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COMMUNICATION TO THE COMMISSION

Governance in the European Commission

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GOVERNANCE IN THE EUROPEAN COMMISSION

The European Commission is the executive of the European Union. It promotes the Union's general interest and takes appropriate initiatives to that end. It ensures the application of the Treaties and oversees the application of Union law by Member States under the control of the Court of Justice of the European Union. It exercises coordinating, executive and management functions, executes the budget and manages programmes.

The Commission's internal functioning is based on a number of key principles underpinning good governance: clear roles and responsibilities, a strong commitment to performance management and compliance with the legal framework, clear accountability mechanisms, a high quality and inclusive regulatory framework, openness and transparency, and high standards of ethical behaviour.

The purpose of this document is to explain the Commission's governance arrangements and how these ensure that the Commission functions as a modern, accountable and performance-oriented institution.

1. ROLES AND RESPONSIBILITIES OF THE COLLEGE AND DIRECTORS-GENERAL/HEADS OF SERVICES

The European Commission has a unique governance system, with a clear distinction between political and administrative oversight structures and well-defined lines of responsibility and financial accountability. The origins of this system lie in the Treaties, but the structure has evolved to adapt to a changing environment and to remain in line with best practice as set out in relevant international standards such as the COSO (Committee of Sponsoring Organizations of the Treadway Commission) 2013 Internal Control-Integrated Framework, the 2014 Conceptual Framework of the International Public Accounting Standards Board, or audit standards as drawn up by the Institute of Internal Auditors.

The College of Commissioners represents the apex of this architecture and assumes collegial political responsibility for the work of the European Commission. Operational implementation is delegated to Directors-General and Heads of Service who lead the administrative structure of the European Commission¹. Their respective responsibilities are described below.

1.1. The College of Commissioners

The Treaty on European Union (Article 17) and the Treaty on the Functioning of the European Union (Articles 244-250) set out in detail what is required, by law, of the Members of the Commission – as individuals and as a College.

¹ As a result, the term 'European Commission' is used to denote both the institution – i.e. the College – formed by the Members of the Commission, and the administration managed by the Directors-General of its departments (and heads of other administrative structures such as services, offices and executive agencies) which supports the institution.

Article 17 of the Treaty on European Union states that the Members of the Commission shall be chosen on the grounds of their general competence. They have political responsibility and the Commission is accountable before the European Parliament. Members of the Commission are completely independent in the performance of their duties, i.e. they neither seek nor take instructions from any government or institution, body, office or entity. They shall refrain from any action which is incompatible with their duties or the performance of their tasks. The Code of Conduct for the Members of the Commission² clarifies the obligations for Commissioners deriving from the Treaties, in particular as regards the principle of independence, the avoidance and management of possible conflict of interests and the obligation to discharge their duties in the general interest of the Union. An Independent Ethical Committee advises the Commission on the compatibility with the Treaties of former Members' envisaged post term-of-office activities and any ethical question related to the Code.

Members of the Commission shall resign if the President so requests. Further, if Members no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire them.

As a College, the Commission works under the political guidance of its President, who presents the objectives he or she intends to pursue in the form of the President's political guidelines³. The President decides on the internal organisation of the Commission so as to ensure that it acts consistently, efficiently and on the basis of collegiality. This principle of collegiality, which governs all of the Commission's work, means that all Members participate equally in the decision-making process and are collectively responsible at the political level for all Commission decisions and actions taken. The President may also appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the Members of the Commission. The Vice-Presidents assist the President in the exercise of his or her duties, rights and prerogatives in their areas of responsibility. They are entrusted with well-defined priority projects and steer and coordinate work across the Commission in the key areas of the President's political guidelines. The Executive Vice-Presidents have a dual function, as they combine their Vice-Presidency with the management of a policy area.

The Members of the Commission are responsible for the implementation of the political priorities laid down in the President's political guidelines and the Commission Work Programme, with the support of their Cabinets and the Commission services. In their coordination tasks, Executive Vice-Presidents, the High Representative/Vice-President and Vice-Presidents are supported by the Secretariat-General, in accordance with the specific working arrangements drawn up in agreement with the President. Their steering and coordination role in their respective areas of responsibility involves bringing together several Commissioners and different parts of the Commission to shape coherent policies and deliver results.

The Commission also carries out an important range of financial and managerial tasks. The internal arrangements set up by the College constitute a structure of robust controls

2 C(2018) 700, Commission Decision of 31.1.2018 on a Code of Conduct for the Members of the European Commission.

3 A Union that strives for more: My agenda for Europe, Political Guidelines for the next European Commission, 16 July 2019.

and management tools which enable the College to take political responsibility for the decisions it takes as well as for coordinating, executive and management functions, as laid down in the Treaties⁴.

The College is politically accountable to the European Parliament, which may vote on a motion of censure of the Commission (Article 234 of the Treaty on the Functioning of the European Union). If such a motion is carried, the Members of the Commission shall resign.

With regard to the budget, the Parliament decides annually, on the basis of a recommendation from the Council and taking into consideration, inter alia, the annual report of the Court of Auditors, on the discharge of the Commission for the implementation of the EU budget (Article 319 of the Treaty on the Functioning of the European Union, for details see infra 3.8.1).

1.2. The Directors-General and Heads of Service

The President decides on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body. The College establishes the organisational structure of the Commission, which is composed of a number of Directorates-General and other departments forming a single administrative service to assist it in the preparation and performance of its tasks, and in the implementation of its priorities and the political guidelines laid down by the President.

The Rules of Procedure of the Commission⁵ and the Rules giving effect to them⁶, as well as the Working Methods of the European Commission⁷ as adopted by the College at the beginning of its term frame the relations between the Members of the Commission and their services. These relations are based on the principles of loyalty, trust and transparency.

Specific working arrangements are established between each Member of the Commission and the Director(s)-General falling under their authority. These rules provide, in particular, for the obligation of the services to alert the Member of the Commission to any information likely to call into question his/her responsibility or that of the College.

