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EN

Speech

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

“The European Court of Auditors: Advocate of the Taxpayer”

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The spoken version shall take precedence.

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Esteemed Governor Reinesch,

Your Excellency, Ambassador Suzuki,

Esteemed former President of the European Commission Jacques Santer,

Members of the Bridge Forum Dialogue,

Dear colleagues,

Ladies and gentlemen,

I am delighted to see that so many of you have accepted the invitation from the Bridge Forum Dialogue to hear a bit about the role of the European Court of Auditors (ECA) as the advocate of the taxpayer in Europe. It is an honour for me to address you all tonight and share a few ideas about the European Court of Auditors' role and about how to design and control the financial system of the European Union.

Let me first thank the Bridge Forum for inviting me to speak in this series of high-level events. This is truly a unique forum, bringing together national and European institutions and agencies, the academic world and the people of Luxembourg. I believe, the Forum plays a very important role in bridging gaps and in sharing knowledge and ideas.

I would first like to provide a short description of the structure and work of the ECA and its role in the EU, since not all of you might be that familiar with it. I will then touch upon some topical issues relating to EU finances, above all the new multiannual financial framework.

The European Court of Auditors was founded in 1977. In 1993 with the Maastricht Treaty, it became a fully-fledged EU institution alongside the European Council, the European Parliament, the Council of the EU, the European Commission, the Central Bank and the Court of Justice. The ECA's structure is similar to that of its neighbour down the road, the Court of Justice. Each Member State nominates one candidate as a Member of the Court of Auditors, who is then appointed by the Council for a term of six years – however, only after a hearing and vote in the European Parliament. Like the Court of Justice, the ECA is divided into Chambers, each with several Members and a special area of responsibility. The Members of the Court elect a President for a term of three years.

The Treaties stipulate that Members of the Court of Auditors “shall be completely independent in the performance of their duties, in the Union's general interest”. They do not serve as national representatives – although, of course, their national experience is highly valuable to us – but as defenders of the Union's financial conscience. This is not wording to be taken lightly, particularly given the existential challenges facing the European Union today, both from outside and from within. I believe that part of the Court of Auditors' strength lies in the diversity of its Members, who bring many different

perspectives to our work from many different walks of life, from former Prime Minister to General Auditor.

The Court's other strength is, of course, its staff. The Court has about 900 staff, 2/3 of whom work in the audit chambers. Although we do most of our audit work here at our desks in Luxembourg, we also need to check on the ground how EU money is spent in the Member States and all over the world. In other words, we go where the money goes, be it in Germany, Spain or sub-Saharan Africa. In 2017, our auditors spent 3 670 days auditing on the spot. Naturally, we carry out more audit visits in countries where more EU money is spent.

Ladies and gentlemen,

The Court's mission is to be the independent guardian of the financial interests of our Union's citizens. We are the Union's external auditor. We help to improve EU financial management, and to promote accountability and transparency. We warn of risks, provide assurance and draw attention to shortcomings, as well as successes. We offer guidance to EU policymakers and legislators on how to improve EU policies and programmes.

We do all this with the dual aim of improving financial management and reporting to EU citizens on how their tax money is used. We are, if I may say so, "the EU's financial watchdog". The European Court of Auditors also helps the European Parliament and the Council to exercise their powers of control over the implementation of the budget.

According to the Treaty, the ECA examines the accounts of all revenue and expenditure of the Union, and also examines the accounts of all revenue and expenditure of all bodies, offices or agencies set up by the Union, unless precluded by law. In respect of the European Central Bank, for example, the ECA's audit powers are limited to examining the operational efficiency of the ECB's management. I will come back to this later.

The ECA provides the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions. This is published in the Official Journal of the European Union. The statement may be supplemented by specific assessments for each major area of Union activity. The ECA examines whether all revenue has been received and all expenditure incurred in a lawful and regular manner, and whether the financial management has been sound. In doing so, the Court has to report in particular on any cases of irregularity. This statement of assurance is at the core of the annual report which the ECA draws up after the close of each financial year. Its key feature is the so-called "estimated error rate", which the Court establishes on the basis of random samples and statistical models.

