

Reply by the Commission to a request for information from the European Ombudsman
- Complaint by M. [REDACTED], ref. 1418/2023/VS

I. BACKGROUND/SUMMARY OF THE FACTS/ HISTORY

On 20 December 2022, the Commission received a letter from M. [REDACTED] on behalf of 'de:border//migration justice collective' and other civil society partners alleging the misuse of EU funds by the Greek authorities in external border management programmes (see enclosure 1). The complainants maintained that these EU-funded programmes had supported systemic illegal returns and expulsions of migrants. The letter claimed that the Greek authorities had failed to monitor asylum and fundamental rights compliance, and that the Commission had failed to respond to such misuse, amounting to 'maladministration', through an alleged breach of its obligations to protect the EU budget and rule of law.

On 15 March 2023, the Commission provided a reply to this letter (see enclosure 2). The Commission explained that Member States' authorities bear the primary responsibility for the effective implementation and daily management of the programmes implemented under shared management rules, including preventing, detecting and correcting irregularities. It noted that Commission services hold a monitoring role for this implementation. Regarding Home Affairs Funds for 2021-2027, the Commission explained that funding is disbursed to Member States subject to their fulfilment of the 'Horizontal enabling conditions' (HEC). One of the criteria under the HEC, which require the "*Effective application and implementation of the Charter of Fundamental Rights,*" is the need to set up "*Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter and complaints regarding the Charter...*"¹. The Commission noted in its reply that the Greek authorities had put in place arrangements to ensure fundamental rights compliance with the establishment of a three-tier system for monitoring purposes, including the investigation and prosecution of misconduct by the competent state authorities (see in more detail Question 3 below).

By letter of 7 November 2023, the European Ombudsman informed the Commission about her decision to open an inquiry into a subsequent complaint which she received from the organisation 'de:border//migration justice collective' and several other organisations against the Commission.

II. THE COMPLAINT

In essence, the complainants submit in their 80-pages long complaint two main allegations against the Commission:

1. Failure to act: According to the complainants, the Commission has failed to carry out oversight and control and to address persistent allegations of serious human rights abuses by the Greek authorities in the context of EU external border management operations, and thus has failed to act upon its obligations to assess the situation and to

¹ See Annex III of the Common Provisions Regulation.

respond with appropriate remedial actions².

2. Complicity in alleged breaches of Union law: The complainants also consider that the Commission's financing is contributing to fundamental rights violations at Greece's border with Türkiye, including, through its failure to investigate misuse of EU funds by Greek Internal Security Fund (ISF) beneficiaries.

The allegations against the Commission concern its presumed maladministration of EU funds provided to Greece since the start of 2018. Nevertheless, the Ombudsman decided to limit the inquiry to the Commission's actions from the start of the current Commission's time in Office, that is from the start of 2020. Thus, the present inquiry covers the Greek national programmes (shared management) for the period 2014-2020 using the Internal Security Fund – Borders and Visa and for the period 2021-2027 using the Border Management and Visa Policy Instrument, as well as projects managed through direct and indirect management modes.

The questions shared by the Ombudsman include requests for making certain documents available. These, as well as other documents enclosed to this reply, should be treated as confidential.

III. THE COMMISSION'S COMMENTS TO THE COMPLAINANT'S ARGUMENTS

As a preliminary comment, since the Ombudsman's investigation covers the period 2020-2023, two sets of legal frameworks are applicable, which to a certain extent contain different provisions on the compliance with fundamental rights. First, the Internal Security Fund – Borders and Visa³ (hereafter 'ISF-B') for the programming period 2014-2020, is subject to the general rules for the implementation of the Home Affairs Funds 2014-2020⁴. Second, for the present programming period 2021-2027, the Instrument for Financial Support for Border Management and Visa Policy (hereafter 'BMVI')⁵, is subject to a common set of rules also used for the implementation of other shared management Funds⁶.

Across both time periods, both the ISF-B and the BMVI are implemented in accordance with the principles and procedures governing the establishment, implementation, and control of the EU budget⁷.

The present written reply concerns the question of the use of EU funds in the alleged fundamental rights violations at Greece's border.

