



EUROPEAN  
COURT  
OF AUDITORS

**DECISION No 38-2016 LAYING DOWN**  
**THE RULES FOR IMPLEMENTING**  
**THE RULES OF PROCEDURE OF THE COURT OF AUDITORS (\*)**

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(\*) As amended lastly by the Court at its meetings of 14 September 2017, 13 December 2018, 7 September 2020 (by [Decision No 20-2020](#)) and 14 December 2020.

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**DECISION No 38-2016 LAYING DOWN**  
**THE RULES FOR IMPLEMENTING**  
**THE RULES OF PROCEDURE OF THE COURT OF AUDITORS**

THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 13 thereof,

Having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Articles 285 to 287 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community (EAEC), and in particular Article 106a(1) thereof,

Having regard to the Rules of Procedure of the Court adopted on 11 March 2010, and in particular Article 34 thereof,

Having regard to the Court's reform, in particular to the decisions adopted at its meeting of 17 March 2016 (DEC 28/16 Final (PV) which requires certain changes to the Court's Rules for implementing the Rules of Procedure;

**HAS ADOPTED THIS DECISION:**

## TITLE I – THE ORGANIZATION OF THE COURT

### CHAPTER I

#### THE MEMBERS

#### SECTION 1

##### THE MEMBERS' RIGHT TO BE INFORMED AND DUTY TO SHARE INFORMATION

(Article 1 of the Rules of Procedure)

#### **Article 1**

1. Each Member shall have the right of access to all the information available concerning the Court's activities.
2. Any information that comes to the notice of a Member which does not solely concern his own duties, as defined in Article 10 and Article 11 of the Court's Rules of Procedure, must be communicated to the other Member(s) responsible for tasks to which such information could be relevant.

Any information that comes to the notice of a Member, whether or not it concerns their own duties, which is of general interest or is of particular importance to the Court, must be notified to all the Members.

3. The notification of and access to information referred to in the first two paragraphs above shall take place within the framework of the Court's internal procedures only. The Member or Members responsible for the tasks concerned shall remain responsible for the treatment accorded to this information, in respect of both the Chambers and the Court.
4. Without prejudice to the President's responsibility in the area of external relations, Members shall have authority outside the Court to communicate and comment upon any information, reports, opinions or observations which the Court has decided to make public in implementation of Article 29 of its Rules of Procedure (and their implementing rules) or by any other special decision. Such comments may not undermine the principle that any information available to them in their capacity as Member shall be confidential.
5. Any information, reports, opinions or observations which the Court has not decided to make public must be considered to be confidential and may only be disclosed to third parties at the close of a specific procedure instituted by the Court, or, in the absence thereof, after the Court has given its approval.

## **Article 2**

The Member acting as Reporting Member shall forward a copy, which may be in electronic form, of all correspondence with the national authorities being audited and the national audit institution concerned to the Member of the Court who has the same nationality as those bodies.

## **Article 3**

If Members agree to be interviewed by the media of any State other than their own, they may first consult the Member who has the nationality of the State concerned.

## **Article 4**

Any correspondence relating to the Court's activities which is addressed to a Member must be listed in the official application for registering mail so that the usual procedures for the allocation and keeping of mail received in the name of the Institution can be applied.

## **SECTION 2**

### **MEMBERS' OBLIGATIONS AND PERFORMANCE OF DUTIES**

(Article 3 of the Rules of Procedure)

## **Article 5**

The ethical obligations on Members laid down in Article 286 TFEU are detailed in a Code of Conduct for the Members and former Members of the Court which is annexed to this Decision.

## **Article 6**

1. Members shall attend all meetings of the Court, of the Chambers and of the Committees to which they belong.
2. The Member chairing the meeting, with the support of the relevant services, shall record the presence and absence of Members. On the basis of a duly justified written request, absent Members shall be indicated as excused. After each meeting, the Chair shall forward this information, together with any supporting documents, to the Court's Secretariat which shall maintain an Attendance Register.
3. The Chair may excuse Members from attending a meeting referred to in paragraph 1 on the following grounds:
  - ill-health,
  - serious family circumstances,



- expectation of childbirth, maternity leave or paternity leave,
- force majeure,
- for Chamber and Committee meetings presence elsewhere on official mission,
- for Court meetings presence elsewhere on official mission in exceptional cases.

In case of doubt or disagreement, the Chair may refer the matter to the President whose decision shall be final.

## **Article 7**

1. On a proposal by the President, the Court shall appoint Members to Chambers and/or Committees and shall entrust specific responsibilities to individual Members, including for:
  - a) coordinating institutional relations activities;
  - b) coordinating the tasks related to the Annual Report;
  - c) ensuring Audit Quality Control.
2. The responsibilities of the Member for the Annual Report shall include ensuring the consistency and adherence to the Court's methodology of the underlying audit work for the Statement of Assurance.

## **SECTION 3**

### **COMPULSORY RETIREMENT**

(Article 4 of the Rules of Procedure)

## **Article 8**

Meetings held under the procedure provided for in Article 4 of the Rules of Procedure are closed meetings within the meaning of Article 49 of these implementing rules.

The Member concerned may speak in the official language of his choice. The Court shall provide interpretation into the language chosen. The Court shall decide, on a case-by-case basis, by a majority of its constituent Members, whether simultaneous interpretation into other official languages is necessary.

The Member concerned may be accompanied by an advisor of his choice.

## SECTION 4

## TEMPORARY REPLACEMENT OF MEMBERS

(Article 6 of the Rules of Procedure)

**Article 9**

1. If a Member of the Court is absent or unavailable, he shall be temporarily replaced by one (or more) Member(s).

Where the period of absence is less than one month, a Member who is unavailable shall nominate one (or more) Member(s) as temporary replacement(s). If the Member who is unavailable is physically prevented from nominating the Member(s) to act as his replacement, the Court shall effect this nomination.

If the Member is absent for one month or more, the Court shall nominate one (or more) Member(s) to replace him temporarily.

The prolonged absence or unavailability of a Member shall be notified to the President as soon as possible.

2. The Secretary-General of the Court shall inform the other Members of the arrangements made for the temporary replacement of a Member who is absent or unavailable.

## SECTION 5

## PROCEDURE FOR ELECTING THE PRESIDENT

(Article 7 of the Rules of Procedure)

**Article 10**

1. The incumbent or acting President shall organize the election of the new President within the deadlines laid down in Article 7(1) of the Rules of Procedure.
2. However, if the President or acting President is a candidate for the office of President, the election of the new President shall be organized by the first of the Members of the Court who is not a candidate, by order of precedence as laid down in Article 5 of the Rules of Procedure.
3. Only candidatures notified to the other Members of the Court one clear day before voting commences shall be considered. Only votes for Members standing as candidates shall be counted.
4. The candidate who, in the first round of voting, obtains a two-thirds majority of the votes of the Court Members shall be elected President. If none of the candidates obtains this majority, a second ballot shall take place at once and the candidate who obtains an absolute majority shall be elected.

5. If, in the second round of voting, no candidate has obtained an absolute majority, the ballot shall be interrupted for a period to be determined by the Court at that time. During this period new candidatures may be presented. These candidatures shall be notified to the other Members one clear day before voting recommences. The candidatures submitted for the first stage of the election shall remain valid, unless the withdrawal of them has been notified to the other Members within the same period. At the end of this period there shall be a first round of voting, and, where necessary, a second or third round according to the procedure provided for in paragraph 4 of this Article.
6. If a fourth round of voting should prove necessary, only the two candidates who obtained the most votes in the third round shall be considered. If three or more candidates share the highest number of votes, preference for the fourth round shall be given to the two Members who have precedence under the terms of Article 5 of the Rules of Procedure. If an equal number of votes is cast for two or more Members for the purpose of determining the second candidate, preference for the fourth round shall be given to the Member who has precedence under Article 5 of the Rules of Procedure. At the end of this fourth round, the candidate who has obtained a simple majority shall be elected. If an equal number of votes is cast for each candidate, the Member who has precedence under the terms of Article 5 of the Rules of Procedure shall be elected.

## SECTION 6

### EXTERNAL RELATIONS

(Article 9, Paragraph 1(b) and (e) of the Rules of Procedure)

#### **Article 11**

Documents expressing the position of the Court at the meetings of the Contact Committee of the Heads and Liaison Officers of the Supreme Audit Institutions of the Member States of the European Union, at EUROSAI and INTOSAI meetings or at other similar meetings shall be examined by the Administrative Committee before being submitted to the Court.

#### **Article 12**

The President shall be assisted by the Member for the Audit Quality Control with regard to the Court's representation in international professional standards setting bodies and by the Member for Institutional Relations with regard to the Court's institutional relations activities.

## CHAPTER II

## THE CHAMBERS

(Article 10 and 11 of the Rules of Procedure)

**Article 13**

Five Chambers are hereby established. Each Chamber shall comprise a minimum of five Members assigned by the Court on a proposal of the President as provided for in Article 7(1) of these implementing rules.

**Article 14**

1. Tasks shall be assigned to the Chambers in the Court's Work Programme so as to ensure that each Chamber has coherent clusters of tasks reflecting its experience, knowledge and competence.
2. Under the conditions laid down in Article 31 of the Rules of Procedure, any audit planning memorandum, any draft chapter for the Annual Report, any draft observations or any draft opinion must be submitted for the consideration of a Chamber by a Member acting as Reporting Member.
3. For each task Reporting Members are identified in the Court's Work Programme at Court or Chamber level, as the case may be, and Reporting Members may report to a Chamber other than the one to which they belong.
4. On a proposal by one of its Members, the Chamber may decide on a referral of its documents to the Court pursuant to Article 11(2) of the Rules of Procedure by a majority of its Members.

**Article 15**

1. The Dean of each Chamber shall be elected by a majority of the Chamber's Members for a term of two years, which shall be renewable.
2. Only votes for Members standing as candidates shall be counted. The candidate who, in the first round of voting, obtains an absolute majority of the Members of the Chamber shall be elected Dean. If none of the candidates obtains this majority, only the two candidates who obtained the most votes in the first round shall be considered in the second round. If an equal number of votes is cast in the first round, preference shall be given to the two Members who have precedence under Article 5 of the Rules of Procedure. The candidate who, in the second round of voting, obtains the majority of votes shall be elected Dean. If an equal number of votes is cast in the second round, preference shall be given to the Member who has precedence under Article 5 of the Rules of Procedure.

**Article 16**

The Dean shall coordinate tasks and ensure that the Chamber functions smoothly and effectively. He shall initiate and coordinate the Chamber's work, notably with regard to the following tasks:

- calling and chairing meetings of the Chamber;
- preparing Chamber's decisions;
- ensuring that the Chamber decisions are implemented;
- contributing for the Court's Work Programme
- allocating audit tasks to the Members of the Chamber;
- proposing the allocation of staff and budgetary resources according to the various tasks in the work programme;
- supervising the follow-up of the performance of tasks under the work programme;
- representing the Chamber within other bodies.

The Dean may be assigned to audit tasks.

**Article 17**

Temporary replacement of the Dean of a Chamber shall be effected in accordance with the order of precedence laid down in Article 5 of the Rules of Procedure.

**Article 18**

The Chambers shall cooperate with each other.

## CHAPTER III

## COMMITTEES

(Article 12 of the Rules of Procedure)

## SECTION 1

## ADMINISTRATIVE COMMITTEE

**Article 19**

1. The Administrative Committee shall comprise the President of the Court, the Dean of each Chamber, the Member for Institutional Relations and the Member for the Audit Quality

Control. The Member for the Annual Report shall report to the Administrative Committee on the progress of the production of the Annual Report, as well as on any relevant resource related issues.

