

Special Report

## Transparency of EU funds implemented by NGOs: more effort needed

(pursuant to Article 287(4), second subparagraph, TFEU)



EUROPEAN  
COURT  
OF AUDITORS

## **AUDIT TEAM**

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

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## **ACRONYMS AND ABBREVIATIONS**

ABAC	Accrual-based accounting system of the Commission
CORDIS	Community Research and Development Information Service
CRIS	Common External Relations Information System
CSO	Civil society organisation
DG BUDG	Directorate-General for Budget
DG DEVCO	Directorate General for International Cooperation and Development
DG EAC	Directorate-General for Education, Youth, Sport and Culture
DG ECHO	Directorate-General for European Civil Protection and Humanitarian Aid Operations
DG ENV	Directorate-General for Environment
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
DG RTD	Directorate-General for Research and Innovation
EACEA	Education, Audiovisual and Culture Executive Agency
EASME	Executive Agency for Small and Medium Enterprises
EDF	European Development Fund
EDRIS	European Disaster Response Information System
ERCEA	European Research Council Executive Agency
FTS	Financial Transparency System
IATI	International Aid Transparency Initiative
MFF	Multiannual financial framework
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PADOR	Potential Applicant Data Online Registration System
REA	Research Executive Agency
UNICEF	United Nations Children's Fund

## **EXECUTIVE SUMMARY**

- I. The Commission implements an estimated 1.7 % of the EU budget and 6.8 % of the European Development Funds (EDFs) through NGOs. In many policy areas, such as humanitarian and development aid, the environment, and research and innovation, NGOs assist the Commission to design, implement and monitor EU programmes. During 2014-2017, the Commission committed an estimated €11.3 billion for implementation by NGOs. The European Parliament has frequently expressed interest in NGOs and their funding.
- II. The objective of our audit was to assess the transparency of EU funds contracted with NGOs. We assessed the Commission's identification of entities as NGOs, where the EU funds implemented by NGOs go and whether the Commission disclosed this information in a transparent manner. We covered the main policy areas in which NGOs implement EU funds, focusing in particular on the largest area, external action.
- III. We concluded that the Commission was not sufficiently transparent regarding the implementation of EU funds by NGOs.
- IV. The assignment of the NGO status in the Commission's accounting system, which is based on self-declaration, and the limited checks the Commission applied, made the classification of an entity as an NGO unreliable.
- V. In external action, we found the Commission's selection of NGO-led projects to be generally transparent. However, the different Commission departments did not apply the sub-granting procedures in the same way and the audited UN bodies' selection procedures of NGOs were not always transparent.
- VI. The information collected on the EU funds implemented by NGOs is not uniform. In particular, in external action, the Commission did not have comprehensive information. This occurred particularly with networks of international NGOs and projects under indirect management. Furthermore, in indirect management, the lack of information available hindered the Commission's checks on the costs declared.
- VII. Information on EU funds implemented by NGOs is published in several systems but the information disclosed is limited. In the area of external action, the Commission generally

reported data on humanitarian and development aid in accordance with international transparency standards.

VIII. UN bodies either did not publish, or only partially published, the contracts awarded to NGOs in five of the six projects audited, and the Commission did not check whether the UN bodies had fulfilled this requirement.

IX. On the basis of the observations in this report, we have formulated a number of recommendations for improving the transparency of EU funds implemented by NGOs. We recommend that the Commission:

- (a) improve the reliability of the information on NGOs in its accounting system;
- (b) check the application of rules and procedures regarding sub-granting to NGOs;
- (c) improve the information collected on funds implemented by NGOs; and
- (d) adopt a uniform approach to publishing details on funds provided to NGOs and verify the publication by UN bodies of complete and accurate data on contracts awarded to NGOs using EU funding.

## **INTRODUCTION**

### ***The concept of NGO***

1. There is a growing interest in the transparency of NGOs and their funding. For example, the European Parliament has already issued several studies on the topic<sup>1</sup> and a “draft report on the budgetary control of financing NGOs from the EU budget”<sup>2</sup>.
2. Non-governmental organisations (NGOs) are important actors in the implementation of the EU budget. The Commission works with NGOs, among other partners, to design, implement and monitor programmes in many EU policy areas. This is especially the case in the areas of development and humanitarian aid, but also in other areas such as the environment, research, education and culture. However, there is currently no common EU definition for NGOs (see ***Box 1***).

#### **Box 1 – What is an NGO?**

While the term “NGO” is widely used, it has no generally accepted definition at the international level<sup>3</sup>. Within the EU, NGO status is determined in some Members States by an organisation’s legal form, while in others it depends on the nature of the activities carried out.

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<sup>1</sup> European Parliament Directorate General for Internal Policies, EU financing for NGOs in the area of home affairs, security and migration; European Parliament Research Service, Financial accountability of civil society organisations, May 2015; European Parliament Policy Department Budgetary Affairs, Democratic Accountability and Budgetary Control of non-Governmental Organisations Funded by the EU Budget, January 2017.

<sup>2</sup> The “Draft Report on budgetary control of financing NGOs from the EU budget” (2015/2345(INI) called on the European Court of Auditors to draw up a special report on the transparency of EU funding to NGOs.

<sup>3</sup> International organisations use different definitions. For instance, the United Nations (UN) describes an NGO as any “not-for-profit, voluntary citizens’ group that is organized at a local, national or international level” (<https://outreach.un.org/ngorelations/content/about-us-0>).



A 1997 Commission communication identified five characteristics of NGOs<sup>4</sup>. They are: (1) voluntary organisations with a formal or institutional existence; (2) non-profit-distributing; (3) independent of government and public authorities; (4) not managed for personal gain; and (5) their activities must contribute, at least partly, to the public good.

### ***EU funding and NGOs***

3. NGOs receive most EU funds in their capacity as implementing actors when they carry out programmes and projects on behalf of the Commission<sup>5</sup>. NGOs might also be the final beneficiaries of EU action, for example in programmes strengthening civil society.

4. According to the Commission's accounting system (ABAC), funds committed for implementation by NGOs amounted to €11.3 billion for the period 2014-2017 (see **Figure 1**). However, this is only an estimate as will become clear in the observations section of this report.

**Figure 1 – EU Funds committed to NGOs, 2014-2017, as shown in the Commission's accounting system**

Multiannual Financial Framework (MFF) Headings and European Development Funds		Committed amounts to NGOs Period: 2014-2017 (in million euro)	Total committed amounts Period: 2014-2017 (in million euro)	Percentage of amounts committed to NGOs
1.1	Smart and inclusive growth/Competitiveness for growth and jobs	4 032	79 909	5.05%
1.2	Smart and inclusive growth/Economic, social and territorial cohesion	19	209 214	0.01%
2	Sustainable growth: natural resources	248	241 044	0.10%
3	Security and citizenship	350	12 793	2.74%
4	Global Europe	5 448	40 978	13.29%
-	European Development Funds	1 217	17 833	6.82%
<b>Total</b>		<b>11 314</b>	<b>601 771</b>	<b>1.88%</b>

Source: ECA, based on data provided by DG BUDG.

5. According to ABAC, most EU funds allocated to NGOs are for external action. In this area, NGOs receive funds under heading 4 – Global Europe of the multiannual financial framework

<sup>4</sup> COM(1997) 241 final of 6.6.1997 "Promoting the role of voluntary organisations and foundations in Europe", paragraph 2.3 points a-e.

<sup>5</sup> Action grants represented 95 % of the funds contracted with NGOs in the EU General budget (€6.3 billion out of a total of €6.6 billion) in the period 2014-2016.

(MFF) and from the European Development Fund (see [Figure 1](#)). The Commission services concerned are the Directorate-General for International Cooperation and Development (DG DEVCO), Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) and the Service for Foreign Policy Instruments (FPI) (see [Figure 2](#)).

**Figure 2 – Funds committed to NGOs by Commission service, 2014-2017**

Commission Services	Committed amounts to NGOs Period: 2014-2017 (in million euro)
DG ECHO	2 904
DG DEVCO	2 768
DG RTD	884
DG EAC	875
ERCEA	824
DG NEAR	783
REA	452
OTHER*	1 824
<b>Total</b>	<b>11 314</b>

\* CNECT, IEEA, INEA, FPI, EACEA, ENV, EMPL, JUST, GROW, HOME, ENER, PHEA, FISMA, OTHERS

Source: ECA, based on data provided by DG BUDG.

### ***The concept of transparency***

6. Transparency is one of the budgetary principles laid down in the Financial Regulation applicable to the EU budget. It requires the Commission to make available, in an appropriate and timely manner, information on recipients of EU funds, including when these funds support actions implemented by NGOs<sup>6</sup>. Taking a broader perspective, transparency should cover the entire process and all implementation layers, from the selection of NGO-led actions, through the collection of information on these actions and its disclosure.

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<sup>6</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p. 1), Chapter 8, Article 35: “Publication of information on recipients and other information”.

7. Furthermore, in external action, transparency is one of the key and longstanding principles underpinning the effectiveness of development aid. Improving transparency among all relevant stakeholders also enhances donor coordination and accountability of all beneficiaries, including NGOs (see **Box 2**).

#### **Box 2 – Transparency in external action**

The EU has endorsed international aid transparency commitments, in particular in the Paris Declaration on Aid Effectiveness 2005, the European Consensus on Humanitarian Aid 2007, the Accra Agenda for Action 2008 and the Busan Partnership for Effective Development Cooperation 2011. In the run-up to the Busan Forum, the EU Council adopted the “EU Common Position for the Fourth High Level Forum on Aid Effectiveness”, which included the EU Transparency Guarantee<sup>7</sup>. More recently, in June 2017 the Commission and the Member States reaffirmed their commitment to the transparency principle in the European Consensus for Development<sup>8</sup>.

