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EUROPEAN  
COURT  
OF AUDITORS

**Landscape  
review**

**Gaps, overlaps and challenges:  
a landscape review of EU  
accountability and public audit  
arrangements**

**2014**

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**AIEA (IAEA):** Agence internationale de l'énergie atomique (International Atomic Energy Agency)

**BI:** blended instrument

**BoP:** balance of payments mechanism

**CCI:** Convergence and Competitiveness Instrument

**CJEU:** Court of Justice of the European Union

**CRD IV:** capital requirements directive IV

**CoR:** Committee of the Regions

**CRIS:** Common External Relations Information System

**CRR:** capital requirements regulation

**CSF:** common strategic framework

**CTBTO:** Comprehensive Nuclear-Test-Ban Treaty Organisation

**DAS:** déclaration d'assurance (statement of assurance)

**DG DEVCO:** Directorate-General for Development and Cooperation — EuropeAid

**DG ECFIN:** Directorate-General for Economic and Financial Affairs

**EBA:** European Banking Authority

**EC:** European Community

**ECA:** European Court of Auditors

**ECB:** European Central Bank

**EDA:** European Defence Agency

**EDP:** entrepreneurship development programme

**EEAS:** European External Action Service

**EESC:** European Economic and Social Committee

**EFSF:** European Financial Stability Facility

**EFSM:** European Financial Stabilisation Mechanism

**EIB:** European Investment Bank

**EIOPA:** European Insurance and Occupational Pensions Authority

**EMU:** economic and monetary union

**EP:** European Parliament

**EPSAS:** European Public Sector Accounting Standards

**ERDF:** European Regional Development Fund

**ESA:** European Supervisory Authority

**ESCB:** European System of Central Banks

**ESF:** European Social Fund

**ESFS:** European System for Financial Supervision

**ESM:** European Stability Mechanism

**ESMA:** European Securities and Markets Authority

**ESRB:** European Systemic Risk Board

**EU:** European Union

**EUISS:** European Institute for Securities Studies

**EUSC:** European Union Satellite Centre

**FFR:** financial framework regulation

**FI:** financial instrument

**FR:** financial regulation (applicable to the general budget on the Union and its rules of application)

**FSB:** Financial Stability Board

**GDP:** gross domestic product

**IMF:** International Monetary Fund

## Abbreviations

**IPSAS:** International Public Sector Accounting Standards

**ISA:** International Standards on Auditing

**ISSAI:** International Standard for Supreme Audit Institutions

**IT:** information technology

**MFF:** multiannual financial framework

**MIP:** macroeconomic imbalances procedure

**MS:** Member State

**NAI:** national audit institution

**NRP:** national reform programme

**NSA:** national supervisory authorities

**ODA:** official development assistance

**PPP:** public–private partnership

**R & D:** research and development

**RAL:** reste á liquider (outstanding commitments)

**RRD:** recovery and resolution directive

**SAI:** supreme audit institution

**SMART:** specific, measurable, achievable, relevant and timely

**SME:** small and medium-sized enterprise

**SSM:** Single Supervisory Mechanism

**TFEU:** Treaty on the Functioning of the European Union

**TSCG:** Treaty on Stability, Coordination and Governance

**UN:** United Nations

**UNFCC:** United Nation Framework Convention on Climate Change

**UNSCR 1540:** United Nations Security Council Resolution 1540

**US:** United States

**WB:** World Bank

**WMD:** weapons of mass destruction

**I** This is the first 'landscape review' produced by the European Court of Auditors (ECA). Landscape reviews are a new type of publication of the ECA. They consider broad themes on the basis of the Court's research and accumulated experience, in relation to issues directly related to the ECA's remit. This landscape review deals with 'EU accountability and public audit arrangements', and a second landscape review, which deals with 'risks to the EU general budget', will be published in the coming months.

**II** Accountability and audit arrangements for European Union (EU) policies, instruments, entities and related public financial resources and related challenges are considered in this review. For this purpose, accountability refers mainly to democratic (especially parliamentary) oversight of policies and activities of public bodies, whereas public audit refers to the financial and performance audits of policies and related public funds and their link to the accountability process.