Directors-General and Heads of Service are responsible for the management of their departments in accordance with the rules and standards laid down by the Commission. They shape the organisational structures of their services, on the basis of the organisation charts adopted by the College, to pursue the political objectives of the Commission and fulfil its legal and financial obligations, while striving for efficiency, flexibility and a high level of performance. They are responsible for allocating the resources within their

4 Article 17(1) of the Treaty on European Union.

5 OJ L 308, 8.12.2000, p. 26.

6 Annex to the Commission Decision C(2010) 1200 of the European Commission of 24 February 2010 amending its Rules of Procedure, as last amended on 22 April 2020: Rules giving effect to the Rules of Procedure, as last amended by Commission Decision C(2013)3837.

7 P(2019)2, Communication from the President to the Commission, The Working Methods of the European Commission, 1.12.2019.

service and ensuring that individual organisational entities – directorates, units and other structures – are appropriately staffed for performing their tasks.

Under the supervision of the competent Members of the Commission, Directors-General are also responsible for the operational implementation of the EU budget. The delegation of authorising powers is decided annually by the Commission (see Section 3).

The Secretariat-General is at the heart of the European Commission as an institution and of its civil service. Under the authority of the President, it serves the whole College, oversees the implementation of the European Commission's political priorities and ensures the collegiality, the consistency, the efficiency and the regularity of the Commission's action. To this end, the Secretariat-General is tasked with a range of policy development, steering and coordination functions, both upstream and downstream of the decisions of the Commission, both internally and externally.

The Legal Service, which also works under the authority of the President, has a double role. On the one hand, it gives legal advice on the form and the content of any legislative proposal to the European Parliament and Council, and of any other act (Regulations, Directives, Decisions, recommendations or opinions) to be adopted by the Commission, on procedures launched against Member States for non-compliance with EU law and on the conduct of international negotiations. On the other hand, it represents the Commission in all legal proceedings, in particular in those before the Court of Justice of the European Union.

1.3. Executive agencies

The European Commission delegates the implementation of certain financial programmes to executive agencies. The implementation tasks entrusted to executive Agencies may not involve discretionary powers in translating political choices into action. The governance architecture of executive agencies is defined in Council Regulation 58/2003 laying down the statute of such agencies⁸. On the basis of a cost-benefit analysis, the European Commission sets up the executive agencies and decides on the delegation of EU programmes. The executive agencies have legal personality.

The European Commission supervises the executive agencies through several steering and monitoring mechanisms. Each agency is managed by a senior Commission official, seconded in the interest of the service to the agency as its Director and supervised by a Steering Committee composed of senior Commission officials⁹ appointed by the European Commission. The Steering Committee adopts the agency's annual work programme comprising detailed objectives and performance indicators, as well as the agency's annual activity report and the administrative budget.

8 Council Regulation (EC) N°58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 13.1.2003).

9 The Steering Committee of the European Research Council Executive Agency also includes as members two representatives of the Scientific Council of the European Research Council who are not Commission officials.

1.4. The Corporate Management Board

Acting under the President's authority, the Corporate Management Board contributes to the corporate governance of the Commission by providing coordination, oversight, advice and strategic orientations on corporate management issues. These include strategic planning and programming, the management of resources, information management, risk management, information technology and cybersecurity, security and business continuity, anti-fraud activities and audits with a corporate dimension. In 2018, the Commission's corporate governance bodies were rationalised¹⁰ and the Corporate Management Board received a new and clearer mandate¹¹. Chaired by the Secretary-General, it brings together on a regular basis the Directors-General responsible for budget, human resources and security, and the Director-General of the Legal Service. The responsible Cabinets participate as observers. The Head of Cabinet of the Member chairing the Audit Progress Committee and the Director-General of the Internal Audit Service may be invited to participate in the meetings of the Corporate Management Board when audit issues are discussed. The work of the Board is supported by a number of other specialised boards or groups. The College is informed about the work of the Corporate Management Board.

2. PERFORMANCE FRAMEWORK

All Commission activities are carried out to fulfil the tasks entrusted to it by the Treaties, in order to achieve the objectives of the European Union, as laid down in Article 3 of the Treaty on European Union. The Commission attaches a high priority to ensuring that objectives are achieved in an efficient and effective manner. The performance framework in place distinguishes between the performance of the Commission services on the one hand; and the performance of the programmes financed by the EU budget and managed by the Commission, Member States or other bodies on the other (see also Section 3).

As regards the Commission services, performance management is implemented through the strategic planning and programming cycle, which encompasses the setting of objectives, allocation of resources according to these objectives, risk management (see section 3.3), regular monitoring and reporting on whether the objectives have been reached, as well as regular evaluations.

As regards programmes financed by the EU budget, performance management is conducted in accordance with the requirements laid down in the basic and implementing legal acts governing the programmes.

2.1. Setting of objectives

At the beginning of each mandate, the President of the Commission issues political guidelines for the Commission's term of office. To ensure the alignment of the Commission activities with the political guidelines, new initiatives are subject to validation at the political level and the guidelines are translated annually into concrete deliverables in the Commission Work Programme. As part of the strategic planning and programming cycle, every service of the European Commission prepares an annual

10 C(2018) 7704 final, Communication to the Commission on streamlining and strengthening corporate governance within the European Commission, 21.11.2018

11 C(2018)7706 final, Commission Decision on the Corporate Management Board, 21.11.2018

management plan under the umbrella of a multiannual strategic plan. The strategic plan defines the overall strategy and specific objectives for the Commission's term of office, while the management plan lists the priorities and deliverables for the given year. Objectives are accompanied by indicators to measure the progress towards set targets. These indicators enable the Directors-General to plan, follow up and report on the activities and resources of the Directorate-General, and to ensure that resources are aligned to objectives. The Commission Work Programme as well as the strategic plans and management plans are available on the [Commission website](#)¹².

