



EUROPEAN
COURT
OF AUDITORS

2018 Discharge

July 2020

RESPONSE OF THE EUROPEAN COURT OF AUDITORS

This document presents the European Court of Auditors' (ECA) response to the points in the European Parliament's 2018 discharge that relate to our audit responsibilities or concern the Court's management. Our responses are grouped under the following headings:

- Implementation of the general budget of the European Union and the European Development Funds for the 2018 financial year (Part A);
- European Union agencies and joint undertakings (Part B); and
- The European Court of Auditors as an institution (Part C).

For ease of reference, [Annex II](#) contains the details relating to the different items referred to below and brought up by Parliament in the 2018 discharge documents as far as our institution is concerned.

PART A – IMPLEMENTATION OF THE GENERAL BUDGET OF THE EUROPEAN UNION AND THE EUROPEAN DEVELOPMENT FUNDS FOR THE 2018 FINANCIAL YEAR

Structure, contents and timing of the 2018 annual report

Scope of our audit work and level of detail provided (items 3 and 9-12)

01 Our Statement of Assurance (SoA) audit is designed to provide, inter alia, an audit opinion on the legality and regularity of the transactions underlying the overall EU consolidated accounts. To do so, each year, we examine selected internal control systems under the different Multiannual Financial Framework (MFF) (sub)headings. Furthermore, we test a representative sample of transactions for the EU budget as a whole. In various chapters of the annual report we also reported our observations on the possible move forward towards attestation.

02 In our SoA audit we follow a risk-based approach: we have divided our audit population into high-risk and low-risk parts, in order to take into account the different risk profiles of the EU expenditure transactions. We test more transactions for expenditure affected by higher-risk of error than for low-risk expenditure.

03 Expenditure transactions are included in our population once final recipients of EU funds have undertaken activities or incurred costs, and when the Commission has accepted the expenditure. We also recall that the risk related to expenditure is taken into account when designing our audit; this is why the sampling interval in certain MFF (sub-)headings in our population is smaller and more transactions per euro spent are examined.

04 As stated in our response to Parliament regarding the discharge for 2017, we currently provide error rates for those policy areas where we consider them to be useful and/or feasible in a cost-efficient manner. In particular, for policy areas that only represent a small share of the budget, the cost and resources needed to estimate an error rate based on a representative sample of transactions would be disproportionate to the additional insights that we may gain. We also recall that our mandate is to provide an audit opinion on the legality and regularity of the transactions underlying the overall EU consolidated accounts.

Specific areas: cohesion (items 12, 21-23 and 29)

05 Our criteria for defining the audit population for cohesion has been the same since SoA 2017: expenditure that has undergone the full control cycle, i.e. is included in annual accounts and accepted by the Commission. What has changed is the volume of expenditure declared by Member States and accepted by the Commission and its composition. In 2018, for the first time, our audit population contained expenditure from all Member States and the majority of Operational Programmes, including those from projects with a higher risk profile.

06 The eligibility rules applicable under cohesion are complex; there are both EU rules (including on procurement and state aid) and programme-specific rules adopted at national or regional level. This carries the risk that programme authorities and beneficiaries interpret these rules differently. In order to ensure a coherent and consistent application of these rules and guarantee the principle of equal treatment by the relevant programme authorities and the Commission, it is also essential to make use of the body of EU and national case law.

07 This year, as in previous years, the Commission contested some errors and/or disagreed with our quantification of errors. We believe that such disagreements are not unusual and whenever such situations arise, we consider that the validation by our internal quality control procedures substantiates the judgments that we have made.

08 We apply the same methodology as audit authorities (AAs) and the Commission to assess irregularities for all types of errors, except for public procurement. We will explore the feasibility of a better alignment with the way AAs and the Commission quantify public procurement errors, although the impact of these differences on our error rate estimates is rather small.

09 We will continue to report on the weaknesses that we found in the work of Member States' AAs and control systems, and in this way contribute to the prevention of misuse of EU funds.