² The complainant cites Article 17 of the Treaty of the European Union concerning the Commission's role as 'Guardian of the Treaties' and Article 317 of the Treaty on the Functioning of the European Union concerning the principle of sound financial management.

³ Established by *Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA* (hereafter 'ISF-B Regulation').

⁴ These rules are set out in *Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management* (hereafter 'Horizontal Regulation').

⁵ Established by *Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy* (hereafter 'BMVI Regulation').

⁶ *Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy* (hereafter 'Common Provisions Regulation').

⁷ These are contained in *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union* (hereafter 'Financial Regulation').

Ombudsman Question 1 (a-c):

Under shared management, the tasks relating to the implementation of the relevant funding from the ISF-B and BMVI programmes are delegated to the Greek authorities⁸. This responsibility is given to the Managing Authority (called Responsible Authority in the 2014-2020 programming period) and the Audit Authority, which are responsible for the first line checks⁹. The Commission has the responsibility to satisfy itself that the Member States have set-up management and control systems that comply with the requirements set out in the Horizontal Regulation for the 2014-2020 programming period¹⁰, and with the Common Provisions Regulation for the 2021-2027 period¹¹. These systems must control, amongst others, the eligibility of costs, where related implementation must comply with fundamental rights for both ISF-B¹² –and BMVI¹³– funded projects. The monitoring of respect of fundamental rights has been further reinforced during the 2021-2027 period, as Member States are now required to ensure the fulfilment of the horizontal enabling conditions (HECs), including the “Effective application and implementation of the Charter of Fundamental Rights”¹⁴ (Charter HEC). Reimbursement of expenditure by the Commission can only start as from the time when the Member State concerned demonstrates that the enabling conditions are fulfilled. Should any of these HECs be unfulfilled at the time of payment applications from the Member State to the Commission, the latter cannot reimburse expenditure related to operations linked to the specific objective for which the HEC is unfulfilled¹⁵.

As regards the funding received by Greece through direct/indirect management, it is the Commission who is responsible for the implementation of the budget. While implementing through indirect management, where the Commission is entrusting budget implementation to pre-selected entities¹⁶, e.g. UN organisations¹⁷, the Commission is responsible for ensuring

⁸ In accordance with Article 63(1) of the Financial Regulation, “[w]here the Commission implements the budget under shared management, tasks relating to budget implementation shall be delegated to Member States”. As for the role of the Commission, it is specified in the fourth subparagraph of Article 63(2).

⁹ For details on their functions and responsibilities, see Article 27 and 29 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Articles 49 and 77 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

¹⁰ See Section 2 ‘Management and Control’, in particular Article 70 (note that audits may include, as set out in Article 31(3)(b), “*compliance of administrative practices with Union rules*”, which includes the Charter of Fundamental Rights), as well as Chapter V ‘Information, Communication, Monitoring, Evaluation and Reporting’ (note that the Commission regularly monitors the implementation of Member States programmes, including through reporting requirements (Article 54), on the spot visits (Article 3 (7) and Article 55), system and ex-post audits (Article 31) and through annual clearance of accounts (Article 45)). This is complemented by *Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities* (see Chapter II ‘The Responsible Authority’, Chapter III ‘Status of the Audit Authority and obligations with regards to audits’, Annex I ‘Designation criteria for the Responsible Authority’).

¹¹ See Title VI ‘Management and Control’. Note that, as set out in Article 74(1)(a), operations must comply with “*applicable law*”, which includes Union law.

¹² Article 3(4) of the Horizontal Regulation, “*actions funded under the Instrument [Instrument for Financial Support for External Borders and Visa] shall be implemented in full compliance with fundamental rights and respect for human dignity. Actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law, the European Convention for the Protection of Human Rights and Fundamental Freedoms...*”.

¹³ See Article (4) of the BMVI Regulation.

¹⁴ See Annex III to of the Common Provisions Regulation. The HEC linked to the Charter, includes two criteria for fulfilment: 1) Member States must have arrangements to ensure compliance with the relevant provisions of the Charter, 2) Member States must establish reporting arrangements to the monitoring committee regarding cases of non-compliance with the Charter and complaints regarding the Charter.

