



EUROPEAN  
COURT  
OF AUDITORS

## Klaus-Heiner Lehne

President

Mrs Ursula von der Leyen  
President of the European Commission  
200, rue de la Loi

B-1049 Brussels

Luxembourg, 16 May 2022  
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Dear President,

I would like to thank you for seeking the views of the European Court of Auditors (ECA) on taking part in interinstitutional discussions on a possible future joint agreement to establish an ethics body common to all EU institutions, the European Economic and Social Committee and the Committee of Regions.

I can only fully agree with you that all EU institutions have a collective responsibility and that all their members play an important role in, and must contribute to, building and maintaining trust in the European Union.

The ECA has recently completed a comprehensive overhaul of the ethical rules applicable to its Members. Following an independent peer review by two national Supreme Audit Institutions in 2019, the Court adopted a number of major updates to its Code of Conduct for Members and former Members, building on best practice among the Institutions and following international auditing standards.<sup>1</sup>

Concerning a possible future joint agreement to establish a common ethics body among the institutions, I would point to certain specificities of the ECA within the system laid down in the Treaties.

The Treaties, and in particular Articles 286-287 TFEU, lay down a number of safeguards and obligations to ensure the *full independence* of ECA as a supreme audit institution. In its application of the ethical rules which derive from these Treaty provisions, the ECA could therefore not envisage being bound by decisions of an external body, nor could it tie itself to decisions by representatives of other EU institutions on these matters. As things stand, it is difficult to see how the fundamental principle of

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<sup>1</sup> For the latest version, see Code of Conduct for the Members and former Members of the Court, OJ L 128, 2.5.2022, p. 102–113. For international standards, see in particular: INTOSAI ISSAI 30 [Code of Ethics](#); EUROSAI [Guidance](#) for Supreme Audit Institutions on implementing ISSAI 30, May 2017;

auditor independence, as guaranteed at international level<sup>2</sup>, could be reconciled with the supervision by an external body of the ethical obligations of ECA Members. Equally, the ECA cannot participate in decisions affecting the other institutions which it could subsequently be brought to audit in the future.<sup>3</sup> For these reasons, and without considering the possible legal basis of such a common body, or the practical implications of adding an additional layer of control into existing ethical frameworks, I regret that the ECA cannot participate in the establishment of an interinstitutional ethics body and that it would be barred from submitting itself to its supervision.

However, the ambition to establish greater commonality among the institutions on these important issues is one which the ECA fully supports and which we called for ourselves in specific areas in our most recent audit on the matter.<sup>4</sup> The exchange of best practices and convergence of ethical standards are very welcome, and the ECA stands ready to fully contribute to this process, in accordance with the specific role of each institution laid down in the Treaties. In this respect, we are particularly grateful for the efforts of the responsible services of the Commission's Secretariat-General, with whom the ECA is in regular contact to exchange information and best practices. This interaction and increased mutual awareness enables the institutions to learn from each other, and where necessary to adjust their ethical rules, in line with the evolving expectations of our citizens.

It is equally clear that, should a common ethics body be created by several EU institutions, its recommendations would provide a useful reference point beyond the scope of this body, including for our independent institution, thus increasing the convergence between all institutions.

Yours sincerely,

  
Klaus Heiner Lehne  
President

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<sup>2</sup> INTOSAI-P - 10 - Mexico Declaration on SAI Independence, available at:  
<https://www.issai.org/pronouncements/intosai-p-10-mexico-declaration-on-sai-independence/>

<sup>3</sup> For a recent audit of the ECA in which ethical frameworks of several EU institutions were audited, see: Special report no 13/2019: The ethical frameworks of the audited EU institutions: scope for improvement, available at: <https://www.eca.europa.eu/en/Pages/NewsItem.aspx?nid=12463>

<sup>4</sup> Ibid, Recommendation 2 – “Work together to harmonise elements of the ethical framework and make further efforts to share good practice on ethical matters”.