#### **AUDIT SCOPE AND APPROACH**

8. EU funds allocated by the Commission for implementation by NGOs often pass through multiple layers. In this context, and particularly when selecting applicants for funding, there is a risk of lack of transparency. There is also a risk that information available to the Commission on the amounts and purpose of funding to NGOs is not complete or reliable, as well as the risk of not treating all types of NGOs equally.

9. The main objective of our audit was to assess the transparency of EU funds contracted with NGOs. To achieve this objective, we first assessed the Commission’s identification of entities as NGOs; then we assessed where the EU funds implemented by NGOs went and whether the Commission disclosed this information in a transparent manner.

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<sup>7</sup> Council Conclusions on the EU Common Position for the Fourth High Level Forum on Aid Effectiveness adopted on 14 November 2011.

<sup>8</sup> The European Consensus for Development is a joint statement from the European Union and its Member States providing a comprehensive common framework for European development cooperation.

10. We aimed to answer the following question: Is EU funding implemented by NGOs transparent? To respond, we split the main audit question into the following three sub-questions:

- (i) Is the Commission's identification of entities as NGOs reliable?
- (ii) In the area of external action, is the selection of NGOs to implement EU-funded actions transparent?
- (iii) Does the Commission collect and disclose information on EU funding to NGOs appropriately?

11. We looked at how the Commission identified NGOs in their systems (sub-question 1). We assessed the transparency of the selection of NGOs, both when the Commission contracted directly with NGOs and when EU funds were sub-granted (sub-question 2). We also assessed whether the Commission collected information on actions implemented by NGOs, checked it and disclosed it appropriately (sub-question 3).

12. We covered the main policy areas in terms of their volume of funds committed to NGOs (see **Figure 2**), namely the main DGs involved in external action (DG ECHO, DG DEVCO and DG NEAR) and two additional DGs allocating significant funds to NGOs: the Directorate-General for Research and Innovation (DG RTD) and the Directorate-General for Education, Youth, Sport and Culture (DG EAC). The audit also covered the Directorate-General for Environment (DG ENV), since this DG has a specific programme providing support for NGOs in the field of the environment and climate action. Finally, the Directorate-General for Budget (DG BUDG) was also included in the audit scope since it is the service responsible for the Commission's accounting system used to report on NGO funding.

13. We gathered evidence through desk reviews and interviews with several Commission DGs (DG BUDG, DG DEVCO, DG NEAR, DG ECHO, DG RTD, DG EAC and DG ENV), as well as with the Research Executive Agency (REA), the Education Audio-visual and Culture Executive Agency (EACEA) and the Executive Agency for Small and Medium-sized Enterprises (EASME).

14. We focused in particular on the external action area, since this is where most EU funds were committed to NGOs according to the Commission's accounting system (see **Figure 1**).

We reviewed the procedures used for selecting actions implemented by NGOs, the tools used to collect information on NGO funding and the subsequent disclosure of that information.

15. Within the external action area, we concentrated mainly on funds committed since 2014 in order to examine actions in the current programming period. We examined 14 projects led by NGOs under the direct management mode<sup>9</sup> (see ***Annex I***), and 6 projects implemented by UN bodies under the indirect management mode<sup>10</sup>, for which 10 sub-grantee NGOs had been selected (see ***Annex II***).

16. These projects were selected in two stages. First, we selected two countries to visit (Ethiopia and Lebanon) based on criteria such as the DG responsible, the volume of funds committed to NGOs reported and the feasibility of conducting an audit visit. Secondly, we drew the sample of projects to be audited based on the size of budgets, the rate of implementation achieved, the spread of funding instruments, the management modes used and the variety of implementation levels at which the NGOs operated.

17. We conducted audit visits to Ethiopia and Lebanon in February 2018, where we visited DG ECHO field offices, the EU Delegations, the country offices of several UN agencies, and representatives from international and local NGOs participating in the implementation of EU-funded projects.

## **OBSERVATIONS**

### ***The Commission's identification of entities as NGOs in its systems is not reliable***

18. We examined the different procedures followed by Commission departments for registering NGOs in their systems that may be selected to implement EU funds. We looked at

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<sup>9</sup> In direct management, the Commission is in charge of all EU budget implementation tasks, which are performed directly by its services, either at headquarters, in the EU delegations or through EU executive agencies.

<sup>10</sup> In the indirect management mode, the Commission entrusts budget implementation tasks to international organisations, the development agencies of EU Member States, partner countries or other bodies.

whether NGO-specific systems and programmes existed, if they differed between the departments we visited, how they were used, and how entities were identified and registered as NGOs in the Commission systems.

**In most cases, the eligibility of EU funding does not depend on the NGO status**

19. In general, NGOs apply to the Commission for funding in the same way as other organisations which implement Commission funds. This is because the Financial Regulation applicable to the EU budget does not distinguish beneficiaries with an NGO status from other beneficiaries. Furthermore, the Commission has no strategy specifically targeting NGOs and its departments do not have common criteria of what constitutes an NGO.

20. Only two of the audited DGs have programmes aimed exclusively at NGOs:

- DG ENV has an action programme for operating grants to support European environmental and climate NGOs. In this context, it considers<sup>11</sup> an NGO to be a non-profit-making legal person, which is independent, both financially and politically, in particular from government and public authorities, and from political or commercial interests, and is legally registered.
- DG ECHO implements humanitarian aid through a number of NGOs with which it has entered into framework partnership agreements. It adheres to the definition in Council Regulation 1257/96 on humanitarian aid which states that NGOs eligible for financing must be non-profit-making autonomous organisations in a Member State under the laws in force in that country<sup>12</sup>.

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<sup>11</sup> See calls for proposals for operating grants to NGOs primarily active in the field of environment and/or climate action (e.g. Call identifiers LIFE-NGO-EASME-2014, LIFE-NGO-FPA-EASME-2017).

<sup>12</sup> The second requirement for NGOs to be eligible for financing under this Regulation is that they have their main headquarters in a Member State or in a third country in receipt of aid. Exceptionally, the headquarters may be in a third donor country.

## **The Commission performs limited checks on the entities' self-declarations as NGOs when registering them in the accounting system**

There is not yet a common registration system for applicants

21. EU funding applicants, including NGOs, need to register to apply for funding in the different policy areas. However, the DGs we audited do not have a common registration system for applicants yet (see **Box 3**).

### **Box 3 – Examples of the applicant registration systems used by different Commission departments**

DG DEVCO and DG NEAR use the 'Potential Applicant Data On-Line Registration' (PADOR), an online system in which organisations applying for funding register and regularly update information.

DG RTD and DG EAC use the Unique Registration Facility (URF) - the registration service for funding under programmes such as Erasmus+, Creative Europe, Europe for Citizens, EU Aid Volunteer and Horizon 2020.

In the case of DG ENV, applicants submit their proposals using either the web tool eProposal or application forms (for certain types of project, including NGO-operating grants).

22. Since these systems are not interconnected, NGOs have to make a separate registration with each DG with which it interacts.

23. The Commission is currently developing a project, the Single Electronic Data Interchange Area (SEDIA), which should provide applicants, candidates and tenderers with a single entry point to communicate with Commission departments. It will be used for both procurement and grant procedures.

The Commission makes only limited checks that entities are correctly registered as NGOs

24. When a registered funding applicant enters into a contract with the Commission for the first time, the information it declares is based on self-declaration. The Commission checks the information the applicant provided in the different registration systems and creates a legal entity fiche in ABAC.

25. In ABAC legal entities can be “labelled” as NGOs. To be categorised as such, an organisation has to declare itself that it is an NGO when registering in one of the systems. A prerequisite for being labelled an NGO is that the legal entity should be categorised as a private and not-for-profit organisation. The Commission’s validation services check this categorisation. Aside from this, they carry out no additional verification on the organisation’s qualification as an NGO unless DGs make it a criterion for participating in a call for proposals<sup>13</sup>.

26. The fact that the NGO status is not verified renders the Commission’s information on the funding provided to NGOs unreliable. For instance, in the case of MFF 1.1 – Competitiveness for growth and jobs, the largest beneficiaries labelled as NGOs in ABAC are mainly research institutes and universities, including one cooperative society. These types of entities cannot always be considered as NGOs. While the terms NGOs and CSOs (civil society organisations) are often used interchangeably, NGOs are a subset of CSOs, with the latter covering a wider group of organisations such as research institutes or cooperatives<sup>14</sup>.

27. Furthermore, as the NGO field is not mandatory in ABAC, the Commission does not identify consistently all NGOs as such across its information systems. For instance, in two of our audited projects<sup>15</sup> two participating NGOs, although registered as NGOs in the applicants’ registration system (PADOR), were not labelled as such in ABAC.

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<sup>13</sup> For instance, DG DEVCO’s Guidelines for Applicants of Calls for Proposals require an NGO to provide its statutes or articles of association and supporting documents. The evaluation committees verify that the legal documents correspond to the type of entity.

<sup>14</sup> COM(2012) 492 final of 12.9.2012, “The roots of democracy and sustainable development: Europe’s engagement with Civil Society in external relations” classifies as CSOs, among others, NGOs, community-based organisations, faith-based organisations, foundations, research institutions, cooperatives, professional and business associations.

<sup>15</sup> Projects 7 and 16.



***In external action, the selection of NGO-led projects was overall transparent, but with shortcomings when done by third parties***

**Commission's selection of NGO-led projects was generally transparent**

28. We audited a sample of NGO-led projects from the external action policy area, that were directly managed by the Commission (see [Annex I](#)). We assessed the transparency of selection processes by checking whether the activities undertaken and objectives set were in line with strategies, and whether selection procedures were reliable, well documented, and based on clear selection criteria, with an appropriate use of previous experience of NGOs. The summary of the assessment can be found in [Annex III](#).