¹⁵ See Article 15 and Annex III of the Common Provisions Regulation. They target possible structural deficiencies that might affect the implementation of the funds.

¹⁶ Article 62(c) of Financial Regulation; Emergency assistance work programme.

¹⁷ *Financial and Administrative Framework Agreement between the European Union represented by the European Commission and the United Nations*, 31.12.2018.

that these entities have in place appropriate systems (control systems), rules and procedures. For direct management it must set up internal procedures and control systems to ensure the appropriate management and use of EU funds (see enclosure 3 for the EMAS internal control strategy in force)¹⁸.

To be able to consider the Charter HEC as fulfilled, the Commission requested the Greek authorities to set up a three-tier mechanism for Greece (see enclosure 145). This followed several exchanges between the Commission and the Greek authorities, which included several rounds of requests for clarifications, and some preliminary rejections of draft programmes (see annexes 120 to 182 for relevant documents linked to the drafting of the BMVI and ISF 2021-2027 programmes). So far, the Commission has not received evidence through this mechanism that EU funding was used for or facilitated the violation of fundamental rights. In addition, the Commission has pro-actively requested information from the Greek independent fundamental rights monitoring mechanism, most recently during Commissioner Johansson's visit in January 2024 (see enclosure 183).

In November 2021, the Commission notified the Greek Ministry of Migration and Asylum (MoMA) about information received from civil society on alleged pushbacks and use of violence against migrants arriving to the Greek external borders (see enclosure 4) and asked MoMA about the use of EU funds for the alleged pushbacks. MoMA replied denying the allegations and declared that no EU funds had been used in contravention of EU law (see enclosure 5). In another example, the Commission followed-up on a complaint it received in a letter dated 22 June 2023 from the Fundamental Rights Officer of the European Border and Coast Guard Agency (Frontex) in relation to the alleged misuse of EU funds in the area of border management in Greece (see enclosure 6). The Commission conveyed this information on 26 July 2023 to the Greek authorities, enquiring about feedback on the allegations, which has not yet arrived (see enclosure 7). On 17 November 2023, the Commission followed up on its initial transmission to the relevant Greek authorities, emphasising the importance of a timely and appropriate follow-up to complaints concerning potential misuse of EU funds (see enclosure 8). In this communication, the Commission requested an update on the examination of the complaint and reminded of the obligation to bring the complaint to the Home Affairs Funds Monitoring Committee of Greece.¹⁹

Ombudsman Q2:

For shared management, the Commission's overall monitoring procedures are established in the legal framework, and take the form of desk review, on-the-spot visits, and system and ex-post audits²⁰ (see enclosure 9 for a list of monitoring missions performed by DG HOME since 1 January 2020). They also include provisions on common monitoring and evaluation of programmes²¹, as well as participation in an advisory role in the beforementioned Greek

¹⁸ See Articles 62(1)(a) and 62(1)(c) of the Financial Regulation for the provisions relevant to each management method, as well as Article 36 for the list of elements contained in the control systems needed for the implementation of EU budget. For indirect management, this is assessed for each recipient organisation (see Article 154), while for direct management, this control system is put in place by the relevant authorising officer by delegation (see Article 74(1)).

¹⁹ Member States have the responsibility to establish Monitoring Committees to monitor the implementation of national programmes in relation to Home Affairs Funds. For the period 2014-2020, see Article 12 of Regulation (EU) No 514/2014. For the period 2021-2027, see Articles 38, 39, 40 of the Common Provisions Regulation.

²⁰ See Article 31 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Article 70 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

²¹ See Article 55 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Articles 16 and 45 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

Monitoring Committee²². The Greek Monitoring Committee receives updates on cases of non-compliance and complaints related to the Charter on a yearly basis, following an assessment of all alleged cases of non-compliance in the framework of the three-tier mechanism, including the work of the Greek National Transparency Authority and the Greek Ombudsman (see enclosure 10 for details).²³ The Commission has in several instances requested Greece to extend the membership of the Monitoring Committee to NGOs and international organisations, to which the Greek authorities have recently agreed (see enclosure 11). However, as per above, no evidence on the non-respect of fundamental rights in the use of EU funds has been communicated to the Monitoring Committee so far (see enclosure 12).