In every annual report it has drawn up in the past twenty years, the Court has determined that the estimated error rate was above the required 2% materiality threshold. This means that the error rate which is deemed still to be tolerable was exceeded every year. Does this mean that millions of euros are wasted every year? No! It means that somewhere along the line a mistake has been made. A bridge that was built, for example, might still attain the objectives of the original investment. Of course, bad faith might also have played a role in some cases, or even criminal acts – in which case we refer the matter to OLAF, the EU's anti-fraud office.

In last year's annual report, for the year 2016, the Court issued for the first time a qualified opinion on how the EU budget was spent because the estimated error rate was close to 2% (specifically, 3.1%), even though half of the budget was in principle without material error. This means that, whereas in all previous years and based on estimated error rates above the threshold, we had responded to the question of whether all EU expenditure had been incurred in a lawful and regular manner with the answer "No, but...", we were now able for the first time to say "Yes, but...".

Around 50% of the Court's resources are spent on such compliance testing. And if you are now asking yourself: "Does this make sense?", then you are asking yourself a question we have also asked ourselves.

The fact is that the annual report is certainly not the Court's only product, but it is legally required to produce it. The ECA also issues observations, notably in the form of special reports, on a broad range of issues – ranging from the Commission's intervention in the Greek financial crisis to action on climate change, the integration of migrants from outside the EU, pre-accession assistance to Turkey, the Single Resolution Board and free movement of workers, as well as broadband and renewable energy, to name but a few recent ones. Our special reports deal primarily with issues of performance rather than of mere compliance with the relevant financial rules and regulations. The aspect of performance testing is crucial, to my mind. Performance auditing seeks to answer the citizens' question: Do EU funds provide value for money? Ensuring that the right answer is given to this question, and providing recommendations where this is not yet fully the case, are among the ECA's most important tasks. We want to help EU citizens – by providing reliable information through independent audit – to decide if they can trust the EU to deliver for them when it comes to meeting today's challenges.

And that is why the Court has decided in its Strategy for 2018-2020 to improve its product range by enhancing the added value of the Statement of Assurance and focusing its work more on performance aspects.

Do not get me wrong – trust in EU financial management will always entail the need for citizens and their representatives to be assured that the applicable rules are complied with. Our Statement of Assurance on the reliability of the EU accounts and the legality and regularity of the underlying

transactions has contributed much to the significant improvements made in EU financial management over the past 20 years. We have come a long way from double-digit error rates to an error rate that is close to the materiality threshold. Today, we have significantly fewer errors in EU payments, and more accountability and transparency in EU financial management. We have better control systems in place, leading to better prevention and detection of errors at the Commission and in the Member States; and when errors do still occur, we have better corrective measures at our disposal. Last but not least, rules have been simplified through better regulation, although there is still a lot to be done in this regard.

But we cannot stop here. Positive developments in management and control systems now give us an opportunity to take a fresh look at our audit approach for the Statement of Assurance and adapt it to today's realities and requirements. Currently, our Statement of Assurance audit relies mainly on resource-consuming direct testing of compliance for a large random representative sample of payments all across the EU budget. What we want to do in the 2018-2020 period is to adapt our Statement of Assurance approach – in full accordance with international public-sector auditing standards – to benefit from the improved situation of EU financial management by relying more on the audit work of others wherever possible. This will allow us to focus our attention and resources on assessing whether the EU is delivering results for its citizens – i.e. to focus on performance issues. We will assess the options of using the legality and regularity information obtained and provided by the auditee. This Statement of Assurance approach will include more qualitative elements and lead to a reduction in the ECA's own direct testing of payments – thus allowing us to focus on the performance aspects of EU action.

In the next few years, we will focus our output on assessing performance in the following ways:

(1) We will better assess the added value of EU action: This is an important point I will say a few more words about later on. Briefly, though, what does 'the added value of EU action' mean? In the future, we will more often address actual performance issues such as achievement of intended results and their impact, and how EU action matters to citizens. Given the reform pressures on the EU, we will whenever possible assess whether action at EU level was actually the best way to achieve the desired outcome, and whether more or less EU-level intervention would be appropriate in view of the objectives of the funding or policy. We will continue to point the finger at performance problems. However, we also praise what has been done well, because our job is not to just spot shortcomings wherever we can find them. Much more than this, it is our job to draw up a reliable account of what works well in the European Union from a financial point of view – and what does not.

