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Cover photos:
Rimantas Šadžius, new ECA Member

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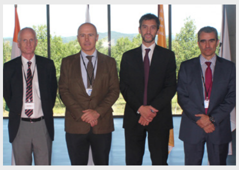
10 

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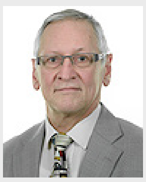
25 

There are lots of areas where the ECA could have its say

Interview with Rimantas Šadžius, new ECA Member

By Rosmarie Carotti

Rimantas Šadžius, ECA Member

R. C. : Sir, you have formally been sworn in at the European Court of Justice on 6 July. What did that mean for you?

Rimantas Šadžius: It was a very moving moment and an important one in my life because it started a new part of my career. From a politician for whom it is necessary to plan and to act ex ante I became an auditor representing an independent institution which acts mainly ex post. It is quite difficult for a person to change overnight but I had to do this. On 15th June I still was Minister of Finance in Lithuania and on 16th June I was appointed ECA Member.

R.C.: What areas will you be responsible for?

Rimantas Šadžius: I was assigned to Chamber IV which acts in the audit domain of regulation of markets and competitive economy. On my account now are the financial and compliance audit of the European agencies, the performance audit of the Erasmus+ programme and the performance review of Joint Undertakings in research and innovation.

R. C.: You held very important positions in many international financial institutions. How can you make sure that there is no potential conflict of interest with your present tasks? Did you have to give up all your previous mandates upon joining the ECA?

Rimantas Šadžius: With the present tasks in the ECA there is no conflict of interest whatsoever. Of course, in the future, I will be very careful and avoid any conflict of interest to the best of my possibilities. The positions you referred to, Governor of the European Stability Mechanism, the European Investment Bank, the World Bank and alternate Governor of the International Monetary Fund, all these positions are ex officio. That means that Ministers of Finance are appointed for these positions. Boards of Governors have limited power; the executive power belongs to other bodies. For auditing, mostly the executive bodies are responsible. Of course, when I will have to deal with the Boards where I was Governor, I will carefully weigh the scale to which I can or cannot be responsible for a particular audit.

R. C.: In your hearing in the European Parliament you said you were very proud that during your term and under your leadership Lithuania successfully joined the euro zone on 1 January 2015. What has changed for Lithuania with the adoption of the euro?

Rimantas Šadžius: Many things have changed. In fact, the adoption of the euro meant a new start for Lithuania. Now the country has to use this means for improving the economic conditions and fostering development.

First, the risk profile of the country changed. Before, Lithuania had its own currency. It was pegged to the euro since 2002 but still there was a risk of devaluation. This was always included in investment plans and when calculating the overall risk of the country, for example when assessing its sovereign debt. The sovereign debt of Lithuania became significantly cheaper and its credit rating stepped up immediately after the European Council adopted the decision on the introduction of the euro in 2014.

Second, there was the indirect effect of the abolition of the exchange rates. These exchange operations in the Lithuanian commercial banks amounted to over two thirds of the exchange operations overall. The euro opened up better possibilities to access the European markets. The Lithuanian economy is characterised by a very large percentage of exports going to the EU, out of which most goes to the Eurozone. To have a simple contract with partners without any devaluation clause makes things much simpler.

Third, bank transfers have become much simpler since joining the Single European Area starting from January 1st 2016. Also financial security is important and Lithuania is a member of the European Stability Mechanism which is another safeguard.

Last but not least, one of the factors that determined the high appreciation of the new currency by the Lithuanian population was geopolitical security. Having this strong currency in place meant to be fully integrated in the Western European economic world and in the Western defence mechanism. Joining the Eurozone finalised a very important process that began more than ten years ago with Lithuania's entrance into NATO and the EU. The advantages of being member of NATO, the EU, the Eurozone are absolutely evident for everyone.

R. C.: "Investment rather than better spending" was clearly voiced in the course of the Lithuanian Presidency of the Council. As a new ECA Member, do you now share the concerns expressed by the ECA in its opinion on the EFSI?

Rimantas Šadžius: Of course, I always will have to share the ECA's consolidated point of view. Let me however be precise here. The ECA expressed its opinion on the regulation of the EFSI. This was a very important ex ante opinion during the discussion of this legislation and also influenced its implementation. Now our turn is to assess how it works. I hope this will be one of the priorities in the ECA's 2017 activities although it might be too early to express a judgement on the overall operation of the EFSI.

R. C.: Will the ECA only be able to give an opinion on the EFSI lending directly linked to the EU budget?

Rimantas Šadžius: No, on the operation overall. The ECA will assess how the fund operates from the performance point of view. It is wider than the angle on budgetary money, which in this case is used for supplying the guarantee. It is absolutely impossible in such a complicated mechanism as the EFSI to confine ourselves with counting the money of the guarantee. Looking only at this money, it will be very difficult to tell if it was used effectively not knowing the context. The main aim of this money is to generate flows of private resources for funding riskier projects that should have European added value. Here there are lots of areas where the ECA could have its say, starting from efficiency of using this money to dealing with the European added value of the projects.

If we, as an institution, confine ourselves to financial and compliance audit and only care about the regularity of the expenses, it can happen that, absolutely in accordance with the law provisions, the money will be spent for nothing and we will miss a larger picture

We should try to develop methods to assess the European added value in euros. This could already be a substantial and relevant result of the activities of our important independent audit institution. I see this as the best for the institution to move forward. In our annual reports the performance component has already been integrated for a couple of years. Landscape reviews are another very important attempt to assess European politics horizontally, from an economic, financial and compliance point of view.

R. C.: It took the ECA many years to strengthen its performance audit role. How can the ECA's work become more relevant for the citizen?

Rimantas Šadžius: It is less important for people to discuss whether everything went precisely in accordance with the law, that's to say financial and compliance audit. But performance evaluation can be made interesting and important for citizens given we guess rightly what the hottest issues on the European table are and if we try to mobilise our limited resources just in these directions.

R. C.: How important is the role of the European Parliament and the other EU institutions in this?

Rimantas Šadžius: It is very important to listen to all stakeholders. I believe there is good cooperation with the European Parliament. The Council can make suggestions, too, although so far there is not an extensive practice of that. Civil society organisations are another source of ideas. This is a hotspot where we should concentrate our forces.

Another element which is important for citizens is a fast result. This for auditors is the most difficult thing because audit is a very lengthy, careful and time-consuming exercise. In the ECA, we could try to think about fast products, fast assessments, with opinions on legislation for example, where we do have experience. One has however to acknowledge that there already is a visible shift in the ECA's activities in this direction. There already are so-called "quick reports". I think we can improve on that first experience and concentrate more on recent and current problems. This could also make a contribution to the reliability of the EU as a whole.

R. C.: Things will change in the EU after the Brexit concerning the budget. Is the ECA concerned?

Rimantas Šadžius: The ECA will be able to participate indirectly, through the working groups that are already in place and try to formulate rules for results-based budget. In some particular areas the ECA can also have its say but it should not be mixed into this political process. Political process of the Brexit negotiations and the assessment of the effectiveness of European policies by the ECA should be kept separate.

R. C.: In some EU countries there is now an independent budget policy monitoring authority (so-called Fiscal Council). Should there be one at EU level, too?

Rimantas Šadžius: The existence of these kinds of institutions is legitimate and necessary and obligatory according to the European legislation, which was signed at least by all the Eurozone Member States. Independent fiscal institutions exist in all European countries that subscribed to the Fiscal Compact. In Lithuania we did not create a new institution but decided to assign the function to the Supreme Audit Institution.

On the European level, according to the five Presidents' Report (Commission, European Parliament, European Council, European Central Bank and Eurogroup) there was a proposal to establish an advisory European Fiscal Board that could coordinate activities of the independent fiscal Councils in the Eurozone countries and provide with insights. Such a European Fiscal Board should lead to better compliance with the common fiscal rules, a more informed public debate, and stronger coordination of national fiscal policies.

Up to now to my best knowledge the personal composition of this Council has not been yet determined and in fact this institution did not start operating, but such kind of centralised supervision certainly make sense. I think that the ECA should come back to this issue, to the economic and monetary governance of the Union, the European Semester, the application of the Stability and Growth Pact and further explore its remit in this field.

R. C.: Is there something at personal level, you would like to add?

Rimantas Šadžius: Specificities of audit are a new area of activity for me. From a personal point of view, I want to efficiently start working. I am very glad that as the latest appointed ECA Member I can learn very much from my 27 colleagues.

Special report no 19/2016: Implementing the EU budget through financial instruments – lessons to be learnt from the 2007-2013 programme period

Questions to Iliana Ivanova, ECA Member

From left to right:
Mihail Stefanov- attaché; Iliana Ivanova – ECA Member; Niels-Erik Brokopp –principal manager; Rares Rusanescu – team leader; Tony Murphy – head of private office; Agathoclis Argyrou – auditor

Q.: What does "Implementing the EU budget through financial instruments" mean? And is the meaning of financial instruments the same in banking and the EU?

A.: Financial instruments are a different delivery tool from grants and are used in different parts of the EU budget such as cohesion policy and agriculture. The support that they provide to beneficiaries takes the form of loans, guarantees, equity and quasi-equity.