It is worth noting, as an additional mechanism, the Memorandum of Understanding signed between the Commission and EU agencies and the Greek government in December 2020²⁴ is being operationalised by a Taskforce Migration Management, created in September 2020 and comprised of the Greek authorities, the Commission and EU agencies. The [REDACTED] Taskforce Migration Management meets on a regular basis, strengthening the continuous monitoring of the implementation of EU funds, amongst others, in the area of border management.²⁵ Its work is supported by Commission staff deployed permanently in Greece.

In case there is evidence that EU funds are not used in compliance with applicable law (including the Charter)²⁶, the Commission will make use of the means it has at its disposal, including interruptions of payment deadlines, suspensions of payments and financial corrections²⁷ as well as infringement proceedings under Article 258 TFEU.

Ombudsman Q3:

The Commission does request regular updates on the status of ongoing investigations. Further to repeated requests by the Taskforce Migration Management, the Greek authorities underlined in November 2021 the enhanced mandate and competence of the National Transparency Authority (NTA) to include independent investigations concerning pushback allegations²⁸. Moreover, to guide investigations of cases that relate to fundamental rights of third-country nationals, the Vice Public Prosecutor of the Supreme Court issued two circulars to all first and second instance public prosecutors²⁹.

Following further discussions in 2022 between the Commission and the Greek Authorities, Greece adopted legal provisions more generally related to compliance with fundamental rights³⁰ that include the establishment of a Fundamental Rights Officer (FRO) position within

²² See Article 12 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Article 39 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

²³ For instance, the Commission participated in the latest Monitoring Committee for BMVI in Greece (see enclosure 10).

²⁴ See Annex to the *Commission Decision approving the Memorandum of Understanding between the European Commission, European Asylum Support Office, the European Border and Coast Guard Agency, Europol and the Fundamental Rights Agency, of the one part, and the Government of Hellenic Republic, of the other part, on a Joint Pilot for the establishment of a new Multi-Purpose Reception and Identification Centre in Lesbos*, C(2020) 8657, 2.12.2020.

²⁵ The latest Steering Committee Meeting on Migration Management took place on 19 December 2023.

²⁶ See Article 47 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Article 104 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

²⁷ See Articles 41, 42 and 47 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Articles 96, 97 and 104 of the Common Provision Regulation for projects funded under 2021-2027 programming period.

²⁸ The NTA has initiated investigations on cases of alleged pushbacks and adopted a report (see <https://aead.gr/en/publications-en/essays-en/investigation-report-om-2022>).

²⁹ A first circular on 26 May 2022 on ill-treatment, and a second circular on 29 July 2022 to provide guidance on the penalisation of irregular entry in light of Article 31 of the 1951 Convention Relating to the Status of Refugees See Εγκύκλιος 8/2022 - Εισαγγελία Αρείου Πάγου (eisap.gr) and Εγκύκλιος 10/2022 Εισαγγελία Αρείου Πάγου.

³⁰ https://migration.gov.gr/wp-content/uploads/2022/07/%CE%A6%CE%95%CE%9A-%CE%91-145-2022_%CE%B7%CE%BB%CE%B5%CE%BA%CF%84%CF%81%CE%BF%CE%BD%CE%B9%CE%BA%CE%AE-%CF%85%CF%80%CE%BF%CE%B3%CF%81%CE%B1%CF%86%CE%AE.pdf

the Ministry for Migration and Asylum and the establishment of a specific committee that monitors Fundamental Rights within the same Ministry³¹. In October 2023, the FRO launched an online complaints platform³² for third country nationals whose fundamental rights have been violated.

In addition, the Greek National Commission for Human Rights established a mechanism to record reports of violations of rights at borders. The Recording Mechanism was presented on 24 January 2023, on the occasion of the publication of its first interim report³³. The Commission and the Greek authorities continue to work on independent monitoring mechanisms also in light of the proposed Screening Regulation, for which the European Commission requested FRA to develop guidance, which the agency published in October 2022³⁴.

