

Nominations for Members of the European Court of Auditors (Estonia)

Treaty provisions and appointment procedure

As set out in Article 285 of the Treaty on the Functioning of the European Union (TFEU), the European Court of Auditors (ECA) shall consist of one national of each Member State. Article 286 (2) of the TFEU further specifies that each Member State has the right to propose its candidate. The Council then adopts the list of Members as proposed by the Member States. Often, this is a partial renewal of the Court - only one or a few Members are appointed at the same time, as the mandates of the Members expire at different points in time. The Council can only act after consulting the European Parliament; in practice, the Committee on Budgetary Control (CONT) is responsible and the Member-designate of the ECA answers a questionnaire, makes a statement before the committee, and has to answer its questions in a public hearing. CONT then votes on the nomination and thus issues a recommendation to plenary, which votes within two (in practice sometimes three) months of receipt of the nomination. In case of an unfavourable opinion, the President shall ask the Council to withdraw its nomination and submit a new nomination (Rule 129 of the EP's Rules of Procedure). However, Parliament's opinion is not binding on the Council.

According to Article 286 (1) of the TFEU, potential Members of the ECA "shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office." In addition, their independence must be beyond doubt. The procedure according to which the Member States nominate varies widely. Some Member States have purely executive procedures in place while others involve their national parliaments in the process or use application procedures. Upcoming and recent nominations demonstrate a wide variety of procedures in different Member States.

Upcoming nomination¹

Estonia

The Estonian National Audit Office, the Riigikontroll, audits public accounts in terms of both lawfulness and effectiveness. It was first established in 1918 at the creation of the Republic of Estonia and was later suspended during Soviet occupation. It has resumed its activities in 1990.²

Chapter 11 of the Estonian constitution defines its role as an 'independent state body responsible for economic control'.³ An Auditor General heads the Riigikontroll. According to paragraph 133 of the Constitution, the Estonian parliament, the Riigikogu, appoints (and dismisses) the Auditor General on the proposal of the President of the Republic for a renewable term of 5 years. The current Auditor General is Mr Janar Holm, who was appointed on 7 March 2018 and gave oath on 9 April 2018, previously the head of the National Centre for Qualification and examination.

For the European Court of Auditors, it is the Estonian government that nominates the candidate (Paragraph 20² of the Government of the Republic Act⁴) after examining the opinion of the Auditor General of Estonia. More precisely, the responsibility for the nomination lies with the Minister of Finance as per Paragraph 9 point 9 of the Statutes of the

¹ This text has benefitted from the answers to request 4679 on 'National Nomination Procedures for Members of the European Court of Auditors (ECA)' launched through the ECPRD (European Centre for Parliamentary Research and Documentation) network. The following national parliaments responded to the request: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic (lower house), Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain (lower house) and Sweden. The authors wish to thank all correspondents.

² <https://www.riigikontroll.ee/Riigikontrollkuiasutus/tabid/106/language/en-US/Default.aspx>

³ <https://www.riigikontroll.ee/Riigikontrollkuiasutus/%c3%95iquslikalus/EestiVabariigiP%c3%b5hiseadus/tabid/138/language/en-US/Default.aspx>

⁴ <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/530082022002/consolide>



Ministry of Finance.⁵ This paragraph states that the minister shall “appoint the representative of Estonia or nominate candidates to the European Union institutions, agencies and bodies according to the area of government of the ministry [...]”. At the time of the nomination, the new nominee, Ms Keit Pentus-Rosimannus, was herself the Minister of Finance. In Estonia, it is not legally possible for a government official to nominate themselves for such a position.⁶ In the present instance, it was Mr Kruuse, Minister of Rural Affairs, who filed the nomination of Ms Pentus-Rosimannus when he deputised for her while she attended a EU finance ministers’ meeting.⁷ Prime Minister Kallas then announced her as the government’s nominee.⁸ The Riigikogu is not involved in the nomination.

So far, Estonia has had two different ECA members, namely Ms Kersti Kaljulaid (from 2004-2016, later on President of Estonia) and, at the time of writing, Mr Juhan Parts, whose mandate expires on 31 December 2022. Estonia is thus one of few Member States to have achieved gender equality in its nominations to the ECA so far. Ms Pentus-Rosimannus is the new nominee and her statement before the CONT committee will take place on 8 November 2022. Ms Pentus-Rosimannus was head of staff of the Estonian Prime Minister’s office from 2005 to 2007. In 2007, she was elected to the Riigikogu for the Reform Party and became Minister of Environment until 2014 and Minister of Foreign Affairs from 2014 to 2015. In 2015, she was re-elected as a member of parliament. During her time as an MP, she was a member of the Finance, the European Affairs and the Foreign Affairs committees. In January 2021, she became Minister of Finance, an office from which she resigned on 18 October 2022.⁹ She holds a Bachelor of Arts and a Master of Arts in public administration and European relations from Tallinn University (2000) and a Master of Arts in international law and diplomacy from Tufts University (2020).

Other recent examples of nomination procedures at national level

Austria

In Austria, the government is responsible for making proposals for the country’s commissioner, Judge at the European Court of Justice, Member of the European Court of Auditors and the member of the Board of Directors of the European Investment Bank. It has the duty to inform the Austrian federal parliament (“Nationalrat”) and the federal President of its intentions. The parliament’s main committee (“Hauptausschuss”) has to agree on these proposals.

Ireland

Mr Tony Murphy, the current Irish Member of the ECA since 2018 and its president since 1 October 2022, was nominated after a competitive procedure. The post was publicly advertised and applicants invited to express their interest. The applications were then screened and a shortlist established, with the shortlisted candidates undergoing a competitive interview. A Selection Committee (the Secretary General to the Government, the Secretary General of the Department of Finance and two external third parties with senior level experience, in this case a retired Supreme Court Judge and the Chairperson of the Low Pay Commission) was in charge of this competitive process and made a recommendation to the government on its basis.

Upcoming nominations

Barring exceptional developments, two further nominations are likely to take place in the near future. These concern the Slovakian (expiry of current term on 06/05/2022) and Portuguese posts. The latter has been vacant since the death of Mr João Figueiredo in June 2021.

⁵ <https://www.riigiteataja.ee/en/eli/515092022001/consolide>

⁶ <https://www.riigiteataja.ee/en/eli/515042021003/consolide>

⁷ <https://valitsus.ee/uudised/valitsuse-kabinetinoupidamise-pae-vakord-8-september-2022>.

⁸ <https://valitsus.ee/en/news/government-nominates-keit-pentus-rosimannus-member-european-court-auditors>

⁹ <https://www.valitsus.ee/en/news/minister-finance-keit-pentus-rosimannus-resigns-office>

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