Here it is important to stress that financial Instruments which are the subject of our report should not be confused with derivatives, which are an entirely different class of high-risk investments used by some participants on the financial markets.

Q.: How much money has been invested through financial instruments in the 2007-2013 programming period?

A.: In the 2007-2013 programme period more than one thousand instruments have been set up using ERDF and ESF funding totalling € 16 billion. In addition, the Commission centrally manages twenty-one financial instruments for an amount of € 5.5 bn.

For information, there are also instruments set up with EAFRD and EFF (EU fisheries fund) but there was no requirement for formal reporting for them in 2007-2013 programme period. They are estimated to be around € 770 m including national contributions.

Q.: Would the conclusion of your report be that financial instruments as a funding mechanism should be abandoned or significantly reduced? Are grants and the public budgets the only realistic alternatives?

A.: Absolutely not. Our report is the result of an in-depth analysis of the functioning of financial instruments during the 2007-2013 programme period, and highlights challenges related to their implementation as well as advantages of using them. As the decision for using grants and/or financial instruments as a funding mechanism should be based on an analysis of the specific needs, the conclusion may be that financial instruments are the preferred option to grants or vice-versa. What I would say is that the fact that loans have to be paid back, guarantees have to be released or in the case of equity investments returned should in principle have an impact on the behaviour of final recipients, leading to a better use of public funds and reducing the likelihood that they become dependent on public support.

Q.: In the SR you state that "improvements were made in the legal framework for the 2014-2020 programme period as regards financial instruments". What are these improvements?

A.: Indeed, while we highlight several weaknesses in our report we also acknowledge the efforts of the Commission in several areas relating to the new period.

For example, the provisions included in the legal basis for 2014-2020 programme period will limit the risk of setting-up instruments with excessive capital endowments and as a consequence also help to increase the likelihood of achieving a revolving effect. This of course also requires that managing authorities are more realistic about the share of the ESIF funds that can be implemented through financial instruments.

Q.: In the SR several observations relate to the management costs and fees in the 2007-2013 programme period, and it seems that this is a weak point for financial instruments. What has been done already to address the issue in the 2014-2020 programme period?

A.: Yes, we found that that a significant share of initial endowments of shared management financial instruments was spent on management costs and fees. Moreover, their fee level was significantly higher than for centrally managed instruments or private sector investment funds when compared to the financial support provided to beneficiaries.

The 2014-2020 legislation was significantly improved in relation to management costs and fees by providing ceilings on cumulative amounts which are below those applicable for the 2007-2013 programme period, and by making performance-related fees mandatory. However, the performance based elements are not yet sufficiently strong and we believe that the Commission must provide additional clarification on how management authorities should make use of these provisions when negotiating the funding agreements.

Q.: **One of the issues you mentioned was that the funds allocated to these instruments exceeded the needs. Does this mean that the excessive funds were wasted? What were the problems with market needs assessments? Why were they missing or not trustworthy?**

A.: This observation of the report relates to instruments that have been set up with the financial support of the different operational programmes (through ERDF, ESF). Our report concludes that in nearly half of the cases surveyed, the initial market needs have been overestimated which shows that the underlying analysis was not sufficiently robust during the 2007-2013 programming period. This was also related to the fact that the 2007-2013 framework did not require a mandatory assessment of the market needs. This situation led to instruments which were oversized and exceeding the market needs.

I would like to clarify that while they could potentially have been used for other purposes the unused financial resources are not lost or wasted as at the end of the eligibility period, the funds which are not provided to final beneficiaries will be paid back to the EU budget

In this respect, I would like to welcome the efforts of the Commission for the 2014-2020 programming period under which a detailed ex ante assessment is mandatory for financial instruments under shared management to establish evidence of market failures (or suboptimal investment situations) and to estimate the level and scope of public investment needs. Moreover, the new financial Regulation introduced a requirement for an ex ante evaluation for all instruments directly managed by the Commission.

Q.: Provisions in the legal base for the 2007-2013 programme period created incentives for Member States to use financial instruments to circumvent the risk of de-commitment of EU funds. Please explain.

A.: The automatic decommitment rule also known as "n+2" rule was introduced to help clear outstanding commitments and requires automatic decommitment of all funds not spent or covered by a payment request by the end of the second year following the year of allocation. However, the legal basis for the previous programme period allowed Member States to absorb EU funds from the ERDF and ESF upfront through the use of financial instruments. These payments made from the operational programmes to the financial instruments (funds) are considered absorbed and therefore could be used as a mechanism to avoid the risk of decommitment.

Q.: Did financial instruments succeed in attracting private capital? And what was the leverage effect of the private and public capital for shared management instruments?

A. : One of the key advantages of EU financial instruments is the fact that additional funds may be leveraged, or in other words that private and public funds can contribute to the funds capital endowment. A high leverage would mean that the instrument is successful in attracting additional funding.

During our audit we have found that the Commission and Member States have faced serious difficulties in attracting private sector investors for both shared and centrally managed financial instruments during the 2007-2013 programme period.

Q.: Similar structures as the ones covered by your report are currently used by the Juncker plan (EFSI). Does the weaknesses identified in your report relate to it as well?

A.: Our audit report focuses on the 2007-2013 programme period and covers instruments managed directly by the Commission and those instruments set up at national level and supported through the operational programmes. At the time the audit has been carried out it was still too early to audit the Juncker plan instruments, as it was in the early stage of implementation.

However, I consider this report to be very relevant in the context of the Juncker plan and I hope that the EU Commission and all bodies involved in the implementation of the EFSI will go thoroughly through the report and take appropriate measures, if necessary, based on the weaknesses and risks identified in it.

A high-level conference organised by Iliana Ivanova will take place at the ECA on 15 November 2016 with the participation of representatives of EU institutions, practitioners and other public and private stakeholders

The ECA's reformed Chambers and Committees

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By James McQuade, private office of the President

James McQuade

In June 2016, the ECA reformed the Chambers and Committees it uses to prepare and take ECA decisions on important audit and organisational matters. This reform was brought into effect by revising key provisions of the ECA's rules for implementing its Rules of Procedure, which set out its governance arrangements. Three changes with respect to the previous arrangements are particularly noteworthy.

First, the reform establishes **five equal chambers** of five Members, including the Dean each Chamber elects to help coordinate its work. Previously, the ECA had four "vertical" Chambers and a "horizontal" Chamber, the CEAD Chamber, which had three permanent Members plus a representative from each of the other four Chambers.

The main function of the five Chambers will continue to be adopting ECA special reports and opinions, preparing the chapters of the Annual Report, and overseeing the associated audit tasks. However, instead of each Chamber being responsible for specific EU budget areas or bodies, each Chamber now has an EU policy-based "theme" to guide its work.

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

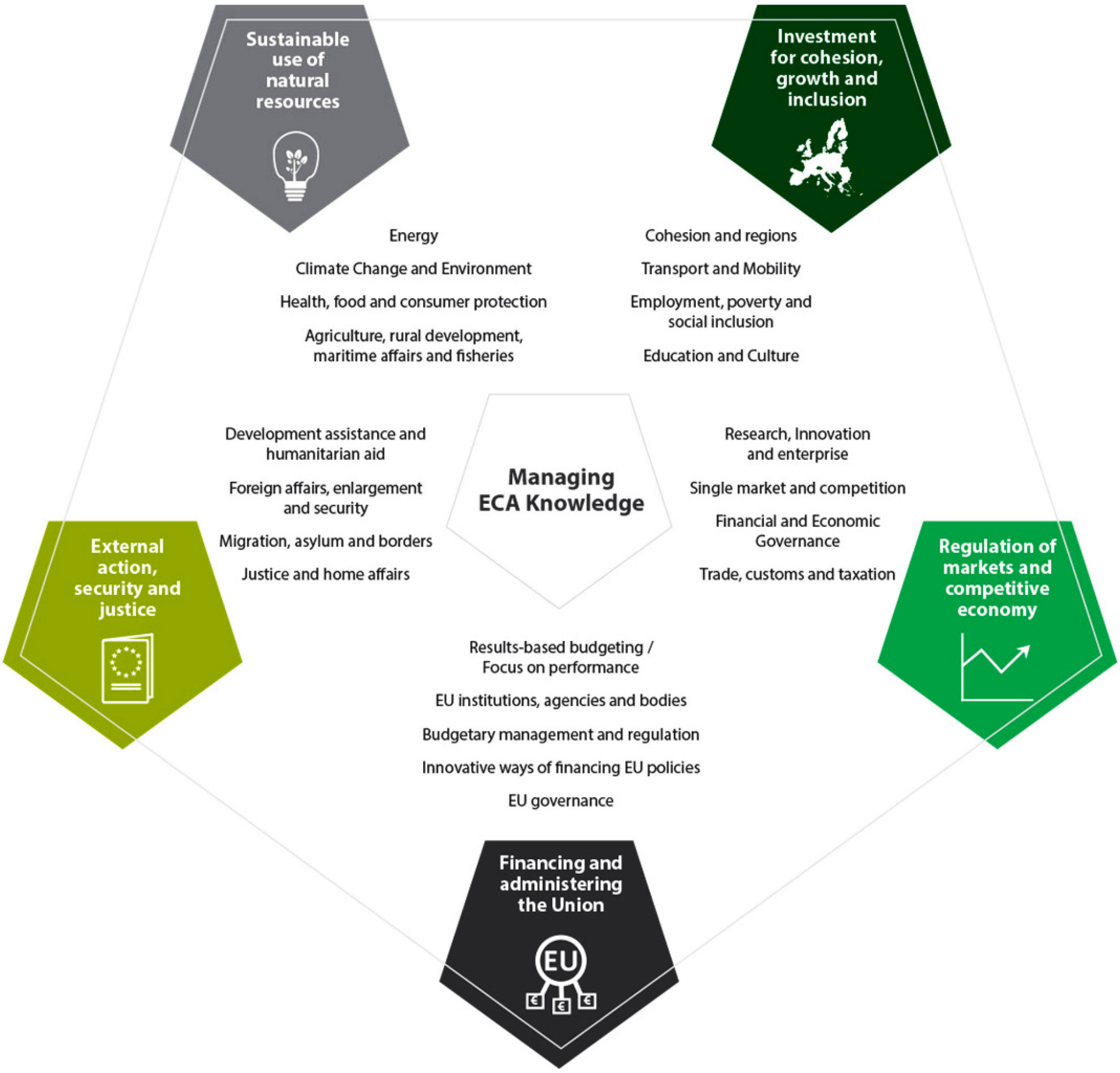
The Chambers' themes effectively represent five policy perspectives (environmental, social, economic, external affairs, and internal governance) that help the ECA to analyse EU activities and develop related audit tasks. Under the new work-programming procedure, the ECA identifies audit tasks and allocates the responsibility and resources for carrying them out to Chambers. Each Chamber is supported by an audit directorate.