As detailed above, significant steps have been taken since 2020. The Commission is committed to continue working with the Greek authorities to ensure that the existing system is robust and allows the investigation of allegations, as well as the necessary follow-up through the involvement of internal disciplinary bodies, independent authorities, and the judiciary³⁵. Updates are also regularly requested at technical level, including through meetings and exchanges between the responsible Unit in DG HOME and the Greek Managing Authority, most recently on 14 September and 24 November 2023.

Ombudsman Q4:

As set out in the above answers, the Commission engages closely with the Greek authorities and other actors on issues related to possible violations of fundamental rights at the Greek borders. Until today, the European Commission has not received any report from any instances of the Greek monitoring mechanism with evidence on Greece's use of EU funding in possible violations of fundamental rights and which would provide grounds for a suspension of funds (see answers above). For the period 2021-2027, the HECs are currently considered fulfilled in the case of Greece.

Ombudsman Q5:

As previously described, Member States retain the primary responsibility to ensure compliance with EU, international law and fundamental rights with respect to external borders and to investigate any allegation of violation of the law and such rights.

Since the entry into force of the current European Border and Coast Guard (EBCG) Regulation³⁶, Frontex has supported Greece in managing the external borders. This has also in turn led to a need to further tighten and enhance the Agency's framework for fundamental

³¹ The Committee is comprised of the Secretary General for Migration Policy, the Fundamental Rights Officer of the Ministry for Migration and Asylum, the Secretary General for Public Order of the Ministry of Citizens Protection, a representative of the Ministry of Maritime affairs, the Director of the National Transparency Authority, or a member appointed by him, the Chair of the National Committee for Human Rights and the Greek Ombudsman or his assistant.

³² <https://migration.gov.gr/en/fro-complaints-form/>

³³ <https://www.nchr.gr/en/news/1544-press-release-presentation-of-the-recording-mechanism-of-incidents-of-informal-forced-returns-and-its-first-interim-report.html>

³⁴ FRA, Establishing national independent mechanisms to monitor fundamental rights compliance at EU external borders, October 2022. <https://fra.europa.eu/en/publication/2022/border-rights-monitoring>

³⁵ Recent examples include exchanges between the Deputy Director General (DDG) Gminder and Minister Kairidis on 20 November 2023 on topics related to migration and asylum, and a letter of 17 November 2023 from DDG Gminder to Secretary General for Migration Policy Georgiadis enquiring about an update on the follow up to the complaint from the FRO of Frontex.

³⁶ *Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624*

rights monitoring and compliance, a continuous process that the Commission, in its role as a member of the Frontex Management Board (MB), has spearheaded and continues to contribute to. In these MB meetings, Frontex's Fundamental Rights Officer (FRO) has updated all MB members, including the Commission, on findings of allegations of serious and systematic violations of fundamental rights, including mentions of collective expulsions ("pushbacks") at land and sea borders and cases of abuse and violence against migrants. These allegations have not included suspicion of involvement of Frontex staff. As explained in the above answers, the Commission is actively following up on the concern of the use of EU funds for these alleged fundamental rights violations.

The Commission's evaluation of the EBCG Regulation contains a general assessment of the Regulation's compliance with relevant international and EU law. Fundamental rights in particular, were a specific focus of the evaluation, which sought to analyse both whether the Agency has been able to comply with fundamental rights, as enshrined in the Charter, in its activities, but also, whether the various elements of the framework for compliance with fundamental rights provided to the Agency by the EBCG Regulation, have been conducive to the protection and further promotion of fundamental rights in European border management. The evaluation found that while the EBCG Regulation has significantly expanded and strengthened the fundamental rights monitoring and compliance framework at Frontex, for example by introducing the role of the Fundamental Rights Monitors, the overall effectiveness of the framework, in particular as concerns national authorities responsible for border management, is limited by gaps and lack of clarity within the EBCG Regulation, which will need to be first and foremost addressed via more effective implementation. The evaluation is foreseen for adoption during the first quarter of 2024.

Ombudsman Q6:

In respect to the provisions governing access to documents³⁷, the Commission would make documents public upon consideration. To be noted that some of the documents in reference are already available on Commission and Greek National Administration websites³⁸.