10 The Directorates-General (DGs) for Regional and Urban Policy (DG REGIO) and the Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) publish in their respective annual activity reports (AAR) their own estimates of irregular expenditure. They present a range of error rates, which are calculated based on different methodologies. Some of them relate to the payments made during the calendar year and/or relate to advance and interim payments that the Commission has not yet accepted at the time of the publication of the annual activity report (AAR). Such payments are not part of our audit population and thus do not contribute to our error rate estimate.

11 At the same time, the 2018 AARs of these Directorates-General also disclose key performance indicators (KPIs) which reflect the level of residual error of expenditure accepted by the Commission for the accounting year 2017/2018. This expenditure represents our audit population, and our error rate is largely comparable with the consolidated weighted average of the KPIs of both DGs. However, the Commission faces timing constraints to complete its regularity work before the publication of their AARs. This, together with the Commission's disagreement with some errors, contributes to differences in our error rate estimates.

Specific areas: Natural resources (items 11 and 31)

12 The largest share of accepted expenditure in 2018 was under the MFF heading, Natural resources. This heading also represents the largest share in our 2018 audit population. Our risk assessment of direct payments has led us to consider the Integrated Administration and Control System (IACS), and the Land Parcel Identification System (LPIS) in particular, as effective systems to manage and control direct aid payments.

13 We are currently examining the possibility of carrying out a selected task on the subject of illegal and unethical payments under the Common Agriculture Policy (CAP)

for our 2021 Annual Work Programme, as suggested by the Parliament's Committee on Budgets, and as transmitted by the Conference of Committee Chairs (CCC) on 11 February, 2020 (Committee on Budgets: report on fraud and corruption in the distribution of CAP funds).

Specific areas: Security and Citizenship and Global Europe (items 8, 9 and 25-28)

14 Our audit work covers all areas of the EU budget, including the financial management of EU funds under MFF heading 3, Security and Citizenship, and MFF heading 4, Global Europe:

- o for Security and Citizenship, we have focused our limited resources on the control framework and the management and control systems of the national authorities responsible for the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF). In addition, we have examined a sample of transactions which reflects our risk assessment for this area. Our work in 2018 resulted in two recommendations being issued, both of which were accepted by the Commission.
- o Concerning Global Europe, every year the Directorate-General for International Cooperation and Development (DG DEVCO) and the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) calculate the residual error rate (RER) after contract closure and completion of any audits on payments for the DG. Since 2017, we have carried out an in-depth review of the RER study. The results of this analysis are presented in our annual report. In our 2018 annual report, we included a recommendation, accepted by the Commission, in relation to DG NEAR's RER study.

15 Our annual work programmes for the years 2019 and 2020 include seven special reports related to these two areas, often in response to requests by the Parliament. This reflects the importance we assign in our work to ensuring an appropriate coverage of both headings. Finally, later this year we will publish the first annual report on the performance of the EU's 2019 budget, again covering both areas.

Specific areas: European Development Funds (items 78 and 79)

16 DG DEVCO and DG NEAR carry out the RER study for the EDFs and Global Europe to estimate the level of error remaining after the completion of all management checks to prevent, detect and correct errors across the spending in their areas of responsibility. This study is carried out by an external contractor, based on Commission instructions and methodological guidance. We recall that the RER study does not

constitute an assurance engagement or an audit; in our annual reports for 2017 and 2018 we identified a number of methodological and operational limitations of this RER study.

17 In accordance with our procedures on following-up our audit findings, we intend to carry out a follow-up audit in 2021 of our recommendations in special report 32/2018 on the EU Emergency Trust Fund for Africa (EUTF). We will consider the Parliament's proposal in the process of selecting audit topics for future years.

Specific areas: administrative expenditure (items 1, 2, 32, 33, 35, 55-62)

18 The EU's administrative expenditure is a low risk spending area. This is also illustrated by the fact that our error rates for administrative expenditure have been below materiality for several years. Our audit work for the SoA for 2018 included the review of annual activity reports and other governance arrangements. Moreover, we analysed public procurement procedures for works and services related to the security of people and premises and examined a representative sample of transactions.

19 In addition, we regularly carry out selected performance and compliance audits in the area of administrative expenditure. For instance, we examined the management of buildings in 2018 (special report 34/2018) and the implementation of the 2014 revision of the Staff Regulations (special report 15/2019).

