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COURT  
OF AUDITORS

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## Speech

26 October 2021

# Speech by Klaus-Heiner Lehne, President of the European Court of Auditors

Presentation of the ECA's 2020 annual report

Committee on Budgetary Control – European Parliament

26 October 2021

The spoken version shall take precedence.

## ECA Press

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Madam Chair,

Rapporteurs and Shadow Rapporteurs for the Discharge,

Honourable Members,

Presidency of the Council,

Commissioner,

Ladies and gentlemen,

It is a pleasure to be among you here in the Committee on Budgetary Control, after last year's virtual exercise. I am joined by my colleague Tony Murphy who, as you know, is our Member responsible for the Annual Report and the Dean of our fifth chamber.

The Treaties mandate the Court of Auditors to "examine the accounts of all revenue and expenditure of the Union" and provide a "statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions", and this is what I'm here to present to you this morning, for the financial year 2020.

Our auditors normally travel far and wide to carry out on the spot checks, obtaining original documents, interviewing auditee staff face to face and verifying the physical existing of EU-funded outputs for the 728 spending transaction we selected. Due to the public health context however, they faced travel restrictions for many months and had to carry out most of their work through desk reviews and by interviewing auditees remotely – and we recognised that this may increase the so-called detection risk.<sup>1</sup> Nevertheless, and this is the key point, the evidence we obtained enabled us to complete our work and draw the necessary audit conclusions.

What did we find this year?

As for many years, our opinions on the **accounts** and on **revenue** are clean.

In terms of **spending**, for 2020, we continued to find that it is affected by material error. Having said this, if we look at the different expenditure types, distinguishing between the related risks, we note that **low-risk** expenditure was free from material error. This category includes expenditure where beneficiaries must meet certain often simple conditions to be entitled to EU funding, for example direct aid to farmers, fellowships for students, and budget support to third countries.

However **high-risk** expenditure (for instance, expenditure where beneficiaries have to submit claims for eligible costs they have incurred – often according to complex rules) was affected once again by material error. The share

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<sup>1</sup> This refers to the risk that the auditor will not detect a deviation that has not been corrected by the entity's internal controls.

of this high-risk expenditure increased to a clear majority (59 %) of our audit population for 2020, largely due to an increase in the share of cohesion spending, and led us to adopt – as we did last year – an **adverse opinion on EU spending as a whole**.

The errors our auditors found most frequently were ineligible cost claims, ineligible projects, activities or beneficiaries, errors in public procurement and state aid, and lack of supporting documentation.

For **Competitiveness**, we estimated an overall error of 3,9 %. We found errors mainly in research and innovation spending, in particular personnel costs declared by SMEs.

For **Cohesion**, we estimated a level of error of 3,5 % (already reduced to take into account corrections made before we started our examination). We found most errors to be **ineligible projects and costs**, and we also looked carefully at what *national* audit authorities found before us, and here **public procurement** errors was a major source of problems. Having found additional errors that were not detected at national level or by the Commission, we conclude that the residual error rates reported at national level are not always reliable. And it is not the first time we find this, which makes us conclude that the situation could be improved: in the four years we have been examining 2014-2020 expenditure, roughly half of the expenditure we examined was included in packages for which national audit authorities reported unreliable residual rates below 2 %. And this has a knock-on effect on the Commission's own estimations: we consider the Commission's estimated error rate to be a minimum rate. My colleague Tony Murphy has looked at this point in detail and we will issue our conclusions in a dedicated special report on the matter this year still.

Our audit of **Natural Resources** resulted in an estimated error rate of 2,0 % which we consider to be *close to materiality*. Here there is a real dichotomy: on the one hand, direct payments (69 % of the heading) are free from material error. On the other hand, the remainder of the heading (rural development programmes, market measures, fisheries, environment and climate action) resulted in greater irregularities.

On **Security and Citizenship**, a third of our sample of 27 transactions contained errors, four of which had an impact on the budget. In our Annual Report, you can find an example of such a case concerning overstated medical costs for transporting protective equipment during the first stage of the COVID-19 pandemic from Asia to the United Kingdom (which could still, as you recall, receive EU funding until the end of 2020). No call for tender, overstated exchange rate, claims for flights which were in the end cancelled – all this went undetected by private external auditors and DG ECHO's own checks. [Another example concerned funding for accommodation, food and advice to unaccompanied minors, implemented by an NGO in Greece – it was paid a standard unit cost per minor. However, the NGO could not show our auditors that certain services had in fact been provided at an appropriate level; in addition, some young people stayed on despite not qualifying anymore as minors.] A similar picture emerges for the heading **Global Europe**, where 17 quantifiable errors were found among the 75 transactions examined.

On **Administration**, despite a number of errors (seven quantifiable errors out of 48 transactions), the level of error was below the materiality threshold. This is positive news and has been the case for the whole duration of the 2014-2020 MFF. Beside our Statement of assurance work as such we also examined fifteen procurement procedures for masks, gloves, temperature detectors, and other personal protective equipment made during the first year of the COVID-19 pandemic, and found some problems. Clearly, the urgent procurement of equipment in the early stages of the pandemic was challenging, and we will return to the extent of the EU institutions' resilience during the pandemic in a special report published in the third quarter of 2022 by my colleague Marek Opiola.

Having covered the different policy headings, I have four points of a horizontal nature to raise before you.

First, **geographical insight**. You often ask us for a more precise breakdown of audit results per Member State. While our approach is not designed to deliver "score-cards" for individual Member States, we do in Annexes 5.2 and 6.2 of our Report detail the quantified errors we found in Cohesion and Agriculture, *by Member State*. And where we provide concrete examples, the Member State is also identified.

