

“The Ethics Committee annual report for 2021”

**on the application of the Code of conduct for the Members and former Members of the Court of
Auditors in 2021**

In accordance with Article 19(7) of the new Code of Conduct for the Members and former Members of the Court of Auditors¹, each year, the Court shall adopt a report on the application of the Code of Conduct, including the work of the Ethics Committee. It is published on the Court’s website.

This is the first annual report on the application of the new Code of conduct. It covers the year 2021.

¹ Adopted on 14 December 2020 and replacing the Code of conduct of 8 February 2012

I. INTRODUCTION

1. The European Court of Auditors abides by the international standards of ethics applicable to Supreme Audit Institutions (the INTOSAI Code of Ethics - ISSAI 130). Members and former Members must respect a Code of Conduct, and the Ethics Committee advises the Court on its implementation.
2. In 2019, a peer review of the ECA's ethical framework was carried out by the supreme audit institutions of Poland and Croatia. The purpose of the assessment was to provide an opinion on whether the ECA's ethical framework was well established, to identify areas for improvement, and to put forward specific recommendations. The results were presented in January 2020. The report concluded that the ECA had established sound standards and appropriate procedures for enforcing the ethical framework; however, recommendations were made for an even clearer, more coherent and continually improving ethical framework at the ECA.
3. In order to take account of the conclusions of the peer review and to ensure the highest ethical standards, on 14 December 2020, after consultation of the Ethics committee, the Court adopted a new Code of conduct, replacing the Code of Conduct for the Members of the Court of 8 February 2012.
4. At the end of 2021, the Court was subject to some press articles, mainly related to Members' mission costs, representation expenses, residence allowances, language courses and use of the car fleet. The Court's President, accompanied by the Chair of the Ethics Committee and the Secretary General, replied to these articles in a special hearing at the European Parliament's Committee on Budgetary Control on 30 November 2021. In December 2021, Auditing & Consulting Group Srl (ACG) carried out a specific assignment to provide an opinion on the legality and regularity of the related expenditures and concluded that the Court has complied, in all material respects, with the relevant legal provisions.

II. ETHICAL FRAMEWORK APPLICABLE TO MEMBERS AND FORMER MEMBERS

5. Pursuant to the provisions of the Code of conduct, Members are required to observe the highest standards of ethical conduct and set the tone at the top by their actions. The ethical values of integrity, independence, objectivity, competence, professional behaviour, confidentiality and transparency, dignity, commitment and loyalty, and discretion and collegiality constitute the guiding principles to this effect.
6. Members have an obligation to act honestly, reliably, in good faith and solely in the public interest. They are expected to be free from circumstances or influences that compromise, or may be seen as compromising, their professional judgement. They should neither seek nor take any instructions from any institution, body, office or agency of the Union, or from any government or from any other public or private entity. Members act in an impartial and unbiased manner and avoid any situation that is liable to give rise to a conflict of interest, or that could objectively be perceived as such.
7. Members may not engage in any professional activity outside the Court, or in any other external activity, whether gainful or not, that is incompatible with their duties. However, they may hold honorary, unremunerated offices in foundations or similar organisations in the political, legal, scientific, cultural, artistic, social, sporting or charitable spheres or in educational establishments.
8. In addition, Members may engage in external activities such as giving courses or delivering speeches, or publishing a book or an article, provided that no remuneration is received.
9. After ceasing to hold office, former Members are required to respect those obligations arising from their duties that continue to have an effect after their term, in particular the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. They continue to be bound by the duties of discretion and collegiality with respect to the activities performed during their term of office. The obligation of professional secrecy also continues to apply.

III. THE ETHICS COMMITTEE

10. Established in 2015, the Ethics committee considers any matter of an ethical nature it deems relevant to the standards laid down in the Code of conduct and the reputation of the Court, including their further improvement.
11. The Ethics committee is composed of three permanent and three alternate members. Both groups of members include two Members of the Court and one external member selected on the basis of professional qualities, an impeccable record of professional behaviour as well as experience in high-level functions at European, international or national level.
12. In 2021, the composition of the Ethics committee was as follows:

For the period between January and June 2021:

† Mr Joao Figueiredo, ECA Member, Chair of the Ethics Committee

Mme Joëlle Elvinger, ECA Member

Mr Melchior Wathelet, former first Advocate General at the Court of Justice of the European Union, external member