As regards the preparation of the Annual Report, the tasks and coordinating role of the CEAD chamber with a new Member for the Annual Report taking over the role and responsibilities previously played by the ECA's DAS Member.

Second, the reform establishes a new Committee to oversee the ECA's audit quality management framework. The **Audit Quality Control Committee** is composed of the Member for Audit Quality Control and two Members from Chambers, who are appointed by the ECA on a proposal of the President.

The Committee is already up and running. It has taken over responsibilities in the areas of promoting audit quality and coordinating the ECA's participation in international audit standard setting bodies that were previously carried out by part of the CEAD Chamber. From now on, the AQCC will be the driving force behind the ECA's development as a professional audit institution. The AQCC is supported by a dedicated directorate not responsible for carrying out audits, thus reinforcing the independence of the audit quality control function within the ECA in line with best practice.

Third, the reform provides for new responsibilities and an additional Member for the ECA's **Administrative Committee** (AC). The AC maintains its current responsibilities for preparing ECA decisions on strategy, the work programme and organisational matters and takes on additional decision-making responsibilities with respect to certain staff matters. The new Member for Audit Quality Control joins the AC, which comprises the President (the Committee Chair), the Deans of the Chambers and the Member for Institutional Relations with the participation of the Secretary General. The work of AC continues to be supported by the Directorate of the Presidency and the services of the Secretary General.



A major milestone towards implementing the 2013-2017 ECA Strategy

The reform of the ECA's Chambers and Committees complements two other major reforms linked to implementing the ECA Strategy 2013-2017; the introduction of task-based organisation at the start of 2016 and the ongoing initiative to establish an ECA-wide network to strengthen knowledge management.

Under the new task-based organisation, audit directorates are composed of a management team (a director and principal managers) and a "pool" of staff (auditors and assistants). For each task, the Chamber responsible assigns a reporting Member, a head of task (a senior auditor) and an audit team. In future, knowledge management will be led by internal "policy experts" with responsibility for following specific subjects (the "nodes" in the ECA-wide knowledge network), with the main subjects for creating, maintaining and sharing knowledge decided by the ECA in the Work Programme.

All three reforms - the newly configured Chambers and Committees, the task-based organisation, and the knowledge network - are provided for in the ECA's newly revised rules for implementing its Rules of Procedure. Together they aim to make the ECA more flexible in selecting tasks, assembling audit teams and sharing knowledge. In this way, the ECA will be able to make better use of its knowledge, skills and experience to carry out relevant, high-quality audits in a timely manner - a key goal of the ECA's strategy for 2013-2017.

The ECA's new organisation structure can be found at http://www.eca.europa.eu/en/Pages/Structure.aspx.

ECA auditors visited the ITER project facilities

By Alvaro Garrido-Lestache, principal auditor and head of task for the audit of the EU research Joint Undertakings and Richard Hardy, principal manager in Chamber IV[1]

On 20 and 21 June the ECA audit team in charge of the audit of the European Joint Undertaking for ITER and the Development of Fusion Energy visited the ITER project facilities located in Saint Paul-lez-Durance (France) together with the Joint Undertaking Audit Committee, representatives of the management of the Joint Undertaking, representatives of the Directorate General of the European Commission responsible for the ITER project (DG ENERGY), and representatives of the Internal Audit Service of the Commission (IAS).

From left to right: Richard Hardy, principal manager in Chamber IV, Alvaro Garrido-Lestache, principal auditor and head of the Joint Undertakings audit task, Marco Corradi and Santiago Fuentes, members of the ECA audit team for the European Joint Undertaking for ITER and the Development of Fusion Energy.

Introduction

Following an invitation from the Chair of the Audit Committee of the European Joint Undertaking for ITER[2] and the Development of Fusion Energy, Brian Gray, the ECA audit team participated in the 13th meeting of the Joint Undertaking Audit Committee and were given a tour of the ITER project facilities under construction, enabling an appreciation of the current status of the works, and the scale and complexity of the project. The ECA auditors also met the ITER Organization Director General, Dr Bernard Bigot.

1 This article is based on information available on the websites of the ITER Organization and of the European Joint Undertaking for ITER and the Development of Fusion Energy, and at other European Union Institutions, including ECA publications.

2 ITER: International Thermonuclear Experimental Reactor.

The ITER project "bringing the power of the sun to earth"

(Sources: ITER Organization and Fusion for Energy Joint Undertaking[3])

The ITER project is an international experimental facility, and is one of the most important and ambitious projects in the field of energy today. It is focused on the development of a secure and sustainable source of energy based on nuclear fusion. Since the idea for an international joint experiment in fusion was first launched in 1985, thousands of engineers and scientists have contributed to the design and construction of the world's first large-scale experimental thermonuclear reactor.

ITER was launched at the Geneva Superpower Summit in November 1985, when the idea of a collaborative international project to develop fusion energy for peaceful purposes was proposed by General Secretary Gorbachev of the former Soviet Union to US ex-President Reagan.

3 Sources: https://www.iter.org; http://fusionforenergy.europa.eu

US President Ronald Reagan and General Secretary Mihail Gorbachev of the former Soviet Union at the Geneva Superpower Summit (1985).

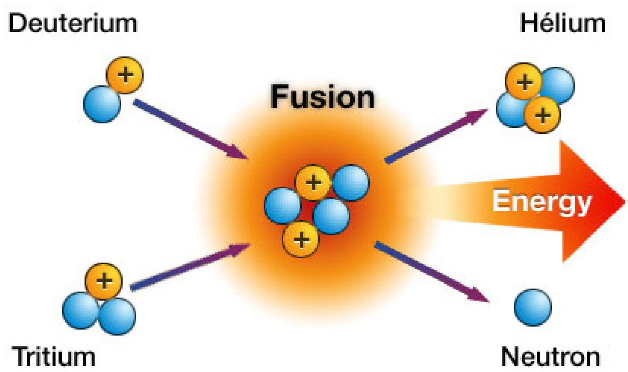
The building phase of the project started in 2007 after the signature of the ITER agreement[4] at the Elysée Palace in Paris on 21 November 2006 by Ministers from the seven ITER Members— **the European Union, China, India, Japan, South Korea, Russia and the United States.** Since then, the ITER members have been engaged in a 35-year collaboration to build and operate the ITER experimental device, which aims to demonstrate that fusion energy can be part of the solution to achieve sustainable and secure sources of energy for the future.

Ceremony hosted by French President Jacques Chirac and the President of the European Commission José Manuel Durão Barroso, on the occasion of the signature of the ITER Agreement in Paris on 21 November 2006

4 Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project of 16 December 2006. (OJ L358/62)

The fusion energy process

Fusion is the process which powers the sun. Energy is produced by the fusing together of atoms, such as hydrogen, at the extremely high pressures and temperatures which exist at the centre of the sun (15 million °C). At these high temperatures any gas becomes plasma[5]. The fusion reaction that is easiest to accomplish is the reaction between two hydrogen isotopes: deuterium, extracted from water and tritium, produced during the fusion reaction through contact with lithium. When deuterium and tritium nuclei fuse, they form a helium nucleus, a neutron and a large amount of energy.



Two atoms, deuterium and tritium, fuse together, forming a helium nucleus, a neutron and lots of energy.

