



EUROPEAN
COURT
OF AUDITORS

Speech

13 October 2022

Speech by Tony Murphy, President of the European Court of Auditors

Presentation of the ECA's 2021 annual report
Committee on Budgetary Control – European Parliament

13 October 2022

The spoken version shall take precedence.

Madam Chair,

Honourable Members,

Commissioner,

[Representative of the Council Presidency],

It is an honour for me to be here with you for the first time as the **newly elected President** of the European Court of Auditors (ECA).

Firstly, I would like to briefly share with you some **words about myself**. I am an **auditor** with over 40 years of experience in public sector audit, at both national and European level – in the Irish Supreme Audit Institution, the European Commission and at the ECA. I have worked at the ECA for almost 10 years in various functions and Chambers, and became an ECA Member in 2018.

My **focus as President** will be on continuing our work to support this **Committee** with the information that you need to fulfil your role and to improve **accountability and transparency** across all types of EU action, in the interests of our citizens.

However, today I am also here before you in my previous function as the **Member for our annual report** for the year 2021.

In this role, I have met and worked with many of you over the past years, and so I know from first hand, the **close and constructive cooperation** that exists between our respective institutions. I very much look forward to meeting and working with **all of you**, and to deepening our fruitful cooperation.

Our annual report is our **core product** and producing it requires a **common effort**. The annual report I present to you today would not exist without intensive **teamwork and dedication** and I take this opportunity to thank the many **auditors and support staff** involved at all stages of the audit work, the **Members** responsible for individual chapters and our entire **College**.

Our annual report is published in a very **different context** from last year's one. While we have all worked hard in providing an effective service despite the ongoing operational issues arising from the **COVID-19 crisis**, we are now also confronted with **Russia's war of aggression** in Ukraine. Its worldwide ramifications and an unfolding **energy crisis** create new challenges for all of us.

Managing the EU's finances in a **sound and effective manner** is more important than ever. It requires an **increased responsibility** for both the Commission and the Member States, but also for us at the European Court of Auditors.

What are the main findings of our 2021 annual exercise?

As in previous years, on the **EU accounts**, we adopted a clean opinion – they were not affected by material misstatements.

On **revenue**, we found that the overall level of error was **not material**. We found some persistent weaknesses, however, in controls relating to so-called Traditional Own-Resources in certain Member States and certain related processes at the Commission.

Our annual report on the 2021 financial year is the first year where apart from the budgetary resources agreed as part of the **MFF**, we also cover the ‘Next Generation European Union’ (**NGEU**) initiative and especially the **RRF**.

For the first time, we therefore provide **two separate opinions** on the legality and regularity of expenditure for 2021: one on **EU budget spending** and one on the **RRF spending**.

We provide **two separate opinions** in order to reflect the **differences** between budget spending under the multiannual financial framework (MFF) and RRF spending. The RRF is a **temporary instrument, financed through issuing bonds** but most importantly, it follows a **different delivery model**. Unlike EU budget spending, which is based on the **reimbursement of eligible costs or compliance with conditions** defined in EU or national rules, under the RRF the condition for payment is the **satisfactory achievement of predefined milestones or targets**.

Firstly, I would turn to our opinion and findings on **EU budget spending**:

Based on our representative sample of 740 transactions, we found that the overall level of irregularities **increased** from last year, reaching 3.0 % in 2021 (from 2.7 % in 2020 and 2019).

Given the widespread nature of the problems we uncovered (i.e. the pervasiveness of error), we gave an **adverse opinion**, for the third year in a row.

Our findings confirm yet again our previous assessment that the **way funds are disbursed**, i.e. whether they are disbursed as a **reimbursement of costs incurred** or rather based on an **entitlement** has an impact on the level of error.

For **high-risk spending**, a clear **majority** (63%) of our audit population, the error rate is estimated at 4.7 %. We are mainly talking about Cohesion, but also other EU policy headings, including the ‘Single Market’, ‘Migration’, ‘Security’, ‘Neighbourhood’, and parts of ‘Natural Resources’.

For **low-risk spending**, we concluded that the estimated level of error was **below the materiality** threshold of 2 %. This includes entitlement-based spending such as direct

aid to farmers, Erasmus grants to students, and the salaries and pensions of EU civil servants.