2. The Secretary-General shall take part in the Administrative Committee meetings in a non-voting capacity.
3. Each Chamber shall nominate an alternate Member who shall be required to replace the Dean to sit on the Administrative Committee when the Dean is absent or unable to attend.
4. The Audit Quality Control Committee shall nominate an alternate Member who shall be required to replace the Member for the Audit Quality Control when this Member is absent or unable to attend.
5. In case of absence or unavailability, the Secretary-General shall be replaced at the meetings by an alternate.

## **Article 20**

Unless otherwise provided for in these implementing rules, the provisions of Articles 49 and 51 to 55 shall apply to meetings of the Administrative Committee.

## **Article 21**

1. The President of the Court shall chair the Administrative Committee. The President shall be temporarily replaced by one of the Members of the Court comprising the Administrative Committee by order of precedence as laid down in Article 5 of the Rules of Procedure.
2. The President of the Court shall initiate and coordinate the Committee's work.

## **Article 22**

1. The Administrative Committee shall be responsible for any administrative matters requiring a Court decision, with the exception of those for which the Court is responsible in its capacity of appointing authority (Article 2 of the Staff Regulations) and authority empowered to conclude contracts of employment (Article 6 of the Conditions of Employment of other servants of the European Communities), including:
  - a) the allocation of mission appropriations approved by the Court in the budget;
  - b) the allocation of posts in line with the framework established at Court level;
  - c) the adoption of the Directional Training Plan and Annual Training Programme following the framework set out in the strategy for human resources;
  - d) the adoption of amendments to the existing decisions setting out administrative policies;
  - e) revisions of the Internal Control Framework;

- f) the location of services permanently/temporarily within the buildings of the Court;
  - g) modifications to annual contributions of the different organizations in which the Court participates where no issues of principle are concerned.
- 2. The Administrative Committee may exercise the powers conferred by the Appointing Authority in accordance with a specific Court's decision.
- 3. The Administrative Committee shall also be responsible for any matter concerning the governance of information technology, and knowledge management.
- 4. The Administrative Committee shall further be responsible for adopting decisions on any matters of professional ethics concerning staff.
- 5. The Member for Institutional Relations shall bring to the attention of the Administrative Committee any matters related to their responsibilities.
- 6. The Secretary-General may bring any administrative matter before the Administrative Committee.

## **Article 23**

- 1. The Administrative Committee, drawing where appropriate on contributions by the Chambers and the Secretary-General, shall prepare decisions of the Court on matters of policy, principle or strategic importance, including:
  - a) the Court's overall strategy;
  - b) the work programme of the Court;
  - c) the Court's internal and external communication and its relation with stakeholders;
  - d) the budget and the accounts;
  - e) the annual activity report;
  - f) new administrative procedures;
  - g) amendments to the Rules of Procedure and their implementing rules.
- 2. The Administrative Committee shall monitor the implementation and evaluate the impact of the documents mentioned in paragraph 1. The Administrative Committee may also propose the updating of the overall strategy and the work programme of the Court referred to in paragraph 1(a) and (b).
- 3. The Administrative Committee shall be responsible for preparing other non-audit related documents for adoption by the Court. The assignment shall be decided by the Court on a case-by-case basis on proposal of the President.

**Article 24**

The Administrative Committee shall meet when convened by the President in a notice addressed to the Members of the Committee at least five working days before the scheduled date of the meeting. A copy of the notice shall be sent to all the Members of the Court.

**Article 25**

The quorum required for meetings is two-thirds of the Members of the Administrative Committee.

**Article 26**

1. Participation in Administrative Committee meetings shall be open to all Members of the Court.
2. Reporting Members may be assisted by one or more of their staff during the examination of the document for which they are responsible.
3. Other staff of the Court may attend the Administrative Committee meetings as considered necessary by its Members.

**Article 27**

1. Decisions shall be adopted by a majority of the Members comprising the Administrative Committee. In the event of parity of votes, the President or the Member temporarily replacing the President in accordance with Article 21(1) of these implementing rules shall have the casting vote.
2. Any Member who submits a document to the Administrative Committee but is not a Member of the Committee shall be entitled to vote on that document.
3. In accordance with Article 27 of the Rules of Procedure, the provisions of Articles 66 and 67 of these implementing rules shall apply to the Administrative Committee.

**Article 28**

As far as day-to-day administration is concerned, the Administrative Committee may, on a proposal by one of its Members, decide on the referral of the matter concerned to the Court by a majority of its Members.

**Article 29**

Documents submitted to the Administrative Committee shall be drawn up in the drafting languages decided by the Court.



**Article 30**

The Administrative Committee is supported by the Court's secretariat and the services of the Presidency of the Court.

**SECTION 2****THE AUDIT QUALITY CONTROL COMMITTEE****Article 31**

1. The Audit Quality Control Committee shall comprise at least three Members, including the Audit Quality Control Member, who acts as the Chairperson of the Committee.
2. The Audit Quality Control Member and the other Members of the Committee are appointed by the Court on a proposal by the President. Their term of office shall be three years and they shall rotate in such a way that each year the Member who has sat upon the Audit Quality Control Committee for three years shall be replaced.
3. Participation in Audit Quality Control Committee meetings shall be open to all Members of the Court.

**Article 32**

1. The Committee shall be responsible for:
  - a) Court's audit policies, standards and methodology, including the representation of the Court in international professional standards setting bodies;
  - b) audit support and development, including computer audit;
  - c) oversight of the quality control management framework;
  - d) quality assurance related to audit tasks;
  - e) preparing the Court's decisions on matters for which the Committee is responsible and reporting to the Court on its activities and matters of quality control.
2. The Committee may carry out other tasks compatible with its responsibilities for quality control, such as facilitating the adversarial procedure.
3. The Committee shall be supported by a Directorate.
4. The duties and functioning of the Audit Quality Control Committee shall be laid down in a separate Court decision, which shall be adopted by the Court on a proposal by the Chairperson of the Committee.

SECTION 3  
THE ETHICS COMMITTEE

**Article 33**

1. The Ethics Committee shall comprise three permanent Members and three alternate Members. Both groups of Members shall include two Members of the Court and a person from outside the Court.
2. The external Members shall be chosen for their abilities, experience and professional qualities. They shall have an impeccable record of professional behaviour as well as experience in high-level functions at European, international or national level.
3. The Members of the Committee are appointed by the Court on the basis of a proposal from the President. They shall be appointed for a term of three years, renewable once. Members who resign before the end of their term shall be replaced for the remainder of the term.
4. The terms of office of the Committee appointed pursuant to this decision will be staggered.

**Article 34**

The duties of the Ethics Committee and related procedures are laid down in the Code of Conduct for Members and former Members of the Court.

SECTION 4  
THE INTERNAL AUDIT COMMITTEE

**Article 35**

1. The Court's internal audit function shall be established in accordance with the Charter of the Internal Audit Function of the Court.
2. The Internal Auditor of the Court reports to the Internal Audit Committee.

**Article 36**

1. The Internal Audit Committee shall comprise four members nominated by the Court, three of whom shall be Members of the Court. Their term of office shall be three years and they shall rotate in such a way that each year the Member who has sat upon the Internal Audit Committee for three years shall be replaced. The fourth member shall be an external expert appointed for three years. The term of office of the external expert shall be renewable.
2. The Members of the Committee shall elect their Chairperson who shall be a Member of the Court.

3. Meetings of the Committee shall be held at least once every quarter. They shall be convened by the Chairperson.
4. The Internal Auditor shall take part in the meetings of the Internal Audit Committee.

### **Article 37**

1. The Internal Audit Committee is the advisory body on matters of internal audit function, and monitors the associated internal control environment.
2. The responsibilities of the Internal Audit Committee shall be laid down by the Rules of Procedure of the Internal Audit Committee as well as the Charter of the Internal Audit Function of the Court. Both documents shall be adopted by the Court on a proposal by the Chairperson of the Committee.
3. The Internal Audit Committee shall submit an annual activity report to the Court on:
  - a) Its own activity;
  - b) Internal audit matters within the institution, on the basis of the work of the Internal Auditor.
4. The Internal Audit Committee shall bring to the Court's attention any issue related to the Internal Audit function on which it considers the Court needs to be informed or to take action and shall, if it is appropriate, recommend to the Court the relevant measures.

## **CHAPTER IV**

### **THE SECRETARY-GENERAL**

(Article 13 of the Rules of Procedure)

### **Article 38**

1. The Secretary-General shall be appointed by the Court following an election by secret ballot in accordance with the following procedure:
  - a) Each Member shall have one vote.
  - b) The candidate who obtains the absolute majority of the votes of the Members making up the Court shall be declared elected.
  - c) If, at the end of the first round of voting, no candidate has been elected, any candidates who obtained no votes shall be eliminated from the election and the second round of voting shall begin immediately.
  - d) If, at the end of the second round of voting, no candidate has been elected, the candidates who obtained no votes and the candidate(s) who obtained the lowest

number of votes shall be eliminated from the election and the next round of voting shall begin immediately.

- e) The procedure applied to the second round shall apply to subsequent rounds of voting.
  - f) However, as from the fifth round of voting, if the result of one round is the same as the result of the previous round, the President shall suspend the meeting before the next round starts.
2. The contract engaging the Secretary-General shall be concluded for a six-year period. It shall be governed by the provisions applicable to the contracts of the employees covered by Article 2(a) of the Conditions of employment of other servants.
  3. The Court may decide to renew the Secretary-General's appointment for a maximum of 6 years. This decision must be taken by an absolute majority of the Members of the Court.

### **Article 39**

1. The Secretary-General, as the person responsible for the Court's Secretariat, shall *inter alia* draw up the draft minutes of Court meetings and keep the original drafts of the instruments of the Court, letters from the President, all decisions of the Court, the Chambers and the Administrative Committee, and the minutes of meetings of the Court, the Chambers and the Administrative Committee. He shall assist the President in preparing the meetings of the Court and the Administrative Committee, ensuring that procedures are correctly followed and decisions of the Court properly implemented.
2. In addition to his responsibility for staff management and the Court's administration, the Secretary-General shall also be responsible for the budget, translation, training, and information technology.

### **Article 40**

If the Secretary-General is absent or unavailable for a short period, he shall, with the President's agreement, nominate a person to replace him and, in particular, to draw up the draft minutes of Court meetings. If the absence or unavailability of the Secretary-General exceeds one month, or if the Secretary-General is not in a position to nominate his replacement, the Court shall be responsible for nominating, on a proposal of the President, the member of staff who is to act as Secretary-General.

CHAPTER V  
PERFORMANCE OF THE COURT'S DUTIES

SECTION 1  
DELEGATIONS

(Article 14 of the Rules of Procedure)

**Article 41**

The appraisal of how to respond to a request for mutual assistance sent to the Court by a judicial or administrative authority of a Member State acting in respect of proceedings for infringements of Union's Regulations shall be the responsibility of an ad hoc committee consisting of the President of the Court, the Member responsible for the audit in question and the Member who has the nationality of the country concerned.

**Article 42**

Without prejudice to the special provisions of the internal rules for the implementation of the Court's budget referred to in Article 15 of the Rules of Procedure, each Member may authorise one or more officials or other members of staff assigned to an audit task for which the Member is responsible to sign in his name and on his responsibility, all instruments, letters, documents and other texts related to the task, with the exception of letters, notes or other documents addressed to a Member of a Union's Institution or body, a Head or Member of a National Audit Institution or a Minister, as they are to be signed exclusively by a Member of the Court.

The aforementioned delegations of authority shall remain in force in the event of the replacement, within the meaning of Article 6 of the Rules of Procedure, of the Member who gave them, unless there is a decision to the contrary by the Member who is acting as temporary replacement.

SECTION 2  
ORGANISATIONAL STRUCTURE  
(Article 16 of the Rules of Procedure)

**Article 43**

1. The President, the Chambers, the Audit Quality Control Committee and the Secretariat-General shall be supported by Directorates.
2. At the proposal of the Administrative Committee, the Court shall decide upon the number of Directorates.