(2) We will take a broad view of EU action: EU action takes effect in many ways within broad, interconnected policy areas alongside national, regional or local public-sector action. We will undertake broad reviews of EU action in various policy areas such as through 'landscape reviews'. This will enable citizens and their representatives to see EU spending and administrative action as part of a bigger

picture. These broad assessments will also help us to identify specific EU measures that deserve more attention in the form of targeted performance and/or compliance audits.

(3) The impact of our reports depends on their relevance, quality and timing. We will improve the timeliness of our products by focusing them better on the most relevant issues. Obviously, timing is particularly relevant if our work is needed in response to a current event, such as the migration crisis. Even more importantly, though, we want our reports to be available when the Commission, Council and Parliament are in the pre-legislative phase so that our findings can be fed into the legislative process. Quick special reports will support our stakeholders in their legislative work. We will also introduce a new product in the form of rapid case reviews that are narrower in scope and that focus on establishing facts on specific issues in a short time.

(4) We will better compare the methods and results of EU action: Identifying and promoting good examples and practice of the way EU funds and policy are implemented will be given greater emphasis. EU action is often implemented in Member States. The results of EU action can therefore be expected to vary geographically depending on different circumstances and administrative practices. We will assess such differences whenever possible and useful so that all might learn how best to implement EU funds and policy.

(5) We will increase the impact of our recommendations on improved EU action: In our reports, we make numerous recommendations aimed at improving the performance of EU funds and administrative action. Mindful of the practical challenges faced by the auditee, we will take care to ensure that our recommendations address shortcomings in a cost-effective way. When necessary, we will also address potential shortfalls in the legal framework. All relevant recommendations will be followed up rigorously and the conclusions of this follow-up will be published.

(6) We will report annually on the performance of EU action: In recent years, stakeholders have shown that they require more frequent information on the performance of EU funds. The European Commission aims to reinforce its performance reporting by means of the 'budget focused on results' initiative. We will further develop our regular assessment of the performance of the budget overall, of multi-annual financial framework headings and of major individual EU funds.

(7) Last but not least, we will provide insight into EU actions to combat fraud and corruption: Through our work, we help to protect the EU's financial interests. We will provide more information on fraud and corruption risks, and the quality of prevention and detection systems at the European Commission, other implementing bodies and OLAF.

Ladies and gentlemen,

We are about to embark on a new multiannual financial framework for the Union – the ‘MFF’.

The EU Treaties oblige the Union to lay down a multiannual financial framework. Such long-term financial planning will ensure that the Union’s expenses follow a stable and predictable path of development over a given period of time. It will provide a financial vision for the Union for the years to come, but will also increase financial planning security for potential beneficiaries of EU funds. It must therefore be established for a period of at least five years. The current MFF covers the years 2014 to 2020, i.e. a period of seven years. It allows for investments of around 1 trillion EUR over that period.

The MFF is the framework for the annual budgetary procedure, as well as for the development of multiannual financial programmes within the limits it defines. It lays down the maximum amounts – the so-called ‘ceilings’ – which the EU may spend each year.

By far the largest part of it – 80% – is spent in shared management by the Member States. In other words, most of the EU budget is actually spent by the Member States!

The MFF is part of a comprehensive package which also comprises the decision on the Union’s own resources, i.e. on the financing of the Union’s budget. Based on a proposal by the European Commission, the regulation laying down the MFF must be unanimously adopted by the Council after obtaining the consent of the European Parliament. In parallel, the European Parliament and the Council adopt by the ordinary legislative procedure – i.e. by qualified majority – a series of sectoral programs that regulate each area in detail over the multiannual period, for example Erasmus. EU policies are implemented via a wide range of programmes and funds through which thousands of beneficiaries – from students and scientists to businesses and entire cities and regions – receive financial support.

I am explaining all this to show that the MFF – beyond being a mere budgetary planning tool – is a Union decision about political priorities for the years ahead. In May this year, the Commission submitted its proposal for the new MFF. It will cover the years from 2021 to 2027 with a proposed global volume of 1,279 billion euros – that is 1.11% of the Union’s GNI. This means that the MFF is also a decision about how to spend nearly 1,300 billion euros.