The objectives of EU financial programmes are laid down in the basic and implementing legal acts governing these programmes. These acts also define indicators to measure progress, as well as monitoring, reporting and evaluation arrangements. Detailed performance information on progress towards the achievement of programme objectives is provided annually in a working document ('Programme Statement') accompanying the draft EU budget. In addition, a summary of the performance information presented in the Programme Statements (Programme Performance Overview) is annexed to the Annual Management and Performance Report.

2.2. Allocation of resources

The multiannual financial framework lays down the maximum annual amounts ('ceilings') which the EU may spend in different policy fields ('headings') over a period of at least 5 years. It provides a framework for financial programming and budgetary discipline by ensuring that EU spending is predictable and stays within the agreed limits.

By defining in which areas the EU should allocate resources over the given period, the multiannual financial framework is an expression of political priorities as well as a budgetary planning tool. The annual budget is adopted within this framework. Its structure allows the spending on each policy and programme to be identified and monitored.

Regarding the allocation of human resources to its departments and services, the Commission ensures that its workforce is deployed optimally between and within the Commission's departments according to the political priorities, institutional and legal obligations, and organisational fitness.

2.3. Monitoring and reporting on achievement of objectives

An essential part of performance management in the Commission is the continuous monitoring and measurement of the impacts and results of its activities. Each year, as part of the strategic planning and programming cycle, Commission departments produce annual activity reports that describe the state of implementation and progress towards the achievement of policy and organisational management objectives as set out in their strategic plans and management plans, as well as achievements in relation to financial management and the internal control objectives (see Section 3.2).

The annual activity report is a key component of the accountability chain as it attests to the legality and regularity of financial transactions executed under the responsibility of Directors-General and other heads of service (see Section 3 for more details).

¹² https://ec.europa.eu/info/strategy-documents/strategic-plans_en.

Responsibility for performance in relation to the achievement of EU policy objectives and the results achieved with the EU budget is shared with a wide range of public and private sector actors at European and national level. The annual activity reports provide information on the Commission's contribution to the policy achievements and the results achieved with the EU budget, and detailed reporting on the performance of financial programmes is included in the Programme Statements attached to the draft EU budget. Additional reporting on policy achievements is contained in sectoral reports and in reports such as the annual General Report on the Activities of the European Union¹³.

The annual activity reports, together with the Programme Statements and information from evaluations, form the basis for the [Annual Management and Performance Report for the EU Budget](#). This report covers the performance, management and protection of the EU budget. The report provides a comprehensive overview of how the EU budget supports the European Union's political priorities, the results achieved with the EU budget, and the role the Commission plays in ensuring and promoting the highest standards of financial management. It fulfils the legal obligations contained in Article 318 of the Treaty on the Functioning of the European Union and in the Financial Regulation (see Section 3.4).

2.4. Evaluation

Evaluations are used to assess the results and impacts of EU interventions in terms of efficiency, effectiveness, coherence, relevance and EU added value. Evaluation findings inform new policy developments, including legislative revisions and improvement of spending programmes. Initiatives with significant impacts are generally accompanied by impact assessments which look at the options available to deliver policy objectives in the most effective and efficient way. They also anticipate how policies will be monitored and evaluated subsequently. The Commission applies an 'evaluate-first' principle for the revision of existing legislation. As part of the REFIT Programme, evaluations assess the potential for simplification of existing legislation and the potential to eliminate unnecessary regulatory costs. The Commission performs comprehensive evaluations of policy areas through Fitness Checks covering whole sectors, sub-sectors or cross-cutting policy instruments. The Regulatory Scrutiny Board reviews the quality of major evaluations and all Fitness Checks. The Better Regulation Guidelines¹⁴ and toolbox include a dedicated chapter on evaluations.

3. ACCOUNTABILITY AND CONTROL

Overall responsibility for the implementation of the EU budget lies with the European Commission. However, for approximately 80% of the budget appropriations implemented in shared management with the Member States, close cooperation between the Member States and the European Commission is necessary to ensure that the appropriations are used in accordance with the principles of sound financial management and that the financial interests of the EU are well protected.

¹³Produced in accordance with Article 249(2) of the Treaty on the Functioning of the European Union.

¹⁴SWD(2017) 350, Commission Staff Working Document, Better Regulation Guidelines (and associated toolbox).

3.1. The European Commission's decentralised model of financial management

The European Commission's model of decentralised decision-making in budget implementation was a key aspect of the administrative reform of the year 2000¹⁵. The accountability chain in the European Commission is clearly defined in the Financial Regulation. The Authorising Officer of the European Commission is the College of Commissioners. The College delegates financial management tasks to the Directors-General or Heads of Service who thereby become Authorising Officers by Delegation¹⁶. These tasks can further be delegated by the Authorising Officer by Delegation to Directors, Heads of Unit and others, who thereby become Authorising Officers by Sub-Delegation. The European Commission also delegates the implementation of specific programmes to executive agencies (see Section 1.3). The directors of the executive agencies are Authorising Officers by Delegation for the operational appropriations of the financial programmes they implement: the European Commission remains accountable for these appropriations and receives the discharge for their implementation. The directors of the executive agencies are however Authorising Officers for the operating budget of the agencies and receive the discharge for its implementation. The Commission's arrangements for planning, accounting, internal control systems, internal audit, reporting and accountability are fully applicable to the executive agencies.

Processes and modes of implementation may vary between programmes and management modes. Expenditure decisions can be directly executed by the European Commission or an executive agency but also indirectly via, or together with, another institution or body such as joint undertakings and bodies provided for by Article 185 of the Treaty on the Functioning of the European Union. A large proportion of the budget is under shared management with the Member States, notably in the areas of structural funds and agriculture. Budget implementation tasks are also entrusted to national agencies, the European Investment Bank Group, third countries, international organisations (for example the World Bank or the United Nations), and other entities¹⁷. In all these cases, the Financial Regulation and/or the Delegation Agreements define the necessary control and reporting mechanisms by these entities and the supervision measures by the Commission.