**III** This review aims to raise awareness of and foster reflection on the challenges for EU accountability and audit arrangements. There are therefore no 'audit recommendations' in this case, but instead the review contains pointers to issues which need to be addressed by European policymakers, legislators and the audit community.

**IV** The document has four related parts. **Part I** describes the links between accountability and public audit. It identifies six key elements for a strong accountability and audit chain. **Part II** describes six important areas that face accountability and public audit challenges at EU level. **Part III** deals with the accountability and audit arrangements applying to the various new EU and intergovernmental instruments, which have developed rapidly as a response to the financial crisis. The last part contains the **conclusions** from this review.

**V** **The six elements for a strong accountability and audit chain** are:

- (i) clear definition of roles and responsibilities;
- (ii) management assurance about the achievement of policy objectives (financial and performance reporting);
- (iii) full democratic oversight;
- (iv) existence of feedback loops to allow for corrective action/improvements;
- (v) a strong mandate for independent external audit to verify accounts, compliance and performance; and
- (vi) implementation of audit recommendations and audit follow-up.

These elements describe the link between accountability and the role of public audit to support that wider process. They may contribute to a 'blueprint' for testing new accountability and audit arrangements in the future.

**VI** **The six important areas at EU level which face accountability challenges are as follows.**

- (i) **EU and Member States' coordinated actions** take the form of instruments which are either within the EU legal framework, or based on intergovernmental agreements, or a combination of both. Such structures arise for a variety of reasons but may rely on a fragmented system of parliamentary scrutiny and public audit.
- (ii) **EU funds are managed in partnership with others**, such as international organisations, third countries and private partners. They cannot be subject to the EU's democratic and audit process in the same way and extent as direct EU budget expenditure. Partners' own accountability and audit systems must be sufficient and reliable in order to compensate.



- (iii) Policies are applied by a subset of EU Member States (**multi-speed Europe**). The euro area provides an example of a complex policy architecture and governance arrangements in which not all EU Member States participate.
- (iv) **The EU institutional set-up** includes a growing number of bodies. Different accountability and audit arrangements apply to groups of EU bodies, depending for example upon the sources of income. Differences in accounting, audit and discharge arrangements may lead to disproportionate levels of scrutiny, gaps and overlaps.
- (v) **The financial and performance management of the EU budget** is subject to extensive provisions for parliamentary scrutiny and audit. Challenges remain for streamlining frontline governance, accountability and audit processes carried out at Member State level — both for revenue and, particularly, for expenditure under shared management. Primary-level controls in some Member States remain weak and, despite costly audit overlaps, do not identify and correct errors.
- (vi) **Policy outputs, impact and results rely on non-budgetary instruments.** The EU budget is only one component of resources used to contribute to results of EU policy initiatives (others include MS national budget funding and leverage of private finance). Moreover, policies might also rely solely on legal and regulatory instruments. A comprehensive audit and accountability system focused on results needs to assess all these policy components together.

## VII

**The EU's response to the financial crisis** has accelerated the creation of new EU or intergovernmental instruments with specific accountability and audit arrangements. Certain intergovernmental based instruments are financed directly by the Member States (ECB, EIB, ESM, SSM), and although they are of less importance from an EU budget perspective, require comprehensive democratic scrutiny and public audit at the appropriate level in terms of the interrelation between such instruments and the role and functions of certain EU institutions and bodies, the level of public funds governed by such supranational instruments and their link to EU objectives and systemic risks.

## VIII

**Some general conclusions** on how to improve accountability and public audit at EU level include the following.

- **A more collaborative system of scrutiny** (parliamentary oversight and public audit) may be required for coordinated or intergovernmental instruments between the EU and Member States.
- **A more consistent and comprehensive set of arrangements** is required across all EU policies, instruments and funds managed by EU institutions and bodies. Parliaments and public auditors should be able to assess all aspects of sound financial management related to their activities and all public finances and resources under their responsibility.
- **Better management and control systems** regarding EU activities and funds are a prerequisite for transparency, good governance and accountability. Better articulation of objectives, controls for adherence to the rules, better measurement of outcomes and results and an improvement in the related internal control and reporting systems are necessary to improve accountability for the EU budget. This needs to be addressed by all parties involved in the management and control of EU funds, in particular Member States for their responsibility for expenditure of EU funds (in particular those under shared management).