The Commission’s ambition is to get the new financial framework adopted before the end of the European Parliament’s current legislative term, rather than run the risk of it being delayed by the time taken to set up the new Commission and the new Parliament. Otherwise, we run the risk – like last time in 2014 – that the programming period will start but that the money will not yet flow because programmes are still being negotiated.

This is ambitious, and in my view laudable, even though it presents the peculiarity of the current Parliament's action being binding on its successor (the new Parliament of 2019), and even its successor's successor (the Parliament elected in 2024).

We at the European Court of Auditors have, at this stage, an advisory role to play. In recent months, the Court has adopted a first series of briefing papers on several key areas: from the future of the EU's finances and the Common Agricultural Policy to the simplification of cohesion policy and research beyond Horizon 2020. We will come back to these issues in our opinions on the legislative proposals for the new MFF and the key financial programmes. I am convinced that it is imperative to learn from the last generation of financial programmes and the current MFF in order to make the next financial framework – and with it the Union itself – future-proof.

Looking at the general framework of the MFF, I would like to explain to you in brief the main points raised by the Court so far.

1. Our starting point is the development of a proper framework for assessing the added value of EU action. EU added value should be a core objective of the next MFF. For our citizens to maintain trust in the Union, it is important to demonstrate the added value of EU spending.

About 1 trillion EUR under the current MFF sounds like a lot of money. And it is. However, the truth is also that this represents only 1% of combined EU income and only around 2% of EU public spending. The EU budget is a large sum in absolute terms, but it constitutes only about 1% of the wealth generated by EU economies every year. To put it bluntly, the EU costs every citizen less than a cup of coffee a day. A good price for what it brings – above all, the longest period of peace this continent has ever seen, and relative prosperity in turbulent times – so far, at least.

To put it very clearly, the Union offers the only possibility of maintaining a voice in the rapidly changing global arena of trade and geopolitics, where its single Member States would otherwise be marginalised by bigger players, both old and new.

Nonetheless, every euro spent by the Union must have added value for the taxpayer. This means – in principle – that every euro spent at EU level should deliver clear and visible results over and above what could be achieved by spending it at national, regional or local level. We need a robust concept of EU value-added that makes it possible to identify opportunities for adding value in the EU budget and to evaluate the performance of spending programmes. It is important to obtain this information and then consider it when setting future spending priorities. This makes it possible to focus the EU budget on those areas where EU action can yield the greatest benefits for citizens. At the same time, this is also the very essence of the principle of subsidiarity.

To take an easy example, a taxpaying citizen driving along a road built with EU funds will not so much wonder whether all rules and regulations have been complied with; he or she will simply want to know if it made sense to spend his or her tax money on building the road. The same applies to a port, bridge, airport or railway line financed with the help of EU money: did it make sense to build it? Does it fit in the overall infrastructure system? Are people and businesses in the region benefiting from it? The same is true for all other policy areas. Citizens want to know, for instance, what the results of the Commission's intervention in the Greek financial crisis actually were. Or, for that matter, the results of the EU's response to the migration crisis, the implementation of the Natura 2000 network, its support for young farmers, broadband and public private partnerships in the EU, its pre-accession assistance for Turkey, or the free movement of workers, to name but a few of the issues we have looked at recently.

The EU's financial planning must be aligned with its strategic priorities – there can be no “sacred cows”. Cohesion is an important policy area in this regard. Like all other policy areas, it needs to be designed in such a way that it delivers real added value for all European citizens. Its framework could be further improved post-2020 in order to deliver better results.

Agriculture is certainly another major policy area that could be reformed along these lines. No matter how important and reasonable the Common Agriculture Policy may be, it has become in large part little more than a source of support for big players in the agriculture business. There is nothing wrong with this business, but I personally believe that we have arrived at a point where it might be useful to re-think the Common Agriculture Policy, and perhaps re-direct money to areas that currently have more pressing financial needs.

The focus on EU value-added should be improved at each point in the budgetary cycle: from priority setting and resource allocation to programme implementation and the demonstration of results. Evaluating the performance of spending programmes, and ensuring that the way taxpayers' money is spent actually adds value at European rather than just national level, will be one of the European Court of Auditors' key functions throughout the next multiannual financial framework and beyond.

