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on the future role of the Court of Auditors. The procedure on the appointment of Court of Auditors' Members: European Parliament consultation (2012/2064(INI))
Committee on Budgetary Control

Rapporteur: Inés Ayala Sender

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the future role of the Court of Auditors. The procedure on the appointment of Court of Auditors' Members: European Parliament consultation (2012/2064(INI))

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union, in particular Article 286,
- having regard to Rule 108 of its Rules of Procedure,
- having regard to Opinion No 2/2004 of the European Court of Auditors on the ‘single audit’ model (and a proposal for a Community internal control framework)¹,
- having regard to its resolution of 17 November 1992 on the procedure for consulting the European Parliament on the appointment of Members of the Court of Auditors²,
- having regard to its resolution of 19 January 1995 on procedures to follow when Parliament is consulted in connection with appointment of Members of the Court of Auditors³,
- having regard to its resolution of 3 July 2013 on the Integrated Internal Control Framework⁴,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A7-0014/2014).

I. The future role of the Court of Auditors

- A. whereas the Lima and Mexico Declarations of the International Organisation of Supreme Audit Institutions lays down the main pillars of an independent audit institution and affirms that national supreme audit institutions (SAIs) may interpret the declaration principles with considerable freedom;
- B. whereas the European Court of Auditors, as a professional audit institution, must apply, among others, international audit standards applicable to the public sector;
- C. whereas the European Court of Auditors was established by the 1975 Budgetary Treaty to audit EU finances and whereas, as the EU’s external auditor, it contributes to the improvement of the Union’s financial management, while acting as the independent guardian of the financial interests of EU citizens;

¹ OJ C 107, 30.4.2004, p. 1.

² OJ C 337, 21.12.1992, p. 51.

³ OJ C 43, 20.2.1995, p. 75.

⁴ Texts adopted, P7_TA(2013)0319.

- D. whereas the rapidly changing current financial and economic situation requires effective micro- and macro-prudential supervision, in accordance with the principles of economy, efficiency and effectiveness, in a modern and challenging European Union;
- E. whereas public auditors such as the Court of Auditors and the SAIs of the Member States play an essential role in restoring confidence and trust in, and improving, EU public accountability; whereas it is therefore important to situate any discussion of possible reforms of the Court in the broader context of the challenge of improving EU public accountability;
- F. whereas the Treaty of Lisbon reaffirmed the legal framework for the Court in promoting public accountability and assisting Parliament and the Council in overseeing the implementation of the EU budget, thereby contributing to the improvement of EU financial management and the protection of citizens' financial interests;

II. The procedure on the appointment of Court of Auditors Members: European Parliament consultation

- G. whereas under Article 286 of the Treaty on the Functioning of the European Union, the Members of the Court of Auditors must be chosen from among persons who belong or have belonged in their respective Member State to external audit bodies or who are especially qualified to hold the office in question, and whose independence is beyond doubt;
- H. whereas it is essential that the Court of Auditors be composed of Members who provide, to the highest degree, guarantees of professional competence and independence as required by the Treaty, while avoiding any risks to the reputation of the Court;
- I. whereas some appointments have given rise to differences of opinion between Parliament and the Council, the persistence of which risks harming the good working relations of the Court with the aforementioned institutions and, possibly, having serious negative consequences for the credibility, and hence the effectiveness, of the Court;
- J. whereas the Council's decision to appoint Members to the Court of Auditors in cases where Parliament has held hearings and expressed unfavourable opinions is incomprehensible and shows a lack of respect for Parliament;
- K. whereas Parliament's opinion is subject to intense media interest; whereas, should persons whose candidacy had previously been publicly and formally turned down by Parliament take office as Members of the Court, trust in the institutions concerned would be weakened;
- L. whereas Members with professional auditing knowledge combined with a broader and more varied functional background, which ensures diverse perspectives and competences, will improve the Court's effectiveness in judgement and operation; whereas the failure to find an appropriate gender balance is unacceptable in this day and age;
- M. whereas cooperation between the Court of Auditors and Parliament, which is central to the EU's budgetary control system, is adversely affected when certain Members of the Court

fail to secure Parliament's approval;

- N. whereas the Peer Review 2013 calls for shorter internal procedures in the Court and clarification of its role and mandate vis-à-vis external stakeholders, and emphasises that auditees have an excessive influence on the Court's findings and audit opinions;
- O. whereas Parliament focuses mainly on proposals that avoid the need to make changes to the Treaty;
- P. whereas the Council has always respected the recommendations made by the panel set up in accordance with Article 255 TFEU to give an opinion on the suitability of candidates for the post of Advocate-General of the European Court of Justice and the General Court, despite there being no clear Treaty obligation to do so;