3. Directorates shall assist the Chambers in the conduct of tasks and activities assigned to them in the Court's Work Programme.
4. A Management Team composed of a Director and Principal Managers shall be established in each Directorate. The composition of each Management Team is decided by the Court, on a proposal of the Administrative Committee.
5. The Management Team shall have overall responsibility of the management of the Directorates' tasks, resources and knowledge.
6. Staff are allocated from the Court-wide pool to a Chamber or a Directorate in line with the Court Work Programme, and assigned by the Chamber or Directorate to tasks under their responsibility.
7. When necessary, staff may be assigned to a task under the responsibility of a Chamber or Directorate other than to the one to which they have been allocated.
8. The Directorates shall co-operate with each other.

#### **Article 44**

1. The Court's knowledge shall be managed in a network by Directorates in accordance with a framework to be adopted by the Administrative Committee on a proposal of the Secretary-General.
2. The main subjects on which knowledge is to be created, maintained and shared shall be included and updated in the Court's Work Programme.
3. The activities of the network shall be monitored within the framework provided by the Court's Work Programme.

## **TITLE II - COURT'S OPERATIONAL PROCEDURES**

### **CHAPTER I**

#### **COURT AND CHAMBER MEETINGS**

(Articles 17 to 24 of the Rules of Procedure)

### **SECTION 1**

#### **GENERAL RULES**

#### **Article 45**

Documents submitted to the Court or to a Chamber pursuant Article 11(1) of the Rules of Procedure shall be drawn up in the drafting languages decided by the Court.

#### **Article 46**

1. The draft agenda for Court or Chamber meetings and the documents relating to them shall be notified to all Members of the Court. Except in urgent cases duly substantiated and determined on a case-by-case basis by the President or by the Dean on a request of a Reporting Member, that notification shall take place at least five working days before the meeting. In order to ensure that this time limit is respected, the Members of the Court shall ensure that the documents are submitted for registration to the Secretariat-General of the Court within the prescribed deadlines.
2. If the documents have not been distributed in the Court's drafting languages within the time limit of five working days specified in paragraph 1, a Member of the Court may request the Court or the Chamber to postpone the item or may ask for no conclusion to be drawn from the discussion.
3. The Court or a Chamber may unanimously decide to discuss a matter that has not been entered on the agenda. Any other problem concerning the agenda shall be decided by a majority of the Members present. When the agenda is approved, the Members shall specify any points arising from Minute(s) of previous meetings submitted for their approval that they wish to raise at the meeting and shall make known their intention of raising other matters under "Any other business".

#### **Article 47**

1. Documents of the Chambers in respect of which reasoned request has been submitted in accordance with Article 26(4) of the Rules of Procedures shall be included in the Court's draft agenda.

2. Other documents adopted by the Chambers shall be mentioned in the 'Court activities' part of the Court's draft agenda.

#### **Article 48**

The Court shall lay down the interpretation arrangements to be used for its ordinary meetings and for meetings of the Chambers in case of debating documents pursuant to Article 11(1) of the Rules of Procedure.

#### **Article 49**

1. Without prejudice to Article 22 of the Rules of Procedure, the Court and the Chambers may discuss a matter in a closed meeting when the confidential nature of the subject so justifies.
2. The President of the Court or the Dean of a Chamber shall decide whether a matter is confidential and is therefore to be discussed in a closed session.
3. Unless a decision to the contrary has been taken at a previous Court or Chamber meeting, closed meetings shall be held without interpreters or staff of the Court.

#### **Article 50**

1. The draft minutes of Court meetings shall be drawn up by the Secretary-General or by any other person designated for this purpose. They shall be forwarded to the Members as quickly as possible and approved by the Court at a subsequent meeting.
2. The purpose of the minutes of Court meetings is to record the Court's decisions and the conclusions of its discussions. The sole purpose of approving the minutes is to certify that they are a true record of the meaning and content of the debates.
3. While all Members are permitted to refer to the topics contained in the minutes of a meeting, only Members who were present at the meeting recorded by the minutes being submitted for adoption may demand amendment of those minutes.
4. The adopted minutes shall be authenticated by signature of the Secretary-General.
5. Minutes of ordinary meetings adopted by the Court shall be distributed within the Court. Minutes of closed meetings shall be subject to restricted distribution.



SECTION 2  
CHAMBER MEETINGS

**Article 51**

For the purpose of applying Article 19(2), (3) and (4) of the Rules of Procedure, a Member is deemed to be present when s/he can hear and be heard by other Members attending a meeting. In the event of technical difficulties, the President shall decide whether the meeting shall continue or be adjourned, depending on the nature of such difficulties and the quorum required. In case of Chambers and Committees the tasks of the President shall be performed by Deans and Chairpersons.

**Article 52**

When the annual timetable for Chamber meetings is fixed, account shall be taken of the need to avail each Member of the possibility of taking part in the meetings of all the Chambers. The timetable shall be adopted by the Chamber on the basis of its Dean's proposal. Additional meetings shall be arranged on the Dean's initiative or at the request of a Member of the Chamber.

**Article 53**

1. The meetings of a Chamber shall be chaired by the Dean or, in the Dean's absence, by the Member temporarily replacing the Dean.
2. On the Director's proposal, the Dean shall draw up a draft agenda for Chamber meetings. The agenda shall be approved by the Chamber at the beginning of the meeting.

**Article 54**

The Chambers shall be responsible for the organization and secretariat of their meetings. The distribution of meeting documents shall be the responsibility of the Secretariat-General of the Court.

**Article 55**

1. Without prejudice to Article 26(2) of the Rules of Procedure, the Reporting Members may be assisted at a Chamber's meeting by one or more of their staff.

Other staff of the Court may attend the Chamber's meeting as the Members comprising the Chamber consider it appropriate.

2. For the purposes of defining the quorum required for the Chamber's meetings when dealing with matters referred to in Article 11(3) of the Rules of Procedure, where a number is expressed in a fraction, it shall be rounded to the closest whole number.

**Article 56**

1. Unless otherwise provided in the following paragraphs, the provisions of Article 50 shall apply to minutes of the Chambers.
2. The minutes of the Chambers shall be drawn up by the Director supporting the relevant Chamber.
3. The adopted minutes shall be authenticated by signature of the Dean.

**CHAPTER II****PREPARATION, ADOPTION AND AUTHENTICATION OF DOCUMENTS**

(Articles 25 to 28 of the Rules of Procedure)

**SECTION 1****PREPARATION OF DOCUMENTS****Article 57**

1. Without prejudice to Article 11(2) of the Rules of Procedure, documents submitted to the Court for adoption must have been discussed and approved by the responsible Chamber or Committee.
2. The procedure for submission to the Court of the draft chapters of the Annual Report shall be laid down by the Court in a specific decision.

**SECTION 2****EXAMINATION AND FORWARDING OF PRELIMINARY OBSERVATIONS TO THE RELEVANT INSTITUTIONS****Article 58**

1. The draft observations and opinions submitted to the Court or to a Chamber shall provide the following information:
  - a) a list of the persons who contributed to the work, with an indication of the time foreseen and actually spent thereon by each, as well as the calendar, foreseen and actual, with an explanation of any significant differences;
  - b) a list of the preliminary audit findings sent to the Commission, the Member States or any other audited body, and the corresponding replies;

- c) confirmation from the Director that all the quality control procedures have been carried out in accordance with applicable rules.
- 2. After examination by the Chamber, the Court or the Chamber in the case of documents pursuant to Article 11(1) of the Rules of Procedure shall decide on the follow-up action to be taken on draft observations and opinions submitted to it for adoption.
- 3. The Court or the Chamber in a case pursuant to Article 11(1) may order the case-file to be closed, ask for the examination stage to be extended or elect to continue the procedure, in particular by presenting preliminary observations with a view to including them in the Annual Report or drawing up a Special Report.
- 4. In exceptional cases, and on a proposal by the Member acting as Reporting Member, the Court may send certain observations to the institutions in the form of a letter from the President. In the case of observations for which the Chambers are competent pursuant to Article 11(1) of the Rules of Procedure, the Chamber shall refer the proposal to the Court.

## **Article 59**

Any documents containing audit observations that are not adopted by the Court or a Chamber at the first reading shall be submitted again for a subsequent reading. Documents submitted to the Court or a Chamber for a subsequent reading must be accompanied by a written explanation giving the reasons why the Reporting Member has not been able to incorporate amendments decided on by the Court or by the Chamber at the previous reading. For amendments of a purely formal nature, or for reasons of urgency, the explanations may be given orally.

## **Article 60**

- 1. The Dean of the Chamber shall notify preliminary observations adopted by the Chamber pursuant to Article 11(1) to all Members of the Court within two working days. This notification may be in electronic form.
- 2. The decision of the Chamber on the adoption of preliminary observations shall become definitive after three working days from the date of the notification provided for in paragraph 1, unless within this period at least five Members have submitted to the President a reasoned request that the document concerned should be further discussed and adopted by the Court.
- 3. When the preliminary observations become definitive, they shall be transmitted by the Court's Secretariat to the relevant institutions, at which time the adversarial procedure provided for in Article 163 (1) of the Financial Regulation shall start.

## **Article 61**

- 1. The Court shall forward to the institutions concerned its observations in view of the Annual Report, on the date laid down in Article 162 of the Financial Regulation.

The European Commission shall receive the full text of those observations. Other institutions, the Economic and Social Committee and the Committee of the Regions shall receive only the paragraphs that concern them.

2. After their adoption by the Court, the observations shall be forwarded to the Directorate-General for Budgets of the European Commission.

## **Article 62**

After the adversarial procedure, when the preliminary observations are submitted to the Court or to the Chamber pursuant to Article 11(1) of the Rules of Procedure, they shall be accompanied by the replies of the institutions concerned. The Reporting Member shall also produce a note summarising the changes made to the version sent for the adversarial procedure including any proposal of a position to be taken by the Chamber or the Court that the Reporting Member deems appropriate in the circumstances.

## **Article 63**

1. Only documents that are forwarded under cover of the signature of the Member of the Commission responsible for the Budget shall be considered to be authentic official replies by the Commission to the Court's audit observations.
2. The Court reserves the right to publish any special report without the replies of the institution concerned where the institution in question has not replied within the time-limits laid down by the Financial Regulation.

## **Article 64**

1. The results of the adversarial procedure shall be valid only if they are accepted by the Court or by the competent Chamber pursuant to Article 11(1) of the Rules of Procedure.
2. The Court or the competent Chamber in accordance with paragraph 1 may delete some passages from its draft reports during or after the adversarial procedure, at the time of the final adoption of the text in question. This shall result in the corresponding passages of the reply of the Institution concerned being removed.
3. The Court or the competent Chamber may include its own comments on the Institutions' replies.

## **SECTION 3**

### **COURT'S ADOPTION PROCEDURE**

## **Article 65**

The following decisions shall be adopted by a majority of the Members comprising the Court:

- a) the Annual Report provided for in Article 287(4) TFEU, first subparagraph;
- b) the Statement of Assurance in respect of the reliability of the accounts and the legality and regularity of the underlying transactions (DAS) provided for in Article 287(1) TFEU, second subparagraph;
- c) the specific annual reports, opinions and observations on specific questions provided for in second subparagraph of Article 287(4) TFEU which have been referred to the Court in accordance with Article 11(2) of the Rules of Procedure or to which the reasoned request pursuant to Article 26(4) of the Rules of Procedure has been submitted;
- d) amendments to the internal rules for the implementation of the budget;
- e) the estimate of revenue and expenditure of the Court of Auditors;
- f) decisions to be taken under Articles 10(3) and 13(1) of the Rules of Procedure and under Article 49(3) of these implementing rules in case of Court meetings;
- g) amendments to the Rules of Procedure;
- h) amendments to these Implementing Rules;
- i) overall strategy and the work programme of the Court;

## **Article 66**

1. The President may use the written procedure for any of the decisions referred to in Article 25(2) of the Rules of Procedure but only where the text in question has already been discussed within the Court and its adoption without further discussion is justified for practical reasons.
2. Any of the decisions referred to in Article 25(3) of the Rules of Procedure may be adopted by the written procedure, implemented by the President on his own initiative or at the request of a Member.
3. The Secretary-General shall be responsible for initiating the written procedure, monitoring its progress and recording its completion.
4. The written text of the proposed decision shall be sent to all the Members of the Court by the Secretariat-General of the Court, stating the time allowed for communicating any objection.