- **A focus is required on measuring EU policy impact and results** where the EU budget plays a relatively small role, but where there is significant regulatory or legislative provision at EU level. Accountability for EU policies, therefore, requires that parliaments at both the EU and national levels provide comprehensive scrutiny of European instruments. This may require a level of enhanced cooperation that is not provided for by the existing accountability and audit architecture of EU and intergovernmental based European instruments.
- **Reducing costly audit overlaps** for EU policies and funds requires that all opportunities for avoiding costly audit overlaps should be explored, primarily by ensuring that auditors at each level can rely appropriately on the work of other auditors. The ECA and public audit authorities in Member States would need to enhance their cooperation to achieve this goal.

## IX

This review highlights an agenda for potential dialogue and further elaboration of possible solutions in the future.

## 01

As the European Union's (EU) independent external auditor, the European Court of Auditors (ECA) seeks to contribute to the transparency and accountability of EU governance. This commitment lies at the heart of the ECA's regular audits of the EU's revenue and spending. In the aftermath of the financial crisis, it is an opportune moment to take stock of existing EU public accountability and audit arrangements with a view to strengthening them in the future.

## The purpose of the landscape review

## 02

Landscape reviews are a new type of product of the ECA. They consider broad themes on the basis of the Court's research and accumulated knowledge and experience.

## 03

This is one of the first two such landscape reviews. This review deals with the system of 'EU accountability and public audit arrangements' while the other deals with 'Risks to the financial management of the EU budget'.

## 04

The reviews serve as an important basis for consultation and dialogue with the ECA's stakeholders and for future audit work of the ECA. They enable the Court to submit observations on matters which are not necessarily susceptible to audit per se but are nonetheless important for public accountability and the ECA's audit mission.

## 05

In assessing the current EU public accountability and audit arrangements and identifying related challenges, this review aims to foster further consideration and debate about a topic which is of real importance to the democratic legitimacy of the EU's institutional system. There are, therefore, no specific 'audit recommendations', but there are many pointers to issues which should be raised and addressed by European policymakers, legislators and the audit community.

## The structure of this report

### 06

This report is in four parts, as follows.

- **Part I** describes the essential features of an accountability framework, the role of public audit in enhancing accountability, and the accountability and audit arrangements currently in place at EU level.
- **Part II** refers to the public debate on reinforcing accountability at EU level and outlines the main challenges for public accountability and audit as identified by the ECA. These include the accountability and audit of: intergovernmental action by EU Member States; EU policy impact and results achieved; cooperation with external partners; leverage of private finance to complement public investment; new EU entities or responsibilities.
- **Part III** describes the challenges faced as a result of the financial crisis and the EU response to date, in particular with respect to: ensuring financial stability; strengthening financial sector supervision; and enhancing fiscal and economic surveillance.
- **Part IV** presents a summary of the challenges and necessary reflections for the future.

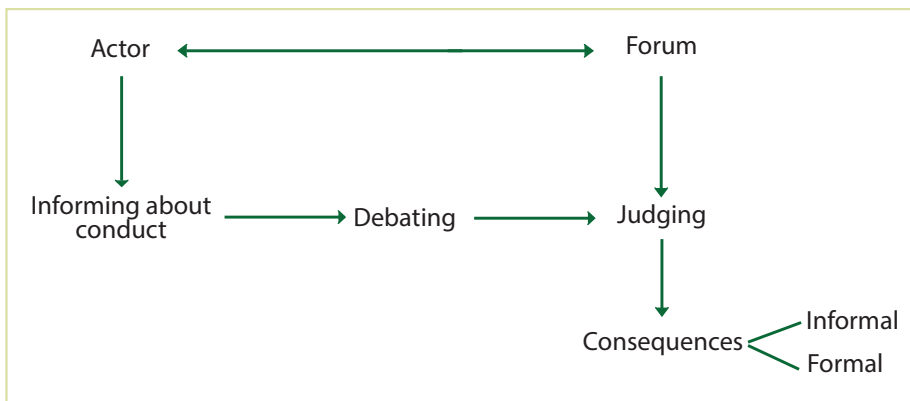
## Public accountability

### 07

In a general model (see **Figure 1**), accountability is described as the relation between 'actors' and a 'forum', in which actors inform the forum about their conduct and performance. Moreover, the forum is vested with the authority to judge the actors and requires them to take corrective actions if necessary.