Parliament's vision for the ECA: The future role of the Court

- 1. Believes not only that the European Court of Auditors, as an external auditor to the Union's institutions, may provide the legislators with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions in any given budgetary year, but also that the Court is in a pre-eminent position to provide the legislator and the Budgetary Authority, especially Parliament's Budgetary Control Committee, with valuable opinions on results achieved by the Union's policies, in order to improve the performance and effectiveness of Union-financed activities, identify economies of scale and scope, as well as spillover effects among national policies of Member States, and provide Parliament with external assessments of the Commission's evaluation of public finances in the Member States;
- 2. Is of the opinion that the Court should remain committed to independence, integrity, impartiality and professionalism, while building strong working relationships with its partners, particularly the European Parliament, and more specifically its budgetary control committee, as well as the specialised committees, in the accountability process of the EU institutions;

The traditional DAS (statement of assurance) model

- 3. Notes that the Court of Auditors is bound by the Treaty (Article 287 I (2) (TFEU)) to provide Parliament and the Council with a declaration of assurance (DAS¹) regarding the legality and regularity of payments after having examined the regularity, legality and results of the Union's budget, and moreover that the ECA is likewise bound by the Treaty to provide Special Reports and Opinions; notes that a large part of the Court's human resources is dedicated to the annual DAS exercise;
- 4. Is of the opinion that the independence, integrity, impartiality and professionalism of the Court are key to its credibility in helping Parliament and the Council to oversee, and to contribute to the improvement of, EU financial management, and to protect the financial interests of the Union from the programming stages up to the closing of accounts;

¹ Abbreviation of the French term 'Déclaration d'assurance'.

5. Regrets that – for the eighteenth year in succession – the results of the Court's audit did not permit the Court to give a positive statement of assurance (DAS) regarding the legality and regularity of payments; highlights the fact that an error rate as such only goes part of the way towards providing a comprehensive overview of the effectiveness of Union policies;
6. Recalls that Article 287 TFEU stipulates that the Court shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions; points out that instead of delivering one statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions, in 2012 the Court of Auditors delivered four opinions: one on the reliability of the accounts and three on the legality and regularity of underlying operations (one on the revenue, one on the commitments and one on payments); takes the view that this writing choice makes it more difficult to assess the Commission's implementation of the budget;
7. Points out that the DAS is an annual indicator of a multiannual spending scheme, which makes it difficult to capture the cyclical nature and effect of multiannual arrangements, and that therefore the total impact and effectiveness of the management and control systems can be only partially measured at the end of the spending period; considers, therefore, that the Court should be able to present to the discharge authority a midterm review and a summary report in addition to the annual DAS on the final performance of a programming period;
8. Welcomes the fact that, since 2009, the Court has focused considerable efforts on developing its products and services as well as its annual report; believes, however, that greater effort should be made and more resources used to improve quality further, primarily with respect to the Court's performance audit work, which provides information on the EU budget results; considers that the Court should build upon the DAS model to determine whether results have been achieved and to explain how they have been achieved, so that lessons can be learned and applied in other contexts;

The Court's new dimensions and challenges

9. Acknowledges the historic, constructive role of the DAS exercise in focusing on legality and regularity as useful indices of good financial practices and management performance at all levels of Union spending and in showing the way that EU funds have been used in accordance with the decisions of Parliament, acting as legislator and budget authority; underlines, however, that at this point, and in the future, the Court should devote more resources to the examination of whether economy, effectiveness and efficiency have been achieved in the use of the public funds entrusted to the Commission; the results of the findings obtained in Special Reports should imply corresponding adjustments in EU programmes;
10. Highlights the fact that the Court's mandate, as established under the Treaty, provides the reference framework for the Court to fulfil its role as the independent external audit body of the Union; notes that the mandate provides for significant flexibility to allow the Court to carry out its mission beyond the scope of the DAS; recalls that the mandate enables the Court to present the results of its performance audits in special reports which provide a

significant opportunity to add value by focusing on and investigating high-risk areas; notes, in addition, that these reports provide information to European citizens on the functioning of the Union and the use of European funds in many sectors, helping to bring Europe closer to its citizens and to make it more transparent and easier to understand;

