

# Nominations for Members of the European Court of Auditors: Denmark, Spain and Ireland

## 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) 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, as the mandates of the Members may 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 makes a statement before the committee and has to answer its questions. 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 to submit a new nomination (Rule 129 of the EP's Rules of Procedure). However, Parliament's opinion is not binding for the Council.

According to Article 286 (1) TFEU, the 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 between the Member States, with some of them having 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 nominations<sup>1</sup>

### Denmark

The Danish National Audit Office (NAO - Rigsrevisionen) is an independent organisation under the authority of the Danish Parliament (Folketing). It audits the government's accounts and examines whether the government funds are administered according to the intentions and decisions of the Danish Parliament. It performs financial, compliance and performance audits. The institution in its current form was established in 1976, with the [Auditor General Act of Denmark](#) being the legal basis for its work, last revised in 2012.

An Auditor General, supported by four Assistant Auditors General, heads the institution. The Auditor General must not be a member of the Danish Parliament. Upon recommendation from the Public Accounts Committee (Statsrevisorerne) to the Speaker of the Danish Parliament, he or she discusses the nomination with the four deputy speakers. If they all accept the nomination, the Speaker then asks the Standing Order Committee of Parliament for its approval. The term of office is 6 years, once-renewable for a four-year period. The Assistant Auditors General are appointed by the Auditor General, and their term of office is not fixed. Currently, the Auditor General is Birgitte Hansen, who was appointed on 1 May 2022.<sup>2</sup>

<sup>1</sup> 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, Poland, Portugal, Slovakia, Slovenia, Spain (lower house) and Sweden. The authors wish to thank all correspondents.

<sup>2</sup> <https://uk.rigsrevisionen.dk/about-us/organisation/auditor-general-birgitte-hansen>



As for the European Court of Auditors, the nomination procedure is not enshrined in law but follows a practice established in 1991. The Danish Parliament plays an important role in the process. The Minister of Foreign Affairs asks the Speaker of Parliament on behalf of the government to come forward with a candidate for the post. The Speaker requests an opinion from the Public Accounts Committee. This Committee consists of 6 members appointed by Parliament, not all of which necessarily are MPs (among the Committee's tasks is the review of the annual report of the Auditor General's Office and a presentation of its findings to Parliament; it can also task the Auditor General to investigate various matters). The Public Accounts Committee in turn obtains an opinion from the National Audit Office (Rigsrevisionen). On this basis, the Praesidium of Parliament makes a recommendation to the government. In the past, only people with special qualifications or (previous) members of the National Audit Office have been proposed as candidates for the ECA, and the government has never rejected the candidate proposed by Parliament. So far, the country has had seven different ECA members (including Ms Bettina Jakobsen now seeking a renewal of her mandate), six of whom were male.

Ms Jakobsen has been an ECA Member since 1 September 2015, when she replaced Mr Henrik Otbo who had died in office. At the time, following a [hearing with the nominee in the CONT committee](#) on 17 June 2015 and in line with the [report of the CONT committee](#) (18:0:0), the European Parliament had given a [favourable opinion](#) on her nomination on 7 July 2015 (558:30:108). The Council appointed Ms Jakobsen as ECA member in its decision of 20 July 2015. Preceding the expiry of the mandate in 2018, she sought renewal, with the [hearing in CONT taking place on 26 October 2017](#) (starting at 9:52) and the vote on the [decision in plenary](#) based on the [CONT Committee's report](#) (22:0:1) on 15 November 2017 (558:36:52).

Ms Jakobsen, whose statement before the CONT committee will take place on 12 October 2023, is currently Dean of Chamber III of the Court, which is responsible for "External action, security and justice" and a member of the Administrative Committee. Prior to her ECA mandate, she held various positions at the Danish National Audit Office, namely as Assistant Auditor General (2005-2015), Director (2002-2005), Special Advisor (1996-1997) and Auditor (1990-1996). Between 1997 and 2002, she was an auditor with the International Board of Auditors for NATO in its Headquarters in Brussels. In addition, she was a Member of the Audit Committee of the EIF in Luxembourg (2014-2015), Chair of the INTOSAI Professional Standards Committee (2012-2015; Vice-Chair from 2007-2012), Member of the Audit Committee of the EIB in Luxembourg (2011-2015), Member and Chair of the Audit Committee of the Council of Europe in Strasbourg (2008-2011) and Member of the Danish Accountancy Council (2008-2010). She holds a Master's Degree in Law (1990, University of Copenhagen) and a Master of Public Governance (2012, University of Copenhagen and Copenhagen Business School).

## Spain

The Spanish Court of Audit (Tribunal de Cuentas) is the country's supreme audit body. It is responsible for the audits of the accounts and the financial management of the public sector. In addition, it has a judicial function focused on the prosecution of accounting liability incurred by those who are responsible for the management of public funds. While it reports directly to the Spanish Parliament, it is nevertheless fully independent in the exercise of its functions. The institution in its current form was set up in the Spanish Constitution of 1978. Further legal bases for its functioning are [the Organic Law 2/1982 of 12 May of the Court of Audit](#) and [Law 7/1988 of 5 April on Functioning of the Court of Audit](#).