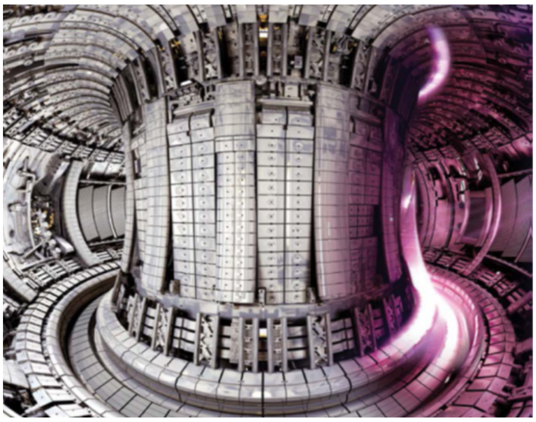
The core of the ITER project: the thermonuclear fusion reactor "Tokamak"

The thermonuclear reactor "Tokamak" is an experimental machine designed to harness the energy of fusion. ITER will be the world's largest thermonuclear fusion reactor, with a plasma radius (R) of 6.2 m and a plasma volume of 840 m^3.

The amount of fusion energy a Tokamak is capable of producing is a direct result of the number of fusion reactions taking place in its core. Scientists

5 Plasma is the fourth state of matter (solid, liquid and gas being the other three), and is described as an 'electrically-charged gas' in which the negatively charged electrons in atoms are completely separated from the positively charged atomic nuclei (or ions). Although plasma is rarely found on earth, it is estimated that more than 99% of the universe exists as plasma (Source: Fusion for Energy Joint Undertaking website)

state that the larger the vessel, the larger the volume of the plasma, and therefore the greater the potential for fusion energy. While previous Tokamak experiments such as JET[6] succeeded in producing significant amounts of fusion power for short periods, none so far was capable of demonstrating fusion on a scale needed to allow it to generate part of its own fuel and produce power on a continuous basis. The Tokamak ITER is designed to achieve this objective, as a unique experimental tool, capable of longer plasmas and better confinement. The machine has been designed specifically to reach the goals shown in the following table:



ITER's goals[7]

1) Produce 500 MW of fusion power
The world record for fusion power is held by the European tokamak JET. In 1997, JET produced 16 MW of fusion power from a total input power of 24 MW (Q=0.67). ITER is designed to produce a ten-fold return on energy (Q=10), or **500 MW** of fusion power from 50 MW of input power. ITER will not capture the energy it produces as electricity, but—as the first of all fusion experiments in history to produce net energy gain—it will prepare the way for the machine that can.

2) Demonstrate the integrated operation of technologies for a fusion power plant
ITER will bridge the gap between today's smaller-scale experimental fusion devices and the demonstration fusion power plants of the future. Scientists will be able to study plasmas under conditions similar to those expected in a future power plant and test technologies such as heating, control, diagnostics, cryogenics and remote maintenance.

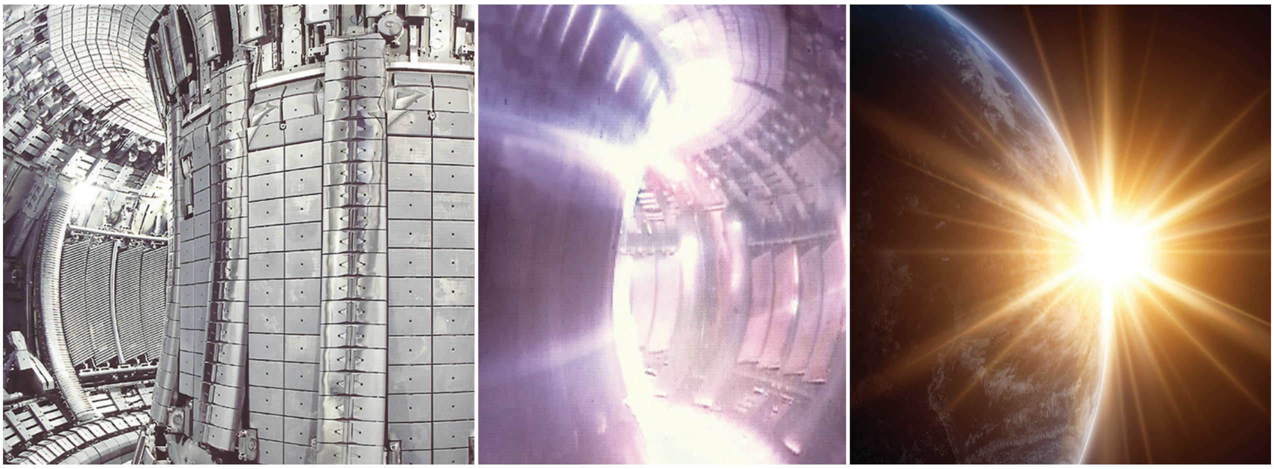
3) Achieve a deuterium-tritium plasma in which the reaction is sustained through internal heating
Fusion research today is at the threshold of exploring a "burning plasma"—one in which the heat from the fusion reaction is confined within the plasma efficiently enough for the reaction to be sustained for a long duration. Scientists are confident that the plasmas in ITER will not only produce much more fusion energy, but will remain stable for longer periods of time.

4) Test tritium breeding
One of the missions for the later stages of ITER operation is to demonstrate the feasibility of producing tritium within the vacuum vessel. The world supply of tritium (used with deuterium to fuel the fusion reaction) is not sufficient to cover the needs of future power plants. ITER will provide a unique opportunity to test mockup in-vessel tritium breeding blankets in a real fusion environment.

5) Demonstrate the safety characteristics of a fusion device
ITER achieved an important landmark in fusion history when, in 2012, the ITER International Organization was licensed as a nuclear operator in France based on the rigorous and impartial examination of its safety files. One of the primary goals of ITER operation is to demonstrate the control of the plasma and the fusion reactions with negligible consequences for the environment.

6 Joint European Torus (JET), the world's leading fusion device located in the Culham Centre for Fusion Energy in Oxfordshire, UK, is now under the umbrella of the EUROfusion consortium agreement (formerly the European Fusion Development Agreement (EFDA).

7 Source: https://www.iter.org; and http://fusionforenergy.europa.eu



Inside of the Tokamak ITER where fusion is to take place.

The ITER Organization

The ITER Organization is the international body set up to run the ITER project. It is managed by a Director General, under the supervision of the ITER Council, the highest Governing Board of the organization where its seven parties are represented. The Chair of the ITER Council since 1 January 2016 is Professor Emeritus Won Namkung. The Director General of the ITER organization since 5 March 2015 is Dr. Bernard Bigot. The ITER Organization is staffed by men and women from the seven ITER Members. Approximately 7000 directly employed staff and 500 external contractors work for the ITER Project in its installations at the CEA[8] Reseach Center of Cadarache, Saint Paul-lez-Durance, France. The accounts of the ITER Organization are audited by a Financial Audit Board made up of independent representatives from each ITER Member, and which provides an annual audit report that is included in the Annual Financial Report of the ITER Organization[9].

The European Joint Undertaking for ITER and the Development of Fusion Energy

The European Joint Undertaking for ITER and the Development of Fusion Energy (F4E Joint Undertaking) was set up by Council Decision 2007/198/Euratom of 27 March 2007 for a period of 35 years. While the main fusion facilities of the ITER project are in Cadarache, France, the European Joint Undertaking is located in Barcelona. The main task of the F4E Joint Undertaking is to provide the EU contribution to the ITER Organization under the ITER International Agreement. Other tasks of the Joint Undertaking are to provide the contribution of Euratom to 'Broader Approach' (complementary joint fusion research) activities with Japan for the rapid development of fusion energy; and to prepare and coordinate a programme for the construction of fusion reactors. The Chair of the Governing Board of F4E Joint Undertaking since 2 December 2015 is Dr. Joaquín Sanchez. The Director General of the Joint Undertaking since 1 January 2016 is Johannes Schwemmer. As of 31 December 2015, the total number of staff at the Joint Undertaking was 434, of which 252 EU Officials and Temporary Agents, 167 Contract Agents, and 15 interim staff. The accounts of the F4E Joint Undertaking are audited by the ECA, which has produced a Specific Annual Report on the accounts of the Joint Undertaking since the 2008 financial year.

The members' contributions to the ITER project: *"in-kind contributions"*

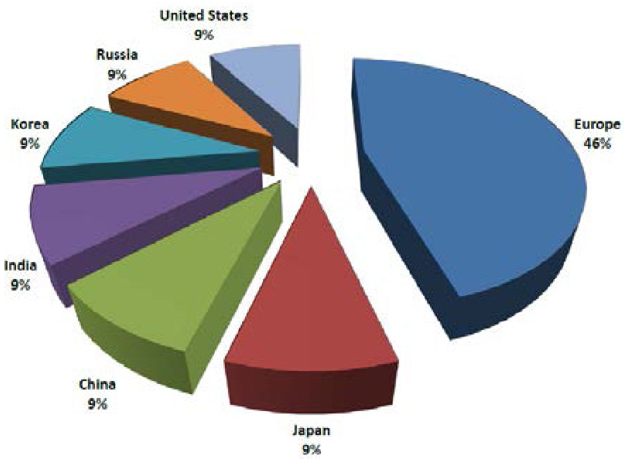
The seven parties of the ITER project have committed themselves through the signature of the ITER International Agreement to contribute to the project mainly with "in-kind contributions". Around 90% of the ITER project is based on in-kind contributions.