Figure 1

### Accountability as a social relationship: key dimensions



© Prof. Mark A.P. Bovens (See Figure 1, 'Analysing and Assessing Accountability: A Conceptual Framework', *European Law Journal*, Vol. 13, No. 4, July 2007, p. 454).

### 08

This model helps to assess some important challenges regarding accountability frameworks in general.

- Actors in public institutions may face the problem of dealing with many layers and dimensions of governance with multiple forums for scrutiny of actions — 'many eyes' dealing with oversight.
- Parliaments and other authorities responsible for scrutiny of public bodies face the challenge of multiparty or multilayered executive structures, making it difficult to determine who is to be held accountable. This is often referred to as a problem of 'many hands'.
- Another challenge that emerges is in terms of what to account for. Parliaments may face a choice of putting emphasis on scrutiny over inputs — especially financial inputs — or focusing on impacts and results.
- Finally, the challenge of ensuring accountability extends beyond the statutory and parliamentary scrutiny. Public entities face the challenge of managing relations with the public in general, as well as their employees, main customers and other stakeholders.

### 09

These questions and associated problems are even more complex at the EU level. As demonstrated in Parts II and III hereunder, in the EU's institutionally complex systems challenges arise wherever there is a lack of clarity of roles, overlapping functions or gaps in terms of scrutiny and control.

### 10

In the preamble to a recent International Standard for Supreme Audit Institutions (ISSAI) No. 12, accountability is described as follows: 'In a democracy, structures are created and elected representatives are empowered to implement the will of the people and act on their behalf through legislative and executive bodies. A risk to be considered with public sector institutions in a democracy is that power and resources can be mismanaged or misused, leading to an erosion of trust that can undermine the essence of the democratic system. It is therefore critical that the citizens of a country are able to hold their representatives accountable. Democratically elected representatives can only be held accountable if they, in turn, can hold accountable those who implement their decisions'<sup>1</sup>.

## Public audit's contribution towards accountability

### 11

Public audit institutions are an important component of accountability. Their main objective is to provide independent, effective and credible scrutiny of the use of public resources<sup>2</sup>.

### 12

ISSAI 12 explains the role of public audit in terms of accountability as follows: 'Public sector auditing, as championed by the supreme audit institutions (SAIs), is an important factor in making a difference to the lives of citizens. The auditing of government and public sector entities by SAIs has a positive impact on trust in society because it focuses the minds of the custodians of public resources on how well they use those resources. Such awareness supports desirable values and underpins accountability mechanisms, which in turn leads to improved decisions. Once SAIs' audit results have been made public, citizens are able to hold the custodians of public resources accountable. In this way SAIs promote the efficiency, accountability, effectiveness and transparency of public administration. An independent, effective and credible SAI is therefore an essential component in a democratic system where accountability, transparency and integrity are indispensable parts of a stable democracy'<sup>3</sup>.

1 ISSAI 12: The value and benefits of supreme audit institutions — making a difference to the lives of citizens; Intosai; March 2013; Preamble, paragraph 2.

2 ISSAI 1: Lima Declaration.

3 ISSAI 12: The value and benefits of supreme audit institutions — making a difference to the lives of citizens; Preamble, paragraph 1; adopted by XXI Incosai 2013.

## 13

The EU multilayered structure of governance requires cooperation and coordination between the EU and Member States, and between further levels of government within Member States. It also requires commensurate cooperation and coordination between parliaments and public auditors at all levels. Such cooperation should lead to full scrutiny of public financial resources, including assurances about the accuracy of financial accounts, the assessment of compliance of transactions with applicable rules and the performance assessment of results achieved (economy, efficiency and effectiveness).

## 14

The ECA has identified **six key elements** of public accountability and audit (see **Table 1**). Each of these elements represents a link in a chain — with a weakness at any point threatening to undermine the overall effectiveness.