29. The selection processes reviewed in the area of development aid were mostly calls for proposals<sup>16</sup>. They complied with the requirements of the Financial Regulation and the Commission strategies, and they overall used clear selection criteria and communicated them to all interested parties and ensured the equal treatment of applicants.

30. We found some transparency shortcomings in DG ECHO's examined selection processes carried out in 2014, 2015 and 2016. The issues, relating to the documentation of the selection process, had already been identified in a previous ECA audit<sup>17</sup>. As a result, DG ECHO took corrective measures, which resulted in an action plan and a new summary assessment template for 2017, which was further revised for 2018, to better show a specific assessment for each selection criterion.

31. Applicant operational capacity is one of the criteria which DG DEVCO and DG NEAR apply in their selection procedures. The evaluation committees assess this capacity on the basis of the prior experience declared by applicants, but rarely requested evidence to this effect. DG ECHO also considers previous experience to be a relevant assessment criterion.

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<sup>16</sup> Project 4 was selected by direct award procedure.

<sup>17</sup> Special Report No 15/2016 "Did the Commission effectively manage the Humanitarian aid provided to populations affected by conflicts in the African Great Lakes Region?", paragraphs 27 to 29 (<https://eca.europa.eu>).

32. The Commission does not always verify the correctness of declarations of previous experience because its management information systems do not hold all the relevant information on funding received and activities carried out by NGOs. Therefore, the extent to which this information can be used for selection is rather limited.

33. We found that the Commission had accepted inconsistencies and wrongful declarations of prior experience when selecting two of the projects audited<sup>18</sup>.

### **Sub-granting of funds to third-party NGOs sometimes lacked transparency**

34. We examined how transparently NGOs were selected when the selection was not made directly by the Commission. We considered whether the different Commission departments consistently applied the procedures to ensure the transparency of the selection of sub-grantee NGOs. In addition, we assessed whether their selection of NGOs ensured equal treatment of applicants, whether they had used previous experience to improve selection and assessed the NGOs as having sufficient capacity to perform the funded action.

#### The different Commission departments do not apply the sub-granting procedures in the same way

35. Under direct management, when the Commission sets up grant agreements and decisions with contractors, including NGOs, there is a legal relationship between the two parties. In some cases, however, EU funds are sub-granted to third parties. Such sub-granting is subject to specific and transparent conditions<sup>19</sup>, for example that there is an upper limit of €60 000 that can be paid to a third party except where the financial support is the primary aim of the action<sup>20</sup>.

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<sup>18</sup> Projects 16 and 17.

<sup>19</sup> Established in Articles 137 of the Financial Regulation and 210 of the Rules of Application.

<sup>20</sup> It should be noted that the Financial Regulation of 2018 changes the wording of these rules and states in Article 204: “the maximum amount of financial support that can be paid to a third party shall not exceed €60 000 [...]. This threshold may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult.”

36. While most of the Commission departments audited<sup>21</sup> apply the general rules from the Financial Regulation and the guidelines on grants issued by DG BUDG consistently, DG ECHO uses a different interpretation. Citing the need to reflect the specific needs and features of humanitarian aid, DG ECHO considers that all actions granted to implementing partners pursue the primary aim of granting financial support to third parties. This means that in practice they do not apply the upper limit of €60 000 because all sub-grants are considered to fall under the above-cited exception.

37. The effect of this interpretation is to allow for sub-granting with no limitation on the contractual amount or on the number of additional implementation layers. The absence of such limitations at DG ECHO affects the transparency of sub-granting.

#### The selection procedures of NGOs by UN bodies were not always transparent

38. Under indirect management, a UN body which applies for EU funds has to demonstrate a capacity for financial management and protecting EU financial interests equivalent to that of the Commission. If it does, it may select its implementing partners (sub-granting) according to its own rules and procedures<sup>22</sup>.

39. We found that in half of the projects under indirect management, which we selected for audit (see ***Annex II***), the UN bodies' procedures for selecting NGOs lacked transparency. This was despite of the fact that the Commission had given them a positive assessment. In these three cases<sup>23</sup>, the UN bodies directly awarded sub-grants to NGOs without adhering to their own internal procedures (see ***Box 4***).

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<sup>21</sup> DGs RTD, ENV, EAC, NEAR and DEVCO.

<sup>22</sup> Article 60(2)(d) of the Financial Regulation states that the entrusted entities shall "apply appropriate rules and procedures for providing financing from Union funds through grants, procurements and financial instruments". This is verified in an ex ante assessment ("pillar assessment"), carried out by an independent auditor in accordance with the terms of reference prepared by each DG.

<sup>23</sup> Projects 9, 18 and 20.

**Box 4 – Example of a selection process carried out by a third party which did not comply with its own internal selection rules**

Project 20, granted to a UN body, aimed to improve pastoral resilience through improved animal health service delivery in pastoral areas of Ethiopia. Two sub-grantee NGOs carried out certain components of this project. The selection procedure applied by the UN body in both cases was a direct award.

According to the UN body's internal guidelines, direct awards can only be made under certain conditions. In these cases, the condition used to justify the direct award was that the NGOs had already been mandated by the beneficiary government to provide the service. However, the NGOs signed the implementation agreement with the regional government only after the UN body had selected them. Therefore, the condition for direct selection was not met.

***The Commission does not always collect and check the information on EU funds implemented by NGOs appropriately***

40. We assessed whether the Commission knew how EU funds implemented by NGOs were used and whether this information was collected and checked appropriately. In order to ascertain this, we examined whether the Commission had comprehensive information on all the NGOs funded, including activities carried out and funds received, and whether appropriate systems were in place to collect it. We also looked at whether this information allowed the Commission to check the costs declared.

**Commission systems do not always record information on funds received by all the beneficiaries of a contract**

41. We found that Commission departments we audited managed grants using different systems which made varying amounts of information available on the funding provided to beneficiaries (see four examples in **Box 5**).

**Box 5 – Information collected in the different Commission's systems**

The grant management system used at DG RTD, allows for the collection and processing of information on the funding received by each participant.

Similarly, the system used at the EACEA, records a breakdown of funding for all participant organisations which had recorded this information in the application form. The grants management system for projects managed by national agencies also contains information on the funding received by each beneficiary organisation.

In the case of DG ENV, a breakdown of the funding received by each partner of a multi-beneficiary grant<sup>24</sup> is available in the system managing grants under the LIFE programme, albeit only in hard copy, making it unavailable for analysis and treatment.

The information provided in DG ECHO's system includes a record of the share of the budget for each implementing partner. However, any further sub-granted amounts are not recorded in the system.

The financial reporting template which DG DEVCO and DG NEAR use allows for consolidated reporting at project level, with a split per cost category. However, there is no breakdown of the funding received by each of the beneficiaries under the grant agreement.

42. Therefore, the information collected in the different Commission systems is not uniform and does not always allow the recording of funds received by all contract beneficiaries.

**In external action, the Commission does not have comprehensive information on all NGOs supported**

43. Both in the direct and indirect mode of management, we found several projects within our sample where the Commission had incorrect information on the different actors implementing the funded action. This was the case mainly with networks of international NGOs, where the Commission systems held information on the structure of the implementing entities that did not reflect the actual set-up.

44. For four projects of the 14 projects we examined in the direct management mode<sup>25</sup>, we found that the NGOs signing the grant agreements had sub-granted project implementation

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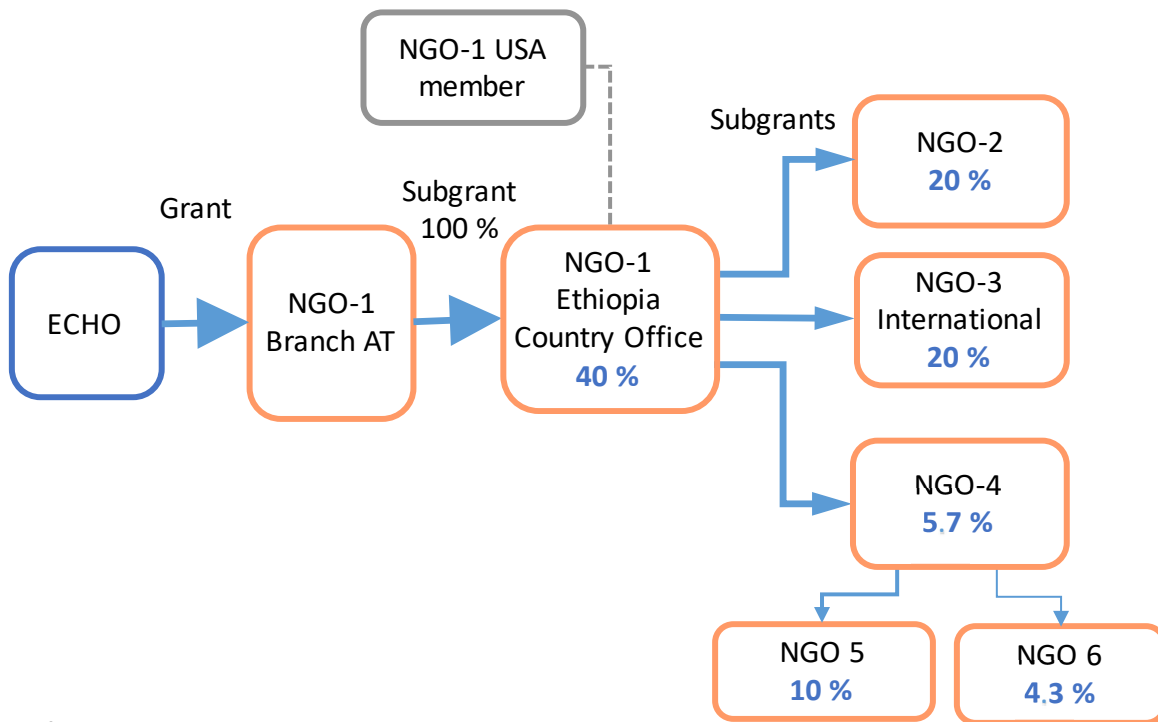
<sup>24</sup> Operating grants to environmental and climate NGOs are always single-beneficiary.