For the period between June and October 2021:

Mme Joëlle Elvinger, ECA Member, Chair of the Committee

Mr Rimantas Šadžius, ECA Member, alternate member

Mr Melchior Wathelet, former first Advocate General at the Court of Justice of the European Union, external member

For the period between October and December 2021:

Mme Joëlle Elvinger, ECA Member, Chair of the Committee

Mr Nikolaos Milionis², ECA Member

Mr Melchior Wathelet, former first Advocate General at the Court of Justice of the European Union, external member

13. The Ethics committee examines declarations of external activities of Members. The President forwards any such declaration to the Ethics Committee, which assesses whether these external activities in question do not:

- undermine the Court's impartiality,
- create a conflict of interest, or can be objectively perceived as creating a conflict of interest,
- take up an excessive amount of time, taking into account the cumulative impact of a Member's total external activities, and
- afford the Member any pecuniary gain.

14. By way of exception, external activities such as giving courses, delivering speeches, publishing a book or an article, are subject to a simplified procedure, whereby the declaration related to the external activity concerned sent to the President is transmitted to the Ethics committee for information purposes only. The committee does not issue an opinion unless it deems this necessary.

15. The Ethics committee is also responsible for assessing the compatibility of Members' occupations after ceasing to hold office. Whenever Members or former Members of the Court intend to engage in an occupation during the two years after they have ceased to hold office, they declare it to the President as soon as they become aware of the matter. The President forwards such declarations for

² Appointed on 21 October 2021

examination by the Ethics Committee. The Ethics Committee then examines whether the nature of the planned occupation is compatible with Article 286(4) TFEU and the Code of conduct, whether it undermines the Court's impartiality, and whether there is a conflict of interest. If the Ethics Committee considers that the occupation would be incompatible with the above mentioned provisions, the President informs the former Member, who shall refrain from engaging in that activity.

16. The Ethics committee also fulfils the role assigned to it in the decision setting out the Court's policy for maintaining a satisfactory working environment and combating psychological and sexual harassment. If the person accused of harassment is a Member of the Court, the appointing authority forwards the request for assistance of the alleged victim to the President, who transmits it to the Ethics committee. The Ethics committee then issues an opinion to the appointing authority as to whether to open an administrative investigation.
17. The Ethics committee convenes at the request of its chairperson or following a request for an opinion submitted to it by the President or a Member of the Court. The committee's deliberations are confidential.
18. The Ethics committee issues an opinion within 30 days of being consulted. On a proposal from its chairperson, the committee may issue an opinion by written procedure. The committee's opinions are reasoned and adopted by majority vote. The Legal service assists the Ethics committee in its tasks and provides secretarial support.
19. In 2021, the committee was convened for **five meetings**. Some meetings took place physically in the premises of the Court, whereas others were organised virtually. In addition, on numerous occasions, the committee has resorted to using written procedure, without convening a formal meeting, in order to discuss urgent matters.

20. The number of matters the Ethics committee had to deal with in 2021 has been significantly lower than in previous years, which may be due to the general decrease of external activities of Members in the context of the COVID-19 pandemic. Overall, the committee examined **11 requests related to Members' external activities and one request from a former Member**.
21. In the assessment of **eight** of these requests, a simplified procedure was applied to the extent that the activity in question consisted of giving a lecture or publishing a book or an article. In none of these cases, the Ethics committee deemed it necessary to issue an opinion.
22. As far as the remaining **four** requests are concerned, the committee issued an opinion regarding the compatibility of an envisaged activity with the Code of conduct. In three of these cases, the Ethics committee issued a positive opinion in light of the criteria mentioned in paragraph 13 of this report. In one case, the committee's opinion was negative to the extent that the external activity in question could be perceived as implying a close link with a national institution.

IV. ACTIVITIES LINKED TO THE CODE OF CONDUCT

23. Pursuant to Article 14 of the Code of Conduct, Members are required to submit their declarations of interests within a maximum of one month of taking office, on an annual basis on 31 January, at any time, in the event of significant changes in the information to be declared (including new external activities) and on leaving office.
24. In 2021, all 27 Members submitted their annual declarations of financial interests within the time-limit. These declarations were published on the Court's website.