The time allowed for objection may not be less than two working days where Article 25(2) of the Rules of Procedure is applied or seven days where Article 25(3) of the Rules of Procedure is applied.

If, by the time stated, no Member of the Court has lodged a written objection with the Secretariat-General of the Court, the proposal shall be deemed to have been adopted by the Court. The fact shall be mentioned in the minutes of the next meeting of the Court.

If an objection is lodged, the proposal that was the subject of the written procedure shall be entered on the agenda of a forthcoming Court meeting.

## SECTION 4

### CHAMBERS' ADOPTION PROCEDURE

#### Article 67

1. The notification provided for in Article 26 (3) of the Rules of Procedure shall be made within three working days after the adoption of the document by the Chamber.
2. The minimum number of Members for submitting a reasoned request that the document concerned should be discussed and decided upon by the Court pursuant to Article 26(4) of the Rules of Procedure shall be five.
3. When the adoption of a document by the Chamber becomes definitive, that document shall be validated by the apposition of the Dean's visa, and by its notification to the Secretary-General.

#### Article 68

1. The Chamber may decide to use the written procedure to adopt its decisions. However, in the case of draft audit planning memorandums, reports or opinions, this procedure may only be used if the text concerned has already been discussed within the Chamber and there are practical reasons justifying its adoption without further discussion.
2. In case of document pursuant to Article 11(1) of the Rules of Procedure the written text of the proposed decision shall be sent to all the Members of the Court, stating the time allowed for communicating any objection.

The time allowed for objection may not be less than two working days. If, by the time stated, no Member of the Chamber has lodged a written objection with the Dean, the proposal shall be deemed to have been adopted.

If an objection is lodged, the proposal that was the subject of the written procedure shall be entered on the agenda of a forthcoming Chamber's meeting.

3. At the end of the procedure, the documents adopted in this manner shall be recorded in the Minutes of the next Chamber meeting.

## CHAPTER III

THE COMMUNICATION OF THE COURT'S PRODUCTS  
(ARTICLES 28 AND 29 OF THE RULES OF PROCEDURE)

## SECTION 1

## FORWARDING

**Article 69**

1. Having been adopted in the official languages and authenticated as provided for in Article 28 of the Rules of Procedure, the Court's products shall be forwarded by the Court's Secretariat to the Union's institution or body concerned or to national authorities. The Court or the Chamber, in the case of a document referred to in Article 11(1) of the Court's Rules of Procedure, identifies on a case by case basis the addressees of its products in accordance with the procedures laid down in the Court's vade-mecum of general audit procedures.
2. Final replies of the institution or body concerned to Special Reports shall be made available by the Court in all the official languages at the latest at the date of the adoption of the Special Report, with due regard of the deadline established in the Article 163 of the Financial Regulation. All language versions of the report in question shall be forwarded without delay to the institution or body concerned and to the European Parliament and the Council, together with the replies that are available at that time and which form an integral part of the report.
3. In duly justified and exceptional circumstances, the Court or responsible Chamber can forward the Report to the institution or body concerned and to the European Parliament and the Council, even if the translation in all the official languages of the report and the final replies of the institutions is not yet completed. In such a case, the Special Report shall be translated in all the remaining languages so that their authentication and forwarding take place within four weeks following the forwarding of the first available language version of the Special Report.

**Article 70**

1. Special Reports that have been published may be presented to the European Parliament's Committee on Budgetary Control, to other European Parliament's Committees and/or to Council's working parties.
2. At the same time as the official forwarding, the Court's Secretariat shall make the report available to the Secretariat of the Committee on Budgetary Control in all the official languages of the European Union in order to permit the Secretariat to send the report to the President and the Reporting Member of the Budgetary Control Committee. The report shall likewise be sent to the Secretariat of the Budget Committee of the Council.

SECTION 2  
PUBLICATION

**Article 71**

The Court or the Chamber in the case of a document referred to in Article 11(1) of the Rules of Procedure shall decide on a case by case basis whether and where to publish the Court's products, in accordance with the procedures laid down in the Court's vade-mecum.

**Article 72**

1. The Court's vade-mecum shall lay down the procedures to be followed for the communication of the Court's products and of the report by the auditor contracted to audit the Court's accounts.
2. The Directorate of the Presidency shall be responsible for the publication of the Court's products.

SECTION 3  
RELEASE

**Article 73**

1. On the day on which the documents or the electronic files are officially forwarded to the Institutions in accordance with Articles 68 and 69, the report shall be published on the Court's website in the available official languages along with a press release.
2. The media strategy shall be determined, at an early stage, for the communication of the Court's products in coordination between the Directorate of the Presidency and the Reporting Member in line with the Court's Communications and stakeholder relations strategy decided by the Court.
3. The Reporting Member, and any other Member, shall inform the Court of any press conferences or other presentations of this type which he wishes to give. The Directorate of the Presidency shall assist the President and the Members in organising press events.



CHAPTER IV  
CHALLENGING OF REPORTS, OPINIONS AND  
OBSERVATIONS BY THIRD PARTIES  
(Articles 25 and 26 of the Rules of Procedure)

**Article 74**

Any letter objecting to or challenging the Court's reports, opinions or observations shall be brought before the Court or the relevant Chamber in case of document referred to in Article 11(1) of the Rules of Procedure for examination, together with a proposal from the Chamber responsible for the task concerned as to how the Court should react.

CHAPTER V  
CONDUCT OF AUDIT  
(Articles 30 and 31 of the Rules of Procedure)

SECTION 1  
GENERAL PRINCIPLES

**Article 75**

1. The Court shall adopt its audit policies, and standards, as well as its Work Programme and the detailed rules which result therefrom for the planning, implementation and communication of its audit work.
2. In order to facilitate coordination of on-the-spot audits with the Commission and to enable the national audit authorities to participate in its audits, the Court shall forward to the relevant Commission departments and to the national authorities, every month, the programme of the audit visits that it intends to carry out during the following four months.

SECTION 2  
PERFORMANCE OF AUDIT TASKS

**Article 76**

1. In order to ensure the efficient performance of audit tasks, Chambers shall have the necessary resources assigned to them based on the Court's Work Programme.

2. Each task shall be the responsibility of a team in line with the following articles.

#### **Article 77**

1. The Reporting Member is accountable to the Chamber and the Court for all actions undertaken and all the decisions taken in connection with the audit task assigned to him in accordance with Article 31 of the Rules of Procedure and shall be ultimately responsible for:
  - a) the quality and timeliness of the work;
  - b) the use of the human and financial resources allocated to the task; including recourse to internal and external experts;
  - c) the supervision of the work of the audit team until the final report is presented to the discharge authority;
  - d) the presentation of documents to the Chamber and, where appropriate, to the Court;
  - e) the presentation of the reports and opinions outside the Court.
2. The Head of Task shall be designated by the Chamber on a proposal of the Director, after consulting the Reporting Member, from among appropriately experienced members of the staff, staff of Member's private office and senior management staff.

The Head of Task is accountable to the relevant Reporting Member for delivering the audit as planned and in accordance with standards.

3. The audit team shall be designated by the Director of the Chamber, in consultation with the Reporting Member and Head of Task taking into account the skills and expertise needed and the staff availability.

### **SECTION 3**

#### **DIRECTORATE MANAGEMENT TEAM**

#### **Article 78**

1. The Director is accountable to the Chamber and shall assist its Members in carrying out the audit tasks for which they are responsible. The Director's responsibilities include in particular:
  - a) ensuring adequate staffing for the task;
  - b) managing the provision of financial resources to the task;
  - c) ensuring that quality support and supervision of tasks are in place;
  - d) ensuring the implementation of the Engagement Quality Control Review procedures;

- e) ensuring, in consultation with the Directorate of the Audit Quality Control Committee, that the adversarial procedures for which his Chamber is responsible run smoothly.
- 2. The Principal Manager, as part of the Management Team, shall support the Director and perform other functions and activities in relation to tasks as the Chamber may decide.

### **TITLE III - FINAL AND TRANSITIONAL PROVISIONS**

#### **Article 79**

Without prejudice to Article 54(2), for the purposes of applying these implementing rules, where a number is expressed as a fraction, it shall be rounded up to the next whole number.

#### **Article 80**

The use of gender specific expressions in the wording of the present implementing rules shall be understood as applying to both female and male genders.

#### **Article 81**

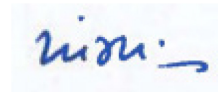
- 1. These implementing rules cancel and replace those adopted by the Court on 11 March 2010 and amended lastly by the Court at its meeting of 3 April 2014.
- 2. For all the audit tasks which are ongoing at the date of the entry in force of this decision, the provisions laid down in Title II, Chapter V - Conduct of audit shall remain in force until the adoption of the final report.
- 3. On the establishment of the Committee pursuant to Article 31 of these implementing rules the Chairperson will be appointed for three years. The terms of office of the other Members will be staggered. One Member will be appointed for two years and another one for one year.
- 4. Rules and decisions regarding public access to Court documents and ethical matters, including the Code of Conduct for the Members of the Court and the Ethical guidelines for the European Court of Auditors shall be annexed to these implementing rules. The annexed documents shall be replaced or completed by any new or updated rules or decisions.

**Article 82**

These implementing rules shall enter into force with immediate effect. They shall also be published on the Court's website.

Luxembourg, 2 June 2016.

For the Court of Auditors

A handwritten signature in blue ink, appearing to read 'Vitor', with a stylized flourish at the end.

Vítor CALDEIRA  
President

## Annex I

ΕΒΡΟΠΕΪΣΚΑ ΣΜΕΤΗΑ ΠΑΛΑΤΑ  
TRIBUNAL DE CUENTAS EUROPEO  
EVROPSKÝ ÚČETNÍ DVŮR  
DEN EUROPÆISKE REVISIONSRET  
EUROPÄISCHER RECHNUNGSHOF  
EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA  
EIROPAS REVĪZIJAS PALĀTA  
EUROPOS AUDITO RŪMAI

EURÓPAI SZÁMVEVŐSZÉK  
IL-QORTI EWROPEA TA' L-AWDITURI  
EUROPESE REKENKAMER  
EUROPEJSKI TRYBUNAŁ OBRACHUNKOWY  
TRIBUNAL DE CONTAS EUROPEU  
CURTEA DE CONTURI EUROPEANĂ  
EURÓPSKY DVOR AUDÍTOROV  
EVROPSKO RAČUNSKO SODIŠČE  
EUROOPAN TILINTARKASTUSTUOMIOISTUIN  
EUROPEISKA REVISIONSRÄTTEN

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### **Decision No 12-2005<sup>(\*)</sup> of the Court of Auditors of the European Communities of 10 March 2005 regarding public access to Court documents**

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to its Rules of Procedure<sup>1</sup>, and in particular Article 30 thereof,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Articles 143(2) and 144(1) thereof,

Whereas:

the second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen;

in the Joint Declaration<sup>3</sup> relating to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>4</sup>, the European Parliament, the Council and the Commission call on the other institutions to adopt internal rules on public access to documents which take account of the principles and limits set out in that Regulation;

the provisions laid down in Decision No 18-97 of the Court of Auditors laying down internal rules for the treatment of applications for access to documents held by the Court<sup>5</sup> antedate

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<sup>1</sup> OJ L 18, 20.1.2005, p. 1

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 173, 27.6.2001, p. 5.