Ombudsman Q7:

The question seems to refer to complaint mechanisms linked to fundamental rights violations (see answer to Question 3). Thus, it must be highlighted that these are a requirement for actions funded under the 2021-2027 programming period, whereby Member States must establish mechanisms to allow relevant stakeholders to lodge complaints³⁹, for which the Commission has issued guidance⁴⁰. The adequacy of the reporting arrangements to the monitoring committee relating to the HEC criteria⁴¹ is assessed during the approval process of the National Programmes, during which the Commission assesses the fulfilment of the HECs. For details, we refer to the enclosed documents on the approval of Greek National Programmes.

³⁷ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

³⁸ For information, see European Commission website where documents are published:

<https://ec.europa.eu/transparency/documents-register/> and the Greek National Administration website: <https://tamey.gov.gr/>

³⁹ See Article 69(7) of the Common Provision Regulation.

⁴⁰ See Commission notice – Guidance on ensuring the respect for the Charter when implementing the ESI Funds, OJ C 269, 23.7.2016, p. 40.

⁴¹ See Annex III of the Common Provisions Regulation.

Ombudsman Q8:

Yes, the Commission has established guidelines as to the roles of its representatives in Monitoring Committee meetings. According to the Common Provisions Regulation, and as further explained in DG HOME's internal guidelines (see enclosed documents), Commission representatives in the Monitoring Committee have a monitoring and advisory role. As such, in the preparation of the meetings they liaise with the Member State authorities and where appropriate intervene during the meetings to deliver Commission opinions⁴².

Ombudsman Q9:

As explained in question 1, the established management and control systems must ensure, amongst others, the eligibility of costs, which must comply with fundamental rights for both ISF-B and BMVI funded projects. The monitoring of respect of fundamental rights has been further reinforced during the 2021-2027 period, as Member States are now required to ensure the fulfilment of the Charter HEC. Failing this, the Commission cannot reimburse expenditure declared by the Member State.

Ombudsman Q10:

Firstly, it must be noted that the Commission's Communication refers to projects funded under the 2021-2027 programming period, under the Common Provisions Regulation. Therefore, the following reply relates to this funding period.

As previously stated (see replies to questions 1 and 9), the Commission has not received any report from the Greek three-tier mechanism with confirmed evidence on the involvement of EU funds in possible violations of fundamental rights and has therefore not considered the option to not disburse funds.

In addition, the Commission established the HECs for the programming period 2021-2027, the fulfilment of which is monitored by the Monitoring Committee, where the Commission participates in an advisory and monitoring role. The steps to be taken should it consider that the enabling conditions are no longer fulfilled are detailed in Article 15(6) of the Common Provisions Regulation.

Requested documentation

The grant agreements of projects funded by ISF-B and BMVI signed under direct/indirect management have been enclosed to this reply (projects that have been completed after 2020). With respect to the requested documentation on grants relevant to the BMVI and ISF-B, the Greek National Programmes are implemented in accordance with the principle of shared management. Therefore, the Commission only has access to some documents, such as annual implementation reports (latest report enclosed).

Relevant correspondence with the Greek authorities related to fundamental rights, as quoted throughout the Commission's reply, is enclosed. Documents related to the approval of the ISF Greek National Programme for 2021-2027, as well as those for BMVI, have been enclosed. Relevant internal guidelines on assessing national complaint mechanisms are also enclosed.

⁴² See Article 12 of the Horizontal Regulation for projects funded under 2014-2020 programming period, and Article 39(2) of the Common Provision Regulation for projects funded under 2021-2027 programming period.

IV. CONCLUSIONS

The Commission does not agree with the complainants' claim that it failed to act, nor that it is complicit to any breach of EU law.

The European Commission will continue to work closely with the Greek authorities to ensure the transparency of investigations and full respect of fundamental rights with regards to the implementation of EU funds in Greece in support of border management. As such, the Commission will continue to participate in the Monitoring Committee and the Taskforce, to follow the effective functioning of the Greek investigations into the use of EU funds, encourage the Greek national authorities to manage migration in line with EU law and act according to the relevant legal framework should it receive evidence of the use of EU funds contributing to fundamental rights violations.

*For the Commission
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