Annual performance audit report and follow-up of recommendations *(items 15, 19, 23 and 24)*

20 The Commission's Annual Management and Performance Report (AMPR) is published too late (by 30 June) for us to be able to examine and report on the regularity information provided. We have already recommended (see recommendation 2(e) in special report 27/2016 and Opinion 1/2018) that the Commission provide us with the integrated financial and accountability reporting earlier. This year, we are piloting an Annual Report on Performance. This report will include all the recurrent performance-related work previously reported in the annual report, the project-level performance assessments carried out in the context of the statement of assurance, the follow-up of our performance audit recommendations and a summary of our most recent performance audits. It will also include the results of our examination of the 2019 AMPR (Section 1, incorporating the evaluation of the EU's finances based on the results achieved, as required under article 318 TFEU).

Timing of the discharge procedure *(items 5, 36 and 76)*

21 The deadlines for the discharge procedure are set out in the Financial Regulation. In principle, the ECA and the Commission have agreed to contribute to accelerating the discharge process, by setting dates for providing the accounts and the related audit observations before the deadlines set by the Financial Regulation. A number of working agreements are already in place, which enable us to complete the audit work faster than in the past, and in full compliance with international auditing standards. However, some of the Commission reports, for example the AMPR for the EU budget are provided too late for us to accelerate the procedure. Moreover, this year we are confronted with a number of new constraints and measures taken by Member States following the COVID-19 pandemic, which have delayed the completion of our fact-clearing procedures. Against this background, and in agreement with the Committee on Budgetary Control, we are planning to publish our 2019 annual report on 10 November 2020.

Audit of highly relevant, or even critical, issues for the European External Action Service *(item 66)*

22 In February 2019, we published a briefing paper on challenges to effective EU cybersecurity policy (review 02/2019). This briefing paper provides an overview of the EU's cybersecurity policy landscape and identifies the main challenges to effective policy delivery under four main headings: the policy and legislative framework; funding and spending; building cyber-resilience; responding effectively to cyber incidents.

23 As part of our 2020 Annual Work Programme, we are carrying out an audit of EU actions to counter disinformation, also covering the EEAS Strategic Communications Task Forces, as well as an audit to assess the cybersecurity preparedness of EU institutions, as suggested by the CCC on 12 February 2019 (Subcommittee on Security and Defence: cybersecurity, including EU-NATO cooperation in this field).

Reporting on the EU institutions *(item 41)*

24 We will look into the suggestion to present an independent annual report on the Union institutions as part of our reflections on the ECA strategy for the 2021-2025 period. We intend to adopt this strategy by the end of 2020.

PART B – EUROPEAN UNION AGENCIES AND JOINT UNDERTAKINGS

Risks to the legality and regularity of revenue and expenditure underlying the agencies' accounts (*item 77*)

25 When designing audit procedures and samples for the audit of agencies, we systematically consider the different types of transactions and their associated risks. This enables us to achieve a sound risk coverage and a cost-effective use of our audit resources.

In-kind contributions (*items 67-69 and 71-75*)

26 In 2016, the Commission established its position and basic principles regarding the certification, validation and recognition of in-kind contributions for all Joint Undertakings operating under Horizon 2020 (H2020 JUs). Based on this, each H2020 JU drew up its own detailed guidance, taking into account the specific provisions of its founding regulation for in-kind contributions.

27 In 2018, we reviewed the robustness of the specific guidance for all H2020 JUs. We also performed tests of controls for a sample of reported in-kind contributions, to assess the quality of the certification as well as the completeness and correctness of validated and recognised in-kind contributions. No serious issues were found. We recall, however, that the in-kind contributions for additional activities, for costs incurred by private members in respect of projects outside the JU work plan but within the JU's strategic objectives, are outside our audit scope. Our observations can be summarised as follows.