11. Recalls that one of the best ways to improve the audit of the European Union accounts and to enhance both the performance and the effectiveness of EU spending is to have a discharge voted before 31 December of the year following the financial year audited; underlines the fact that this would force the Court to present its annual report by 30 June;
12. Recommends that the European Court of Auditors, without prejudice to its independence, form its opinion on the basis of the materiality threshold rather than the tolerable error rate alone, since this appears to be more in line with international audit standards;
13. Proposes that the European Parliament devote a special section in its annual discharge report to the follow-up of the recommendations made by the Court in its various performance audits, in order to motivate the Commission and the Member States to implement these recommendations; Parliament should also indicate to which major follow-up actions the Court can pay special attention in its annual report, without prejudice to its independence;
14. Notes that the Court undertakes the planning of its work programme on a multiannual and annual basis; notes that the multiannual plan allows for the Court's strategy to be defined and updated, and the annual plan sets out the specific tasks to be undertaken during the year in question; welcomes the fact that every year the Court presents the annual work programme to the Committee on Budgetary Control, listing the priority audit tasks and the resources allocated for their implementing;
15. Believes that the current form of meetings of the Court with Parliament and the Council provides valuable advice on the drawing up of the Court's annual work programme; stresses that structured preparatory dialogue of this kind greatly assists in ensuring effective and democratic accountability to citizens regarding the use of the public funds provided to meet EU objectives; emphasises that despite increased advisory collaboration with Parliament and the Council, the Court should, independently of political or national influence, itself decide on its annual work programme;
16. Notes that issues of major interest to external stakeholders, such as the European Parliament, and subsequent audit requests are neither collected in a structured way nor fully treated as preferential; considers this to be detrimental to the relevance and impact of the Court's audit results; notes, furthermore, that the added value of the Court is directly linked to the use made of its work by Parliament and other stakeholders in the accountability process; invites the Court, therefore, to take into consideration in its annual work programme the political priorities of the legislators and issues of major interest to EU citizens communicated by the Parliament's Budgetary Control Committee as a channel of EU citizens' concerns;

Cooperation with national Supreme Audit Institutions (SAIs)

17. Expects that closer cooperation between the ECA and Member States' SAIs will be

established, with concrete results concerning the sharing of the annual work of the ECA; expects, furthermore, concrete methodological steps and agreements on audit calendars; expects the Commission, on the basis of a legal study, to make proposals to integrate Member State SAIs' audit work into the Court's audits of shared management in their respective Member States;

18. Emphasises that the Court should be at the forefront in defining a working method whereby national SAIs and the Court step up the coordination of their resources to evaluate the expenditure and performance of the EU budget, avoiding duplication of control work and sharing control information, identifying risk areas, conducting joint audits or involving SAIs more closely in ECA audit missions, which results in the development of common working methods and greater effectiveness at each control level; notes that the sharing of audit and control data and best practices between the Court and the SAIs is key to improving the targeting of audit and control efforts; notes that too many layers of control exist and that these duplications should be avoided in order to decrease the burden on managing authorities and beneficiaries;
19. Calls, therefore, for closer cooperation between national audit institutions and the European Court of Auditors in connection with the auditing of shared-management arrangements, pursuant to Article 287(3) TFEU;
20. Proposes examination of the possibility of national audit bodies, in their capacity as independent external auditors, and with due regard for international audit standards, issuing national audit certificates for the management of Union funds, which would be submitted to Member State governments with a view to being produced during the discharge process in accordance with an appropriate interinstitutional procedure, to be introduced;
21. Stresses the importance of including European programmes when planning the controls carried out by SAIs, paying particular attention to shared management, with national parliaments having a key role to play in this context in being able to ask their respective SAIs to carry out audits on European funds and programmes; notes that by institutionalising and regularising this control, its results could be presented once a year to the national parliament;

The Court's new operational environment

22. Notes that the regulations covering the main areas of expenditure for the period 2014-2020 have substantially changed the financial and legal frameworks governing the implementation of the EU budget; points out that these reforms imply significant changes that will alter the landscape of financial management risk by simplifying funding rules, increasing conditionality and leveraging the EU budget; insists, therefore, that the Court increase its focus on results, providing adequate reporting on the risks and performance of new instruments of this kind;
23. Suggests to the Court that it synchronise its multiannual work programme with the MFF and include a midterm review, as well as a comprehensive review of the Commission's closure of accounts, regarding the respective MFF;