If we **zoom in** for a moment on the **different policy headings**, starting with **Cohesion**, we find a number of typical errors such as ineligible costs, lack of essential supporting documents, infringements of single market/ state aid rules, and breach of public procurement rules.

We estimate the level of error under this heading **at 3.6 %** (3.5 % in 2020).

I would like, Madam Chair, to give you some **concrete examples of errors** that we found, to better illustrate what I am talking about:

- one programme we audited involved costs from partners located in the **wrong geographical area**. Such expenditure was ineligible.
- in another case, we found that a quarter of **participants in a social programme** designed for those not in education, employment or training, were in fact **employed**.

An important part of our work in Cohesion and I know an **area of particular interest** also of this Committee is the work of the **national audit authorities**. Since 2017, we assess the work of **these audit authorities** through our substantive testing. Our audits over the last five years show that the work of these audit authorities does **not** yet sufficiently **offset the high risk of error** in this area and currently **limits the reliance** that **can be placed** on that work.

Madam Chair, it is important that we also highlight **positive examples** that we find. Here, I would like to point out that for one Member State we found that the national **audit authority** provided support and advice on how the managing authority could improve its public procurement procedures.

I now turn to **Natural Resources**: taken as a whole and considering all information available, we found the level of error to be **close** to the materiality threshold.

For those spending areas identified as **high-risk** (rural development, market measures and other areas outside the CAP), i.e. about a third of this MFF heading, our results indicate that the level of error is material, with the main sources of error being ineligible beneficiaries, administrative errors and failure to meet environmental commitments.

Some examples of errors found in this spending area:

- we detected a few cases of **poultry farms** that submitted more than one application. In most cases, a married couple each claimed the maximum aid,

stating they should be treated as separate farmer, even though their animals occupied the same buildings.

- whilst auditing a farm using satellite images, we established, that the farmer's declaration did not reflect his **actual agricultural activity**. More than half of the payment in question was therefore considered as an error.

For this policy area, I would like to refer to the **positive contribution** which **checks by monitoring** can have. These checks are based on satellite imagery that can be used at national level to check compliance with certain EU rules, for example area-based aid claims. For 2021, we examined such satellite use by Italian and Spanish authorities and recommend to the Commission to further support Member States in its use, reflecting that only 13 % of the area of direct aid schemes is currently covered by such checks.

For **Single Market, Innovation and Digital**, we found an increase of the material level of error from 3.9 % in 2020 to **4.4 % in 2021**. Research spending (mainly Horizon 2020) continues to provide the main source of errors, in particular ineligible costs such as personnel costs.

Some **examples** of such errors:

- whilst auditing one SME, we found **no time records** for two staff, whilst others had claimed hours whilst on annual leave. Nearly half of the hours we examined were ineligible.
- in a different project, we found that a researcher did not in fact meet the **academic qualifications required** to benefit from a **Marie Curie fellowship**. All related costs were therefore ineligible.

Turning to Migration, Borders, Security and Defence, we found errors in nearly a third of the transactions we examined.

- we found that one project concerning Internal security did not result in the purchase of the **intended off-road vehicles for the police** – and we could not be sure that the vehicles actually purchased were used for the purposes intended.
- we found errors in a **procurement procedure to house asylum seekers**, and various problems with the subsequent contracts that were concluded with certain hotels. Neither the national authorities nor the Commission had detected these errors.

As far as the heading **Neighbourhood and the World** is concerned, the most common errors found concerned expenditure not incurred, lack of essential supporting documents, ineligible costs and breach of the public procurement rules. Nearly half of the transactions audited contained errors. **Despite our limited sample, our results**

confirm that the risk of error under this heading is high. I should add that, despite the Commission's efforts to assist us, we continue to have difficulties in obtaining certain **documentation from some international organisations** which are in charge of implementing EU programmes.

Lastly, I come to the **Administration** heading. Like in previous years, we estimated the level of error not to be material. **Two of the five errors** that we quantified concern the Parliament, one the Commission and two the EEAS.

Ladies and Gentlemen, I now turn to our audit of **expenditure under the Recovery and Resilience Fund (RRF)**:

This is a **novelty** in our annual report this year, and something that we will continue to separately report over the life of the RRF.

The RRF provides for a **different delivery model** than that for EU budget spending under the MFF, focusing on the achievement of **milestones and targets**, rather than the reimbursement of costs incurred.