8 The French Alternative Energies and Atomic Energy Commission (CEA).

9 https://www.iter.org/doc/www/content/com/Lists/list_items/Attachments/625/2014_iter_financial_statements.pdf.

To this end, the components that make up the ITER facility have been divided into 85 procurement "packages" distributed among the seven parties to the ITER Agreement. To value the "in-kind contributions" of each party to the project, the ITER Organization has set up its own ITER Unit of Account (IUA).

Europe, as the host party, and France, as the host state, have special responsibilities for the success of the project. Europe supports 46% of the construction cost and 34% of the cost of operation, deactivation and decommissioning of the facility, as well as the preparation of the site.



Sharing of the contributions to the construction cost of ITER by each of the ITER Parties (Fusion for Energy 2015 Annual Activity Report)

View of the construction of the ITER Tokamak in Cadarache-March 2016

The role of the ECA

The ECA is the external auditor of the F4E Joint Undertaking but does not have any audit mandate for the ITER Organization accounts, which are audited by its Financial Audit Board.

The first work of the ECA in relation to the F4E Joint Undertaking was the formulation of Opinion 4/2008 of 6 October 2008 on the Joint Undertaking's Financial Regulation. This Opinion contained 50 recommendations which were broadly accepted by the F4E Joint Undertaking's Governing Board and introduced in its Financial Rules[10]. Of significant value in order to strengthen the financial control framework of the Joint Undertaking was the ECA recommendation to allow for the same powers for the Internal Audit Service of the Commission (IAS) over F4E JU as it exercised in respect of other EU bodies. That has proved to be a very important instrument within the internal control framework of the Joint Undertaking. Other important recommendations were to further develop the conditions under which exceptions to the budgetary principles of the Framework Financial Regulation could be applied and, in view of the size of the budget and the complexity of the tasks to be performed by the Joint Undertaking, to set up an Audit Committee, which was created by Decision of the Governing Board on 10 June 2010.

The ECA issued its first Specific Annual Report on the accounts of the F4E Joint Undertaking in relation to the 2008 financial year[11]. Since then, and for seven consecutive financial exercises, the ECA's audit opinions on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts of the Joint Undertaking have been positive. Without calling the audit opinions into question, as a result of its audits, the ECA has raised numerous observations and recommendations which have contributed to reinforcing the internal control systems of the F4E Joint Undertaking in different areas: ex ante and ex post controls, the legal framework for the operational tendering procedures launched for the components to be provided in kind to the ITER project, the Joint Undertaking's industrial policy

10 www.eca.europa.eu/Lists/ECADocuments/.../OP08_04_EN.PDF

11 Last one referred to the financial year 2014. The Specific Audit Report on the 2015 Joint Undertaking Accounts will be made available on 15 November 2016.

and rules for the protection and dissemination of intellectual property rights, anti-fraud strategy and rules on the management of the prevention of conflicts of interest, as well as the control and monitoring of the operational procurement contracts and grants launched by the F4E Joint Undertaking for the implementation of its activities. In performing the task, the ECA auditors have maintained very close and productive cooperation with the management and staff of the Joint Undertaking, the IAS, the Internal Audit Capability of the Joint Undertaking, the private audit firms performing the audit of the reliability of the financial statements of the F4E Joint Undertaking since the 2014 financial year, and other auditing and consulting firms which have carried out evaluations of the performance of the Joint Undertaking over the years[12].

A major concern for the European Union: "The cost of the EU contribution to the ITER project"

One of the main concerns of the EU budgetary authority has been the cost of the EU contribution to the ITER project. The EU is the main contributor to the construction phase of ITER. In view of its complexity, the progress of ITER has been the subject of numerous debates in the Budgetary Control Committee of the European Parliament, which takes a particular interest in the development of the project.

Article 4 (3) of the Council Decision setting up the European Joint Undertaking for ITER and the Development of Fusion Energy[13] refers to €9 653 million in 2008 values as the indicative total resources deemed necessary for the Joint Undertaking to carry out its tasks under the timeframe of 35 years for which it was set up. Already in July 2010, the Council agreed a revised budget estimate for the EU contribution to the first phase of the project, "the construction phase", initially targeted to be finalised in 2020, from the initial estimate of €2.7 billion euro to €6.6 billion (2008 value)[14]. This figure, which doubled the initial budgeted costs for this phase of the project, did not include €663 million proposed by the European Commission in 2010 to cover potential contingencies[15].

ECA has been reporting since 2010 that the complexity of ITER activities implies that the amount of the F4E Joint Undertaking's contribution to the construction phase of the project is exposed to significant risks of increase, mainly as a result of changes in the scope of the project deliverables and delays in the schedule. At the time of the publication of the last Specific Annual Report, on the 2014 accounts of the F4E Joint Undertaking, the Joint Undertaking was working together with the ITER Organization on a revised estimate for the cost of the EU contribution to the construction phase of the ITER project. These two issues concerning the cost and schedule of the project have been the subject of an emphasis of matter in the ECA audit reports on the accounts of the F4E Joint Undertaking since 2013[16].

Current status of the ITER project: the road to "First Plasma"

As a result of a two-year exercise carried out by the ITER Organization and its seven members to establish a new baseline schedule, the ITER Council endorsed in its meeting of 15-16 June 2016[17], an updated Integrated Schedule for the ITER Project, which identifies the date of achievement of "First Plasma" as December 2025. The updated integrated schedule proposed by ITER is the following:

12 See for example "`Potential for Reorganization within the ITER project' of 2013, carried out by Ernst & Young upon request of the European Parliament,

13 Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58), amended by Council Decision 2013/791/Euratom of 13 December 2013 (OJ L 349, 21.12.2013, p. 100) and Council Decision (Euratom) 2015/224 of 10 February 2015 (OJ L 37, 13.2.2015, p. 8).

14 Council conclusions on ITER status of 7 July 2010 (Ref. 11902/10).

15 Communication from the Commission to the European Parliament and the Council of 4 May 2010 on ITER status and possible way forward (COM(2010) 226 final).

16 See Specific Annual Reports on the annual accounts of the F4E Joint Undertaking for 2013 and 2014 at www.eca.europa.eu. EU Oficial Journal at http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2015:422:FULL&from=EN

17 https://www.iter.org/org/team/odg/comm/pressreleases

ITER Timeline to achieve first plasma[18]

2005 Decision to site the project in France
2007 Formal creation of the ITER Organization
2007-2009 Land clearing and levelling
2010-2014 Ground support structure and seismic foundations or the Tokamak
2012 Nuclear licensing milestone: ITER becomes a Basic Nuclear Installation under French law
2014-2021* Construction of the Tokamak Building (access for assembly activities in 2019)
2010-2021* Construction of the ITER plant and auxiliary buildings for First Plasma
2008-2021* Manufacturing of principal First Plasma components
2015-2021* Largest components are transported along the ITER Itinerary
2018-2025* Assembly phase I
2024-2025* Integrated commissioning phase (commissioning by system starts several years earlier)
Dec 2025* First Plasma

According to the ITER Council conclusions of 15-16 June 2016, the updated schedule is challenging but technically achievable, and will have now to be duly validated with a thorough and comprehensive review by the independent ITER Council Review Group[19].

Further information on the ITER project, the European Joint Undertaking for ITER and the development of Fusion Energy and the reports by the ECA can be found at:

www.**iter.org**/
http://fusionforenergy.europa.eu/
http://www.eca.europa.eu

ITER work site-April 2016

18 Source: ITER Organization https://www.iter.org/proj/inafewlines

19 The ITER Council Review Group provides external validation of ITER Project progress.

Experiences and views on the discharge procedure

By Rosmarie Carotti

At the invitation of Alex Brenninkmeijer, ECA Member, three young practitioners from the European Parliament, Council and Commission shared their experiences and views on the role of discharge in the political decision-making process

11 July 2016

From left to right:
Di Hai, ECA auditor structural policies; Kristina Maksinen, ECA auditor external actions; Dessislava Velinova, member of Commissioner Kristalina Georgieva's private office; Martina Dlabajová, Member of the European Parliament and rapporteur for the 2014 discharge procedure; Sabine Klok, chairperson of the Council's budget committee; Alex Brenninkmeijer, ECA Member; Danièle Lamarque, ECA Member; Katja Mattfolk, head of private office of Bettina Jakobsen, ECA Member

