / programmes to be reviewed.

As for the KPI on legality and regularity reported at DG level in the AAR, the Commission takes a conservative approach for its calculation, taking account of all confirmed error rates at that date and maximum error amounts when audits are under contradictory procedures at the time of signature. The Commission services have thus published in the last three AARs a maximum value of this KPI, taking account of all possible uncertainties and unconfirmed information at the time of signing the AAR.

The Commission is therefore convinced that the KPIs and the maximum value published in the AAR are a reasonable and fair estimate of the risk to the budget for the relevant expenditure in the year, based on all information available at the time of signature of the AAR, and in a context of a multiannual programming period (see also the Commission's replies to paragraphs 50, 51, 55 and 56).

77. The regulatory framework for 2014–2020 (Article 139(5) of the CPR) indeed explicitly separates legality regularity issues from the acceptance of accounts. Consequently, the Commission does not have any legal basis not to accept the accounts due to material residual error rate and/or uncorrected irregular expenditure remaining in the certified accounts. However, after the acceptance of accounts, the Commission continues its work with regard to any outstanding legality and regularity issues, in full respect of the regulatory conditions. This means that the Commission can still interrupt the payment of the balance of the accepted accounts, if positive or, more frequently, proceed immediately with the resulting recovery order and subsequently start a financial correction procedure, for example as a result of its regularity checks, in line with Articles 144 and 145 of the CPR. The Commission considers that, in addition to the process of acceptance of accounts, these subsequent steps safeguard the EU budget (see the Commission's reply to paragraph 77).

The Commission notes that in 2021-2027, the regulation obliges it to reject the submitted accounts if the residual error therein remains above 2% (see the Commission's reply to Recommendation 1).

Recommendation 1 – The Commission should propose a legislative revision to ensure that the payment retention is adequately protected before it is released

The Commission does not accept this recommendation.

In the CPR 2021-2027, which has recently been adopted by the co-legislator, a retention of 5% until acceptance of the annual accounts is foreseen under a new condition aiming to further safeguard the EU budget. This condition requires Member States to undertake necessary corrections to reduce the residual error rate on the legality and regularity of the expenditure included in the accounts to 2% or below before the accounts are submitted to the Commission (see Article 98(5) of the CPR 2021-2027). Otherwise the accounts shall not be admissible and the Commission cannot release the payment retention. Furthermore, the legal possibility to interrupt the payment of the balance, if positive, and the release of the 5% retention of the accepted accounts remains (provided that conditions of Article 96(1) of the new CPR are fulfilled).

Moreover, the 2021-2027 legal framework continues to provide the Commission with the necessary subsequent legal tools to protect the EU budget when irregularities are identified in accepted accounts (financial corrections), and modified the conditions for net financial corrections (see Article 104(1)(b) of the CPR 2021-2027).

The Commission also points out that conditioning the acceptance of the accounts with the finalisation of the legality/regularity assessment, as suggested by the ECA, would significantly slow down the annual process of accounts by the Commission.

78. The Commission seeks to achieve a balance between objectives (assurance), the means to attain it (resources and time available) and the number of programmes to be reviewed (over 300 assurance packages for 418 programmes each year).

The Commission underlines the usefulness of the desk reviews it carries out for each and every programme each year. This approach is particularly efficient and sufficient for programmes that are found to report reliable low error rates year after year. For such programmes, repeating re-performance by the Commission year after year would not be an efficient use of audit resources.

The Commission thoroughly examines the content of each assurance package and assesses the quality and completeness of the information provided, taking into account all cumulated audit information available. It verifies in particular the sampling methods used, the calculation of reported error rates, how identified issues were assessed and the conclusions drawn by the audit authorities. The Commission even reviews some files during such desk reviews which are complemented by on-the-spot fact finding missions to clarify facts, when necessary.

Desk reviews therefore allow the Commission to reach, based on its cumulated experience on audit authorities and programmes, a certain level of assurance for all operational programmes and their expenditure. They can also address some legality regularity issues and are complemented by fact finding missions and in-depth review of working papers in some cases; they allow to identify risks in view of further on-the-spot re-performance audits (see Commission's replies to paragraphs 25, 26 and 30).

79. As stated in the Commission's audit strategy, the audit work focuses on those audit authorities on which the Commission was not yet able to place an adequate level of reliance, for which limited review was performed so far or for which new risks emerged. However, a certain level of audit work is to be done for other audit authorities as well, which will ensure the coverage of the main audit authorities over time. This aspect was taken into account when setting up of the Commission audit plan, in particular in the case of DG EMPL in 2019 (see the Commission's reply to paragraph 36).

The new Joint audit directorate for Cohesion (the DAC) will ensure to further document and clearly disclose how its risk assessment as well as other criteria were applied for establishing its audit plan.

80. Bearing in mind the need for the balance referred in the reply to paragraph 78 above, the Commission agrees that audit documentation should be improved in some cases. The new Joint audit service for Cohesion will ensure that all auditors follow the requirements in place.