3.2. Implementing the budget according to sound financial management principles

As Authorising Officers by Delegation, the **Directors-General** are **responsible for the sound financial management of resources**¹⁸, which includes ensuring that resources are used for their intended purpose, and setting up cost-effective control systems to ensure that the Commission's internal control objectives are achieved. The arrangements put in place should allow the Authorising Officer by Delegation to provide reasonable assurance that operational activities and controls are effective, efficient and economic,

15 COM(2000)200, Reforming the Commission - A White Paper, 5.4.2000.

16 Those delegations are made on a yearly basis by the internal rules on the implementation of the general budget of the European Union for the attention of the Commission departments.

17 In exceptional cases Delegation Agreements are concluded with EU decentralised agencies and other EU bodies.

18 See Article 33 of the Financial Regulation.

transactions are legal and regular, financial and management reporting is reliable, fraud is prevented and corrected, assets and information are safeguarded, and robust reporting on the achievement of operational objectives is ensured. The Authorising Officers by Delegation also provide reasonable assurance that appropriate controls are in place in relation to information technology. They may formally sub-delegate responsibility to appropriate staff to authorise expenditure and revenue on their behalf, while remaining ultimately responsible and accountable themselves. They may also cooperate with other Authorising Officers by Delegation by pooling part of their control resources to create specialised common services to jointly implement specific aspects of their control activities.

In implementing the EU budget, Authorising Officers by Delegation must respect the provisions of the Financial Regulation and should establish an appropriate internal control framework in line with the Commission's **Internal Control Framework**¹⁹. In line with the COSO 2013 Internal Control principles, the framework consists of five internal control components which underpin 17 principles, each supported by several characteristics. These characteristics, which may be implemented according to the specific features of the Directorate-General, assist the Director-General in designing and implementing internal controls and in assessing whether the relevant principles are implemented and functioning overall. Commission departments are required to follow these principles and put in place a solid and robust internal control framework to ensure that the objectives are achieved. Besides financial control, the principles also address aspects linked, for example, to integrity and ethics (see Section 4), human resources management, communication and the safeguarding of information. Each Authorising Officer by Delegation is supported by one or two senior or middle manager(s) in charge of risk management and internal control to oversee and monitor the implementation of internal control systems within the Commission department.

In addition, the Secretariat-General and the Directorate-General for Budget, in cooperation with the other central services of the Commission, provide guidance and advice, promote best practices, monitor the effective implementation of corporate guidance and recommend improvements to the overall internal control system and to the principles which underpin the basic control framework, including the implementation of the internal control principles and characteristics under their respective areas of competence.

3.3. Risk management in the European Commission

The basic principles underpinning risk management in the Commission are set out in the Communication to the Commission – “Towards an effective and coherent risk management in the Commission services”²⁰. The Commission's approach to risk management entails, as part of the strategic planning and programming cycle, a continuous, proactive and systematic process of identifying, assessing, and managing risks. Risk management is carried out at every level of the Commission. Authorising Officers by Delegation are responsible for identifying and assessing the risks that could

¹⁹C(2017)2373 final, Communication to the Commission from Commissioner Oettinger in agreement with President Juncker on the revision of the Internal Control Framework, 19.4.2017.

²⁰SEC(2005)1327, Communication to the Commission Towards an effective and coherent risk management in the Commission services, 20.10.2005.

prevent the realisation of the set objectives in their particular area and, if needed, for implementing actions to mitigate them.

Risks affecting multiple departments and for which the response is most efficiently coordinated by several departments are classified as cross-cutting. Risks with high priority are classified as critical and are notified to the Secretariat-General and the Directorate-General for Budget. The latter organise a peer review process to exchange best practices regarding these critical risks.

The Secretariat-General and Directorate-General for Budget provide the Corporate Management Board with the results of the peer review process and with a list compiling all the critical risks that have been communicated to them by the Directorates-General indicating which risks are linked to the Commission's priorities.

The Corporate Management Board oversees the risk management process. In particular, it reviews the list of critical risks, decides on a case-by-case basis on the need to invite the responsible Directorates-General to discuss their risk response and transmits consolidated information on the list of critical risks and possible additional comments to the Internal Audit Service. The Internal Audit Service transmits this information to the Audit Progress Committee in the context of its consideration of its audit plan.

The College is regularly informed about the Corporate Management Board's findings concerning risk management.

The Information Technology and Cybersecurity Board oversees risks related to information technology.

3.4. Reporting on the management of the EU budget

The main accountability instruments are the annual activity reports, the Annual Management and Performance Report (see Section 2.3) and the annual accounts (see section 3.5).

Each annual activity report contains a signed declaration of assurance by the Director-General / Head of Service in his or her capacity as Authorising Officer by Delegation in relation to his or her financial and control responsibilities (see Section 2.3) as well as a statement from one or several representative(s) of the senior management of the Directorate-General/Service on the completeness and reliability of the information reported (including information on performance and financial management)²¹. The draft annual activity report and any possible reservations are reviewed by the Secretariat-General and the Directorate-General for Budget which provide feedback, where appropriate, after a peer review process. The draft annual activity report is discussed with the relevant Member of the Commission before the final report is signed. It includes, as provided for in the Financial Regulation, a description of the control environment and of the different tasks and responsibilities of all actors involved and reports on the control results and assurance provided in relation to the management of the EU funds by entrusted entities.

The Annual Management and Performance Report for the EU budget describes the Commission's management of the EU budget and summarises information on areas

²¹ C(2017)2373 final, Communication to the Commission from Commissioner Oettinger in agreement with President Juncker on the revision of the Internal Control Framework, 19.4.2017 – Appendix 3.

including the achievement of the internal control objectives, the management of risks to the legality and regularity of financial operations, the results of the actions taken to protect the EU budget²², the cost-effectiveness of controls, and anti-fraud strategies. The report also addresses a number of important cross-cutting issues raised by bodies including the European Parliament, the Council, the European Court of Auditors and the Commission's Internal Audit Service. Through the adoption of the Annual Management and Performance Report, the Commission assumes its political responsibility for the management of the EU budget, which encompasses accountability for the work of its departments and services.