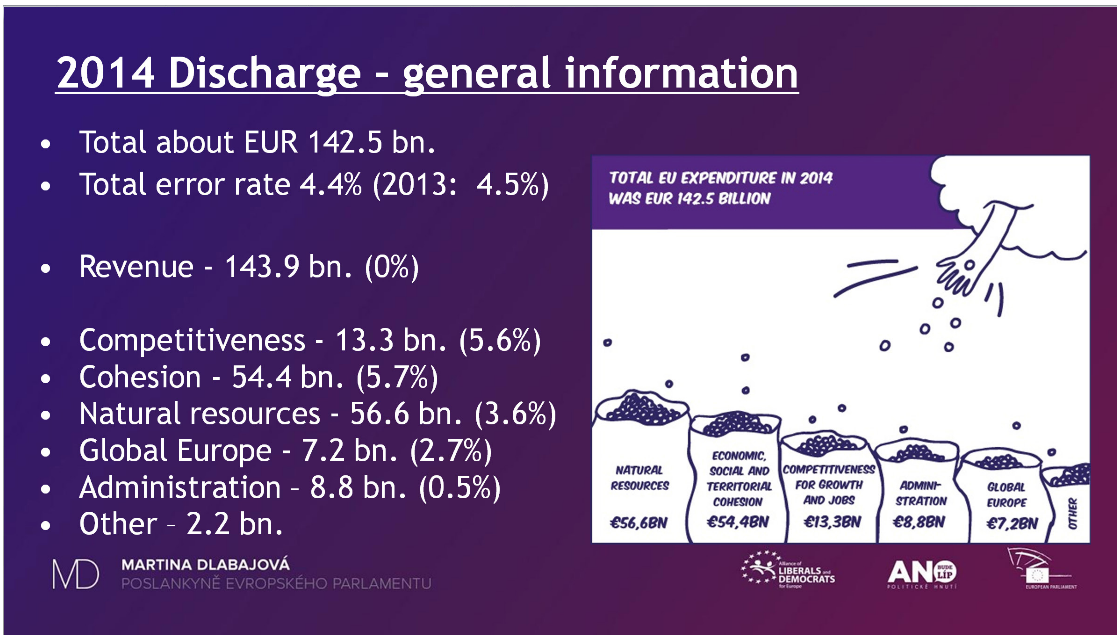
The panel:
Martina Dlabajová, Member of the European Parliament and rapporteur for the 2014 discharge procedure
Sabine Klok, chairperson of the Council's budget committee
Dessislava Velinova, member of Commissioner Kristalina Georgieva's private office
Danièle Lamarque, ECA Member
Katja Mattfolk, head of private office of Bettina Jakobsen, ECA Member
Kristina Maksinen, ECA auditor external actions
Di Hai, ECA auditor structural policies

The basic idea behind this seminar organised and moderated by Alex Brennikmeijer was to create a dialogue between young practitioners from the EP, Council, Commission and ECA and to give perspectives on what could be important for the future of the ECA.

Giving a positive message to citizens

Martina Dlabajová, Vice-Chair of the Committee of Budgetary Control (CONT) of the European Parliament talked about the 2014 discharge to the Commission. As rapporteur, she had submitted a report on the Commission's budget implementation to her colleagues in the EP and negotiated the discharge text with the other political groups.

[Her main concern is to give citizens a positive message on how the budget is used. Not every error leads to misspending and EU budget allocations have to present added value on concrete projects. Shifting to more performance makes citizens better understand the added value of EU funding. There is the need however for balance between formal matters and performance results and the need to consider the economic reality and the economic policy environment. Continuity is needed to facilitate the contact between the CONT and the Member States.



Balancing costs and benefits in EU financial management

Sabine Klok, chair of the Council's Budget Committee during the 2014 discharge negotiations, recalled the Council's regret of the estimated level of error for payments as a whole of 4.4% and expressed a wish for more openness of what is happening in the Member States. 80% of the EU funds are under shared management. She underlined the need to strike a balance between risk of error and cost of control. Prevention is better than cure, but she also called upon the Commission to continue with the implementation of all available corrective measures.

Concerning the ECA's annual report, she stressed the importance of ensuring continuity and comparability between years and policy areas and she expressed the wish for more performance information.

The priorities of the European Commission were presented by Dessislava Velinova, member of the Cabinet of Vice-President Georgieva. She also identified as the main challenge to achieve an appropriate balance between performance and compliance. She explained the Commission's initiative of a budget focused on results and, concerning the reporting on the EU budget, presented the novel annual Management and Performance Report.

For her performance is a process in which it is important to maintain realistic expectations, identify best practices, address root causes of error and simplify where possible.

Katja Mattfolk, head of private office in the ECA, recalled that in the 2004 ECA annual report there was no error rate and very little mention of Member States. The special reports presented during the year were just summarized at the end of each chapter. In the last ECA 2014 report, there is a multitude of assessments: global, risks, error rates, performance, cases sent to OLAF. However there are still opportunities to develop further, for example to integrate performance to a greater extent. Another point of discussion is how big a percentage of the error rate could have been avoided if the Member States had used all the information available.

What is the cost of reducing this error rate? It comes at a significant cost. Administrative costs are also increasing. Everybody is also keen on promoting simplification but it has to be balanced towards the issue of performance. Sometimes simplification and performance are contradictory. There are many ways of increasing the information value of the annual report and thus providing more added value to administering EU funds in the Member States.

Reflecting performance in the ECA's annual report

Kristina Maksinen, ECA auditor, talked about performance and the ECA special reports. The ECA has to provide a balanced view of what the EU achieves and be strategic about how its work is used by others. Special reports complement the annual report which focuses on figures, percentages and error rates. Looking at the latest ECA report of 2014, although it addresses explicitly the special reports, it only provides a limited overview on them and shows the need to strengthen the link between performance audit and the annual report.

Di Hai, ECA auditor, also felt that not much of her work was reflected in the annual report during the discharge procedure. Much of the attention of the annual report and the discharge procedure goes to defining the financial activities of the EU, whereby the error rates expresses a political attitude. In between the lines of the annual report and the discussion during the discharge there is a huge gap for questions like how the EU is actually doing. Performance audit can be used as a tool to provoke that question even if at the end of the day performance audit should be focusing on analysing projects resolved. But to analyse projects you need clearly defined objectives and for that a strong political and policy framework.

Even if performance may aim at a public outreach, the ultimate platform for discussion in the European context is Parliament. It is therefore important to strengthen or re-strengthen the institutional focus within the ECA's performance audit reports. The key thought guiding this debate should be the supranational character of the EU institution, additionality and EU added value. Even though this concept has well established legal ground, it is not always very clear what this concept means.

Developing the way the ECA works

Danièle Lamarque, ECA Member, stressed that there still are gaps and expectations in terms of responsibility and transparency. To whom is the EU accountable? The citizens should be better informed about what happens with the use of the EU funds. Who is in charge of the improvement of the use of the EU funds in the Commission but also in the Member States? There still is a lack of cooperation with the Member States.

In order to become more efficient the ECA has made improvements in the use of its resources and changes in its methodology allowing it to rely more on the work done by others. On the question of balance, the ECA is committed to show not only the error rates but also how practices can be improved, and to report best practices.

The discharge can be an occasion to improve clarity and better understanding of what the added value of the EU is. A challenge for the coming years in terms of responsibility will be the cooperation with the Member States whereby the EU may be accountable for 80% shared management.

The general discussion brought interesting ideas on risks and costs. To manage means to take risks. And reducing risks cause costs of control. We should not neglect the opportunity cost for the performance of projects when better projects are ignored due to burdensome rules.

Corruption is a risk for the whole system. Could the ECA use a new approach and make better use of performance audit answering the question if the EU expenditure is well protected against corruption? It was also said that prevention of corruption is important and that special reports might contribute to that effect.

The discussion further centred on the cooperation between the EU institutions and the national authorities. Could the profile of the Budget ECOFIN Council meeting be raised in a way that there would be a separate meeting with the deputy ministers before the general ECOFIN ministers meeting?

The EU budget is implemented under shared management (i.e. both Member States and Commission are responsible). Next to shared management there is shared finance. The ECA only reports on the part that is financed by the EU and leaves out what is financed by the Member States. Would the interest of national parliaments in the EU discharge procedure be raised if the ECA included in its reports the shared financing and did mention who the primary responsibility belongs to? Ultimately each euro comes from the same taxpayers.

To conclude, it is up to all politicians in the Member States to change their rhetoric and for the EU to come up with realistic stories. To use the words of Alex Brenninkmeijer, "auditing is listening" and this audit process should be part of the learning process and continuity. It also is important that the message of the ECA to the outside world is a balanced one, not only a negative one.

Recent EU Case-law on State aid

By Rosmarie Carotti

The Legal Service invited all ECA staff to an information session given by Íde Ní Riagáin on the case-law of the Court of Justice and the General Court from March 2016 to June 2016

Íde Ní Riagáin, Lawyer

There are four cumulative conditions for State aid: aid granted through State resources, conferring a selective advantage on undertakings, having an impact on trade between Member States and distortion of competition (article 107(1) TFEU).

In May 2016, the Commission finally adopted a *Notice on the Notion of State aid* which seeks to provide guidance on all aspects of the definition of State aid, by systematically summarising the case law of the EU courts and the Commission's decision-making practice.

The first Case T-103/14 *Frucona Košice v Commission* – the Frucona II Case (16 March 2016) discussed deals with the notion of advantage, one of the criteria which must be fulfilled in order that a measure be considered State aid. Advantage is an economic benefit which an undertaking would not have obtained under normal market conditions. Tax exemptions tax arrangements and infrastructure provisions may also be considered an advantage.

Frucona Košice was a Slovak company which produced spirits and benefited from several deferrals of payment of tax debts. The Commission felt that this agreement by the fiscal authorities was State aid as it would not have been given under normal market conditions.

The case is interesting because it concerns the application of the private creditor test. In order to assess whether an advantage was actually conferred on the Frucona Košice, the Commission had to carry out a" global assessment" (since Case 124/10 P EDF v Commission), taking into account all relevant evidence in the case enabling it to determine whether Frucona Košice would manifestly not have obtained comparable facilities from a private creditor. The judgment considers whether the Tax Office would have been better off accepting the conditions proposed under the arrangement or whether it would have been more advantageous to initiate bankruptcy proceedings or to make some other arrangements..

