THE COURT OF AUDITORS

The European Court of Auditors (ECA) is in charge of the audit of EU finances. As the EU’s external auditor, it contributes to improving EU financial management and acts as the independent guardian of the financial interests of the citizens of the Union.

LEGAL BASIS

— Articles 285 to 287 of the Treaty on the Functioning of the European Union (TFEU).
— 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 (see in particular Title XIV on external audit and the discharge).

STRUCTURE

A. Members
1. Number
One Member per Member State (the Nice Treaty formalised what had hitherto only been the recognised procedure), thus currently 27.
2. Requirements
The Members must:
— Belong or have belonged in their respective countries to external audit bodies, or be especially qualified for this office;
— Show that their independence is beyond doubt.
3. Appointment procedure
Members are appointed:
— By the Council, by qualified majority;
— On the recommendation of each Member State regarding its own seat;
— After consulting the European Parliament.

B. Term of office
1. Duration
Six years, renewable.
2. **Status**

Members enjoy the same privileges and immunities as Judges of the Court of Justice.

3. **Duties**

Members must be ‘completely independent in the performance of their duties’. This means:

— They must not seek or take instructions from any external source;
— They must refrain from any action incompatible with their duties;
— They may not engage in any other professional activity, paid or unpaid;
— If they infringe these conditions, the Court of Justice can remove them from office.

C. **Organisation**

The College elects its President from among its Members for a renewable term of three years.

The Court organises itself around five chambers with responsibility for specific areas of expenditure and revenue:

— Chamber I: Sustainable use of natural resources;
— Chamber II: Investment for cohesion, growth and inclusion;
— Chamber III: External action, security and justice;
— Chamber IV: Regulation of markets and competitive economy;
— Chamber V: Financing and administering the European Union.

Each Chamber has two areas of responsibility: firstly, to adopt special reports, specific annual reports and opinions; secondly, to prepare draft observations for the annual reports on the general budget of the EU and the European Development Fund, and draft opinions for adoption by the Court as a whole.

The Court has around 900 staff and is based in Luxembourg.

**POWERS**

A. **The Court's audits**

1. **Area of responsibility**

The Court's remit covers examination of any revenue or expenditure accounts of the European Union or any EU body. It carries out its audits in order to obtain a reasonable assurance as to:

— The reliability of the annual accounts of the European Union (financial audit);
— The legality and regularity of the underlying transactions (compliance audit); and
— The soundness of financial management (performance audit).
2. Auditing methods

The Court’s audit is continuous; it may be carried out before the closure of accounts for the financial year in question. It is based on records and may also be carried out on the premises of:

— EU institutions and agencies;
— Any body that manages revenue or expenditure on the EU’s behalf;
— Any natural or legal person in receipt of payments from the EU budget.

In the Member States, the audit is carried out in liaison with the national Supreme Audit Institutions. Auditees are required to forward to the Court any document or information it considers necessary for its purposes.

The Court does not have investigative powers. It therefore reports cases of fraud and corruption to the European Anti-Fraud Office (OLAF), which then investigates those cases.

3. Audit reports

Following its audits, the Court publishes:

— Annual reports on the implementation of the EU budget and the European Development Fund, including the Statement of Assurance, focusing on compliance and regularity (by 15 November, or earlier);
— An annual report on the performance of the EU budget;
— Specific annual reports on the EU agencies, decentralised bodies and joint undertakings;
— Special reports on topics of interest, in particular on issues of sound financial management and specific spending or policy areas;
— Reviews that cover policies and management topics from a wide angle, present an analysis of areas or issues not yet audited or establish a factual basis on certain topics (until September 2019, reviews had several subcategories: landscape reviews, briefing papers and rapid case reviews).