<sup>25</sup> Projects 4, 11, 12 and 13.

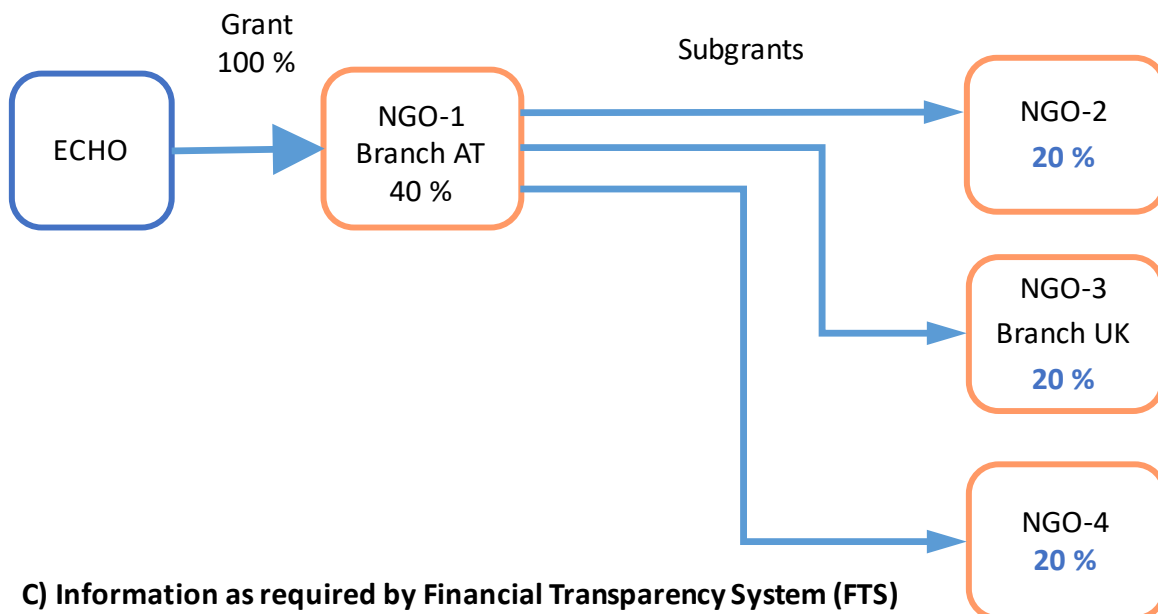
to other entities from the same network without this information being recorded in the Commission systems (see ***Figure 3***).

**Figure 3 – Project 12 - Example of a project implemented with a network of international NGOs**

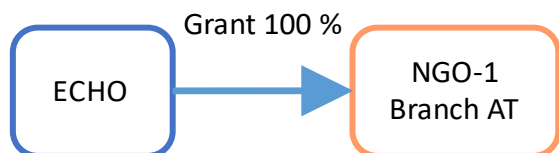
**A) Actual structure of implementation**



**B) Information in ECHO System**



**C) Information as required by Financial Transparency System (FTS)**



Source: ECA.

45. We also found three cases out of these 14 projects<sup>26</sup> where the identification of the partners in the Commission systems was confusing or referred to different legal entities within the same network of international NGOs. Therefore, the information available on which entities implemented the action and which ones received funding was not clear.

46. Furthermore, in five of the six projects we examined in the indirect management mode<sup>27</sup>, the information that the Commission received from the UN bodies did not allow us to establish what funding was received or which activities were performed by each of the sub-grantee NGOs (see *Annex III*).

47. In two of these five projects, the Commission had requested additional information and clarification from the UN bodies, yet the answers it received were either unsatisfactory or only sent, following repeated requests, once the project's activities were already complete<sup>28</sup>.

**In indirect management, the lack of information available hindered the Commission's checks on the costs declared**

48. In the case of projects that the Commission manages indirectly, the contracts generally include in their global budget a percentage to cover overheads, set at a maximum of 7 %. We found five cases<sup>29</sup> out of six examined where overheads were declared for the different implementation layers; first for the entrusted entity and second for the sub-grantee NGOs<sup>30</sup>.

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<sup>26</sup> Projects 11, 12 and 15.

<sup>27</sup> Projects 8, 9, 10, 18 and 19.

<sup>28</sup> Project 8. The UN body provided satisfactory replies to the third request from DG ECHO after the auditors' on-the-spot visit.

<sup>29</sup> Projects 8, 9, 18, 19 and 20.

<sup>30</sup> The Court has already flagged the risk of indirect costs being double-charged in indirect management projects implemented through third-party NGOs in ECA Special Report No 4/2018 "EU Assistance to Myanmar/Burma". See also paragraph 48 of ECA Special Report No 11/2017 "The Bêkou EU trust fund for the Central African Republic: a hopeful beginning despite some shortcomings".



**Box 6 – Example of overcharging indirect costs**

In project 20, the UN body sub-granted some activities to two NGOs. The budget in the agreements signed included in both cases a flat-rate of 7 % overheads. These overheads were further included in the total amount of direct costs declared by the UN body to the Commission and used as a basis for the calculation of the 7 % overheads it requested. This resulted in an overcharging of overheads for the costs of the actions implemented by the NGOs.

49. Because of the lack of adequate information on costs declared by sub-grantee NGOs, the Commission was not always in position to check the costs declared by all NGOs funded. This hindered the Commission in detecting potential cases of overcharging.

***Information on EU funds implemented by NGOs is published in several systems but the information disclosed is limited***

50. We assessed whether the Commission had disclosed comprehensive and timely information on funds contracted with NGOs for the policy areas we audited. In the area of external action, we examined whether the Commission complied with international aid transparency standards when publishing information on EU funds implemented by NGOs. We looked at whether it had checked the adequacy of third-party disclosure of sub-granted NGOs using EU funds. In addition, for the projects we audited we checked the consistency of the data published in different transparency-portals.

## Information on contracts with NGOs is published in the Financial Transparency System but is incomplete

51. Every year the Commission publishes data about the beneficiaries of EU funding under direct management in all policy areas in its Financial Transparency System (FTS)<sup>31</sup> (see **Box 7**). In publishing ex post information on recipients of EU funds in the FTS, the Commission complies with the requirements of the Financial Regulation<sup>32</sup>.

### **Box 7 – Information available in the Commission’ Financial Transparency System**

The Commission published the following data in the FTS:

- Beneficiary/-ies receiving the funds;
- Purpose of the expenditure;
- Location of the beneficiary;
- Amount and type of expenditure (commitments only);
- Responsible service awarding the funding;
- Part of the EU budget providing the funding;
- Year in which the amount was booked in the Commission accounts.

Source: [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/funding-recipients\\_en](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/funding-recipients_en)

52. However, the FTS does not provide comprehensive information on NGO funding because:

- no information is disclosed on actual payments;

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<sup>31</sup> Financial Transparency System: [http://ec.europa.eu/budget/fts/index\\_en.htm](http://ec.europa.eu/budget/fts/index_en.htm).

<sup>32</sup> Article 35 of the Financial Regulation applicable to the general budget of the Union and Article 21 on its rules of application: “Publication of information on recipients and other information”.

- the beneficiary category “NGO” was only introduced in 2016 and is not used consistently due to the absence of criteria to identify NGOs; and
- entities receiving funding through sub-granting are not disclosed.

53. Commission departments apply different approaches when disclosing funding in the FTS. When entering into contracts with multiple beneficiaries, DG RTD, DG ENV and DG EAC (via EACEA) publish the names of all beneficiaries and include a breakdown of funds. DG ECHO publishes the financial amount and the name of the NGO with which the Commission has signed the grant agreement; it does not disclose information on any other implementing partners carrying out part or all of the action (see **Figure 3**). DG NEAR and DG DEVCO state the names of the NGOs with which the Commission has signed a grant agreement and the co-applicants. However, the amount of the grant is entirely linked to the leading partner with no breakdown per beneficiary.

54. We found that for all of the 14 projects reviewed under direct management, the amounts published in the FTS were consistent with those committed in the grant agreements. However, in five cases<sup>33</sup>, some data published concerning the action type or the geographical location or the service responsible was missing or incorrect.

Additional information, including on results, is disclosed on different transparency portals

55. In addition to the FTS, the Commission publishes information on actions funded on various platforms for the different policy areas. For instance, in the area of research the Commission discloses information on its funding via CORDIS, a public repository and portal on EU-funded research projects and their results<sup>34</sup>.

56. In the external action area, the Commission discloses information on NGO funding via several aid transparency web portals: EU Aid Explorer<sup>35</sup>, the European Emergency Disaster

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<sup>33</sup> Projects 1, 2, 5, 14 and 15.

<sup>34</sup> Source: <https://cordis.europa.eu/>

<sup>35</sup> <https://euaidexplorer.ec.europa.eu/>

Response Information System (EDRIS)<sup>36</sup> and the Financial Tracking Service<sup>37</sup>. Overall, the information published on the projects audited was consistent with the funding actually provided.