2. Secondly, the world and with it global politics are changing at unprecedented speed and have become very unpredictable. We therefore propose to make the EU budget more responsive. We believe that the EU budget's responsiveness to changing circumstances and unforeseen developments needs to be improved by making it more flexible. This includes re-considering certain structural aspects of the MFF to gain more flexibility within the MFF's different ceilings, and between years. It could also include a new system of reserves to cover the risk of unforeseen events rather than just unanticipated delays in implementing programmes.

Currently, the amount is largely fixed over the duration of the multiannual financial framework, or even longer. This means that if an unforeseen situation arises (e.g. the migration crisis), the Commission has

to ask the Member States to provide additional funds to enable the EU to react to that situation. Such additional funds often do not become part of the EU budget but circulate around it as satellites, in what Jean Arthuis, the chair of the European Parliament’s budgetary committee, has called a “galaxy of budgets”. These satellite budgets are not subject to the same controls as the core EU budget, leading to a loss of transparency and an accumulation of risks.

3. Thirdly, we propose that the Commission should complement its MFF proposal with a medium- to long-term financial plan which includes outstanding commitments, pre-financing and contingent liabilities. Outstanding commitments are forecast to reach 262 billion euros by 2020. It is extremely important to address this issue with the next MFF because risks are increasing.

4. Fourthly, the Court of Auditors advocates principles of accountability and transparency for all EU-related bodies. As a general rule, and where the Treaties allow, EU-related bodies should be incorporated into the EU budget with full democratic accountability, and be subject to solid public-audit mandates. It might well be justified – by way of exception to the general rule – to establish and finance certain EU-related bodies outside the EU budget. However, the same principles of accountability and transparency should also apply to such bodies.

The ECA will deliver a detailed first opinion on the new MFF before the summer break. Transparency and accountability are important: they are key factors in maintaining citizens’ trust in the management of EU finances, and thus also in the European project itself. External auditing by the Court of Auditors is not a threat, but a partnership that ensures good financial management.

However, even with regard to EU institutions, we are facing significant audit gaps. Our audit mandate is, for example, limited with regard to the European Central Bank, and rightly so when it comes to the bank’s monetary function. Independence, including the limitation of external auditing, is indeed conducive to maintaining price stability. The Court’s audit mandate is, however, also limited with regard to the bank’s supervisory tasks under the Single Supervisory Mechanism (SSM). After the crisis, the almost 130 ‘significant’ banks in the EU were brought under the direct supervision of the European Central Bank, representing a total asset value of about 21 trillion euros. That is roughly 80% of the total asset value of banks in the euro area. With the introduction of the SSM, national audit institutions lost the power to audit banking supervision for systemic banks. This loss was, however, not offset by a full audit mandate for the Court of Auditors at European level. This has given rise to a paradoxical situation where audit powers over banking supervision are now more limited than they were before the crisis and problems with supervision were one of the reasons for the crisis.

The Court should be able to audit all EU bodies, as well as those bodies created outside the EU legal framework which implement EU policies, such as the European Defence Agency, the European Stability Mechanism and the EIB’s non-EU budget-related operations.

In some cases, such as the SSM, this requires subsequent legislative amendments; in others, this should be ensured right from the beginning, for example when transforming the European Stability Mechanism into a European Monetary Fund within the EU legal framework.

Historically speaking, new areas of European collaboration have often first taken the form of intergovernmental cooperation before subsequently being incorporated into the EU system, i.e. the Union's classical areas of competence. In this process, it should not be forgotten that these areas also need to be brought under the mandate of the European Court of Auditors – in the interest of our common European project. A lack of accountability and transparency gives rise to doubts, and so plays into the hands of eurosceptic populists.

Last but not least, the use of financial instruments outside the EU budget undermines accountability. Financial instruments can be useful for many reasons. Their leverage effect will be an essential element of future EU financial management. But this should not – and does not need to be – to the detriment of transparency and accountability.

The Commission's proposal to integrate the European Development Fund into the MFF gives hope in that this will also signal the start of greater efforts to reduce the so-called "galaxy of budgets" which has proliferated around the EU budget, thus making it more complex and less transparent.