- Regarding the Bio-based Industries Joint Undertaking, we observed the difficulties experienced in obtaining financial/cash in-kind contributions for the operational JU budget from private partners.
- For the ECSEL Joint Undertaking (ECSEL JU), we noted that the ECSEL JU can only determine the amount of private members' in-kind contributions at the end of the project, after the national funding authorities of the participating states have submitted their end-of-project report.
- For the Fuel Cells and Hydrogen 2 Joint Undertaking (FCH), we found a large amount of in-kind contributions for costs incurred by private members in respect of additional activities for projects outside the JU work plan but within the JU's

strategic objectives. This is due to the FCH founding regulation, which does not provide for a minimum amount of private partners' in-kind contributions for projects within the JU's work plan.

- o The Joint Undertaking for ITER and the Development of Fusion Energy has no in-kind contributions from private partners.

European Banking Authority *(item 70)*

28 We take note of the Parliament's suggestion on carrying out an audit on the efficiency and cost-effectiveness of the Authority's relocation. We systematically provide information on such matters in our annual audits of the EU's agencies. In this context, we are also in a position to follow-up the cost-effectiveness of the Authority's relocation.

PART C – THE EUROPEAN COURT OF AUDITORS AS AN INSTITUTION

Budget execution

Budgetary execution of Title 2 (item 34)

29 We consider that it is more appropriate to monitor the budgetary execution of Title 2, in particular the payment rate, from a two-year perspective. This shows that, over the two-year period (2018-2019), 91.38 % of the 2018 payments on appropriations and 98.04 % of the payments on commitments were made. On an annual basis, at the end of 2018, the rate of appropriations committed was 93.20 %. The payments on commitments were 59.13 % and the payments on appropriations were 55.11 %. In any case, we will continue our efforts to improve the payment execution rates.

Costs of the paymaster's office services (item 37)

30 The numbers to which the Parliament refers are the budgeted amounts. The actual amount paid for paymaster's office (PMO) services was €216 732 in 2017 and €268 610 in 2018. The services include pensions, allowances, financial rights, payroll and missions of the members and officials of the ECA. The cost increase in 2018 is also the result of a higher number of on-the-spot audits carried out by our auditors in 2018 (2018: 6 480 days of audit visits, 2017: 5 970).

Measuring the added-value of our work *(item 39)*

31 Since 2013, we have applied a survey-based key performance indicator (KPI) to measure the usefulness and impact of our reports and work in general, as perceived by our stakeholders. We consider that such feedback provides us with relevant and useful information on our added-value. Another KPI measuring the implementation of our recommendations was already included in the first set of our KPIs in 2008. We have reviewed and updated our performance measures, and the way we collect the underlying data, to align them with our current 2018-2020 strategy. We use these indicators to monitor progress and each year report on them in our AARs. We intend to adopt our strategy for the period 2021-2025 by the end of 2020. Following this, we will also review and, if needed, update our performance measures.

Raising awareness of the work of the ECA *(item 40)*

32 Improving the way we communicate with our stakeholders, media and the general public at large is one of our strategic priorities for the 2018-2020 period. Following the 2019 European Parliament elections, we created a new publications portal providing all Members of the European Parliament with relevant facts and figures. This publications portal is now also publicly available on our website, and it allows a quicker and easier search of our reports and publications. Furthermore, we are currently revamping our website to make our work and products even more accessible and easier to follow.

Free and open source software *(item 53)*

33 We will ensure that any software developed by the ECA is open source and publicly available free of charge.

Cooperation with stakeholders *(item 51)*

Academia

34 Over the past years, in accordance with our 2018-2020 strategy, we have extended our contacts with researchers, academia and think-tanks and we will continue to do so in the future. We have entered into several partnerships with universities and professional organisations in view of future cooperation. This includes, among others:

- European University Institute (Firenze);

- Collège of Europe (Bruges);
- University of Pisa;
- University of Nancy;
- University of Paris 1 Panthéon (Sorbonne);
- ESADE Law and Business School (Barcelona);
- University of Malta;
- University of Latvia; and
- University of Cyprus.

Other stakeholders

35 As of 1 June 2020, we have seconded 15 staff members to other international institutions (supreme audit institutions, EU institutions, UN bodies, etc.). We also regularly host staff seconded from other international bodies, such as:

- trainees from the national audit institutions of countries applying for accession to the EU (9 trainees in 2018 and 10 in 2019);
- national experts seconded from member states or their supreme audit institutions (10 national seconded experts in 2018 and 6 in 2019); and
- trainees in cooperation with universities (2 trainees in 2019, University of Pisa).