The consolidated annual accounts²³ of the EU provide financial information on the implementation of the EU budget and thus reflect the financial information provided by each Directorate-General or Service as well as that of the other institutions and agencies. Through the adoption of the annual accounts, the Commission assumes its political responsibility for the financial management of the EU budget.

Both the Annual Management and Performance Report and the annual accounts are part of an integrated financial and accountability reporting package through which the European Commission provides comprehensive reporting on the EU budget, in line with Article 247 of the Financial Regulation²⁴ and the Conceptual Framework for General Purpose Financial Reporting by Public Entities²⁵, and which serves to increase transparency and accountability.

This package is made available to the European Court of Auditors and is also submitted to the European Parliament and the Council in the context of the annual discharge to the European Commission on the implementation of the EU budget. Within the European Commission, the discharge procedure is coordinated by the Directorate-General for Budget.

3.5. The Accounting Officer

The Commission's Accounting Officer is responsible for the proper implementation of payments, collection of revenue and recovery of amounts, keeping the accounts, preparing and presenting the Commission's annual accounts and the consolidated annual accounts of the EU, laying down the accounting rules and methods and the chart of accounts to be applied by the Directorates-General and Services of the Commission as well as the other EU institutions and bodies.

Moreover, the Accounting Officer is also responsible for putting in place and validating the accounting systems and, where appropriate, validating systems put in place by the authorising officers by delegation to supply or justify accounting information. Where

22 Since the 2016 Annual Management and Performance Report, the former Communication on the Protection of the EU Budget is part of the Annual Management and Performance Report.

23 These accounts comply with the information requirements of the relevant international accounting standards (IPSAS).

24 OJ L193, 30 July 2018, p. 148

25 'Conceptual Framework' (Conceptual Framework for GPFs) adopted in October 2014 by the International Public Accounting Standards Board (IPASB).

weaknesses are identified, recommendations for improvements are made and action plans are followed-up on.

The Accounting Officer signs the EU accounts, certifying that the necessary checks have been made and that they have been prepared in accordance with the accounting principles, rules and methods established under his or her responsibility so that they present fairly, in all material aspects, the financial position, the results of the operations and the cash flows of the EU. These accounts are then adopted by the Commission in accordance with the Financial Regulation.

The Accounting Officer is responsible for treasury management, except where the legislator/Commission has entrusted the management of the assets of specific financial portfolios to an Asset Manager. The designated Asset Manager can either be an external body (e.g. the European Investment Bank) or a Commission service.

The Accounting Officer also exercises independent control and oversight of the activities relating to asset management thus strengthening its overall governance, as well as the evolution and sustainability of the contingent liabilities from budgetary guarantees and provisioned loan programmes. This control and oversight role covers both assets managed by the Directorate-General for Budget as well as those delegated to an external body (e.g. the European Investment Bank as in the case of the Innovation Fund).

The Accounting Officer presents the annual consolidated EU accounts to the Audit Progress Committee so as to discuss any relevant risks and audit issues as well as the Commission's actions taken to follow up on the European Court of Auditor's audit recommendations related to the reliability of the accounts.

3.6. The Central Financial Service

Within this decentralised governance structure, the Central Financial Service, part of the Directorate-General for Budget, is the lead service as regards assisting the Commission services in the implementation of the budget. It provides support and coordination with regard to the internal control framework and strengthens the reliability of financial and management reporting by the Authorising Officers by Delegation to the College, checking its compliance with corporate guidance and the applicable rules. It also provides support, advice and training to Commission departments and other institutions on matters related to financial management and reporting, including interpretation of legislation (in close cooperation with the Legal Service) and internal control and risk management. To this end, it develops standards and guidelines, and facilitates exchange of good practices in the field to help Authorising Officers assume their financial management responsibilities. The Central Financial Service also operates the Early Detection and Exclusion System (EDES), which ensures the protection of the Union's financial interests against unreliable economic operators. Administrative sanctions (e.g. exclusion from the award of Union funds and/or imposition of financial penalties) may be imposed on unreliable economic operators at the request of Authorising Officers of all Institutions and bodies only on the basis of a recommendation issued by an Interinstitutional Panel chaired by a Standing High-level Independent Chair²⁶. This

²⁶Commission Decision of 6 September 2018 designating the standing high-level independent Chair and Vice-Chair of the Panel referred to in Article 143 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the Financial Regulation) for the remaining period of their current mandate, C/2018/5751, OJ C 315, 7.9.2018, p.3-4

Interinstitutional Panel also has an advisory role in assessing whether a financial irregularity resulting from an act or omission of a member of staff has occurred.

3.7. Internal scrutiny of the European Commission

3.7.1. The Internal Audit Service and the Audit Progress Committee

The **Internal Audit Service (IAS)** is a service of the Commission headed by the Internal Auditor of the Commission who is, by virtue of the Financial Regulation, independent in the performance of his or her duties. The IAS applies the International Standards for the Professional Practice of Internal Auditing as drawn up by the Institute of Internal Auditors. Its mission²⁷ is to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight. The IAS helps the Commission to accomplish its objectives by bringing a systematic, disciplined approach in order to evaluate and improve the effectiveness of risk management, control and governance processes. Its tasks include assessing and making appropriate recommendations for improving the risk management, control and governance process in the accomplishment of the following objectives: promoting appropriate ethics and values within the organisation, ensuring effective organisational performance management and accountability, and effectively communicating risk and control information to appropriate areas of the organisation. It thereby promotes a culture of efficient and effective management within the Commission and its departments.