5. Fifthly, simplification. Every time I visit a European capital, from Warsaw to Lisbon, from Tallinn to Sofia, this is the word that I hear most often. I therefore welcome the Commission's efforts to combine and reduce the number of sectoral programs from 58 to 37. This is certainly necessary when we look, for example, at how many different sectoral programs — each with different eligibility rules — we used to fund the response to the migration and refugee crisis. It is a step forward when Budget Commissioner Oettinger speaks of a "single rulebook" for access to EU funds. The Court of Auditors has a ready-made proposal for simplification in the area of research ("Horizon"), and we will now examine the other programmes that have recently been proposed or are about to be so. As the Union's external auditor, we are also committed to optimising the way we use existing audit work carried out by Member States and the European Commission. This will eventually produce an integrated audit chain, thus reducing the burden on final beneficiaries. I will come back to this later.

6. Sixthly, it is certainly welcome that the EU should try to move away from a situation where more than 70% of its revenue comes from national budgets. And the point I would like to insist on here is that any revenue, linked to environmental objectives, must be predictable and sustainable, otherwise we run the risk of creating a new problem while solving an existing one.

Lastly, the Commission has proposed that the allocation of EU funds to Member States should be linked to respect for the rule of law. This is new and sensitive territory for everyone. We will examine this

proposal carefully to ensure that the criteria are as objective and verifiable as possible. Political decision of course are to be taken by political bodies, the European Parliament and the Council.

In our forthcoming briefing paper in July, we will also examine the figures carefully since there seems to be some controversy in the European Parliament as to the actual reductions proposed, for instance in the fields of agriculture and cohesion.

We can already see that discussions about the MFF, especially in the Council, are going to be tough. The various battle lines are already being drawn up. The unanimity requirement brings with it the temptation of veto strategies, not to mention a tendency to look at the MFF purely in terms of “bean counting” with net beneficiaries fighting net contributors.

The decisions our elected representatives will soon be making will be much more complex than this zero-sum game, and will determine the direction in which the European Union develops in the years to come. Our citizens expect a rebalancing of the MFF not only towards the new challenges posed by migration, the fight against terrorism and securing the Union’s borders, but also towards research and new social challenges.

We need to bear in mind that we are talking about a budget for 27 Member States, and not 28 like last time. There will be a “hole” of around 15 billion euros per year when the United Kingdom leaves the Union. This naturally brings challenges, but it also creates opportunities: opportunities to review our complex rebate arrangements; opportunities to reflect on sustainable own resources to plug the Brexit gap; and opportunities to review EU spending and prioritise those areas with the most added value.

At the same time, the Union might be given new tasks, such as external border protection, security, defence and the environment, to name but a few. The Union will not be in a position to take on these new tasks without the necessary funding. In this delicate situation, focusing on the added value of EU action as I have described above will be crucial.

When talking about making the EU budget future-proof, we must not forget to ensure that we at the ECA are also future-proof. New tasks and areas of competence for the Union also require the Court and its staff to have the necessary skills and knowledge. In order to anticipate future needs, we have established a foresight group. Its task is to identify areas that will top the agenda in the future, such as cyber security, so that the Court is ready when these issues present themselves.

Ladies and gentlemen,

The EU’s multiannual budget may be a little bit like a supertanker: it takes considerable patience and effort to redirect, but the effort is worth it, since when the storm hits, we will be better prepared.

You do not have to be a prophet – or a populist – to know that the storm will hit eventually. I do not say this to stoke fears. Quite the contrary, in fact: the European Court of Auditors’ mission is to foster and maintain citizens’ trust in the Union through independent and objective reports. And to provide legislators and the executive with expert advice so that they can make the right decisions. Opinion polls show that citizens’ trust in the EU is on the rise, but the feeling that things are going wrong in the Union is still deeply rooted. The European Court of Auditors will continue to respond with clear and reliable facts, highlighting those things that work well and drawing attention to uncomfortable truths where they do not.

To stay with the nautical metaphor, the Court is the Union’s pilot vessel in financial matters. It gives advice in troubled waters and indicates navigable routes. And it sounds the alarm whenever it sees a rocky obstacle. I hope that I have been able to shed some light for you today on the role and mission of the European Court of Auditors as we approach a new multiannual financial framework for the Union.

Thank you very much!