36 The heads of EU supreme audit institutions (EU SAIs) have agreed to enhance the coordination of their audits. This involves exchanging audit plans and joining forces as appropriate, depending on their respective mandates, wherever the subject and scope of the envisaged audits would make it possible to achieve better results in terms of accountability and impact. To that end, we have recently launched an initiative for enhanced cooperation among EU SAIs on auditing the response to COVID-19, and invited all EU SAIs to actively participate in this audit activity.

ECA buildings *(item 52)*

37 For the K1 building, we decided in June 2019 to launch a new feasibility study before taking any decision. In August 2019, two glass elements of the façade fell off. The results of the ongoing study to evaluate the state of the façade and the measures

to be taken should be available by the end of 2020. These, together with an assessment of how the remote working practices developed during the COVID-19 crisis will affect the need for office space, are key inputs for the K1 feasibility study that will be completed during 2021.

38 We confirm our intention to transform the spaces in the K2 building currently used as archives into collaborative and well-being areas. The construction work has been delayed due to the COVID-19 crisis and is now planned to start by the end of 2020.

Use of official cars *(item 38)*

39 As a general rule, Members are authorised to use official vehicles in the performance of official duties. The use of official cars for other journeys is additional to the performance of such duties. Since 1 January 2017, the costs and kilometres related to the use of official cars have decreased significantly. We expect additional savings with the implementation of the new rules in force as of 1 January 2020. We will continue to monitor the costs and savings related to the management and use of our car fleet. The Parliament will be informed of the outcome as soon as the results are available.

Staff well-being and gender balance

Staff well-being (item 48)

40 The aim of our 2016 reform was to make the ECA a task-based organisation. Staff are allocated to an ECA-wide pool, from which resources are allocated to audit chambers and tasks. In the process of assigning staff from the pool to the tasks, we pay particular attention that the necessary expertise and staff resources are made available to ensure that we complete our tasks in good time. We also ensure an adequate rotation of staff across teams through a regular mobility exercise.

41 We take our duty of care towards our staff very seriously. We have adopted a comprehensive equal opportunities policy. Moreover, the ECA's medical service and a network of confidential contact persons across the organisation are available to provide professional, and, if requested, anonymous support to staff. We also provide free access to psychologists.

Gender balance (item 50)

42 We promote equal career opportunities for our staff at all levels of the organisation and in particular we remain committed to improving gender balance in our management. As of 1 June 2020, the share of women among auditors, administrators and audit managers has increased further:

- or female auditors and administrators from 44.9% to 45.3%; and
- or female managers in audit chambers from 23.5% to 27.6%.

Ethics and integrity

Training of ethics (items 46)

43 We offer several dedicated training courses on ethics, for all staff or for targeted groups, such as budget officers, Human Resources staff, new Members and staff in the Private Offices. These courses are complemented by regular conferences and awareness-raising events on ethics-related topics. In 2019, for instance, we organised conferences on the new INTOSAI Code of Ethics, ethical dilemmas of the internal auditor, ethics and moral leadership and presentations by the European Ombudsman and by Transparency International. Additional training opportunities related to ethics are currently planned, as part of the follow-up actions of the peer review on the ECA's ethical framework.

Follow-up of peer review (item 47)

44 Work is progressing on the implementation of the recommendations of the peer review, including a revision of the Code of Conduct for our Members, which the President foresees to present to the College after the summer. We will inform the Parliament of any decision taken in this respect.

Information on the activities of ECA Members

Presence at the meetings (items 42 and 43)

45 We will consider carrying out a comparative analysis of the rules and best practices existing in other EU institutions as regards the presence and absence of EU high-level public office holders as defined in Regulation 2016/300. We will inform the Parliament of any decision taken in that respect.

Declarations (item 45)

46 We are currently working on a revision of the Code of Conduct for our Members in the context of the follow-up of the peer review on the ECA's ethical framework. We will inform the Parliament of any decisions taken in that respect.