### **Information on humanitarian and development aid is generally disclosed in accordance with international transparency standards**

57. The Commission reports data on humanitarian and development aid in order to fulfil international aid transparency commitments. It reports to the OECD Creditor Reporting System<sup>38</sup>, the OECD Forward Spending Survey<sup>39</sup> and the International Aid Transparency Initiative (IATI) Registry<sup>40</sup> in accordance with international common standards.

The Commission published data on humanitarian and development aid according to the IATI common standard, but some of the data showed weaknesses

58. The Commission discloses data on humanitarian and development aid following a common standard reporting framework developed under IATI<sup>41</sup>, which is a global initiative seeking to increase the transparency and effectiveness of development cooperation.

59. Overall, the Commission publishes data according to the IATI standard. However, we found that the IATI data reporting does not include data on EU trust funds and information on the results of the projects funded<sup>42</sup>.

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<sup>36</sup> <https://webgate.ec.europa.eu/hac/>

<sup>37</sup> <https://fts.unocha.org/> - managed by United Nations Office for the Coordination of Humanitarian Aid (UNOCHA).

<sup>38</sup> <https://stats.oecd.org/Index.aspx?DataSetCode=CRS1>

<sup>39</sup> <https://stats.oecd.org/Index.aspx?DataSetCode=FSS>

<sup>40</sup> <https://www.iatiregistry.org/>

<sup>41</sup> IATI was launched in 2008, following the Third High-Level Forum on Aid Effectiveness in Accra.

<sup>42</sup> DEVCO reported a first batch of results data from more than 700 projects to IATI in February 2018.

60. For the projects sampled, we compared the information published on the IATI user-friendly web portal with the actual data. Information was published for all audited projects, but we found several errors in the contracted amounts<sup>43</sup>, the disbursements<sup>44</sup> and the project end dates<sup>45</sup> (see **Box 8**).

**Box 8 – Examples of errors found in data published in the IATI d-portal**

For project 11, the amount of disbursements reported in IATI (d-portal) was wrong. The stated amount of disbursements was €14 000 000, but the actual figure should be €11 200 000 as the final payment had not yet been made (as at 2 March 2018).

In the case of project 15, the contract amount published in the IATI d-portal was zero whereas the actual contracted amount was €2 000 000 and the end date of the project was wrong because it had not been updated to reflect a three-month extension.

**The UN bodies published inadequate information on the contracts awarded to NGOs**

61. The Commission entrusts the implementation of projects under indirect management to a third party. In these cases, it is the responsibility of the entrusted entity to disclose the grants awarded with EU funding<sup>46</sup>.

62. We verified the data that the entrusted UN bodies had published on the six indirect management projects of the sample (see **Annex II**). We found that in five cases, the UN

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<sup>43</sup> Projects 4, 5, 6, 7, 14, 15, 16 and 17.

<sup>44</sup> Projects 1, 2, 11, 12, 13.

<sup>45</sup> Projects 7, 14 and 15.

<sup>46</sup> According to the general conditions governing agreements signed between the Commission and entrusted entities, the latter are obliged to publish, on their website or in their systems, detailed information on the grants financed by the EU. They are required to disclose the title of the contract/project, its nature and purpose, the name and locality of the grant beneficiary and the contracted amount. In case of multi-donor actions, publication follows the rules of the entrusted entity.

bodies either did not publish<sup>47</sup>, or only partially published<sup>48</sup>, information on the grants awarded to NGOs with EU funds (see **Box 9**). Furthermore, the Commission did not check that the UN bodies had fulfilled this requirement.

**Box 9 – Examples of UN bodies not publishing information on EU funds sub-granted to NGOs**

The Commission entrusted a UN body with the implementation of project 18 concerning cash assistance and the identification of refugees in Ethiopia. The UN body then sub-granted some activities to an NGO; however, its website did not disclose any information about this sub-grant.

In Ethiopia, the Commission entrusted the implementation of project 19, supporting the reintegration of human trafficking victims, to a UN body. Two local NGOs implemented some of the project activities. On its website, the UN body published only limited information on the contracts signed with these NGOs and did not disclose the contracted amounts.

## **CONCLUSIONS AND RECOMMENDATIONS**

63. Our audit examined whether EU funding implemented by NGOs was transparent. This included whether the Commission's identification of entities as NGOs was reliable and whether the selection of NGOs implementing EU-funded actions was transparent. We also examined the process of collecting, checking and disclosing information on NGOs appropriately. We covered the main policy areas in which NGOs implement EU funds, focusing in particular on the largest funding area, external action.

64. We concluded that the Commission was not sufficiently transparent regarding the implementation of EU funds by NGOs.

65. In most cases, the eligibility of EU funding does not depend on the NGO status. The assignment of the NGO status in the Commission's accounting system, which is based on self-declaration, and the limited checks the Commission applied, made the classification of an entity as an NGO unreliable (see **paragraphs 18 to 27**).

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<sup>47</sup> Projects 9, 18 and 20.

<sup>48</sup> Project 8 and 19.

66. There was no Commission-wide system for registering applicants for funding. In addition, the different systems used to register applicants for funding, including NGOs, were not interconnected (see **paragraph 22**).

#### **Recommendation 1 – Improve the reliability of information on NGOs**

The Commission should strengthen its performance and the transparency of its reporting on NGOs implementing EU actions. To this end, the Commission should receive appropriate information and improve the reliability of the information in its accounting system on NGOs implementing EU funds by:

- (a) including in its internal guidelines on the validation of legal entities, clear criteria to identify NGOs in ABAC;
- (b) including, within a single registration system, the requirement (or the option, in the case of NGOs declaring safety concerns) for EU fund applicants to declare themselves as an NGO, disclosing the criteria which would be used to consider the organisation as such.

Timeframe: end of 2020.

67. In the area of external action, we found the Commission's selection of NGO-led projects to be generally transparent. However, there were shortcomings in certain cases. (see **paragraphs 28 to 33**).

68. We found that the different Commission departments did not apply the sub-granting procedures in the same way. DG ECHO's interpretation of the rules for financial support to third parties was broader than other DGs and allows for several implementation layers with no limitation on the sub-granted amounts (see **paragraphs 35 and 37**).

69. The audited UN bodies' selection procedures of NGOs were not always transparent (see **paragraphs 38 and 39**).

## Recommendation 2 – Check the application of rules for sub-granting

Where the implementation of an action under direct management requires sub-granting, the Commission should:

- (a) apply a consistent interpretation of the applicable rules of the Financial Regulation among the different services, taking into account sectorial specificities; in particular, where the implementation of an action requires financial support to a third party, the conditions for such support should be defined in the grant agreement in line with the provisions of the Financial Regulation of 2018.

When UN bodies select beneficiaries under indirect management, the Commission should:

- (b) verify that the UN bodies correctly apply their rules and procedures for the selection of implementing partners.

Timeframe: from mid-2019 onwards.

70. The Commission did not always collect and check the information on NGOs appropriately. In particular, these systems did not always allow the recording of funds received by all contract beneficiaries (see **paragraphs 41 to 42**).

71. In external action, the Commission did not have comprehensive information on the funding received and activities carried out by all the implementing actors. This occurred particularly with networks of international NGOs and projects under indirect management. Furthermore, in indirect management, the lack of information available hindered the Commission's checks on the costs declared (see **paragraphs 43 to 49**).



### Recommendation 3 – Improve information on funds implemented by NGOs

The Commission should improve the information collected on NGOs funded by:

- (a) enabling the various grants management systems to record the funding received by all beneficiaries contracted by the EU, not only the lead beneficiary, making this information usable for analysis and treatment;

In external action, the Commission should improve the traceability of funds:

- (b) in the case of actions implemented by networks of international NGOs, by identifying in its systems the entities actually implementing the actions funded;
- (c) in the case of projects under indirect management via UN bodies, by verifying that sufficient information on the indirect costs declared for the NGOs funded is provided, enabling an assessment of the costs declared by all implementing actors.

Timeframe: mid 2021.

72. Information on EU funds implemented by NGOs is published in several systems but the information disclosed is limited, except in the area of external action (see **paragraphs 51 to 56**).

73. The Commission generally disclosed data on humanitarian and development aid in accordance with international transparency standards, but some of the data showed weaknesses (see **paragraphs 58 to 60**).

74. In five cases, the entrusted UN bodies either did not publish, or only partially published, the contracts awarded to NGOs, and the Commission did not check whether the UN bodies had fulfilled this requirement (see **paragraph 62**).

**Recommendation 4 – Standardise and improve accuracy of information published**

The Commission should:

- (a) adopt a uniform approach among all the services to publishing in the Financial Transparency System, making sure that all beneficiaries contracted by the EU are disclosed, together with the amount of funding awarded.

Timeframe: mid 2021.

In external action, the Commission should:

- (b) further increase its compliance with international standards on aid transparency by reporting on the results of the projects funded and EU trust funds data;
- (c) verify UN bodies' fulfilment of their obligation to adequately disclose the contracts awarded with EU funding.

Timeframe: mid 2021.

This Report was adopted by Chamber V, headed by Mr Lazaros S. LAZAROU, Member of the Court of Auditors, in Luxembourg at its meeting of 5 December 2018.