24. Notes that Performance Audits often lack a clear analysis of the causes of audit findings; notes, furthermore, that there is no system in place to ensure that the auditors assigned to performing a specific audit possess the technical knowledge and methodological skills needed to conduct the audit without having to work from scratch on any audit matter; considers that these circumstances increase the ineffectiveness and inefficiency of the Court's findings in Performance Audits;
25. Expects from the Court full transparency about the Court's time needs for its products, and calls on the Court to publish within each respective Performance Audit the time schedule and the different phases the respective product underwent in its development, i.e. the time that was needed to go through each of the different phases in place, these phases currently being:
- Preliminary Study
 - Issue Analysis
 - Audit Planning Memorandum
 - Statement(s) of Preliminary Findings
 - Drawing Conclusions
 - Draft Report
 - Contradictory Procedure;
26. Notes that Performance Audits by the Court, including a preliminary study, take two years, which in several cases has made the audit findings outdated and prevented the implementation of adequate measures; expects the Court to streamline the drawing up of its Performance Audits and to cut down on redundant procedural steps;
27. Expresses its wish that the Court should in future not only publish the Commission's comments on its findings, conclusions and recommendations, but clearly express a final counter-reply where appropriate;
28. Is of the opinion that the Court should regularly communicate statistics on the presence of Members at its seat in Luxembourg to Parliament's Budgetary Control Committee; expects full transparency of the Court vis-à-vis Parliament in this regard; wishes to receive from the Commission an analysis of the feasibility of replacing part of the remuneration of the Court's Members with a daily allowance;
29. Emphasises that, despite the need to be fair and to refer to arguments of the auditee in the relevant report, it is not necessary to reach consensus with the auditee;
30. Notes that in some cases parliamentary deliberations on issues addressed by special reports were already concluded, making it impossible to put the results of the Court's audit to effective use; notes, furthermore, that in some cases key recommendations of the Court had already been implemented by the Commission when the Court's report was presented; expects the Court to bear all external time constraints and developments in mind when

conducting its audits;

31. Expects that the Court will clearly communicate in its reports the weaknesses and best practices of Member State authorities by consistently disclosing them;
32. Is convinced that economies of scale and scope could be achieved by a thorough analysis of the resource needs of the Court's Members; expects the Court to explore such economies, inter alia with respect to a shared driver service for Members as well as shared cabinets and staff;
33. Deplores the fact that intergovernmental action outside the EU Treaty framework, such as that used for the establishment of the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM), also creates serious challenges for public accountability and auditing, while weakening the Court's essential role;
34. Deplores the fact that in the case of the EFSF no arrangements whatsoever have been made so far for independent public external control, and regrets the fact that even after the ECA has nominated a member of the ESM audit board, the annual audit report of the board will be made available neither to Parliament nor to the general public; calls on the Court to provide Parliament regularly with the annual audit report of the board and all other necessary information on the Court's activities in that regard, so that Parliament can scrutinise the work of the Court of Auditors during the discharge procedure;

Reshaping the Court's structure

35. Notes that the composition and appointment procedure of the Court are fixed in TFEU Articles 285 and 286; stresses, however, the need for a Treaty change putting the Council and Parliament on an equal footing when appointing Members of the Court of Auditors, in order to ensure the democratic legitimacy, transparency and complete independence of the Members of the Court of Auditors;
36. Deplores the fact that some appointment procedures have resulted in a conflict between Parliament and Council on candidates, despite the fact that the Treaty does not foresee such a conflict; stresses that it is, as stipulated in the Treaty, Parliament's duty to check the nominees; is of the opinion that Council should, in the spirit of good cooperation among the European Institutions, respect decisions taken by Parliament subsequent to its hearing;
37. Calls for the European Parliament, under the next review of the EU Treaty, to be made responsible for the selection of ECA Members on a proposal from the Council; takes the view that such a procedure would enhance the independence of ECA Members vis-à-vis the Member States;
38. Welcomes the fact that the Court adopted new rules of procedure in 2010 which enabled it, under the current legal framework, to streamline its decision-making process so that audit reports and opinions are now adopted by chambers of 5 to 6 Members rather than the full college of 28 Members;
39. Takes the view that the present geographic representation rule relating to high-level management, according to which there may be one Member per Member State, has by far

outlived its initial usefulness and credibility, and that it could be replaced by a light management structure tailored to a broader accountability mandate, with proper provisions to guarantee independence in all of the Court's activities;

40. Proposes, therefore, that the Court should have the same number of Members as the Commission; Members should have, at the least, professional experience of auditing and management; Members of the Court should be especially qualified for their function, and their independence must be beyond doubt;
41. Proposes a review of the method of remuneration of the Court Members and the resources directly and personally allocated to each Member in order both to bring them into line with national and international practices for similar functions and to allow the Court Members to fulfil their responsibilities independently;