Table 1

### Six key elements for public accountability and audit

1.	<b>Roles and responsibilities</b>	→	Roles and responsibilities assigned to all EU and other bodies involved in implementing policies and managing funds.
2.	<b>Information and reporting</b>	→	Requirements for public managers to provide sufficient, relevant, accurate and timely information and reporting on implementation and results for accountability purposes.
3.	<b>Democratic scrutiny and audit</b>	→	Arrangements and opportunities for democratic oversight and scrutiny of public managers by parliaments.
4.	<b>Consequence and feedback</b>	→	Mechanisms to ensure the results of public oversight and scrutiny are taken into account in the legislative and budget-setting procedures.
5.	<b>Public audit mandate</b>	→	Appointment of independent external auditors with powers to carry out a wide range of public audits (financial, compliance and performance audits), the right of access to necessary information and requirements to report to parliaments and the public.
6.	<b>Audit reporting and follow-up</b>	→	Provisions for follow-up of and reporting on the results of public audit.

Source: ECA.

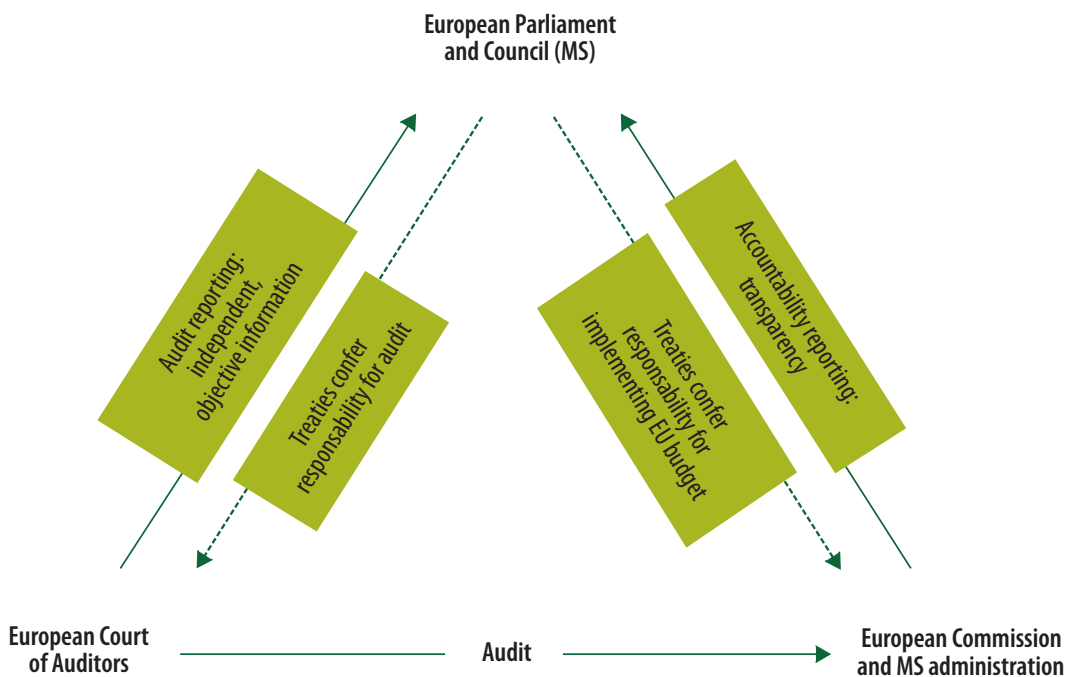
Accountability and audit for the EU budget

15

The accountability framework for the EU’s management and financial control includes three key functions: the European Parliament and Council, which provide democratic oversight; the Commission and other bodies of the EU that perform executive functions; and the ECA as the EU’s auditor (see **Figure 2**).

Figure 2

Accountability framework for EU’s management and financial controls



Source: ECA.



16

Independent external scrutiny by the ECA provides assurance on:

- the **reliability** of the accounts of the EU;
- the **legality and regularity** of the underlying income and expenditure of the EU’s budget;
- the **sound financial management** of EU funds in terms of economy, efficiency and effectiveness.