Second, **recoveries**. If the Court finds an irregularity, we are not the ones that can attempt to recover unduly paid funds – that is for the Commission and national authorities. We take corrections into account where we can and where relevant when establishing our overall error rate; however, a significant amount of these concern previous years; sometimes going as far back as 1994 – incidentally, the year I was first elected as a Member of this House. This year we looked in more detail at the Commission's presentation of financial corrections and recoveries in the AMPR and found it to be complex and not always clear. [We tried to look at what was behind the headline figures, but it proved very difficult to get a clear idea of the amount of irregular spending that was corrected and ultimately returned to the EU budget. What were presented as implemented corrections and recoveries included significant amounts that were found before even making the payments or simply were replaced by other expenditure.] This is just an 'appetizer' for you on this issue, and we will continue our work through a special report planned for the year 2022.

Third, **fraud**. The Court transmitted to OLAF six suspected cases detected as part of our audits, and investigations were opened in all of those cases. The Court also concluded this year an agreement with the European Public Prosecutor's Office, and therefore corresponds with either OLAF or the EPPO, depending on their respective jurisdiction. We also cover fraud in separate ongoing audits, for example on conflict of interest in shared management (CAP and cohesion policy). And my colleague Nikolaos Milionis is working on a special report on the Commission's and Member States' anti-fraud measures relating to the Common Agricultural Policy, including the issue of "land grabbing", which you will receive around March of next year.<sup>2</sup>

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<sup>2</sup> In the EU context, 'land grabbing' has been associated to the concentration of agricultural land and CAP subsidies in the hands of large companies and investors, especially in Eastern European Member States. 'Land grabbing' may be linked to fraudulent practices, such as coercion, use of political influence or insider

I also note with satisfaction that, two weeks ago, an EU-wide operation codenamed **Sentinel** was launched with Europol together with all relevant EU offices and agencies and many Member States aiming to stop criminal attempts to exploit NGEU. The Court stands ready to contribute to this initiative as appropriate.

Fourth, the so-called “**Brexit bill**”. As you know, the Court is also Treaty-bound to audit the EU’s accounts. In that context, in 2020, we examined the figures in relation to the UK’s withdrawal – at the balance sheet date, the Commission estimates that the UK owes the EU 49,6 billion EUR and the EU owes the UK 2,1 billion EUR which results in a net amount of 47,5 billion EUR payable in the next years.

Ladies and Gentlemen,

So much for the year 2020. Let me now turn for a moment to the future.

Based on our experience with the 2014-2020 MFF, we identified a number of **risks and challenges for the next planning period** which includes, as you know, not only the 2021-2027 MFF but also Next Generation EU, representing almost double the amount of the previous MFF allocation. It is not merely the size which is a challenge but also their novel design. We will return in detail to **Next Generation EU** and the **Recovery and Resilience Facility**, first of all with a Special Report in the second quarter of next year prepared by my colleague Ivana Maletić to assess the Commission’s approval process of the national recovery and resilience plans. More broadly, reflections are well underway here on how the Court could deal with the compliance and performance aspects of NGEU, and this depends also on certain decisions which the Commission and Member States are taking. But one thing is clear, I strongly believe that both our citizens and yourselves as their direct representatives expect the scrutiny of NGEU to be **just as rigorous** as that of the traditional parts of the budget. That is why the Court is very grateful that the Parliament has strongly supported the specific **increase in audit staff** which we requested for the 2022 budget. We hope that the Parliament will hang on to this point as one of its priorities during the upcoming conciliation. This is not about some box-ticking exercise; in the end, the point is to have the people necessary to properly provide *you* with insights and findings on NGEU which you would otherwise not receive.

Finally, I would like to say a few words on **performance**, since several Members of this House raised the issue with me in the last few days. Let me assure you that the Court of Auditors is fully committed to auditing the performance of EU spending and policies. We do this already in a number of ways, including our many special reports and our overarching report on performance. We want to deliver to you a range of audit work which **meet the needs** of the Parliament and Council, using our limited resources. That is why I gladly accepted the excellent suggestion of Olivier Chastel for representatives of the Court and of the CONT Committee to consider together informally what such an overarching report could look like in practice, beyond the input you have already provided to my colleague responsible, Francois-Roger Cazala. Madam Chair, I think it would be reasonable that this limited group start as

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information, manipulation of procedures or payment of bribes, and it results in concentration of CAP aid, which may constitute a specific form of rent-seeking activity.

soon as possible and should conclude by the end of the year, allowing the Court, in full independence, to take these conclusions into account when finalising its position in February of next year.

Madam Chair, dear Members,

To conclude, I could not blame you if you had a “*déjà vu*” feeling compared to last year when hearing the results of our annual audits this year – to quote the well-known comedy sketch that we Germans like to watch on New Year’s Eve – “same procedure as every year”. The different outcomes are indeed relatively stable and the issues to be resolved are also relatively clear. The rules, be they EU or national ones, are often complex and we continue to find many of the ex-post checks to not always be fully effective. In this context, we note a change in the delivery model. The Recovery Fund payments will be based on the fulfilment of **milestones and targets**, compared to the current system, which provides for the reimbursement of cost. Obviously, this will have an impact as to what constitutes an error and may also imply a change in what we find and report. But, this still needs to be seen.

This will be the challenge for all of us: can the Union deliver effectively and transparently on a more or less doubled budget? If we all in our different roles fail this test, if we do not commit sufficient administrative resources to it at national and at EU level, if public funds are wasted or if we let irregularities or fraud undermine the recovery of our continent, a second chance will not be forthcoming.

I very much look forward to our discussions this morning, and, to dig deeper on all these topics, I would like to reiterate our wish at the Court to welcome to Luxembourg the Members and staff of the CONT committee at the earliest convenient date next year. Therefore, I hope to see each and every one of you soon.

Thank you for your attention.