*For the Court of Auditors*

Klaus-Heiner LEHNE  
*President*

**Audited projects under direct management**

	DG	No	Contract reference	Contract title	Contractor	Amount (euro)	Implementation dates
Lebanon	DG ECHO	1	ECHO/SYR/BUD/2016/91034	Providing Multi-purpose cash assistance to meet the needs of vulnerable Syrian refugees in Lebanon	International NGO	31 050 000	01.06.2016 - 31.05.2017
		2	ECHO/SYR/BUD/2014/91020	Emergency intervention for the most vulnerable people affected by the Syrian crisis (phase 4)	International NGO	5 500 000	01.07.2014 - 31.03.2015
		3	ECHO/SYR/BUD/2016/91024	Emergency protection assistance to conflict and displacement-affected refugee and host populations in North and Beka'a governorates, Lebanon	International NGO	1 500 000	01.04.2016 - 30.04.2017
	DG NEAR	4	2015/364-146	Enhancing safe water supply and waste management for the vulnerable population affected by the Syria crisis in South Lebanon	International NGO	2 110 823	17.09.2015 - 16.09.2017
		5	2013/282-595	Initiating a global approach in supporting and empowering migrants throughout the migration cycle and refugees in Lebanon	International NGO	1 914 506	31.07.2013 - 30.07.2016
		6	2014/350-232	The independence of the Judiciary in Lebanon: a social priority	Local NGO	1 000 000	16.10.2014 - 15.05.2018
		7	2015/371-135	Raise the voice of Lebanese CSOs towards an inclusive and sustainable development in agriculture and environment field in North Lebanon	International NGO	470 949	01.02.2016 - 28.02.2018
Ethiopia	DG ECHO	11	ECHO/-HF/EDF/2015/01001	Emergency Response Mechanism (ERM) IV in Ethiopia	International NGO	14 000 000	01.01.2016 - 30.06.2017
		12	ECHO/-HF/EDF/2015/01025	Seed Emergency Response with the Government of Ethiopia (SERGE)	International NGO	5 000 000	26.05.2016 - 25.03.2017
		13	ECHO/-HF/EDF/2015/01017	Multi-sectoral emergency response for vulnerable communities of 5 woredas of Afar Region, Ethiopia	International NGO	1 500 000	01.03.2016 - 31.08.2017
	DG DEVCO	14	2014/343-843	Conservation of Biodiversity and Ecosystems Functions and improved well-being of Highland and Lowland Communities within Bale Eco region	International NGO	5 000 000	09.07.2014 - 08.04.2018
		15	2014/340-882	Building Resilience Capacity and Recovery for the Vulnerable Population of Wag Himra Zone, Amhara Region, Ethiopia	International NGO	2 000 000	17.04.2014 - 16.07.2017
		16	2016/376-321	Pastoralist and Agro-pastoralist Natural Resources Management and Livelihood Initiatives (PANRMLI)	Local NGO	197 865	01.07.2016 - 31.10.2018
		17	2014/341-464	Afar Pastoral Communities Reproductive Health Improvement Project	Local NGO	180 000	12.04.2014 - 11.04.2016

**Audited projects under indirect management**

	DG	No	Contract reference	Contract title	Contractor	Amount (euro)	Implementation dates	Sub-grantee NGO
Lebanon	DG ECHO	8	ECHO/SYR/BUD/2016/91010	Providing protection and humanitarian assistance to refugees living in Lebanon	UN body	30 000 000	01.04.2016 - 31.03.2017	An international and a local NGO
	DG NEAR	9	2015/367-663	Support to school-aged children affected by the Syria crisis to access learning opportunities and to ensure health care and reduced vulnerabilities of children, women and caregivers in Lebanon	UN body	37 920 556	01.09.2015 - 31.08.2017	An international and a local NGO
		10	2015/371-621	Enhancing Access to Non Communicable Diseases and Mental Health Services at the level of Primary Health Care for Vulnerable Syrian refugees and Lebanese communities in Lebanon	UN body	2 308 000	01.01.2016 - 31.03.2017	A local NGO
Ethiopia	DG ECHO	18	ECHO/-HF/BUD/2015/91054	Cash Assistance to Somali, Eritrean, South Sudanese and Sudanese Refugees and biometric identification of refugees	UN body	5 000 000	01.04.2015 - 31.03.2016	An international NGO
	DG DEVCO	19	2015/358-720	Support to the Reintegration of Returnees in Ethiopia	UN body	5 000 000	01.01.2015 - 31.12.2018	Two local NGOs
		20	2014/346-779	Pursuing Pastoral Resilience (PPR) through improved animal health service delivery in pastoral areas of Ethiopia.	UN body	9 277 294	26.07.2014 - 25.11.2018	Two international NGOs

**Assessment of the individual projects – Overview**

Project No	Selection process of NGO projects done by the Commission		Selection process of NGOs done by third parties		Information on EU funding		Use of information			Publication		
	Transparency of the selection process	Capacity assessment of NGO's partners	Transparency of the selection process	Capacity assessment of NGO partners	Commission's systems show who does what in NGO activities	Commission's systems show the funding received by each NGO	Information allows assessing reasonableness of costs	Information can be used for identification and correction of implementation problems	Information can be used for coordination	Financial Transparency System	IATI	Other portals / Entrusted entities publication
1	Partially	Yes	n/a	n/a	Partially	Yes	Yes	Partially	Yes	Partially	Partially	Yes
2	Partially	No	n/a	n/a	Yes	Yes	Yes	Yes	Yes	Partially	Partially	Partially
3	Partially	Yes	n/a	n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4	Yes	Yes	n/a	n/a	Partially	Partially	Yes	Yes	Yes	Partially	Partially	Partially
5	Yes	Yes	Yes	Yes	Yes	Partially	Yes	Yes	Yes	Partially	Partially	No
6	Yes	Yes	n/a	n/a	Yes	no	yes	Yes	Yes	Partially	Partially	Partially
7	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partially	Partially	Partially
8	n/a	n/a	Yes	Yes	No	No	No	No	No	n/a	n/a	Partially
9	n/a	n/a	No	Yes	No	No	No	No	No	n/a	n/a	No
10	n/a	n/a	Yes	Yes	Partially	Partially	No	Yes	Partially	n/a	n/a	Yes
11	Partially	Yes	Yes	Yes	Partially	Yes	Yes	Yes	Yes	Yes	Partially	Yes
12	Partially	Yes	Yes	Yes	Partially	Partially	Partially	Yes	Yes	Yes	Partially	Partially
13	Partially	Yes	n/a	n/a	No	Yes	Yes	Yes	Yes	Yes	Partially	Yes
14	Yes	Yes	n/a	n/a	Yes	Yes	Partially	Yes	Yes	Partially	Partially	Partially
15	Yes	Yes	n/a	n/a	Partially	Yes	Yes	Yes	Yes	Partially	Partially	Partially
16	Yes	Partially	n/a	n/a	Yes	No	Yes	Yes	Yes	Partially	Partially	Partially
17	Yes	Partially	n/a	n/a	Yes	No	Yes	Yes	Partially	Partially	Partially	Partially
18	n/a	n/a	No	Yes	Partially	No	No	Yes	Partially	n/a	n/a	No
19	n/a	n/a	Yes	Yes	Partially	No	No	Yes	Partially	n/a	n/a	Partially
20	n/a	n/a	No	Yes	Yes	Partially	No	Yes	Partially	n/a	n/a	No

## **REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS**

### **“TRANSPARENCY OF EU FUNDS IMPLEMENTED BY NGOS: MORE EFFORT NEEDED”**

#### **EXECUTIVE SUMMARY**

III. The Commission considers that its funding is sufficiently transparent and that NGOs should not be singled out as a particular category of beneficiaries.

In the treatment of applications, provided the applicants comply with the eligibility criteria, the focus of the Commission is on the project description and whether it matches the programme objectives and how it could contribute to their achievements. As recording the NGO status is not a legal requirement and as NGOs do not have a legal definition, the accounting system does not record funds specifically channelled to the NGO sector.

IV. The recording of the NGO status of beneficiaries in the Commission accounting system is not mandatory, given the absence of legal grounds for treating NGOs differently to other beneficiaries and in the absence of a common NGO definition. In addition, no financial transparency requirement specifically mentions that reporting on NGO funding is required.

Therefore the Commission considers that the classification done in its accounting system cannot be considered as unreliable.

V. The Commission departments use the flexibility included in the Financial Regulation to deliver aid in various ways.

When providing aid through financial support to third parties, specific operational contexts, such as humanitarian aid, are now acknowledged in the new Financial Regulation, which includes under Article 204 (last sentence) that "this threshold may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult".

In addition, the Financial Regulation does not define the number of implementation layers.

VI. The information collected on EU funds implemented by NGOs cannot be uniform. The type of information required will depend on the context within which the EU funds are implemented.

The Commission would like to point out that it actively monitors the implementation of projects and conducts the necessary financial checks. In accordance with the relevant legal framework the Commission may:

- Request the beneficiaries to make available all financial information concerning a project;
- Conduct checks, including on-the-spot checks, related to the to EU-funded operations.

IX. The Commission accepts all recommendations except for the first one for the reasons set out in the replies.

#### **INTRODUCTION**

1. The Commission acknowledges the growing interest in transparency of financing of NGOs.

2. The Commission notes that the pursuit of transparency should be contextualised in the following way:

- no common EU definition of NGOs is given or proposed by the legislator and the absence of such a definition should frame the expectations concerning the information available to the Commission on NGOs;

- any attempt at defining an NGO is to be balanced against the need to protect the operating space of NGOs.

### **Box 1 – What is an NGO?**

See reply of the Commission to paragraph 2.

Also, the Commission would like to stress that the criteria of the 1997 Commission communication have not been replicated in the Commission basic acts.

Specifically, the Commission would like to point out that in the policy area of development aid, the term "CSO" is more frequently used than NGO. The COM(2012) 492<sup>1</sup> defines CSOs of which NGOs are a subset.