Case T-471/15 *Germany v Commission* (10 May 2016) received a lot of attention in the media, particularly in Germany. The German law on renewable energy, in its 2012 version, established a scheme to support undertakings producing energy from renewable energy sources. The Commission considered that the feed-in tariffs and market premiums, which guarantee producers of EEG electricity a higher price for the electricity they produce than the market price, constituted State aid which was however compatible with the internal market. It also considered that the reduction of the EEG surcharge for certain energy-intensive users also constituted State aid, the compatibility of which would be recognised only if it fell into certain categories. .

Germany argued that the surcharge was not such an economic advantage and that the mechanism set up by the German environmental law was such that it was not a case of State resources. The General Court distinguished it from the Case Preussen Elektra where the CJEU had found that there was no transfer of State resources and accordingly no State aid, because Germany merely had imposed an obligation on electricity distributors to buy green electricity without establishing a mechanism that would allow to exercise control over the resources that flowed between users, distributors and producers of electricity.

Even though under the mechanism at issue Germany did not have actual access to the resources generated by the EEG surcharge, it influenced the use of the resources in that it was able to decide in advance, through the adoption of the EEG 2012, which objectives were to be followed and how those resources were to be used.

There has since been a revision of the German energy law on this in 2014 and another revision will take place in 2017.

Three cases (Cases T-50/06 RENV II (IRL), T-56/06 RENV II (FRA) and T-60/06 RENV II (ITA) (22 April 2016) involved tax exemptions for producers of alumina in three countries.

A Council decision granted tax exemption on the mineral oil they needed for the production of alumina. The Commission later held that those measures constituted unlawful State aid. The General Court held that the Commission had the power to examine the Council's authorisation since State aid is an objective concept. When the Commission assesses a measure, it must examine its effects.

The General Court also found that the companies at issue had an advantage vis-à-vis other companies and that despite the unreasonably long delays for the Commission to take a decision, the latter had not infringed on the principle of protection of legitimate expectations. It followed that the Commission was entitled to order recovery.

The final case Case C– *270/15 P Belgium v Commission* (30 June 2016) had to do with selectivity. Belgium's, partial or full, financing of the compulsory BSE (*transmissible spongiform encephalopathies (TSE) in bovine animals*) screenings was considered by the Commission and the General Court to be State aid.

Belgium challenged both decisions on the basis that one of the four criteria for State aid, namely the selective nature of the measure, was not fulfilled because it was a general scheme and the measure did not confer a selective advantage on undertakings.

There are very interesting elements to this judgement. Article 107(1) TFEU does not distinguish between State interventions by reference to their causes or aims but defines them in relation to their effects and distortion of competition within the Member State.

The situation of the operators in the bovine sector was compared to that of all undertakings which are like them subject to inspections which they are required to perform. The Advocate General had previously concluded in his opinion: "The fact remains that the financing of BSE screening tests through State resources constituted a selective advantage that was not available for other sectors".

Engagement solennel des nouveaux Membres de la Cour

6 juillet 2016

Les cinq nouveaux Membres de la Cour, Messieurs Janusz Wojciechowski, Samo Jereb, Jan Gregor, Mihails Kozlovs et Rimantas Šadžius s'engagent solennellement devant la Cour de justice, conformément aux dispositions du traité.

Cette cérémonie souligne une fois de plus l'importance que revêtent l'indépendance et l'intégrité de chaque Membre pour la réputation de la Cour en tant qu'institution d'audit externe des finances de l'Union ayant pour mission d'améliorer la gestion financière, renforcer l'obligation de rendre compte et la transparence, et protéger les intérêts financiers des citoyens.

Monsieur Vítor Manuel da Silva Caldeira assiste à la cérémonie d'engagement solennel comme Président de la Cour des comptes européenne pour la dernière fois avant de prendre les fonctions de Président de la Cour des comptes du Portugal à partir du 1er octobre 2016.

Janusz Wojciechowski

Samo Jereb

Jan Gregor

Mihails Kozlovs

Rimantas Šadžius

Special report
N° 13/2016

EU assistance for strengthening the public administration in Moldova

Moldova receives the highest amount of EU aid per inhabitant of all of the EU's eastern neighbours. We assessed whether EU aid had contributed effectively to improving the country's public administration.

We concluded that budget support had had a limited effect. The Commission could have responded more quickly when risks materialised, and programmes were not sufficiently aligned to Moldovan strategies. The Commission did not make full use of its ability to set conditions for disbursement, and additional incentive-based funds were not fully justified.

The projects we assessed were relevant, and had delivered the expected outputs. However, they were not always well coordinated with budget support programmes, and results were not always sustainable.

This report was published on1 September 2016 and is available on our website www.eca.europa.eu.

Special Report
N°15 /2016

Did the Commission effectively manage the Humanitarian aid provided to populations affected by conflicts in the African Great Lakes Region?

The auditors conclude that humanitarian aid to the populations affected by conflicts in the African Great Lakes area was generally managed effectively by the Commission.

The funding was allocated to well-established main priorities, but there was insufficient clarity at a later stage when further specifying priorities and selecting projects. It was not possible to determine whether the most suitable projects had been selected.

Overall, the Commission's monitoring was appropriate, although it could have made better use of the information it obtained. Finally, taking into account the particular challenges faced in the region, most of the projects examined delivered satisfactory results.

This report was published on 4 July 2016 and is available on our website www.eca.europa.eu.

Special Report
N°17/2016

The EU institutions can do more to facilitate access to their public procurement

EU institutions procurement rules are broadly in line with the general EU legislation on public procurement which requires putting procurement contracts out to tender on the broadest possible basis to maximise competition. The management and control arrangements of the EU institutions are robust and in general mitigate the risk of errors. We found however that EU institutions can do more to facilitate access of economic operators (especially of small and medium-sized enterprises) for example by simplifying the rules to the fullest possible extent and by removing unnecessary hurdles which make life difficult for potential tenderers who want to identify procurement opportunities offered by the EU institutions.

This report was published on 13 July 2016 and is available on our website www.eca.europa.eu.

Special Report
N°18 /2016

The EU system for the certification of sustainable biofuels

The Member States must ensure that the share of energy from renewable sources in transport in 2020 will be at least 10 % of the final energy consumption in this sector. They can count towards this target biofuels certified as sustainable by voluntary schemes recognised by the Commission.

We conclude that, because of weaknesses in the Commission's recognition procedure and in the subsequent supervision of voluntary schemes, the EU certification system for the sustainability of biofuels is not fully reliable.

As regards the achievement of the 10 % transport target, we found that the statistics might be overestimated, because Member States could report as sustainable biofuel whose sustainability was not verified.

This report was published on 21 July 2016 and is available on our website www.eca.europa.eu.

Special report
N° 19/2016

Implementing the EU budget through financial instruments – lessons to be learnt from the 2007-2013 programme period

Financial instruments are increasingly used to provide financial support from the EU budget through loans, guarantees and equity investments. During the 2007-2013 programming period, some €21.5 billion from the EU budget were allocated to financial instruments. We found that while they may have distinct advantages compared to other forms of EU funding such as grants, their implementation faces significant challenges which could limit their efficiency.

This report was published on 7 July 2016 and is available on our website www.eca.europa.eu.

Performance auditing: Current methods and future prospects

By Luc T'Joen, senior administrator in Chamber II

Luc T'Joen

The ECA has launched the *EKA (Enabling Knowledge for Audit) initiative* with the aim of promoting a corporate culture of knowledge-sharing and collective learning. An important part of this initiative in the praparation of Subject Briefs in which staff members set out and share their professional knowledge on specific subjects.
This Subject Brief contains a number of personal suggestions for further developing performance audit knowledge. Audit is a knowledge-based activity.

Introduction

This brief highlights the importance of using performance auditing in addition to other forms of auditing to further improve the quality of EU spending. Increased performance auditing knowledge, new ways of sharing the knowledge and better use of performance audit results are key to better spending, and to convincing policy-makers and the general public of the possibilities offered by performance auditing.

Performance auditing

Currently, most of the Commission's attention regarding policy and audit matters is directed towards the legality and regularity of EU expenditure. Policy incentives for rewarding performance in cohesion policy are limited (a 6 % performance reserve has existed since the 2007-2013 programme period) but in practice these reserves are hardly used.

In the context of an increased public expectation to prove that every euro of the EU budget spent is used to deliver tangible results, there is growing consensus on the relevance of using performance audit methods. This was acknowledged by the new Juncker Commission, which explicitly recognised that there is a need for a budget aimed at results, rather than rules: "*A road to nowhere, built according to the rules, is still a road to nowhere*" and "*the budget for us is therefore not an accounting tool, but a means to achieve our political goals*"[1].