<sup>4</sup> OJ L 145, 31.5.2001, p. 43.

<sup>5</sup> OJ C 295, 23.9.1998, p. 1.

<sup>(\*)</sup> As amended by Decision No 14-2009, adopted by the Court at its meeting of 5 February 2009.

Regulation (EC) No 1049/2001 and should be revised in the light of that Regulation and of the case-law of the European Court of Justice and the Court of First Instance;

openness enhances the administration's legitimacy, effectiveness and accountability, thus strengthening the principles of democracy. To that end good administrative practice on access to documents should be promoted;

however, certain public and private interests should be protected by way of exceptions to the principle of public access to documents. In particular international auditing standards concerning the confidential nature of audit information must be duly respected,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Purpose**

The purpose of this Decision is to define the conditions, limits and procedures under which the Court of Auditors ("the Court") shall give public access to documents which it holds.

#### *Article 2*

##### **Beneficiaries and scope**

1. Within the framework and limits of the provisions laid down in this Decision and of international standards governing the confidentiality of audit information any citizen of the Union and any other natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the Court, subject to the principles, conditions and limits defined in this Decision.
2. The Court may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.
3. This Decision shall apply to all documents held by the Court, that is to say, documents drawn up or received by it and in its possession.
4. This Decision shall be without prejudice to rights of public access to documents held by the Court which might follow from instruments of international law or Community acts implementing them.

### *Article 3*

#### **Definitions**

For the purpose of this Decision:

- (a) 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording);
- (b) 'third party' shall mean any natural or legal person, or any entity outside the Court of Auditors, including the Member States, other Community or non-Community institutions and bodies and third countries.

### *Article 4*

#### **Exceptions**

1. The Court shall refuse access to a document where disclosure would undermine the protection of:
  - (a) the public interest including:
    - public security,
    - defence and military matters,
    - international relations,
    - the financial, monetary or economic policy of the Community or a Member State;
  - (b) privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.
2. In accordance with the rules governing confidentiality laid down in Articles 143(2) and 144(1) of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities and in corresponding provisions in other instruments of Community law, the Court shall refuse access to its audit observations. It may also refuse access to documents used in the preparation of those observations.
3. The Court shall refuse access to a document where disclosure would undermine the protection of:
  - commercial interests of a natural or legal person, including intellectual property,
  - court proceedings and legal advice,
  - inspections, investigations and audits.
4. Access to a document, drawn up by the Court for internal use or received by it, which relates to a matter where the decision has not yet been taken shall be refused if disclosure of the document would compromise the Court's decision-making process.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the Court shall be refused even after the decision

concerned has been taken if disclosure of the document would compromise the Court's decision-making process.

5. If the application concerns a document held by the Court but of which the Court is not the author, the Court shall confirm receipt of the application and supply the name of the person, institution or body to whom the application must be addressed.
6. If only parts of the requested document are covered by any of the exceptions in this Article, the remaining parts of the document shall be released.
7. The exceptions in this Article shall apply without prejudice to the provisions on public access to the Communities' historical archives laid down in Council Regulation (EEC, Euratom) No 354/83<sup>6</sup>.
8. Notwithstanding the exceptions set out in this article, the Court may decide to allow access to a document, in whole or in part, where there is an overriding public interest in its disclosure.

#### *Article 5*

### **Applications**

Applications for access to a document must be made in writing<sup>7</sup>, either in hard copy or electronically, in one of the languages referred to in Article 314 of the EC Treaty<sup>8</sup> and in a sufficiently precise manner to enable the Court to identify the document. The applicant is not obliged to state reasons for the application.

#### *Article 6*

### **Processing of initial applications**

1. Applications for access to documents shall be dealt with by the Director of Audit Support and Communication. He shall send an acknowledgement of receipt to the applicant, examine the application and decide what action shall be taken.

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<sup>6</sup> Council Regulation (EEC, Euratom) No 354/83) amended by Council Regulation (EC, Euratom) No 1700/2003 (OJ L 243, 27.9.2003, p. 1).

<sup>7</sup> Addressed to the European Court of Auditors, Director of Audit Support and Communication, 12, rue Alcide De Gasperi, L - 1615 Luxembourg. Fax (+352) 43 93 42, e-mail [auraud@eca.europa.eu](mailto:auraud@eca.europa.eu).

<sup>8</sup> Currently: Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.



2. According to the subject matter of the application, the Director of Audit Support and Communication shall inform and, where necessary, consult the Member concerned, the Secretary-General, the Legal Service or the Data Protection Officer before deciding whether the document requested should be released.
3. An application for access to a document shall be handled promptly. Within 15 working days from registration of the application, the Court shall either grant access to the document requested and provide access in accordance with Article 9 or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to ask the Court to reconsider its position in accordance with Article 7.
4. In the event of an application relating to a very long document or to a very large number of documents, the Court may confer with the applicant informally, with a view to finding an appropriate solution. In such cases, the time-limit provided for in paragraph 3 may be extended by 15 working days, provided that the applicant is notified in advance and that reasons are given.

#### *Article 7*

#### **Reconsideration**

1. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the Court's reply, ask the Court to reconsider its position.
2. Failure by the Court to reply within the prescribed time-limit shall also entitle the applicant to ask for reconsideration.

#### *Article 8*

#### **Processing of requests for reconsideration**

1. Requests for reconsideration shall be submitted to the President of the Court. According to the subject matter concerned, the President of the Court shall consult the Member concerned or the Secretary-General and, where necessary, may consult either the Legal Service or the Data Protection Officer before deciding whether the document requested should be released.
2. A request for reconsideration shall be handled promptly. Within 15 working days from registration of such a request, the Court shall either grant access to the document requested and provide access in accordance with Article 9 or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the Court shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the Court and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 2 may be extended by 15 working days, provided that the applicant is notified in advance and that reasons are given.
4. Failure by the Court to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to have recourse to the remedies referred to in paragraph 2.

#### *Article 9*

##### **Access following an application**

1. The applicant may consult documents to which the Court has granted access either at the premises of the Court in Luxembourg or by receiving a copy, including, where available, an electronic copy. In the first case, the date and time of consultation shall be agreed between the applicant and the Director of Audit Support and Communication.
2. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form shall be free of charge.
3. If a document is publically accessible, the Court may fulfil its obligation of granting access to the requested document by informing the applicant how to obtain it.
4. Documents shall be supplied in an existing version and format (including electronically or in an alternative format) with regard to the applicant's preference. The Court is not obliged to create a new document or to compile information at the request of the applicant.

#### *Article 10*

##### **Reproduction of documents**

1. Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the Court's prior written authorisation.
2. This Decision shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

*Article 11*

**Final provisions**

1. Decision No 18-97 of the Court of Auditors of 20 February 1997 is hereby repealed.
2. This Decision shall be published in the Official Journal of the European Union.
3. It shall enter into force on the first day of the month following its adoption.

Done at Luxembourg, 10 March 2005.

For the Court of Auditors

(s) Hubert Weber  
President



## **Code of Conduct for the Members and former Members of the Court**

THE EUROPEAN COURT OF AUDITORS (“the Court”),

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 285, 286 and 339 thereof,

Having regard to the Rules of Procedure of the Court, and in particular Articles 3 and 34(1) thereof, and to the Rules for Implementing the Rules of Procedure of the Court, in particular Article 81(4) thereof,

Whereas the Members of the Court are required, in the Union’s general interest, to be completely independent in the performance of their duties, neither to seek nor to take instructions from any government or from any other body, and to refrain from any action incompatible with their duties,

Whereas, when entering upon their duties, the Members of the Court give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom,

Whereas Members have a special responsibility in ethical matters since, through their example, they have a significant influence on the culture of the organisation and on facilitating a good working environment,

Whereas this Code of Conduct reflects the fundamental ethical values and principles laid out, for example, in the Code of Ethics of the International Organization of Supreme Audit Institutions (ISSAI 130), such as integrity, independence and objectivity, competence, professional behaviour, confidentiality and transparency,

Whereas the Code of Conduct for the Members of the Court of 8 February 2012 needs to be revised in order to take account of the experience gained in its application and for the Court to ensure the highest ethical standards, as expected of Members of the Court, and to take account of the conclusions of the peer review report on the ethical framework of the Court completed in 2019 by the Supreme Audit Institutions of Croatia and Poland,

Whereas, in order to ensure greater transparency and consistency, all relevant provisions regarding the ethical obligations of Members should be merged into this Code of Conduct, which forms an integral part of the Rules for Implementing the Rules of Procedure of the Court,

Whereas the Court has adopted a policy for maintaining a satisfactory working environment and combating psychological and sexual harassment,

Whereas certain obligations arising from this Code of Conduct in relation to the Members of the Court should also apply to former Members in order to be fully effective,

Has decided to adopt the following *Code of Conduct for the Members and former Members of the Court*:

## **Article 1**

### **Scope**

This Code of Conduct shall apply to the Members of the Court and, where expressly specified, to former Members of the Court.

## **I. VALUES AND PRINCIPLES**

## **Article 2**

### **General provisions**

1. Members shall observe the highest standards of ethical conduct and set the tone at the top by their actions.
2. Members shall observe the following ethical values and principles: integrity, independence, objectivity, competence, professional behaviour, confidentiality and transparency, dignity, commitment and loyalty, and discretion and collegiality.

## **Article 3**

### **Integrity**

1. Members shall act honestly, reliably, in good faith and solely in the public interest.
2. Members shall refrain from accepting any gifts or similar benefits with a value of more than EUR 150. Members shall also refrain from accepting from third parties the covering of manifestly disproportionate subsistence or travel costs.
3. Members may not accept payment for any type of external activity carried out or work published during their term of office.
4. Members shall use the infrastructure and resources placed at their disposal in full compliance with the general and specific rules laid down to that effect, and in particular the Court decisions in force concerning the procedure for recruiting staff to Members' cabinets, representation and reception expenses, and use of the Court's official vehicles.

5. Members of the Court shall choose the members of their cabinets taking into account the demanding nature of the function, the professional profiles required and the need to establish a relationship based on mutual trust between themselves and the members of their cabinets. Spouses, partners and direct family members shall not be part of the cabinets of Members of the Court.

#### **Article 4** **Independence**

1. Members shall be free from circumstances or influences that compromise, or may be seen as compromising, their professional judgement.
2. Members shall neither seek nor take any instructions from any institution, body, office or agency of the Union, or from any government or from any other public or private entity.
3. Members shall maintain independence from political influence. In particular, they may not exercise any political office.
4. Members' relations with interest groups shall be compatible with the need to preserve their independence.

#### **Article 5** **Objectivity**

1. Members shall act in an impartial and unbiased manner.
2. Members shall avoid any situation that is liable to give rise to a conflict of interest, or that could objectively be perceived as such. A conflict of interest arises where a personal interest could influence the independent performance of a Member's duties. Personal interests include, but are not limited to, any potential benefit or advantage to Members themselves, their spouses, partners or direct family members.

#### **Article 6** **Competence**

Members shall develop and maintain knowledge and skills relevant for their duties and shall act in accordance with the applicable standards and with due care.

#### **Article 7** **Professional behaviour**

1. Members shall comply with the applicable rules set out in the Treaties, in secondary law and by the Court. They shall avoid any conduct that could discredit the Court.

2. Members of the Court shall be mindful of the importance of their duties and responsibilities; they shall, leading by example, take into account the public nature of their duties and shall conduct themselves in a way that maintains and promotes the public's trust in the Court.