The **Audit Progress Committee (APC)**²⁸ assists the College of Commissioners in fulfilling its obligations under the Treaties, the Financial Regulation and under other statutory instruments by ensuring the independence of the Internal Audit Service, monitoring the quality of internal audit work, and by ensuring that internal and external audit recommendations are properly taken into account by the Commission departments and that they receive appropriate follow-up. In this way the Audit Progress Committee contributes to the overall further improvement of the Commission's effectiveness and efficiency in achieving its goals and facilitates the College's oversight of the Commission's governance, risk management, and control practices²⁹. The Audit Progress Committee is constituted in full conformity with Article 123 of the Financial Regulation, with a structure and mandate reflecting the particular nature and operating environment of the Commission. It is composed of nine members, of which a maximum of six are Members of the Commission and at least three are external members with proven professional expertise in audit and related matters. It is chaired by a Member of the Commission designated by the President of the Commission. While the Audit Progress Committee has no management powers it may, at any time, report to the Commission on any issues arising out of the Committee's work on which it considers the College needs to be informed or take action. The Audit Progress Committee may also bring issues to the attention of the Corporate Management Board as appropriate. The Audit Progress Committee reports annually to the College on its main conclusions and recommendations

27C(2020)1760 final, Communication to the Commission on the Mission Charter of the Internal Audit Service of the European Commission, 25.3.2020.

28See Article 123 of the Financial Regulation.

29C(2020)1165 final, Annex to the Communication to the Commission from Commissioner Reynders in agreement with the President on the Update of the Charter of the Audit Progress Committee of the European Commission, 27.2.2020.

as concerns the risk, control and compliance framework in the Commission, which feeds into the Annual Management and Performance Report.

3.7.2. *Combating Fraud: The European Anti-Fraud Office (OLAF)*

The mission of the **European Anti-Fraud Office (OLAF)** is to protect the financial interests of the European Union by detecting, investigating and working towards stopping fraud affecting European Union funds and own resources. OLAF performs administrative investigations into irregularities and cases of suspected fraud affecting the EU's financial interests and will coordinate closely with the future European Public Prosecutor's Office. By November 2020, the latter will, in the 22 participating Member States, be mandated to investigate, prosecute and bring to judgment crimes against the EU budget, such as fraud, corruption or serious cross-border VAT fraud. The EU and the Member States share responsibility for protecting the EU's financial interests and fighting fraud. To counter fraud affecting the financial interests of the Union, Member States must take the same measures that they take to counter fraud affecting their own financial interests according to Article 325(2) TFEU.

OLAF's mandate is to conduct independent investigations into cases of suspected fraud and corruption and any other irregular activity affecting EU expenditure and EU revenue. Its main aims are to ensure that EU taxpayers' money is used for the aims for which it was intended; to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions; and to contribute to the design and development of methods for preventing and combating fraud. OLAF also supports member states by coordinating their action in the fight against illegal activity affecting the EU budget and through mutual administrative assistance in customs and customs-related matters.

OLAF is the lead service in the conception and development of a European Anti-Fraud Policy. It deals with all phases of fraud prevention and detection, from the conception of a policy, and the implementation of existing and new policies, to the reporting on its progress and effectiveness.

Since the adoption of the Commission second Anti-Fraud Strategy³⁰, recently replaced by an updated Strategy and Action Plan³¹ all Commission Directorates-General have been required to develop and implement their own anti-fraud strategy. OLAF assists the Directorates-General in the definition of their anti-fraud strategy by providing, *inter alia*, a methodology and guidance on the development and implementation of the sectoral Anti-Fraud Strategies. These strategies are regularly updated by the respective Authorising Officers by Delegation and reviewed by OLAF which ensures overall coordination of the process. Reporting on the implementation of the Commission Anti-Fraud Strategy takes place in the annual report on the protection of the European Union's financial interest -fight against fraud, as referred to in Article 325 of the Treaty on the Functioning of the European Union, and adopted by the College.

30 COM(2011)376 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions and the Court of Auditors on The Commission Anti-Fraud Strategy, 24.6.2011.

31 COM(2019) 196 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the Court of Auditors on the Commission Anti-Fraud Strategy: enhanced action to protect the EU budget, 29.4.2019.

OLAF is part of the European Commission and operates under the responsibility of a Member of the Commission (currently the Member of the Commission in charge of Budget and Administration) as regards its tasks concerning anti-fraud policy. However, in its investigative mandate, OLAF acts in full independence. To reinforce and guarantee OLAF's independence, a Supervisory Committee, composed of five independent external experts (appointed by common agreement of the European Parliament, the Council and the Commission) regularly monitors the implementation of OLAF's investigative function.

In 2019, the Commission set up a regular monitoring mechanism, at corporate level, to keep track of the follow-up of the financial recommendations that OLAF addresses to the Commission services after the completion of its investigations.

3.8. External scrutiny of the European Commission's financial management

3.8.1. The European Court of Auditors and the discharge granted by the European Parliament

The **European Court of Auditors (ECA)** is the external auditor of the EU's finances. Its mission is to independently audit the collection and spending of European Union funds and, through this, to assess the way in which the European institutions discharge these functions. The ECA examines whether financial operations have been properly recorded, legally and regularly executed and managed so as to ensure economy, efficiency and effectiveness. The ECA makes the results of its work known through the publication of audit reports (including annual reports on compliance and performance) and reviews which feed into the development of financial management and control systems as well as the performance framework to obtain better results from EU spending.

According to Article 319 of the Treaty on the Functioning of the European Union, the European Parliament is responsible for granting discharge to the Commission in respect of the implementation of the EU budget. Upon recommendation by the Council and taking into consideration the Commission's Integrated Financial and Accountability reporting and the annual report of the ECA, which includes the Statement of Assurance on the reliability of the accounts and the legality and regularity of underlying transactions, as well as ECA Special reports, the European Parliament adopts a yearly discharge resolution, with observations and recommendations on budget implementation forming an integral part of its discharge decision. The Commission takes appropriate action on the observations contained in the discharge resolution as well as on comments accompanying the recommendations on discharge adopted by the Council and reports on their follow up.