II. The procedure on the appointment of Court of Auditors Members: European Parliament consultation

42. Adopts the following principles, selection criteria and procedures for delivering its opinion on the candidates for membership of the Court of Auditors:
 - (a) a reasonable amount of time for consideration must be made available to Parliament so as to allow for candidates to be heard by the Committee on Budgetary Control and to allow for a committee vote at a meeting after the hearing;
 - (b) when a decision is to be taken, whereby political criteria are set aside, the Committee on Budgetary Control and the plenary sitting will vote by secret ballot;
 - (c) in the Committee on Budgetary Control, hearings will be public and the discussions will be relayed via video;
 - (d) Parliament will take its decisions on the basis of the majority of the votes cast at the plenary sitting, and its opinion must be respected by the Council; candidates will be present during the vote and will be asked by the President of the EP after a negative vote if they will withdraw their candidacy;
43. Considers that the criteria for appointment of Members of the ECA should be further specified on the basis of Article 286 TFEU, and underlines that Parliament's assessment will be guided mainly by the following criteria:
 - (a) high-level professional experience acquired in public finance, auditing and management, as well as thorough knowledge of the governance of the European institutions;
 - (b) a good auditing record and evidence of very good knowledge of at least one of the working languages of the European Union;
 - (c) where necessary, proof of prior discharge of applicants from management duties previously carried out;
 - (d) candidates are not to hold any elected office or have any responsibilities to a political

party as of the date of their appointment;

- (e) recognised high standards of integrity and morality of the candidate;
- (f) in view of the nature of the work to be done, the age of candidates will also be taken into account, with it being deemed reasonable, for example, to stipulate that Members should not be over 67 years of age at the time of their appointment;
- (g) Members shall not serve more than two terms of office;
- (h) finally, Parliament will take the issue of gender balance among the Court's Members very seriously;

44. Calls on the Council to undertake to:

- (a) present Parliament with at least two candidates from each Member State, one being a woman and one being a man;
- (b) frame its proposals in such a way as to comply fully with the criteria set out in Parliament's resolutions, on the understanding that Parliament, for its part, will ensure that it scrupulously respects those criteria;
- (c) supply the relevant career details when indicating the names of candidates, and all information and opinions with which it has been provided while the Member States' internal decision-making procedures are in progress;
- (d) pass on any information concerning nominations which it has received from Member States on the understanding that if it were to withhold information, Parliament would be obliged to conduct its own inquiries, thereby leading to inevitable delays in the appointment procedure;
- (e) approach the appropriate authorities of the Member States which will be called upon to nominate candidates for membership of the Court of Auditors, and to draw the attention of those authorities to the criteria and procedures laid down by Parliament;
- (f) avoid withdrawing nominations and submitting new ones which take account of new proposals made by Member States that are motivated exclusively by political criteria;
- (g) respect, if such a case arises, Parliament's unfavourable opinion of the situation, and propose a new candidate(s);

45. Stipulates the following as regards procedures before the Committee on Budgetary Control and in plenary sitting:

- (a) each recommendation on each nomination shall be submitted in the form of a report, to be adopted on the basis of a majority of the votes cast, with the report merely indicating the nomination;
- (b) the report shall consist of:

- (i) citations summarising the circumstances of the referral to Parliament;
- (ii) recitals outlining the procedure to the competent committee;
- (iii) operative text which may only consist of:
 - a favourable opinion, or
 - an unfavourable opinion;
- (c) citations and recitals shall not be put to the vote;
- (d) the curriculum vitæ and the answers to the questionnaire shall be annexed to the report;
- (e) the Committee on Budgetary Control and the plenary shall vote on the appointment of the candidate in question;

46. Instructs its President to forward this resolution to the Council and the Court of Auditors, and, for information, to the other institutions of the European Union and the parliaments and audit institutions of the Member States.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.12.2013
Result of final vote	+: 21 -: 0 0: 0
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Inés Ayala Sender, Tamás Deutsch, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Jan Mulder, Eva Ortiz Vilella, Monika Panayotova, Paul Rübig, Petri Sarvamaa, Bart Staes, Georgios Stavrakakis, Søren Bo Søndergaard, Derek Vaughan
Substitute(s) present for the final vote	Thijs Berman, Karin Kadenbach, Jan Olbrycht, Markus Pieper
Substitute(s) under Rule 187(2) present for the final vote	Doris Pack, Andrej Plenković