## **Article 8**

### **Confidentiality and transparency**

1. Members shall respect the confidential nature of the Court's work. They shall not divulge confidential information of the kind covered by the obligation of professional secrecy, as specified in Article 339 TFEU.
2. Members shall be responsible for the proper handling of any classified, confidential or sensitive documents and information with which they or their cabinet come into contact in the course of their duties.
3. Members shall not use for private purposes, either for themselves or on behalf of others, any information to which they have access by virtue of their official position and which has not been made available to the general public.
4. Members should be mindful that their public office requires enhanced transparency and accountability towards the public. They should balance the need for transparency with confidentiality.

## **Article 9**

### **Dignity**

1. Members shall respect the dignity of their office and shall not express themselves, through whatever medium, in a manner that adversely affects its public perception.
2. Members shall behave in a courteous and respectful manner. They shall establish and maintain a working environment that discourages any behaviour that might undermine an individual's dignity.

## **Article 10**

### **Commitment and loyalty**

1. Members of the Court shall devote themselves to the fulfilment of their mandate.
2. They shall attend the meetings of the Court, of the Chambers, and of the Committees to which they belong, in accordance with Article 6 of the Rules for Implementing the Rules of Procedure of the Court.
3. In the spirit of loyalty, they shall provide their constant support to the Court in the discharge of its prerogatives.

**Article 11**  
**Discretion and collegiality**

1. Members shall act and express themselves, both within and outside the institution, with the restraint their office requires.
2. Members shall under all circumstances respect the collegiate nature of the Court's organisation, and adhere to and take collective responsibility for any decisions adopted by the Court. However, Members may have recourse to the judicial instruments provided for under European Union law if they consider that those decisions have caused them harm.
3. Without prejudice to the President's responsibility for external relations, Members shall have authority outside the Court to communicate and comment upon any reports, opinions or information that the Court has decided to make public, subject to the conditions in paragraph 4 below.
4. Members shall refrain from making any comment outside the Court that:
  - (a) would call into question a decision taken by the Court;
  - (b) could damage the Court's reputation;
  - (c) could be interpreted as a statement of the Court's position on matters that do not fall within its institutional remit or on which the Court has not taken a position; or
  - (d) might involve the Court in any controversy, even after they have ceased to hold office.

**Article 12**  
**External Activities**

1. Members shall not engage in any professional activity outside the Court, or in any other external activity, whether gainful or not, that is incompatible with their duties, as specified in Article 286(3) and (4) TFEU.
2. Under the conditions laid down in this article, Members may hold honorary, unremunerated offices in foundations or similar organisations in the political, legal, scientific, cultural, artistic, social, sporting or charitable spheres or in educational establishments. "Honorary office" means an office in which the holder has no management role, no decision-making power and no responsibility for or control of the operations of the body in question, and only exercises a representative or advisory role. "Foundation or similar organisation" means any non-profit organisation or association engaged in activities in the public interest in the aforementioned areas. Members shall avoid any conflict of interest that could arise, or that could be objectively perceived as arising, from these offices, particularly if the body in question receives any kind of financing from the EU budget.
3. Members may also engage in the following external activities, providing they observe Articles 2 and 10:



- (a) giving courses in the interests of European integration, the rule of law or ethics, or delivering speeches, or taking part in conferences, provided that either no payment is made or, should a payment be made, that it is paid directly by the organiser to a charity of the Member's choice;
  - (b) publishing a book or writing an article, provided that any royalties from works published in connection with a Member's functions are paid directly by the publisher to a charity of the Member's choice;
4. External activities shall not
- (a) undermine the Court's impartiality;
  - (b) create a conflict of interest, or be objectively perceived as creating a conflict of interest;
  - (c) take up an excessive amount of time, taking into account the cumulative impact of a Member's total external activities;
  - (d) afford the Member any pecuniary gain.

### **Article 13**

#### **Obligations of Members after ceasing to hold office**

1. After ceasing to hold office, former Members shall respect those obligations arising from their duties that continue to have an effect after their term, in particular the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits in line with Article 286(4) TFEU, and the obligations specified in this Code of Conduct.
2. They shall continue to be bound by the duties of discretion and collegiality, as laid down in Article 11, with respect to the activities performed during their term of office. In accordance with Article 339 TFEU, the obligation of professional secrecy shall continue to apply after Members have ceased to hold office.

## **II. PROCEDURAL RULES**

### **Article 14**

#### **Declaration of Interests**

1. Members shall submit a Declaration of Interests:
  - (a) within a maximum of one month of taking office;
  - (b) on an annual basis on 31 January;
  - (c) at any time, in the event of significant changes in the information to be declared (including new external activities covered by paragraph 10); and
  - (d) on leaving office.
2. These Declarations of Interests shall be submitted to the President using the form in Annex I to this Code of Conduct.

3. The Declaration of Interests shall contain the items listed in paragraphs 4 to 11 of this Article.
4. Members of the Court shall declare any financial interests, assets, or liabilities that might create or objectively be perceived as creating a conflict of interest in the performance of their duties.
5. This includes individual holdings in company capital, in particular shares, and other forms of holding such as convertible bonds or investment certificates. Units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared.
6. Any property owned either directly or through a real estate company shall be declared, and its approximate location and nature identified, with the exception of homes reserved for the exclusive use of the owner and their family. This shall not include moveable assets.
7. These obligations apply to the financial interests of spouses, partners<sup>1</sup> and minor children, where those interests might be objectively considered capable of giving rise to a conflict of interest.
8. On first taking office, Members shall declare all activities, professional and honorary, engaged in during the previous three years.
9. Members shall, in order to obviate any potential risk of conflict of interests, declare any professional activities of their spouses or partners<sup>2</sup>.
10. Members shall declare all current external activities in addition to declaring them in accordance with the specific procedure laid down in Article 16(1). This shall exclude external activities falling under Article 12(3).
11. Members shall declare any decoration, prize or honour bestowed on them.
12. Members are responsible for their own declarations.
13. The President of the Court shall examine the declarations from a formal point of view, with the support of the Legal Service. The Declaration of Interests made by the President shall be examined by the Member next in order of precedence to the President under Article 5 of the Rules of Procedure.
14. Following this examination and with due regard to the protection of personal data, these Declarations of Interests shall be published on the Court's website.
15. The President shall take account of the declarations when proposing the assignment of the Member to a Chamber or Committee of the Court, in order to avoid any possible conflict of interests.

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<sup>1</sup> Stable non matrimonial partner as defined in Article 1(2)(c) of Annex VII of the Staff Regulations.

<sup>2</sup> Ibid

16. If Members are confronted with a situation outside the scope of the Declaration of Interests that may give rise to a conflict of interest, they shall inform the President of the Court. Following an examination by the Ethics Committee, the matter shall be submitted to the Court, which shall take any measure it considers appropriate.

## **Article 15**

### **Acceptance of gifts and similar benefits**

1. If, by virtue of diplomatic and courtesy usage, Members receive gifts or similar benefits of a value of more than EUR 150, they shall hand them over to the Secretary-General. In case of doubt, they shall declare to the Secretary-General any gift received in the performance of their duties, asking for an assessment of its value.
2. The Secretariat of the Court shall keep a register of gifts and similar benefits with a value of more than EUR 150, identifying the donors, which shall be publicly available on the Court's website.
3. This Article shall not apply to authorised official missions involving a Member's participation in an event where the organiser bears certain costs (for example, travel or hotel costs).

## **Article 16**

### **Members' obligations regarding external activities**

1. Members shall declare without delay to the President of the Court all external activities or changes to a declared activity, using the form in Annex II. Members shall describe the external activities as accurately as possible according to each of the criteria listed in paragraph 3.
2. The President shall forward any such declaration concerning external activities to the Ethics Committee, which is responsible for its examination.
3. To that end, the Ethics Committee shall examine any existing or requested external activity in the light of the general criteria laid down in Article 12(4).
4. By way of exception, external activities pursuant to Article 12(3)(a) and (b) shall be declared to the President using the form in Annex II and sent for information purposes to the Ethics Committee, which shall not issue an opinion unless it deems this necessary.
5. Activities falling within the scope of the Court's Decision on the mission expenses of the Members of the Court cannot constitute "external activities" within the meaning of Articles 12 and 16 of this Code. Members remain free to provide any such information they see fit to the Ethics Committee, purely for its information. Conversely, an external activity declared under this Code cannot benefit from reimbursement under the Court's Decision on the mission expenses of the Members of the Court.

**Article 17**  
**Members' occupations after ceasing to hold office**

1. Whenever Members or former Members of the Court intend to engage in an occupation during the two years after they have ceased to hold office, they shall declare it to the President of the Court using the form in Annex III as soon as they become aware of the matter, and if possible with at least two months' notice.
2. For the purposes of this Code, "occupation" means any professional activity, whether gainful or not. It excludes:
  - (a) honorary, unremunerated offices in foundations or similar organisations, with no link to the activities of the European Union, in the political, legal, scientific, cultural, artistic, social, sporting or charitable sphere or in educational establishments;
  - (b) the mere management in a private capacity of assets or holdings or personal or family fortune; and
  - (c) comparable activities.
3. The President shall forward such declarations for examination by the Ethics Committee. The Ethics Committee shall examine whether the nature of the planned occupation is compatible with Article 286(4) TFEU and the present Code, whether it undermines the Court's impartiality, and whether there is a conflict of interest.
4. Where necessary, the Ethics Committee shall, in carrying out this examination under paragraph 3, identify and assess if there are any specific and substantiated risks to the criteria in paragraph 3 arising from reports for which the Member acted as Reporting Member in the last two years of his or her mandate. The Committee shall also have regard Article 15 of the EU Charter of Fundamental Rights on the Freedom to choose an occupation and right to engage in work.
5. If the Ethics Committee considers that the occupation would be incompatible with Article 286(4) TFEU and the present Code, the President shall inform the former Member, who shall refrain from engaging in that activity.
6. By way of exception, where the former Member intends to engage in public office, a conflict of interest is, in principle, not to be expected.

**III. ORGANISATIONAL FRAMEWORK**

**Article 18**  
**The Ethics Committee**

1. The Court hereby establishes an Ethics Committee, which shall consider any matter of an ethical nature it deems relevant to the standards laid down in this Code and the reputation of the Court, including their further improvement.
2. The Committee's composition is laid down in Article 33 of the Court's Rules Implementing the Rules of Procedure.

3. The Committee shall elect a chairperson from among its Members.
4. The Committee shall convene at the request of its chairperson or following a request for an opinion submitted to it by the President or a Member of the Court. The Committee's deliberations shall be confidential.
5. The Committee shall issue an opinion within 30 days of being consulted. On a proposal from its chairperson, the Committee may issue an opinion by written procedure. By way of exception, when consulted under Article 17, it shall issue an opinion as soon as possible.
6. The Committee shall adopt its opinions by majority vote. Its opinions shall be reasoned with reference made to any dissenting view. Such opinions shall immediately be communicated to any Member or former Member that may be concerned by the Committee's opinion and forwarded to the President and Court for their information.
7. Where the Committee must consider a declaration of interests or a declaration concerning an external activity of a Member of the Committee, that Member shall be substituted by an alternate Member of the Committee and shall not take part in the Committee's work on the matter.
8. The Ethics Committee shall fulfil the role assigned to it in the decision setting out the Court's policy for maintaining a satisfactory working environment and combating psychological and sexual harassment.
9. The Legal Service shall assist the Ethics Committee in its tasks and provide secretarial support.
10. A contract shall be signed between the Court and the external Member of the Committee laying down their rights and obligations with regard to their mandate, including the amount of the fees.

## **Article 19**

### **Interaction between the Members, the Ethics Committee and the Court**

1. The President and the Members and former Members of the Court may seek the Committee's advice on any ethical question, in particular relating to the interpretation of this Code of Conduct.
2. Members shall immediately report in writing to the President and the relevant Dean any perceived undue influence on, or threat to, their independence by any entity external to the Court.
3. Members and former Members of the Court shall fully cooperate with the Committee, in particular regarding the provision of any information and supporting documents it has requested. They shall have the right to be heard.