6. Article 35 of the Financial Regulation does not make an explicit reference to NGOs.

Furthermore, in the context of humanitarian assistance, it may not be appropriate to disclose all the information gathered in conflict zones since this might endanger the parties involved. In the context of development aid, it is important to emphasize that the Commission enjoys discretion in deciding to disclose information on recipients of Union funds in sensitive policy areas (see CIR Art 4 (5): “when providing the Union’s financial assistance (...) the Commission shall, where appropriate, take all necessary measures in order to ensure the visibility of the Union’s financial support. Those shall include measures imposing visibility requirements on recipients of Union funds, except in duly justified cases.”).

### **OBSERVATIONS**

18. As recording the NGOs status is not a legal requirement and as the NGOs do not have a legal definition, the accounting system is not designed to record funds specifically channelled to the NGO sector. Hence, the Commission does not consider that the identification of NGOs is unreliable.

19. In view of the absence of a definition and the absence of NGO-specific requirements in the Financial Regulation, there are no grounds based on which the Commission would need to develop a strategy specifically targeting NGOs.

20. See the Commission reply to paragraph 19.

23. Applicants will need to register once in the SEDIA system, but updates of their registration will be needed when information is not valid anymore.

24. Thorough checks are being performed to ensure compliance with eligibility criteria, which include not-for-profit status, and registration details – including the validation of the legal form.

Concerning LIFE operating grants, the statutes and registration documents of all applicants are systematically checked<sup>2</sup>.

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<sup>1</sup> COM(2012) 492 final of 12.9.2012, “The roots of democracy and sustainable development: Europe’s engagement with Civil Society in external relations” classifies as CSOs, among others, NGOs, community-based organisations, faith-based organisations, foundations, research institutions, cooperatives, professional and business associations.

<sup>2</sup> Nota bene: eligible applicants under LIFE do not have to be registered as NGOs. They have to fulfil all eligibility criteria in order to be able to participate to the LIFE action programme for operating grants to support European environmental and climate NGOs.

In the case of humanitarian aid, an NGO can only enter into a specific contractual relationship to implement an Action after having signed a Framework Partnership Agreement (FPA). The Commission thoroughly verifies the NGO status before signing the FPA and sending the information to ABAC.

26. The eligibility criteria are checked for all participants in calls for proposals selected to receive funding before the grant agreements are signed. This is a principle embedded in the Financial Regulation.

Many universities and research institutes are charities, independent of Government, not-for-profit and acting for the public good. These elements would, in some Member States, indicate that they are NGOs. The Commission considers that the information that it possesses is reliable, and that its reliability is not affected by the non-validation of NGO status. Absence of information about NGOs is due to the fact that there is no EU-wide definition of an NGO.

27. The NGO flag could only be made mandatory in ABAC if agreement was reached on a common definition of what constitutes an NGO and if a legal basis for singling out NGOs would be introduced.

It is only obligatory to complete the legal entity type for every registration in ABAC. For project 16, the legal form type recorded is as *Non-Profit Organisation* in ABAC.

PADOR registration system is local and does not automatically feed the information in the legal entity record.

29. Selection procedures depend on implementation modalities (i.e. grants, service contract, etc.) which are chosen depending on the objectives of the programme, not based on the beneficiaries/potential implementing partners.

Whether NGOs can receive funding under the same conditions depends on the guidelines/tender specifications, and is also determined based on the objectives of the programme.

32. The Financial Regulation does not impose a systematic verification of all supporting documents.

A general obligation to submit supporting documents would create a heavy administrative burden (both for the applicants and the Commission) and might substantially delay award procedures.

The information provided must be truthful and can be verified if a doubt arises. In case of untruthful information, the applicant may be eliminated from the process.

33. In accordance with the principle of proportionality, all declarations by the potential beneficiaries are not systematically checked by the Contracting Authority. Indeed, an applicant can be rejected - or the contract be terminated - in case of false declarations.

36. The Commission would like to point out that DG ECHO used the flexibility provided for in the Financial Regulation.

When providing aid through financial support to third parties, specific operational contexts, such as humanitarian aid are now acknowledged in the new Financial Regulation, which includes under Article 204(last sentence) that "this threshold may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult".

For DG ECHO, this approach is justified by imperative operational considerations related to the need of the EU Humanitarian Aid programme to be implemented swiftly by the most capable operator under the prevailing circumstances; this calls for ample flexibility throughout the humanitarian aid implementation chain.

In addition, the Financial Regulation does not define the number of implementation layers.



37. The Commission refers to its reply to paragraph 36.

39. The Commission would like to highlight that under indirect management, an implementing partner can make use of its own rules for awarding grants, when these rules have been positively assessed. If the systems and procedures of the entity change, the entity must inform the Commission.

Whereas subject to pillar assessments, organisations may use their own procedures, the FAFA does not set out in detail all procedures for the selection of NGOs. It is important to make a distinction between concepts such as delegate, subdelegatee, implementing partner, sub-grantee and beneficiary of financial support to third parties and the roles of these entities.

Furthermore, the Commission stresses that a positive pillar assessment is granted as a pre-condition for indirect management. It is not given for a specific agreement.

**Box 4 – Example of a selection process carried out by a third party which did not comply with its own internal selection rules**

In the selection of implementing partners, the capacity of regional government partners in remote and difficult region was considered.

Entities may first ensure support from regional authorities to a project, then the funds are secured and a contract signed, and only thereafter the entity signs the Memorandum of Understanding with the regional government partner. This could explain the sequence in the ECA's observation.

**Box 5 – Information collected in the different Commission's systems**

In the case of DG ECHO, action grants are single beneficiary grants awarded to entities which have concluded a Framework Partnership Agreement with ECHO. Thus, in its internal system, DG ECHO's funding is correctly allocated to the legal entity with which the Commission established a legal commitment under the terms of the Financial Regulation.

Whereas implementing partners are not always known at the request stage, as this information may not yet be available to the Partners, the system does already provide for this information to be updated throughout the implementation, and definitely before the final report. Partners are required contractually to ensure, at final report stage, the adequacy of figures (implementing partners and their share) under direct management.

The general ledger sent by the DG ECHO partners at final report stage provides full details of all the expenditures incurred during the implementation of the action. In addition to this, allowing partners to provide the general ledger in accordance with their own financial reporting is a contribution to the call to simplification made by the European Institutions at the time of the preparation of the 2014 FPA.

Fifth indent: The Commission would like to highlight that current PRAG templates require reporting on results, not on funding per beneficiary.

42. The Commission collects the information that it needs to discharge its obligation to ensure sound financial management. It avoids collecting information that is unnecessary for this purpose so as to limit the administrative burden on participants.

43. With regard to networks of international NGOs, the different Commission services may, in accordance with their respective basic acts and operational priorities, work with members of networks under a variety of arrangements, as foreseen under the Financial Regulation.

Entities forming part of a network could constitute recipients of financial support to third parties. The information collected on EU funds implemented by NGOs cannot be uniform. The type of information required will depend on the context within which the EU funds are implemented.

44. The Commission fully respects its reporting requirements, since the only contractual relationship is the one established with its FPA Partner. This is the only relationship that FTS requires reporting on. See also replies of the Commission to Box 5.

Networks of international NGOs have been transparent by providing information to the Commission on their working arrangements. The objective for these networks of international NGOs is to obtain efficiency gains by concentrating expertise and know-how in a unique set-up in the field and be in a position to react swiftly to a crisis.

The Commission intends to provide further clarity as from 2019.

45. The Commission enters into a contractual relationship with its FPA Partner, the only legal entity under the terms of the Financial Regulation. In addition, the General Conditions of the FPA stipulate that DG ECHO-NGO relationship is based on a partnership with full responsibility of the partners for all activities implemented by its implementing partners. Partners are hence required contractually to ensure, at final report stage, the adequacy of figures (implementing partners and their share) under direct management.

In addition, signing an FPA with EU-based NGOs, provides a guarantee for easier enforcement of any grant agreements concluded. This ensures that the financial interests of the EU are adequately protected.

46. For indirect management, the UN bodies are not under a legal obligation to record NGO financing and therefore information on their sub-granting specifically to NGOs cannot be made available in the Commission systems either.

There is no requirement in the Financial Regulation (nor any reporting requirement by the budgetary authority) to record the funding received by the third-party NGO under indirect management, even more in the context of the absence of an NGO definition.

#### **Box 6 – Example of overcharging indirect costs**

This is part of the way grants are constructed: grants are made of direct and indirect costs. The indirect costs are calculated as a percentage of direct costs. It is understandable that both the implementing entity and the EU recipients of funds both have overheads in their implementation of the EU budget.

For project 20, an external verification mission has generated corrective measures that include recoveries.

49. In indirect management, an *ex ante* pillar assessment provides assurance that the Commission can rely on the systems, rules and procedures of the entrusted entity, as they are deemed equivalent to the ones used by the Commission. These systems, rules and procedures guarantee the protection of the financial interests of the Union. Therefore, under this management mode, the Commission is not required to be in a position to systematically check costs declared by sub-grantee NGOs.

The Commission actively monitors the implementation of projects and may, where deemed necessary, conduct the necessary financial checks. In accordance with the Annex to the FAFA concluded with the UN, the Commission may:

- Request the UN to make available all financial information concerning a project;
- Conduct checks, including on-the-spot checks, related to the EU-funded operations.

50. There is a warning system (through ABAC) regarding economic operators excluded or subject to financial penalty (EDES).

52.

First indent: This is not required by the Financial Regulation. For most of the projects, the payments are spread over several years (and an annual publication like the FTS would not give a clear picture of actual payments).

Second indent: The NGO “flag” is a non-mandatory field stored in the legal entity record. However, it is consistently only used if the organisation is NFPO, private and declared it, and reported accordingly in the FTS.