In our statement of assurance audit, we therefore focus on whether the **Commission** has gathered sufficient and appropriate evidence to support its **assessment** that the milestones were satisfactorily fulfilled. Compliance with **other EU and national rules** does not form part of the **Commission's assessment** on the legality and regularity of payments under the RRF and is therefore not covered through our opinion. This aspect will be looked at separately through future audits when the Commission work in this regard has been completed and can be assessed by us. Furthermore, we do not assess the **effectiveness of the different reforms** contained in the milestones, this would rather be a topic for future dedicated special reports where their effectiveness could be assessed.

The **RRF audit population** included the single payment of €11.5 billion made to Spain in 2021, following the reported fulfilment of 52 **milestones**, all of which related to reforms.

We found that **one of the milestones** (relating to a **Corporate Income Tax reform**, and in particular the introduction of measures "to ensure a minimum rate of 15% by taxpayers") was not satisfactorily fulfilled. Our view is that the impact **was not material**. Furthermore, we noted the Commission has not yet defined a **method for quantifying the impact of not achieving a milestone or a target**, i.e. what amount should be suspended as a result.

We made further **recommendations** to the Commission in its assessment of the milestones, in particular relating to documentation of its work and to the criteria used to assess the milestones.

Ladies and gentlemen,

We have so far been looking at the **compliance** aspect of EU spending. But **using** the funds available is another area that we look at, and which has regularly been an **area of concern**. This has not changed in 2021.

Outstanding commitments at the end of 2021 totalled €341.6 billion compared to €303.2 billion last year. However, this amount includes for the first time outstanding commitments made for the RRF of almost €90 billion. Without this amount, outstanding commitments decreased compared to last year, mainly due to delays in the implementation of shared management funds under the 2021-27 MFF.

We also provide information in our report on the exposure of the EU budget to possible **liabilities** in the future. This exposure more than doubled in 2021, to €277.9 billion. This was mainly due to €91 billion in bonds issued to finance the NGEU package and an increase of €50.2 billion in financial assistance provided to Member States to protect jobs and employees affected by the pandemic (SURE).

From a **horizontal point of view**, we report on issues that concern the Commission's Annual Management and Performance Report on the EU budget (the **AMPR**), which you will discuss later today. This year we noted that the limitations of ex-post controls in various policy areas affect the robustness of the **Commission's risk assessment** and its classification as to what is **high-risk or low risk expenditure**. We also report on the presentation of **financial corrections** for irregular payments (€5,6 billion) and consider their presentation prone to misunderstanding. Finally, in relation to the notification of Hungary by the Commission under the **Conditionality Regulation**, we note that the AMPR does not disclose details of that notification or how it may affect the regularity of the expenditure concerned. In the meantime the Commission has proposed budget protection measures to the Council and shared additional information of which you are aware, where it referred to a number of issues, including the public procurement system and the prevention and correction of conflicts of interest.

Finally, we reported 15 suspected cases to OLAF that we had identified in the course of our audit work in 2021 (2020: six cases), from which OLAF has so far opened five investigations. We have working arrangements in place both with the EPPO and OLAF, and from this year, we are forwarding cases of suspected fraud to both simultaneously where possible. Beyond the individual cases that we may suspect, the Court tackles this important topic through dedicated Special Reports, for example where we looked at fraud risks affecting the Common Agricultural Policy (14/2022), the blacklisting of operators (11/2022), and conflicts of interest in shared management (forthcoming, Q1 2023)).

Madam Chair, honourable Members,

Our annual report contains **further detailed information and findings** which I would also like to highlight but unfortunately my time is limited. So, I would like to conclude here by referring you to the text of our **Annual Report** or our **EU Audit in Brief**, which you have all received.

I would like to close by stating that our findings for 2021 show that we must **remain vigilant** and **need effective checks at all levels** on how the money is spent and whether the intended results are achieved.

We live in world that is changing at an **unprecedented pace** and this brings with it challenges for the EU. Spending in the EU is due to increase two-fold in the coming years, therefore, both Commission and the Member States have a **tremendous responsibility** to manage the EU's finances in a sound and efficient way.

Finally, I would like take this opportunity to **thank the Commissioner** for his Institution's cooperation over the past year. We may sometimes differ on specific points, but together we both strive within our respective responsibilities to ensure that the EU's budget is put to good use.

Thank you for your **attention** and I look forward answering your **questions**.