4. ETHICS: CLEAR RULES AND EFFICIENT SAFEGUARDS

The Commission expects a high level of professional ethical standards from its staff.

4.1. Conduct of Commission staff

The Commission's internal control framework requires that management and staff are aware of, and share, appropriate ethical and organisational values and uphold these through their own behaviour and decision-making. The Commission staff operate within

a framework of rules contained mainly in the Staff Regulations and more detailed decisions implementing these Regulations. Staff are expected at all times to act objectively, impartially and lawfully and in keeping with their duty of loyalty to the Union. Compulsory training and regular awareness raising actions are organised.

4.2. Relations with the public

Lawfulness (in particular equal treatment and proportionality), consistency, objectivity, impartiality, as well as openness and transparency are the guiding principles for the relations with the public. These principles are specified in the [Code of Good Administrative Behaviour](#)³² of the European Commission, which is an Annex to the Rules of Procedure of the European Commission.

4.3. Conflicts of interest

Provisions in the Staff Regulations and implementing rules regarding conflicts of interest cover the requirement for *ad hoc* notification of conflicts of interest which could impair the impartiality of staff, a check of possible conflicts of interests before recruitment and upon return from a period of leave on personal grounds, rules governing the acceptance of gifts, hospitality and favours³³, the declaration of professional activities carried out by spouses or partners of staff, the requirement to seek prior authorisation for any external activities and to notify post-service activities³⁴. Specific rules set forth in the Financial Regulation apply to financial actors and other persons involved in budget implementation and management.

4.4. Financial liability of staff

The Staff Regulations provide that Commission staff may be required to make good, in whole or in part, any damage suffered by the Union as a result of serious misconduct on their part in connection with the performance of their duties. More specific provisions exist for financial actors in the Financial Regulation.

4.5. Enforcement: ensuring high professional standards

The disciplinary provisions apply to any failure to comply with staff obligations under the Staff Regulations, whether intentionally or through negligence.

Additionally, the mechanism for whistleblowing is set out in the Staff Regulations and further detailed in the Commission Guidelines on Whistleblowing³⁵; Commission staff are under the duty to report possible fraud or corruption detrimental to the interests of the Union, or a serious failure to comply with professional obligations, either to the

32 Commission Decision of 17 October 2000 amending its Rules of Procedure (2000/633/EC, ECSC, Euratom).

33 SEC(2012)167 Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for the staff members.

34 C(2018)4048 Commission Decision on outside activities and assignments and on occupational activities after leaving the Service.

35 SEC(2012)679, Communication from Vice-President Šefčovič to the Commission on Guidelines on Whistleblowing, 6.12.2012.

Commission or directly to the European Anti-Fraud Office. This mechanism protects staff from any prejudicial effects as a result of having communicated this information.

Besides these specific elements, criminal offences committed by staff can be subject to criminal prosecution in the appropriate jurisdiction.

4.6. The Commission's Investigation and Disciplinary Office (IDOC)

The Commission's Investigation and Disciplinary Office conducts impartial administrative inquiries and handles disciplinary proceedings on behalf of the Appointing Authority³⁶. For its inquiries, IDOC deals with potential breaches of staff rules which either do not fall under the remit of the European Anti-Fraud Office or whose investigation is left to IDOC for reasons of efficiency or proportionality. In agreement with the Secretary-General, the appointing authority provides IDOC with a mandate setting out the purpose and scope of each administrative inquiry it decides to open. It requests IDOC to establish the facts and determine the individual responsibility of the person(s) concerned with respect to the facts and circumstances of the case.

5. BETTER REGULATION, OPENNESS AND TRANSPARENCY: THE GUIDING PRINCIPLES

The Commission is committed to working in an open and transparent manner and to take decisions which are based on all available evidence. It endeavours to engage stakeholders actively in what it does and the decisions it takes, as transparency is necessary to build citizens' trust in the European institutions, as well as to ensure the legitimacy and accountability of a public administration. The Commission has taken a range of measures in that respect in particular by providing a more transparent framework for its relations with interest representatives, by ensuring appropriate consultation of stakeholders, by providing information on its activities and the beneficiaries of [EU funds](#), as well as by facilitating access to its documents.

This commitment is reflected, inter alia, in the Better Regulation Agenda, designed to ensure that policy is prepared, implemented and evaluated in an open, transparent manner, informed by the best available evidence and backed up by the comprehensive involvement of stakeholders. Greater emphasis on strategic foresight will provide sharper insights on the long-term trends to ensure that EU legislation is forward-looking and fit for tackling upcoming challenges and opportunities. The recent stocktaking of the Better Regulation agenda has confirmed the importance and value that citizens and businesses attach to evidence-based policy making³⁷.

5.1. Better Regulation

The Commission has set out its commitment to better regulation in its 'Better regulation for better results' agenda³⁸, and works together with the co-legislators (the European

36 C(2019)4231, Commission Decision laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings.

37 https://ec.europa.eu/info/sites/info/files/better-regulation-taking-stock_en_0.pdf

38 COM(2015)215 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Better regulation for better results - An EU agenda, 19.5.2015.

Parliament and the Council³⁹) to deliver tangible results. Better Regulation Guidelines and a comprehensive toolbox have been put in place to guide services to implement these principles at every stage of the policy cycle – from planning to implementation, monitoring and evaluation and identification of next steps.

The Commission endeavours to systematically conduct impact assessments of initiatives likely to have significant economic, social and environmental impacts. The Regulatory Scrutiny Board provides an independent check of the quality of this assessment. Three members, recruited from outside of the Commission, work full-time alongside three Commission officials and the Board's Chair to assess the quality of Commission impact assessments, major evaluations and all fitness checks. The Board is located administratively in the Secretariat-General and is functionally separated from the policymaking activities of the Commission services. It is fully independent when providing its opinions. In principle, a positive opinion is also needed from the Board for an initiative accompanied by an impact assessment to be tabled for adoption by the Commission. In cases where the Board gives a negative opinion twice, it is only the Vice-President for Interinstitutional Relations and Foresight that may submit the initiative to the College for a decision on whether to go ahead or not.