B. Advisory powers

In accordance with Article 287(4) of the TFEU, other institutions may ask the Court for its opinion whenever they see fit. The Court’s opinion is mandatory when the Council:

— Adopts financial regulations specifying the procedure for establishing and implementing the budget and for presenting and auditing accounts;
— Determines the methods and procedure whereby the EU’s own resources are made available to the Commission;
— Lays down rules concerning the responsibility of financial controllers, authorising officers and accounting officers; or
— Adopts anti-fraud measures.
THE COURT’S ANNUAL REPORTS FOR 2020

A. The ECA annual report for 2020

The overall error rate of expenditure remained stable at 2.7% in 2020 (the same as in 2019). Of the spending audited, 59% was high-risk expenditure, meaning mainly reimbursement-based payments, for which complex rules and eligibility criteria apply. This type of payment is often made under cohesion policy and rural development programmes, which are administered under shared management between the Commission and the Member States.

The error rate for this payment type was 4.0% (compared to 4.9% in 2019), which is above the materiality threshold and was classified as ‘pervasive’. Therefore, for the second consecutive year, the Court issued an adverse opinion on the regularity of the transactions underlying the accounts (rather than a qualified opinion, as was the case for the years 2016-2018), highlighting persistent problems that need to be addressed.

Looking ahead to future challenges, the Court pointed out that the absorption rate for the European structural and investment funds has remained slower than planned, with only 55% of EU funding paid out at the end of 2020, the last year of the 2014-2020 multiannual financial framework (MFF). The outstanding commitments (also known as RALs – restes à liquider) amounted to EUR 303.2 billion by the end of 2020 – almost twice the EU’s annual budget.

With the UK’s departure from the EU on 1 February 2020, the EU accounts were due EUR 47.5 billion from the UK, as stipulated by the Withdrawal Agreement.

B. The ECA report on the performance of the EU budget

For 2019 and 2020 the Court split its annual report into two parts as part of a two-year pilot project – its annual report focusing on the reliability of EU accounts and the legality and regularity of underlying transactions and, secondly, a report on the performance of EU budget spending programmes. By doing so, it followed up on calls from the Council and Parliament, in particular its Budgetary Control Committee (CONT), for more in-depth analysis of the performance of the EU’s spending programmes – a task the ECA also performs in its special reports on performance.

The 2020 report examines the horizontal question of whether and how the Commission, Parliament and Council have drawn lessons from previous MFF periods from already available evaluations, impact assessments and audits to improve the design and performance of the new generation of spending programmes. The Court found that the Commission had in general taken into account the lessons learned from relevant evaluations and audits when preparing its proposals. At the same time, the Court recommends that the Commission ensure that impact assessments are prepared to analyse the key aspects of legislation covering several programmes, such as the common provisions regulation.

The report then analyses a sample of five out of 58 spending programmes under five thematic MFF headings, which altogether account for around 19% of all spending made by the end of 2020. Thus, together with the programmes covered in 2019, the Court has examined almost the entire EU budget. The analysis is based on the
Commission’s reporting and the ECA’s own audit work, e.g. special reports. Finally, the report assesses the extent to which the Commission and other EU institutions have implemented the ECA’s recommendations from its special reports of 2017, concluding that most of these were followed up.

ROLE OF THE EUROPEAN PARLIAMENT

The Court of Auditors was established in 1977 on Parliament’s initiative. It was made an EU institution in 1993. Since then, it has assisted Parliament and the Council in exercising their role of controlling the implementation of the budget. The annual reports and special reports serve as the basis for Parliament’s yearly discharge exercise.

The Court’s Members are invited to present their reports at committee meetings (Parliament’s CONT Committee and other specialised committees), and to reply to questions raised by MEPs. Each year the Court of Auditors and CONT hold several meetings at which CONT members discuss with the Members of the Court their political priorities, the Court’s annual work programme, detailed arrangements for cooperation, etc. Once a year, the ECA President attends a meeting of Parliament’s Conference of Committee Chairs to present the ECA’s annual work programme and invite all committees to submit their suggestions for the next programming exercise. Parliament also makes suggestions on these issues in its annual resolutions on the Court of Auditors’ discharge.

It should also be noted that CONT holds hearings of Members-designate of the Court. Furthermore, the Court’s expertise helps MEPs in drafting legislation on financial matters.

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