4. A Member or former Member disagreeing with an opinion of the Ethics Committee adversely affecting him or her shall, within five working days from the date of receipt of the opinion, give reasons for such disagreement in writing to the President, who shall without delay refer the matter to the Court for its consideration and final decision. Where the referral concerns an envisaged occupation under Article 17, the Court shall deal with the matter without delay.
5. The effects of the Committee's opinion so referred to the Court shall be suspended. The Court shall give any provisional instruction on the matter referred as it may deem appropriate until it has adopted its final decision. The Member or former Member concerned shall comply without delay with such a Court instruction and final decision.
6. The President of the Court shall ensure that the Committee's opinions and any resulting instructions and decisions of the Court are acted upon.
7. Each year, the Court shall adopt a report on the application of this Code of Conduct, including the work of the Ethics Committee. It shall be published on the Court's website.

## **Article 20**

### **Cooperation with the EPPO and OLAF**

Without prejudice to the relevant provisions of the Treaty on the Functioning of the European Union, in particular the Protocol on Privileges and Immunities, and the texts relevant to their application, in particular the procedural guarantees laid down in Regulation 2017/1939 and Regulation 883/2013, the Members of the Court shall cooperate fully with the European Public Prosecutor's Office and the European Anti-Fraud Office in the context of enquiries and investigations undertaken by them.

## **IV. GENERAL AND FINAL PROVISIONS**

### **Article 21**

#### **Application of the Code of Conduct**

1. The President and Members of the Court shall ensure that this Code of Conduct is observed and that it is applied in good faith and with due consideration to the principle of proportionality. The existing internal and external controls of the Court are applicable to activities under this Code.
2. In the interpretation of this Code, and without prejudice to its provisions, which contain a complete set of rights and obligations, account should be taken of any relevant European and international practices and standards.

**Article 22**  
**Final Provisions**

1. This Code of Conduct forms part of the Rules for Implementing the Rules of Procedure of the Court, to which it shall be annexed.
2. It repeals and replaces the Code of Conduct for the Members of the Court of 8 February 2012, and the Decision No 14-2015 establishing the Ethics Committee envisaged by the Code of Conduct for the Members of the Court.
3. It shall enter into force with immediate effect.
4. Article 14(8) of the revised Code of Conduct shall not apply to Members whose terms of office are underway at the time of adoption of the present Code.
5. This Code of Conduct shall be notified to former Members, sent for information to the European Parliament and to the Council, and published in the Official Journal of the European Union.

Done at Luxembourg, on 14<sup>th</sup> December 2020.

For the Court of Auditors

A handwritten signature in black ink, appearing to read 'K-H Le', written in a cursive style.

Klaus-Heiner Lehne,  
*President*

**DECLARATION OF INTERESTS**

(pursuant to Article 14)

Full name:

**I. Financial interests, assets and liabilities** (Article 14(4)(5) of the Code of Conduct)

*Indicate any such items that might create or objectively be perceived as creating a conflict of interest in the performance of your duties.*

*Indicate for each interest:*

<i>The type of interest (e.g. shares, bonds, loans, other interest or liability)</i>	<i>The entity concerned (e.g. company, bank, fund)</i>	<i>The size of the interest (e.g. number of shares)</i>

**II. Financial interests of spouse, partner or minor children** that might objectively be considered capable of giving rise to a conflict of interest (Article 14(7) of the Code of Conduct)

*Specify the names of the spouse, partner or minor children concerned, together with the same information as required under I.*

**III. Real Estate** (Article 14(6) of the Code of Conduct)

*Any property owned either directly or through a real estate company, identifying its approximate location and nature.<sup>3</sup> It is not considered necessary to stipulate the value of properties.*

**IV. Previous activities** (Article 14(8) of the Code of Conduct)<sup>4</sup>

*Please indicate the nature of the post(s), the name of the body and its objective/activity.*

**V. Current external activities** (Articles 14(10) of the Code of Conduct)<sup>5 6</sup>

*Please indicate the title of each activity and describe its nature and objective.*

<sup>3</sup> As laid down in Article 14(6), this shall not include 'homes reserved for the exclusive use of the owner and their family'.

<sup>4</sup> The declaration under this paragraph should be made by new Members on commencing their first term. As and when their declaration is updated, this part should be copied without alteration. Members starting a further (second or third) 6-year term, where there is no interruption between mandates, are exempt from making the declaration under this paragraph.

<sup>5</sup> The external activities listed in Article 12(3)(a) and (b) are not declared here but instead dealt with in accordance with Article 16(4).

<sup>6</sup> If you have just started your first mandate and one or more of your external activities is still under examination following your declaration under Article 16, you must nevertheless list them in full and add the following footnote: "This external activity is currently under examination by the Court's Ethics Committee". Once the procedure under Article 16(3) is completed, please submit an updated Declaration of Interests reflecting the consequences of the procedure.



**VI. Spouse's or partner's professional activities** (Article 14(9) of the Code of Conduct)

**VII. Decorations, prizes and honours** and additional relevant information (Article 14(11) of the Code of Conduct)

I hereby declare that the information given above is true.

Date:   Signature:

This declaration will be made public in line with Article 14(14) of the Code.

**DECLARATION OF AN EXTERNAL ACTIVITY**

(pursuant to Articles 12 and 16)

Full name:

**Title of the external activity:**

**Description:**

*Please describe the activity as accurately as possible, attaching any relevant documentation.*

**Information:**

*Please provide information demonstrating for evaluation purposes whether the activity:*

- (a) undermines the Court's impartiality;*
- (b) engenders a conflict of interest;*
- (c) takes up an excessive amount of time (both separately and taking into account your cumulated external activities);*
- (d) affords you any pecuniary gain.*

**Intended date of the external activity:**

**List any travel or subsistence costs covered by third parties:**

I hereby declare that the information given above is true.

Date: Signature:

**DECLARATION OF AN OCCUPATION**

(Pursuant to Article 17<sup>7</sup>)

Full name:

**Intended occupation:**

**Description:**

*Please describe the occupation as fully and accurately as possible, attaching any relevant documentation as annexes:*

**Information:**

Please provide information demonstrating for evaluation purposes whether the occupation:

- (a) undermines the Court's impartiality:
- (b) engenders a conflict of interest:

**Intended starting date for the occupation:**

I hereby declare that the information given above is true.

Date:    Signature:

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<sup>7</sup> Please note that activities that fall under the exception provided for in Article 17(2)(a), (b) or (c) do not need to be declared

## Annex III

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА  
TRIBUNAL DE CUENTAS EUROPEO  
EVROPSKÝ ÚČETNÍ DVŮR  
DEN EUROPÆISKE REVISIONSRET  
EUROPÄISCHER RECHNUNGSHOF  
EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA  
EIROPAS REVĪZIJAS PALĀTA  
EUROPOS AUDITO RŪMAI

EURÓPAI SZÁMVEVŐSZÉK  
IL-QORTI EWROPEA TAL-AWDITURI  
EUROPESE REKENKAMER  
EUROPEJSKI TRYBUNAŁ OBRACHUNKOWY  
TRIBUNAL DE CONTAS EUROPEU  
CURTEA DE CONTURI EUROPEANĂ  
EURÓPSKY DVOR AUDÍTOROV  
EVROPSKO RAČUNSKO SODIŠČE  
EUROOPAN TILINTARKASTUSTUOMIOISTUIN  
EUROPEISKA REVISIONSRÄTTEN

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### Decision No 66-2011 laying down Ethical Guidelines for the European Court of Auditors

## THE EUROPEAN COURT OF AUDITORS

WHEREAS	to achieve its mission, the European Court of Auditors should be perceived as an objective, independent and professional institution in which its stakeholders can have full confidence;
WHEREAS	the Court Audit Policy and Standards establishes that the European Court of Auditors conducts its audit in accordance with the INTOSAI Code of Ethics (ISSAI 30);
WHEREAS	a set of ethical guidelines are necessary to help the Court to ensure that daily decisions comply with the principles laid down by ISSAI 30;
WHEREAS	independence, integrity, impartiality, professionalism, adding value, excellence, efficiency and good administrative conduct are fundamental principles of the European Court of Auditors, its Members and its staff;
HAVING REGARD TO	the Treaty on the Functioning of the European Union;
HAVING REGARD TO	the Staff Regulations of officials and Conditions of employment of other servants of the European Communities;
HAVING REGARD TO	the INTOSAI Code of Ethics (ISSAI 30);
HAVING REGARD TO	best practices of other Supreme Audit Institutions;

### **HAS DECIDED**

#### Article 1

The attached Ethical Guidelines shall be applicable at the European Court of Auditors.

#### Article 2

The Secretariat General of the Court will publish on the intranet and keep updated a list of examples of ethical dilemmas we might confront in the day-to-day working life. This list is only illustrative and not exhaustive and is meant to help understand and apply these guidelines. Members and Court's staff are encouraged to contribute to this list of examples.

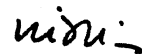
Article 3

This Decision cancels and replaces the Code of good administrative conduct for staff of the European Court of Auditors (Annex IV to Decision No 26-2010 laying down the rules for implementing the Rules of Procedure of the European Court of Auditors).

It shall take effect on the date of signature.

Done in Luxembourg, 26 OCT. 2011

*For the European Court of Auditors*



Vítor Caldeira  
President

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА  
TRIBUNAL DE CUENTAS EUROPEO  
EVROPSKÝ ÚČETNÍ DVŮR  
DEN EUROPÆISKE REVISIONSRET  
EUROPÄISCHER RECHNUNGSHOF  
EUROOPA KONTROLLIKODA  
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ  
EUROPEAN COURT OF AUDITORS  
COUR DES COMPTES EUROPÉENNE  
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA  
EIROPAS REVĪZIJAS PALĀTA  
EUROPOS AUDITO RŪMAI

EURÓPAI SZÁMVEVŐSZÉK  
IL-QORTI EWROPEA TAL-AWDITURI  
EUROPESE REKENKAMER  
EUROPEJSKI TRYBUNAŁ OBRACHUNKOWY  
TRIBUNAL DE CONTAS EUROPEU  
CURTEA DE CONTURI EUROPEANĂ  
EURÓPSKY DVOR AUDÍTOROV  
EVROPSKO RAČUNSKO SODIŠČE  
EUROOPAN TILINTARKASTUSTUOMIOISTUIN  
EUROPEISKA REVISIONSRÄTTEN

## **Ethical guidelines for the European Court of Auditors**

**Adopted by the European Court of Auditors on 20 October 2011.**

## Preface

### The European Court of Auditors has adopted the following mission statement:

#### *Mission of the European Court of Auditors*

*The European Court of Auditors is the EU Institution established by the Treaty to carry out 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.*

*The Court renders audit services through which it assesses the collection and spending of EU funds. It examines whether financial operations have been properly recorded and disclosed, legally and regularly executed and managed so as to ensure economy, efficiency and effectiveness. The Court communicates the results of its audits in clear, relevant and objective reports. It also provides its opinion on financial management issues.*

*The Court promotes accountability and transparency and assists the European Parliament and Council in overseeing the implementation of the EU budget, particularly during the discharge procedure. The Court is committed to being an efficient organisation at the forefront of developments in public audit and administration.*

To achieve this mission, the Court should be and also be perceived as an objective, independent and professional institution in which its stakeholders can have full confidence. To this end, the Court has adopted the requirements established by the INTOSAI Code of Ethics (ISSAI 30) and is now issuing a set of Ethical Guidelines.