With regard to the two cases raised by the ECA, the Commission notes that in one case the issue has a limited financial impact on the residual risk as re-calculated by the Commission, and that the second case may require further assessment, as explained in its replies to paragraphs 39 and 40.

81. Under Article 75(2a) of the CPR, the Commission has to finalise its audit report within 3 months, based on the information available to auditors at that stage.

In general, Member State authorities implement the corrections recommended by the Commission in its audit reports, following an exchange of arguments in the contradictory procedures; in order to reuse the Funds thus made free for other eligible projects (possibility provided under Art.145(5) of the CPR).

In case of continued disagreement, the Commission has to assess in the follow-up phase all additional information or new facts provided by the Member State in reply to the final audit report, as the

Commission has an obligation of loyal cooperation with the Member States as reminded by the ECJ in many rulings on Commission financial correction procedures.

The same occurs for the Commission's follow-up of the ECA reports audit results, when Member States provide additional evidence in this process (see the Commission's reply to paragraphs 45 and 46).

82. The Commission acknowledges that financial correction procedures are lengthy and complex. The regulatory provisions (Article 145 of the CPR) obliges the Commission to follow certain procedural steps before taking a final decision on any possible financial correction. Under the principles of proportionality and loyal cooperation, the Commission is also obliged to take account of any additional information provided by the Member State in any step of the financial correction procedure.

With regard to net financial corrections, the Commission needs to also respect the strict criteria for such corrections set by the co-legislator under Article 145(7) CPR, requiring careful analysis of the serious deficiency as defined in the regulation, as well as of the measures taken by the Member State, taking account of additional information obtained during the entire financial correction procedure. The Commission therefore cannot confirm whether the requested additional financial corrections should be net or not before this procedure is completed (see the Commission's reply to paragraphs 47 and 49).

83. The fact that some eligibility criteria can be assessed only at programme closure is inherent in the multiannual framework and the CPR rules. At the time of the annual accounts, the expenditure declared cannot be considered as potentially irregular with respect to such eligibility criteria that can only be assessed later or at closure. Consequently, at the time of the given AAR, there cannot be any potential irregularity to be detected and reported and the Commission has no basis to take any such future risks into account for its annual error rates.

The Commission reiterates that the error rates reported in the AAR are confirmed based on all the relevant information available at the time of the signature of the AAR (see annex 5 of the DGs' AARs pages 43 and 58 for REGIO and EMPL respectively and also reply under paragraphs 28, 56 and 59).

At closure, the Commission will systematically scrutinise each programme to ensure that the level of irregular expenditure is below materiality. For the 2014-2020 programmes, the closure process is set to start in 2025.

Recommendation 2 – The Commission should improve its audit work, audit documentation and review process

The Commission partially accepts this recommendation.

(a) The Commission accepts part (a) of the recommendation.

In line with the Commission's audit strategy, the audit plan is based on the results of the risk assessment. However, following also international audit standards and previous recommendations, other criteria, such as monitoring and coverage of the main audit authorities over time, are also taken into account.

Under the newly created Joint audit directorate for Cohesion (DAC), the Commission is further strengthening the audit trail for establishing the audit plan, including clear links to results of risk assessment as well as to other relevant criteria.

Common Commission reply to (b) and (c) of recommendation 2:

The Commission accepts parts (b) and (c) of the recommendation.

In continuity with its previous practice, the Commission is further strengthening the audit trail and review process of the audit work carried out, to ensure that checklists and other audit documentation are sufficiently detailed to allow a review, including by an external auditor.

Under the newly created DAC, the Commission is currently reviewing and harmonising the audit methodology covering also audit trail and review process.

(d) The Commission does not accept part (d) of the recommendation.

The Commission discloses each year in its annual activity report (AAR) the confirmed error rates of the previous accounting year for all operational programmes and indicates those where audit work is still ongoing. In such cases, the Commission communicates with the Member State on the re-calculated residual error rates in the framework of the given audit reports. The confirmed error rate is then disclosed in the audit closure letter or, where applicable, a Commission decision on financial correction.

The Commission considers that any separate additional communication in this regard for over 400 programmes over a ten-year implementation period would create unnecessary administrative burden for its services.

84. The objective of audit sampling in the course of the Commission's compliance audit is to assess whether the Commission may rely on the work of the audit authorities and their reported error rates. This is done mainly via re-performance of audits of operation on a sample basis, having regard to the cost-effectiveness of the audit and to available resources. This, together with the review of the audit authority's audit methodology, provides sufficient basis to reach conclusions on the reliability of the audit authority's work.

Moreover, when errors are detected in the re-performed sample, the Commission's audit procedures foresees to continue assessing systematically whether such errors can re-occur in the rest of the audit authority's sample.

As long as this assessment and any related verifications are on-going, the RTER reported as part of the AAR KPI for legality and regularity takes account of this uncertainty. This is reflected in the maximum risk for the concerned programmes and therefore these residual total error rates remain unconfirmed until all work is carried out.