Moreover, the Commission strives to ensure that all its initiatives provide maximum benefits with minimum administrative and regulatory burden. Within its Regulatory Fitness and Performance programme (REFIT), the Commission ensures that EU laws remain fit for purpose and deliver the results intended by policy makers in the most efficient and effective way. The Commission has further strengthened the commitment to reduce burdens for citizens and business through the 'One in, One out' approach: burdens imposed through new EU legislation should be compensated by a reduction of an equivalent existing burden in the same policy area. The approach will be implemented by building on existing better regulation practices, within REFIT, which relies strongly on stakeholders' input. Building on the constructive experience of the [REFIT Platform](#)⁴⁰, the Commission set up in May 2020 the Fit for Future Platform⁴¹ to help reduce burdens coming from EU laws, simplify legislation and make sure that it is fit for future challenges (such as digitalisation). The Platform is composed of two groups: one with representatives of national, local and regional authorities and the Committee of the Regions and the other with representatives of stakeholders and of the European Economic and Social Committee.

5.2. Stakeholder Consultation

Stakeholder consultation is enshrined in the Treaty⁴² and aims to ensure that the Union's actions are evidence-based, coherent and transparent.

39 The joint commitment of the European institutions to Better Regulation is enshrined in the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12 May 2016.

40 https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-burdens-and-simplifying-law/refit-platform_en.

41 https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/fit-future-platform-f4f_en

42 Article 11 (3) Treaty on the European Union and Art. 2 Protocol No. 2, on the application of the Principles of Subsidiarity and Proportionality.

Building on the minimum standards for consultations established in 2002⁴³, the Commission has systematically strengthened, as part of its Better Regulation agenda, its commitment to consultations that are of high quality and transparent, reach all relevant stakeholders and target the evidence needed to make sound decisions. The purpose is to consult widely all those that are affected by legislation, ensure that policies are based on the best available evidence and stakeholders are transparently informed and engaged in the policy-making.

In addition to consultations targeted at specific stakeholders, the Commission gives all citizens and stakeholders the opportunity to express their views throughout the policy cycle. They can provide feedback on documents informing on planned initiatives ('roadmaps' or 'inception impact assessments') and contribute to twelve-week public consultations on new initiatives under preparation or evaluations of the performance of existing EU actions. Citizens and stakeholders can also provide feedback on legislative proposals adopted by the College and on draft implementing and delegated acts. The '[Have your say](#)'⁴⁴ website is the central access point to consultations and feedback opportunities enabling stakeholders to express their views on EU policies. In June 2020, the website has been redesigned, making it more user-friendly and easier to search. Stakeholders can ask to be notified when new consultation opportunities arise in the field of their interest.

The Better Regulation Guidelines and toolbox include a dedicated chapter on stakeholder consultation aiming to improve the quality and effectiveness of its consultation regime. Since July 2017, the chapter includes a clear policy on translating public consultations. Public consultations related to Commission Work Programme priority initiatives and initiatives of broad public interest need to be translated into all official EU languages and all other public consultations need to be made available in at least English, French, and German. Contributions can always be submitted in any of the EU official languages.

5.3. Transparency Portal

The revamped '[Transparency Portal](#)'⁴⁵ acts as a single window to the wide range of instruments developed over recent years to facilitate access to information and improve citizens' ability to exercise their rights. The Portal provides quick and direct access to information on public consultations, relations with interest representatives, expert groups, recipients of EU funds, access to documents and more.

5.4. Transparency Register

The European Parliament and the Commission jointly operate the '[Transparency Register](#)'⁴⁶. This tool provides information about organisations engaged in activities aimed at influencing the law-making and formulation or implementation of policy processes of the EU institutions. It sheds light on which interests are being pursued, by

43 COM(2002)704, Communication from the Commission, Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission, 11.12.2002, complemented by COM(2012)746, SWD(2012)422 and COM(2014)368.

44 http://ec.europa.eu/info/law/contribute-law-making_en.

45 http://ec.europa.eu/transparency/index_en.htm.

46 <http://ec.europa.eu/transparencyregister/public/homePage.do>.

whom and with which resources. Entities that register commit to abide, in their relations with the EU institutions, by a Code of Conduct which sets out certain ethical principles.

The Commission has boosted transparency further by publishing on Europa, from 1 December 2014, information on meetings held between Commissioners, Cabinet members and Directors-General, and interest representatives. The related rule of meeting only those lobbyists that are registered in the Transparency Register also applies.

5.5. Financial Transparency System

The [Financial Transparency System](#) (FTS)⁴⁷ is part of the European Transparency Initiative⁴⁸. Since the inception of this database in 2008, the presentation of data on recipients of EU funds directly managed by the Commission has been improved and harmonised.

5.6. Facilitating access to documents

The Commission also provides wide [access to documents](#) held by it, both by making a wide range of documents available online, and by responding to specific requests filed by citizens in accordance with Regulation 1049/2001 on public access to European Parliament, Council and Commission documents.

Since the entry into force of that Regulation, there has been a steady increase in the number of access requests. A large majority of such requests result in the full or partial release of the documents requested.

In parallel, the Commission makes a large amount of information available on its various websites. This includes information on Commissioners' mission costs, which, since February 2018, has been made available on a bi-monthly basis, in accordance with the revised Code of Conduct for Commissioners.

⁴⁷ http://ec.europa.eu/budget/fts/index_en.htm.

⁴⁸ SEC(2005)1300 Communication to the Commission from the President, Ms Wallström, Mr Kallas, Ms Hübner and Ms Fischer Boel proposing the launch of a European Transparency Initiative.