The Commission considers that the progressive development of a performance culture will take several years to come to full effect, and there is a "limited development of mechanisms to reward performance and penalise non-effective use of the funds."[2]

Some progress has been noted over time in the form of recent small steps towards assessing results, or at least paving the way to obtaining better results. While these changes were not always directly connected to previous ECA performance audits, the Commission has used some of the ECA's performance audit outcomes as a basis for proposing policy directed towards greater performance orientation. For example:

- The ECA's Special Report on seaports[3] provided support for the Council and Parliament to adopt legislation for the 2014-2020 period which included "ex-ante conditionality", meaning that future EU-funding for transport infrastructure, amongst other investment areas, must be framed within a long-term strategic plan which must be submitted to, and assessed by, the European Commission before any EU funding can be provided from the 2014-2020 framework period;
- The same report was one reason why 11,3 billion euro in EU funding for transport investment, originally allocated to the Member States and regions to be spent under the "shared management" umbrella, were transferred to the Commission for direct centralised management by the Commission via its Innovation and Networks Executive Agency (INEA) through the Connecting Europe Facility (CEF) instrument;

1 Speech by Commission President Juncker at the Conference "EU budget focused on results" – Brussels, 2015.

2 Commission reply to paragraph 10.1 of the ECA "Annual Report concerning the financial year 2012".

3 See Special report No 4/2012: "Using Structural and Cohesion Funds to co finance transport infrastructures in seaports - an effective investment?"

- Procedures for assessing the underperformance of Cohesion Fund projects in the programming period 2000-2006 were adopted to assist Commission desk officers in the closure process. These set out a consultation procedure for possible financial corrections;
- A new Cost-Benefit Analysis (CBA) guide has been published, building upon the experience gained over time;
- The "JASPERS" instrument will provide technical assistance at EU-level for major projects and Cohesion fund projects.

However, although these are steps in the right direction, they are only small steps since there is, as yet, no clear focus on sound financial management in the ERDF and CF policy or its practical implementation:

- Indicators (common indicators and programme-specific indicators) will be set for each priority in the 2014-2020 cohesion policy framework to assess progress towards achieving objectives. However, this will not solve future ineffective spending practices, as the information available at project level will not feed in to the higher level strategic framework information (the indicators do not match).

  In other words, whilst it is true that bad performers will not get money out of the reserve, bad performance will still be rewarded with the full amount of EU money, as the rules only provide for outputs to be assessed. If these outputs have been built, the money will be paid, and there is no penalty, other than... not getting a bonus. This means that EU project management is vulnerable to flaws, and the Commission's responsibility for sound management is still at high risk for the years to come.

- So far, the Commission's auditors have not carried out any of the performance checks on projects using risk-based sampling to target audit topics, scope and population, as recommended by the Court in 2012. Commission audit teams do not work on performance and continue to give priority to lowering the historical error rate.

- INEA project officers and Managing Authority officials have not been trained in performance measurement and still sign off invoices as soon as a construction has been completed, even if the output would not be in use. In addition, the legal annexes to the grant agreements have not been amended. As a result, empty port quays, airports which are too large and unused or underused, roads which are empty for most of the day and so on, would therefore still get the EU funding agreed upon at the start of the project.

There are several ways to significantly improve the future value of money implemented in the EU budget. For example:

- Increased use of repayable instruments (e.g. loans and guarantees), with fewer unconditional grants, which are often perceived by the beneficiaries as 'free money'. For the 2014-2020 period the Commission is already exploring this option by increasing the share of the EU budget spent through repayable forms of financial support, implemented through financial instruments which are managed by the European Investment Bank (EIB), the European Investment Fund (EIF) or financial intermediaries in Member States.

- The spread of performance audit methods and their use for financial decisions should be pursued. Internal control bodies (such as the audit authorities checking cohesion policy expenditure) and programme managers in Member States or the Commission should become more performance-oriented in their work. To do so, they could apply the methods used by the ECA and other supreme audit institutions. Not all Member States need help, but training in our methodology could, and should, be provided upon request;

- Financial and compliance audits at Member State level could also collect more performance information from the management systems and projects and could include a focus on assessing the impact of irregularities on performance rather than just reporting on irregularities, which often have little to do with whether the intended results have been achieved or not.

- While performance audits are generally carried out ex-post ("*after the harm has been done*"), audit bodies could get involved earlier in the EU funding process. They could examine, for example, whether there is a robust performance measurement process in place before projects selected for EU funding are implemented, i.e. whether SMART[4] objectives and RACER[5] indicators have been set. They could also check to what extent the cost-effectiveness concept has been systematically applied when selecting the projects[6].

- Considering that 80 % of the EU budget flows through shared management, in which the Member States have direct responsibility for a number of key activities (e.g. needs assessment, project selection, management, reporting), the ECA could get more involved with Member State authorities by presenting more performance audit reports before national parliaments[7], more regularly.

4 SMART = Specific, Measurable, Achievable, Realistic, Time-based.

5 RACER = Relevant, Acceptable, Credible, Easy, Robust.

6 L. Pirelli, "The added value of the European Court of Auditors' performance audits", ECA Journal N°11/2015, page 21.

7 Some ECA performance audit reports have already been presented in national parliaments in the past. For example:
(i) Mr Brenninkmeijer (NL ECA Member) sent 16 performance audit reports to the Dutch Parliament in 2014-2015.
This lead to several presentations, 23 parliamentary questions to the Dutch Ministers and 6 motions to the Dutch Government related to ECA performance audit reports;
(ii) Mr Herics (AT ECA Member) presented the ECA's performance audit work to the Austrian Parliament's Rechnungshofausschuss on several occasions, usually combined with discussions on the annual report. For example, on 6.11.2014, 3.12.2014, 24.6.2015 and 14.4.2016.

- As suggested by the European Parliament[8], the ECA could also seek closer cooperation with national Supreme Audit Institutions to cross-fertilize knowledge, harmonize audit approaches, and carry out the following:

  o "**coordinated" audits**, where the activities of various audit teams are coordinated. There are recent examples of some of these audits in Chamber II (e.g. JASPERS performance audit being coordinated between ECA, the Polish SAI, the Croatian SAI and ...), and

  o "**joint" performance audits**. In this case, ECA auditors would take part in Member State performance audits of nationally-funded projects (e.g. an audit of national roads with methodologies discussed and agreed upfront), and Member State auditors would take part in ECA performance audits of similar EU co-funded projects. This would increase the horizons of the work of ECA auditors, since EU-funded projects are usually only a very small part of the overall picture in a given field and give them a better overall view of the things we report upon. This would also give national auditors an increased understanding of how the ECA applies its methods in practice, and enable both parties to collect important information on the quality and management of EU co-funded projects compared with nationally-funded projects (are the EU-funded projects better, or worse, and why?)

Conclusions

The EU budget remains a mystery to many Europeans[9]: while 80 % of the EU budget is managed at Member State level, only 34 % of Europeans have heard about EU co-financed projects to improve the area in which they live[10].

The Commission has recognised politically that more needs to be done to move from being a

8 European Parliament, "Report on the future role of the Court of Auditors" (2014) paragraph 17-19 and 31.

9 G. Cipriani, "The EU budget: responsibility without accountability?" (2010, p. 66) – CEPS.

10 European Commission, "Spotlight on European public opinion in 2013" – Eurobarometer (2013:31).

spending body to being an effective spending body. Political will has been demonstrated at the highest level by the recent Juncker Commission, and EU cohesion policy has been adapted for the 2014-2020 period to reflect the search for results, but work on this is by no means complete yet. As long as EU budget disbursements remain largely disconnected from results, particularly in relation to CEF, ERDF and CF payments, and no active efforts are made to pursue and implement real incentives for effective spending (or sanctions based on negative performance audit outcomes, such as empty and unused infrastructures), clearly positive results will remain just a "noble aim" of the EU budget.

Although the Commission monitors the implementation of its policies and provides evaluations on the performance and impact of these policies, the ECA - in its role of external auditor - is in a prominent position to provide EU policymakers and citizens with independent opinions on results achieved. This has been acknowledged by the European Parliament when it asked the ECA to "devote more resources to the examination of whether economy, effectiveness and efficiency have been achieved in the use of public funds entrusted to the Commission"[11].

Performance audit can help a lot to restore confidence in what the EU is trying to do. For instance, in 2003 the European Parliament noted that "the focus actually given to the legality and regularity of the spending does not help to inform the legislator and the public as to whether the money has been spent effectively"[12].

At this point in time, and based on the follow-up of earlier recommendations in the transport field, the most promising prospect for performance audit seems to be its development as a widespread tool to be used not only for ex-post examination of EU spending by (too few) ECA performance auditors, but also to improve future funding allocation and project selection and move towards a performance-based reward system.

11European Commission, "Spotlight on European public opinion in 2013" – Eurobarometer (2013:31).

12 European Parliament, 2003 discharge: section III of the general budget, par. 32(d).

By increasing the visibility of its performance audit reports in Member States and by demonstrating the usefulness of performance audit methods to assess the relevance of EU spending, by working together and, more generally, by spreading a performance culture, the ECA may significantly help to bridge the gap between the EU's citizens and its institutions and restore the citizens' trust in the EU.

Whatever the future priorities for it, performance auditing will be a key contributor to ensuring better quality and more efficient spending of EU funds.

There is still room to enhance the role of performance audit and share knowledge about it, in which the ECA can play a pioneering role.

Or, as the great Mahatma Ghandi once said:

"Be the change that you wish to see in the world"

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Main Contents

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