85. Based on its reply to paragraph 84, the Commission considers it applies a sufficiently prudent approach to estimate the KPIs confirmed by the Directors-General for the reporting year's relevant expenditure, in line with previous recommendations in the ECA's annual report.

The AAR KPIs are an estimate of the overall risk at payment for the Cohesion programmes taken together at the moment of their disclosure, taking account of all information available at that time. The Commission notes that the KPIs include a maximum risk, as disclosed in the 2019 and 2020 AARs of DGs REGIO and EMPL. While being below ECA's estimate of the error rate, this range falls within the interval calculated by the ECA for its Statement of Assurance exercises in the last two years.

The Commission is therefore convinced that the range (KPI and its maximum value) published in the AAR reflects a reasonable and fair estimate of the error rates for each programme and cumulatively for all programmes, based on all information available at the time of the AAR signature.

86. In line with the 2014-2020 regulatory framework, the Member States certify the expenditure and report the results of their controls and audits in the assurance packages submitted by 15 February each year.

The reservations in the AARs are based on all information available at the time of the signature of the AAR, including the assessments of the impact of previous deficiencies on the most recent reported error rates and audit opinions. For example, in its 2020 AAR, DG EMPL clearly stated that four reservations were based on deficiencies or doubts as to the reliability of error rates reported in previous years and not solved at the time of receiving the new, more positive assurance packages. In case of doubts or identified risks, the Commission therefore applies a prudent approach for its own reporting in the AAR and estimates the level of risk for the concerned programmes at flat rate and expresses additional reservations where needed.

Verification of the legality regularity of expenditure is a continuous exercise during the period offered in the regulation to carry out audits, while the AAR provides a snapshot of the situation at a given time (April), for the relevant expenditure in the reporting year (requirement in the financial regulation). At the time of the signature of the AAR, the Commission understandably cannot anticipate the results of audits that are taking place after that date.

Recommendation 3 – The Commission should strengthen the main elements of the regularity information provided in the AARs

The Commission partially accepts this recommendation.

(a) The Commission does not accept part (a) of the recommendation.

The Commission considers that the range for the KPIs including the maximum risks disclosed in the AARs represents a reasonable and fair estimate of the level of error for the relevant expenditure of the year, taking into account all information available at the time of signature and any potential remaining uncertainty for some programmes.

The Commission, according to this differentiated approach, does not consider that errors identified through compliance audits in some programmes and Member States, necessarily also occur in other non-audited programmes and Member States.

(b) The Commission accepts part (b) of the recommendation.

In the latest AARs (not subject to the ECA's audit), the Commission has endeavoured to explain, in a short overview with illustrations and examples, how the DGs obtain reasonable assurance for each programme. The AAR describes previous deficiencies found in the reported error rates and management and control systems, and the actions applied to improve the situation (see overview pages 27-30 REGIO AAR and 45-53, DG EMPL AAR and annexes 7B and 7O and 7 of DGs REGIO and EMPL 2020 AARs, respectively).

The Commission will also continue to clearly disclose in annex 5 of the AARs the 'materiality criteria' for establishing reservations, taking into account the latest information provided in the assurance packages including the reportable error rates (see pages 44 and 58 respectively of the annexes to DGs REGIO and EMPL 2020 AARs).

Common Commission reply to paragraphs 87 and 88:

The Commission considers that the detailed instructions and guidance given to services and the quality review performed by Central Services ensure that the estimates provided in the AARs and aggregated in the AMPR represent a reasonable and fair view of the risk at payment for the relevant expenditure of the year.

The AMPR is subject to a rigorous preparatory and decision-making process: co-sponsorship by SG and BUDG, inter-service consultations and a full collegial adoption process including dedicated meetings of the Commissioner's private offices. Moreover, the Central Services receive detailed orientations from the Corporate Management Board concerning the content and structure of the

AMPR. This happens at key moments in the preparation of the report: at the outset of the exercise and after the AAR peer reviews (see also Commission replies to paragraphs 71, 73 and 74).

Recommendation 4 – Central Services should receive instructions for the production of the AMPR from its owner, the College of Commissioners

The Commission partially accepts this recommendation.

The Commission considers that, given the process in place for its elaboration (see its replies to paragraphs 71 to 74), the content of the AMPR is relevant and reliable.

The Commission will examine how the main orientations provided by the Corporate Management Board to the Central Services on the content and structure of the AMPR could be further strengthened in future years and recall the roles and responsibilities in the preparation and review of the AAR and the preparation of the AMPR, as set out in the Commission's governance arrangements.

The Corporate Management Board, at the apex of the Commission's corporate governance structure, oversees the preparation of the AMPR and is therefore the appropriate body to provide guidance on the content of the report. The Cabinets of the President and the Commissioner responsible for the budget, as observers in the CMB, are part of these discussions.