A Plenum is responsible for the audit function. It is composed of twelve Audit Counsellors and the Chief Prosecutor of the Court of Audit. The Audit Counsellors are appointed by the Spanish Parliament, six by Congress and six by the Senate, by a three-fifths majority in each house. The Chief Prosecutor is appointed by the government. The term of the counsellors is nine years renewable. They are independent and cannot be removed, sharing the status of judges.<sup>3</sup> The Audit Counsellors hold an election by secret ballot to propose a nominee for the position of President of the Court of Audit. On the following working day, the full Court, including the Chief Prosecutor, will examine the legality of the election and make the proposal to the President of the Senate, who then submits it to the King of Spain, who then appoints the President of the Court of Audit.<sup>4</sup>

As for the European Court of Auditors, the Spanish government does not formally involve other institutions. The candidate for the ECA is selected discretionally in the Council of Ministers, taking into consideration the requirements of Article 286 TFEU. However, it is customary for the government to inform the Court of Audit of the selection of a candidate (or at least its President and Vice President). So far, the country has had six different ECA members, all of whom were male. The mandate of the current Spanish ECA member, Mr Tomé Muguruza, expires on 29 February 2024.

<sup>3</sup> <https://op.europa.eu/webpub/eca/book-state-audit/en/#h-27>

<sup>4</sup> <https://www.tcu.es/en/organizacion/organos-del-tribunal-de-cuentas/presidente-del-tribunal-de-cuentas/>

The new nominee is Mr Alejandro Blanco Fernandez, whose statement before the CONT committee will take place on 12 October. Mr Blanco Fernandez has been working for the Spanish Permanent Representation to the European Union, first as coordinating adviser (2015-2020) and then as financial adviser (2020-today). Earlier, he was a seconded national expert in the European Commission, most importantly in the Internal Audit and Advisory Unit of the Directorate-General for Regional Policy (2009-2015). Between 2004 and 2009, he worked for the General Comptroller of the State Administration under the Ministry of Finance, first as an auditor in charge of permanent financial control and prior review for the Ministry of the Environment (2004-2005), then as auditor in charge of controlling funds related to the European Social Funds within the Audit Authority (2005-2006) and then as national auditor heading a team within the Audit Authority responsible for audits of the territorial cooperation programmes involving Spain (2007-2009). He holds a diploma in business studies and a degree in business administration and management (University of Vigo, 1999 and 2001 respectively) as well as a doctorate in economics, business and finance (Camilo José Cela University, 2011).

## Ireland

The Office of the Comptroller and Auditor General (OCAG) is the public audit office for Ireland. It was established under Article 33 of the Constitution of Ireland and is fully independent of the Irish Government. The Comptroller and Auditor General is appointed by the Irish President on the basis of a nomination by the Parliament; since May 2012 the post has been held by Seamus McCarthy. The Audit Board comprises the Comptroller and Auditor General, the Secretary and the Directors of Audit, and a Management Board composed of the Directors and Deputy Directors of Audit.

Ireland's appointment to the European Court of Auditors is by open competition. The Irish Parliament has no role in scrutinising the nomination. First, the Government publishes a call for applications; candidates are then interviewed and Ireland's nominee is chosen from among them on the basis of their skills and experience. So far, Ireland has had 7 ECA Members, one of whom has been female.

Ireland's current ECA Member is Mr Tony Murphy. A call for applications was launched on 15 September 2017<sup>5</sup>. A Selection Committee (Secretary General to the Government; Secretary General, Department of Finance; Ms Justice Catherine McGuinness, retired Supreme Court Judge; and Mr Donal de Buitléir, Chairperson of the Low Pay Commission) considered expressions of interest and made a recommendation to the Government following a shortlisting process and competitive interview. The Irish government nominated Mr Murphy as the new Irish member of the European Court of Auditors on 7 Nov 2017<sup>6</sup>. Mr Murphy had spent two decades as an auditor and senior auditor at the OCAG and was serving as a Director of the European Court of Auditors at the time of his nomination. His [hearing in the CONT Committee took place on 11 January 2018](#); the committee delivered a unanimously [favourable opinion on his candidature](#) that same day and the plenary voted in favour of his appointment on 17 January 2018 (592:56:35). The Council appointed Mr Murphy as ECA member in its decision of 29 January 2018. Mr Murphy thus began his 6-year mandate on 1 March 2018, replacing Mr Kevin Cardiff. His current mandate is set to end on 29 February 2024.

On 20 September 2022, ECA Members elected Mr Murphy as ECA President for a renewable three-year term. He officially assumed his position on 1 October 2022, taking over from Mr Klaus-Heiner Lehne and becoming the 12th President and 2nd Irish President of the institution. Mr Murphy's presidential mandate is set to expire on 30 September 2025.

## Further nominations in the remainder of the legislature

For Belgium, Finland, Italy and Sweden, the current mandates expire on 29 February 2024, and the nominations are likely to take place before the end of the EP's current legislature in 2024. The Portuguese post at the ECA is vacant since the death of Mr João Figueiredo on 30 June 2021, and the current mandate similarly expires on 29 February 2024. Moreover, with former Bulgarian ECA member Iliana Ivanova having become Commissioner, the Bulgarian seat is vacant, with the current mandate expiring on 31 December 2024.

<sup>5</sup> [https://merrionstreet.ie/en/news-room/releases/nominee\\_to\\_european\\_court\\_of\\_auditors.html](https://merrionstreet.ie/en/news-room/releases/nominee_to_european_court_of_auditors.html)

<sup>6</sup> <https://www.gov.ie/en/press-release/b01262-government-nominates-tony-murphy-to-the-european-court-of-auditor/>

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