The Ethical Guidelines are intended to help us ensure that our daily decisions, both in auditing and in running the institution, comply with the principles laid down by the INTOSAI Code. They are based on our values: independence, integrity, impartiality, professionalism, adding value, excellence and efficiency. They apply to all Court personnel: Members<sup>1</sup>, managers, auditors and staff in administrative functions. Lastly, they embrace the relevant provisions contained in the Treaty<sup>2</sup> and in the Staff Regulations<sup>3</sup> as well as the principles of good administrative conduct.

Failure to respect ethical principles may constitute dereliction of duty and result in the opening of disciplinary procedures.

This document sets out guiding principles. Nevertheless, it is our own individual responsibility to choose the solution best suited to each specific ethical challenge: since there is not always a set reply for each question, you are encouraged to apply common sense and to talk openly to superiors and colleagues. Members and managers have a special responsibility in ethical matters since, through their example, they have a major influence on the culture of the organisation, and they therefore have to be particularly attentive.

Luxembourg, October 2011

Vítor Caldeira

President of the European Court of Auditors

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<sup>1</sup> In the case of the Members, additional ethical requirements are contained in the Treaty, the Court's Rules of Procedure and the Code of Conduct for Members.

<sup>2</sup> Articles 285 and 286 of the Treaty on the Functioning of the European Union.

<sup>3</sup> Articles 11, 11a and 12 of the Staff Regulations.

## 1. Trust, confidence and credibility<sup>4</sup>

***Be aware of and act in accordance with the Court's ethical requirements. Seek advice on ethical matters where necessary.***

1.1. These guidelines shall be applicable at the European Court of Auditors. In the case of Members, ethical requirements are also established by the Treaty, the Court's Rules of Procedure and the Code of Conduct for Members. In the case of staff, ethical requirements are also set up by the Staff Regulations.

1.2. We shall contribute to instilling trust, confidence and credibility into the Court's stakeholders, auditees and the European Union's citizens. To this end we shall behave in an ethical manner and avoid any circumstances that might undermine the Court. This continues to apply after we have left the Court.

1.3. We shall familiarise ourselves with the Court's ethical requirements. However, in the ethical matters there is no set answer for each question and when one is too close to a situation it may be more difficult to take good decisions. In case of doubt, it is good to be open to considering ethical matters from more than one perspective: we shall talk to superiors or to other colleagues.

## 2. Integrity<sup>5</sup>

***Show integrity and due care in the performance of your duties.***

2.1. We shall apply the Court Audit Policy and Standards, the audit manuals and any other audit procedure adopted by the Court and inform superiors of any potential deviation from these principles.

2.2. We shall manage the Court's resources in a legal, regular and sound financial manner. The Court should act as a role model in financial management: its resources must be managed in full compliance with the Financial Regulation and with any other applicable rule; its objectives must be achieved in an economic, efficient and effective manner.

## 3. Independence, objectivity and impartiality<sup>6</sup>

***Behave in a manner that promotes confidence in the Court's independence, objectivity and impartiality.***

3.1. It is vital that our independence, objectivity and impartiality be beyond question. In our work, we should refrain from being involved in professional matters in which we have a

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<sup>4</sup> INTOSAI Code of Ethics, paragraphs 7-11.

<sup>5</sup> INTOSAI Code of Ethics, paragraphs 12-13.

<sup>6</sup> INTOSAI Code of Ethics, paragraphs 14-26.



personal interest. In case of doubt, inform your superior, who shall take the necessary steps to solve the situation.

3.2. We shall carry out our tasks without any political, national or other external influence.

3.3. We shall avoid any conflict of interest, whether real or apparent. This might be the case, for example, in connection with membership of political organisations, political office, membership of boards and financial interest in audited entities. We shall be particularly attentive to such matters and how they might be perceived by third parties.

3.4. We shall not have any connection with the audited entity that might impair our independence. Matters that could affect independence include family and/or personal relationships with staff in the audited entity that could influence the results of our work. Before the auditing assignment is carried out, we should assess the potential impact of such relationships and inform our superior; to this end, the Court has put in place an annual confirmation procedure<sup>7</sup>.

3.5. We shall not audit the same area over too long a period of time; to this end, the Court has put in place a mobility scheme<sup>8</sup>.

3.6. If we have been recruited from an audited entity we should not be assigned tasks that might call into question our impartiality vis-à-vis our former employer. If we are seeking or are offered a position in an audited entity we shall avoid any circumstances that might impair our independence. In this case, we must immediately inform our superior, who should assess the situation and take any steps considered necessary. Managers have a particular responsibility to follow up such cases.

3.7. We shall only carry out external activities within the framework laid down by the Staff Regulations and always bearing in mind our duty of loyalty to the Court. We shall refrain from carrying out any activity that could harm the Court's reputation, cast doubt on our impartiality or interfere with our work.

3.8. We shall not accept, either for ourselves or on behalf of others, gifts or other benefits that might influence, are intended to influence or could be perceived as influencing our work<sup>9</sup>. However, in a professional context (e.g. conferences, audit visits, receiving visitors, etc.), we may accept hospitality or accept small gifts which, in value and in nature, are considered within normal courtesy.

3.9. In such cases, we shall first consider whether accepting the gift or benefit might influence our impartiality or be detrimental to confidence in the Court. In case of doubt we shall talk to superiors. Any accepted invitations for breakfast, lunches or dinners –in the framework of a mission- should be stated in the mission cost declaration<sup>10</sup>.

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<sup>7</sup> See Court Decision No 36-2011.

<sup>8</sup> See Court Decision No 14-2010.

<sup>9</sup> Staff Regulations, Article 11.

<sup>10</sup> See Mission Guidelines.

## 4. Professional secrecy<sup>11</sup>

*We have a duty of confidentiality in relation to our work<sup>12</sup>. This duty should not curtail individual freedom of expression.*

4.1. We have access to a great deal of information about audited entities and it is essential to ensure a relationship of trust with them. To this end, and pursuant to the Staff Regulations, when joining the Court we signed a declaration of confidentiality which we should respect.

4.2. We shall avoid disclosing any information we have acquired in the course of our work to third parties, except in the framework of the Court's procedures or in accordance with relevant regulations.

4.3. We shall respect the principles of security of information and the provisions laid down in Regulation 45/2001 on the protection of personal data. In case of doubt, we should not hesitate to contact the Court's Data Protection Officer.

4.4. The Court promotes internal openness and we have a fundamental right to express our opinion and to report matters with a view to helping to improve the Court's performance. This right is guaranteed by the Staff Regulations and should be guided by a duty of loyalty to the institution<sup>13</sup>. The duty of confidentiality continues to apply after we have left the Court.

## 5. Competence and further professional training<sup>14</sup>

*Act always in a professional manner and comply with high professional standards.*

5.1. To carry out our duties in a competent and impartial manner, we shall know and apply the relevant legal and operative procedures. In particular, if we are auditors, we shall apply the Court Audit Policy and Standards, and the INTOSAI and IFAC professional standards and relevant audit methods. We shall not undertake work we are not competent to perform. We shall develop our professional skills and follow training courses.

5.2. Members and managers have a particular responsibility for ensuring that staff receive training in the interest of the service. An individual's skill development needs shall be addressed in the staff performance appraisal system.

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<sup>11</sup> INTOSAI Code of Ethics, paragraph 27.

<sup>12</sup> Staff Regulations, Article 17.

<sup>13</sup> Staff Regulations, Article 17a, and Court Decision No 7-2010.

<sup>14</sup> INTOSAI Code of Ethics, paragraphs 28-33.

## 6. An excellent and efficient organisation

<i>Contribute to the development of the Court as an excellent and efficient organisation.</i>
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6.1. A good working environment is essential both to achieve the Court's objectives and to ensure staff satisfaction. We shall contribute to this goal by fostering professional and personal cooperation: be open and willing to share knowledge and help our colleagues from all the Court's departments. Members and managers have a particular responsibility for facilitating a good working environment.

6.2. We shall avoid any form of discrimination and contribute to implementing a policy of equal opportunities for all staff. Members and managers shall take steps to ensure that all staff are given equal treatment and equal opportunities in their professional development. Individual staff's skills and potential shall be taken into consideration when responsibilities are assigned. Close relationships between employees can make it difficult to adhere to the equal treatment principle; therefore, spouses and partners shall avoid working in the same department or working under a hierarchical relationship.

6.3. We shall behave in a respectful manner to others, avoid any attitude that might offend their dignity and refrain from any form of harassment<sup>15</sup>. We shall also show respect for the opinions of others and accept reasonable disagreement in their work. Feedback must be given in a respectful, fair and constructive manner.

6.4. We shall act in accordance with the Court's interests. This entails no obligation to follow orders to do anything illegal or unethical<sup>16</sup>. Before a decision is taken, we shall state our views in a constructive manner; once a decision has been taken, we shall implement it in an effective manner.

6.5. The Members and the management shall ensure that the staff's interests are safeguarded. They bear special responsibility for helping to protect staff who disclose and report wrongdoing in the terms stated in the Staff Regulations<sup>17</sup>.

6.6. We are required to report to our superiors any circumstances of which we are aware that might cause any harm to the Court or to any staff. Such action should always be taken on the basis of reasonable grounds, in good faith and in a confidential manner.

6.7. We shall contribute to implementing the Court's policy of open internal and external communication. Openness has a positive effect on cooperation. Relevant information must be shared with others: we shall be aware of what information we hold and who may need it in their work. Information sharing must be balanced against the duty of confidentiality, but should not be limited more than strictly necessary.

6.8. We shall also seek the opinion and professional assessment of others.

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<sup>15</sup> Staff Regulations, Article 12a. See Court Decisions 61-2006 & 95-2008.

<sup>16</sup> Staff Regulations, Article 21.

<sup>17</sup> Staff Regulations, Articles 22a and 22b.

## 7. Good administrative conduct

*Apply the principles of good administrative conduct.*

7.1. We shall undertake to serve the interests of the European Union's citizens, who expect quality audit services and an accessible administration.

7.2. In dealing with the public we shall show commitment, ability, courtesy and helpfulness.

7.3. We shall reply to requests for information on matters which concern us or, for other matters, direct the requester to the responsible person.

7.4. When receiving a request, we should immediately send an acknowledgement of receipt, stating the information needed for contacting the person responsible for dealing with the matter (name, e-mail address, telephone number). We shall reply promptly to any request, in principle within fifteen working days, and in the language used by the requester (provided that it is an official language of the European Union). If we are unable to reply within this deadline, we should send a provisional reply indicating a reasonable time-limit for replying.

7.5. Before sending any information we shall check whether it has already been made public by the Court<sup>18</sup>. If that is not the case, we shall direct the request to the Court's department in charge of communication. Any refusal of information to the public must be justified on the basis of potential harm to the interest of the institutions.

7.6. Staff must direct any request from a journalist to the Court's press relations department. Members will keep the press relations department informed of their press contacts.

7.7. We shall accept requests made by post, e-mail, fax or telephone. We may also reply by any of those means but always taking into consideration any potential legal implication of the reply (e.g. statutory deadlines, evidence or receipt of the reply, etc.).

7.8. We shall always be prudent when sending information outside the Court; we shall not hesitate to consult superiors and the Court's department in charge of communication.

7.9. We must immediately notify any decision which affects the rights and interest of individuals in writing (e.g. staff matters like promotions, appointments, financial rights, etc.); first of all, to the persons directly concerned. The communication should indicate the possibilities for challenging the decision, the bodies to appeal to and the deadlines by which this must be done (in particular, the judicial bodies and the Ombudsman).

7.10. In the case of improper requests for information or complaints (e.g. repetitive, lack of sense, drafted in a rude manner, etc.), we shall reject them in polite but firm terms, always providing appropriate justification. Court staff must always refrain from making abusive complaints.

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<sup>18</sup> Public access to Court documents are governed by Court Decisions 12-2005 & 14-2009.