Third indent: The identity of entities receiving funding through sub-granting is not publicised but they can be identified in the reporting of the entity which provided the sub-granting, unless such disclosure would represent a serious risk in respect of integrity and confidentiality or an actual threat (e.g. human rights activists).

53. DEVCO templates for grant contract and budget do not foresee a breakdown per implementing partner as the lead applicant retains full responsibility and accountability for the management of all funds pooled for a given action (EU contribution and other contributions). However, budgetary breakdowns between partners are in some cases reflected in the budgets and sometimes detailed per budget heading or activities in the description of the proposal. Financial allocations may also be detailed in the Memorandum of Understanding signed by the implementing partners.

DG ECHO considers that it fully conforms to the requirements of FTS, as well as to those of the FPA and the Financial Regulation. Under the FTS there is no obligation to report beyond the FPA partner.

54. Controls and corrective actions are intended for projects 14 and 15. The FTS is indeed not designed to follow up geographical locations as this would not be cost efficient.

59. The Commission is committed to strengthen a results-based culture and aims to enhance its capacity to communicate the impact of EU assistance to the citizens. Information on results of our intervention is available to the public as part of our commitments towards the International Aid Transparency Initiative (IATI), which apply to all external action instruments.

The Commission started to publish IATI data on EU Trust Funds in October 2017 and data on results as of November 2017. Results are also included in the “Annual Report on the implementation of the European Union’s instruments for financing external actions”.

60. The contracted amounts of the audited projects do not appear because DGs DEVCO and NEAR publish at two hierarchy levels where commitments are published at the level of financing decisions and disbursements are published at the level of contracts.

At the time of the audit, DG ECHO did not publish real payment transactions but estimated payments. Since then, this has been changed and real payments are now published.

### **Box 8 – Examples of errors found in data published in the IATI d-portal**

For project 15, corrective action has already taken place through a technical rider to modify the contracted amount.

62. The Commission would like to highlight that the obligations related to transparency imposed on the entities entrusted with the implementation of the Union budget under indirect management are outlined in the agreements concluded with these entities for each action implemented.

Under the templates applicable at the time of the audit the relevant rules differ, depending on whether the Union is the only donor or whether other donors contribute to the project as well:

- where the Union is the only donor, the UN body is required to publish information relating to its contractors and grant beneficiaries on an annual basis. Moreover, for every completed project, the

financial report has to include the exact link to the webpage where information on contractors and grant beneficiaries is available.

- for multi-donor actions, the publication of information on contractors and grant recipients must follow the rules of the International Organisation.

The obligation of publication is one of the elements that can be checked by the Commission in its monitoring of projects.

In indirect management, an additional verification of the publication by the Commission would not be justified.

### **Box 9 – Examples of UN bodies not publishing information on EU funds sub-granted to NGOs**

The Commission refers to its reply to paragraph 62.

### **CONCLUSIONS AND RECOMMENDATIONS**

64. The Commission considers that its funding is sufficiently transparent and that NGOs should not be singled out as a particular category of beneficiaries.

In the treatment of applications, provided the applicants comply with the eligibility criteria, the focus of the Commission is on the project description and whether it matches the programme objectives and how it could contribute to their achievements. As recording the NGO status is not a legal requirement and as NGOs do not have a legal definition, the accounting system does not record funds specifically channelled to the NGO sector.

65. The recording of the NGO status of beneficiaries in the Commission accounting system is not mandatory, given the absence of legal grounds for treating NGOs differently to other beneficiaries and in the absence of a common NGO definition. In addition, no financial transparency requirement specifically mentions that reporting on NGO funding is required.

Therefore the Commission considers that the classification done in its accounting system cannot be considered as unreliable.

### **Recommendation 1 – Improve the reliability of information on NGOs**

#### **The Commission does not accept this recommendation.**

The Commission wishes to be fully transparent on beneficiaries of EU funds, within the limitations set by the current regulatory framework. However, while the term “NGO” is widely used, it has no generally accepted definition either at the international level<sup>3</sup>, or at EU level. This is the reason why the Commission has, on its own initiative, developed a system whereby organisations declare themselves as NGOs, under the pre-requisite that the legal entity concerned is flagged as both a private and not-for-profit organisation. Although it may result in different groups of recipients than what stems from concepts applied at national level, the Commission prefers to follow this prudent approach, which is based on objective and verifiable criteria. The Commission considers that any further criteria would require an EU level harmonisation of the concept of NGO which should be agreed by the legislator. A cross-country analysis of the legal framework of NGOs in six European

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<sup>3</sup> International organisations use different definitions. For instance, the United Nations (UN) describes an NGO as any “not-for-profit, voluntary citizens’ group that is organized at a local, national or international level” (<https://outreach.un.org/ngorelations/content/about-us-0>).

and non-European jurisdictions indicates diverse understandings and designations of “NGO” between countries, and this suggests that harmonisation of the concept may be problematic.<sup>4</sup>

68. The Commission departments use the flexibility included in the Financial Regulation to deliver aid in various ways.

The rules outlined under the previous FR (Article 137) concerning the provision of financial support to third parties allowed for exceptions (e.g. the possibility to exceed the amount of EUR 60 000 in cases where the financial support is the primary aim of the action). Therefore, their application in a specific context, such as the one of humanitarian aid, could result in differing practices between the services, which do not however imply an incorrect application of the rules and procedures.

When providing aid through financial support to third parties, specific operational contexts, such as humanitarian aid, are now acknowledged in the new Financial Regulation, which includes under Article 204(last sentence) that "this threshold may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult".

In addition, the Financial Regulation does not define the number of implementation layers.

### **Recommendation 2 – Check the application of rules for sub-granting**

**The Commission accepts this recommendation.**

(a) The Commission accepts this recommendation.

The Commission considers that the changes introduced in the new Financial Regulation will ensure the consistent application of rules regarding sub-granting.

(b) The Commission accepts this recommendation.

The Commission actively monitors the implementation of projects and may conduct the necessary checks on the selection of UN implementing partners in accordance with the relevant legal framework.

Furthermore, under indirect management, *ex ante* pillar assessments provide assurance to the Commission that it can rely on the systems, rules and procedures of the entrusted entity (including rules and procedures on providing financing to third parties, e.g. through sub-granting and procurement)(see Article 154 of the new Financial Regulation), as they are deemed equivalent to the ones used by the Commission. If assessed positively, these systems, rules and procedures guarantee the protection of the financial interests of the Union.

71. The Commission refers to its answers in paragraphs 43 and 44.

The Commission would like to point out that it actively monitors the implementation of projects and conducts the necessary financial checks. In accordance with the relevant legal framework the Commission may:

- Request the beneficiaries to make available all financial information concerning a project;
- Conduct checks, including on-the-spot checks, related to the EU-funded operations.

### **Recommendation 3 – Improve information on funds implemented by NGOs**

**The Commission accepts this recommendation**

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<sup>4</sup> European Parliament, Directorate-General for internal policies, Policy Department D: budgetary affairs, study « Democratic Accountability and Budgetary Control of Non-Governmental Organisations funded by the EU Budget », 17 November 2016

(a) The Commission accepts this recommendation.

The different grant management systems reflect the specificities of set up for the different policies, including the modalities of contracting.

For external relations, this will depend on the features of OPSYS. In certain policy areas (e.g. research), this is already done.

(b) The Commission accepts this recommendation.

For external relations, this will depend on the features of OPSYS. In certain policy areas (e.g. research), this is already done.

(c) The Commission accepts this recommendation

The Commission actively monitors the implementation of projects and may, where deemed necessary, conduct the necessary checks in accordance with the relevant delegation/contribution/financing agreement and the Financial and Administrative Framework Agreement (FAFA) concluded with the UN.

In accordance with these agreements, the execution of the delegation/contribution/financing agreement and the obligations contained therein, including on costs, may be subject to scrutiny of the Commission, or any of its authorised representatives.

Furthermore, in indirect management, an *ex ante* pillar assessment provides assurance that the Commission can rely on the systems, rules and procedures of the entrusted entity, as they are deemed equivalent to the ones used by the Commission. These systems, rules and procedures guarantee the protection of the financial interests of the Union.

#### **Recommendation 4 – Standardise and improve accuracy of information published**

##### **The Commission accepts the recommendation**

(a) The Commission accepts this recommendation.

(b) The Commission accepts this recommendation.

(c) The Commission accepts this recommendation.

The Commission actively monitors the implementation of projects and may conduct the necessary checks on the fulfillment of UN bodies of the disclosure obligations, in accordance with the relevant legal framework.

<b>Event</b>	<b>Date</b>
Adoption of Audit Planning Memorandum (APM) / Start of audit	9.1.2018
Official sending of draft report to Commission (or other auditee)	15.10.2018
Adoption of the final report after the adversarial procedure	5.12.2018
Commission's (or other auditee's) official replies received in all languages	EN: 11.12.2018

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Non-governmental organisations (NGOs) are important actors in the implementation of the EU budget. During 2014-2017, the Commission committed an estimated €11.3 billion for implementation by NGOs in many different EU policy areas. Our audit examined the transparency of EU funds implemented by NGOs with special focus on the external action, amongst all policy areas, the largest area where EU funds are implemented by NGOs. We found that the Commission's identification of entities as NGOs in its systems is not reliable. We assessed the Commission's selection of NGO-led projects as generally transparent. However, for some of the audited UN bodies, the selection processes of NGOs were not transparent. The Commission does not always collect and check comprehensive information on all NGOs supported. The information on EU funds implemented by NGOs is published in several systems but the information disclosed is limited. We conclude that the Commission was not sufficiently transparent regarding the implementation of EU funds by NGOs, and that more efforts are needed to improve it. Furthermore, we formulated a number of recommendations for improving the transparency of the EU funds implemented by NGOs.



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