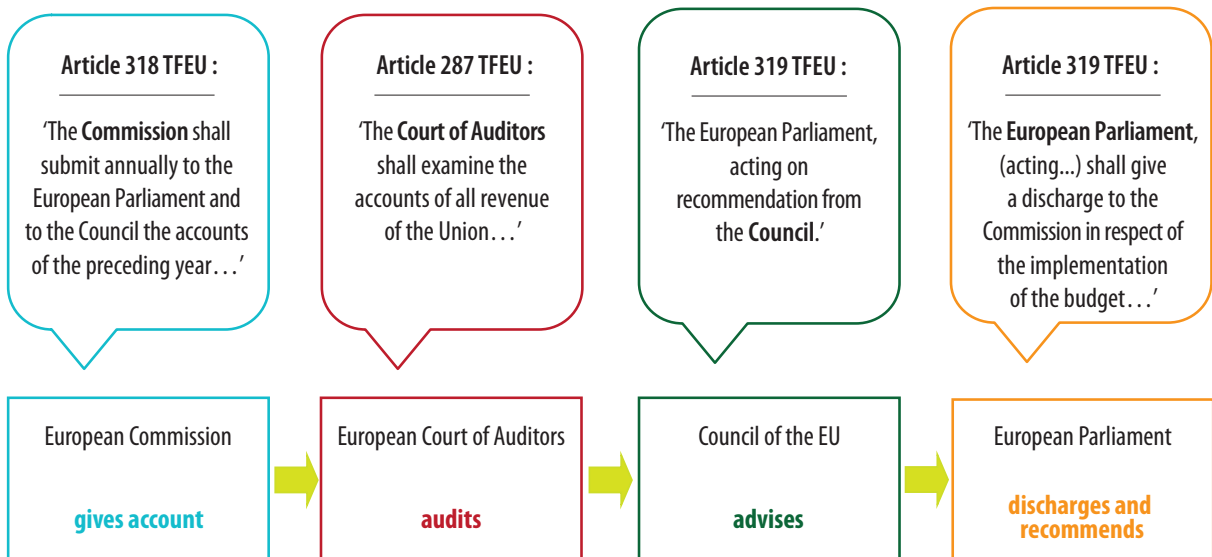
17

The Court’s audit is one part of a longer chain of financial accountability arrangements in the area of shared management. The EU-level audits verify the Commission’s account to the European Parliament. The Commission in turn depends on a system of Member State-level management and audit representations. The use of EU funds by Member States is also subject to scrutiny by their respective parliaments.

18

The Treaty on the Functioning of the European Union (TFEU) provides for a specific accountability mechanism in respect of the EU budget that is known as the ‘discharge procedure’. It involves four main EU institutions: the European Parliament; the Council; the Commission; and the ECA (see **Figure 3**).

Figure 3 The discharge procedure for the EU budget



Source: ECA.

### EU accountability beyond the EU budget — scrutiny over entities, instruments, policy measures, implementation and results

#### 19

Accountability is not limited to providing an account of the use of taxpayer's money through the EU general budget but also includes providing an account of:

- policy decisions taken and objectives set;
- results and outcomes of EU policies;
- the use of funds from private or international sources that are mobilised for implementing EU policies and the compliance of these projects with EU strategies; and
- the effectiveness of EU responses to systemic risks posed to the financial interests of the Union and its MS.

#### 20

There are a number of channels through which accountability in a broad sense may be achieved. One channel is democratic accountability — accountability of the European Commission to the Council, consisting of representatives of Member States at ministerial level who are accountable to their national parliaments, and the European Parliament. A second channel is accountability to EU citizens. For those elected, this means accepting the verdict of voters through elections and various other ways of democratic participation in public choices. But not all public bodies are elected, and even those that are remain accountable between elections. A third form of accountability is the respect for the rule of law — legal accountability, which is established by the courts of justice. A fourth form of accountability is administrative and financial accountability — the main focus of public auditors including the ECA.

#### 21

EU political and executive authorities have political accountability for the objectives set and policy decisions taken. In general, public auditors, including the ECA, refrain from questioning the merits of the policy objectives set through the EU's political process. These are generally only addressed by the ECA to a limited extent when an opinion is formally requested by one of the other institutions involved in the EU's legislative process.

### 22

One of the concerns of public audit is to examine the effects of policies as they are implemented and whether those effects relate to the declared intentions of such policies. However, the evaluation of effectiveness is often difficult and the difficulty may be compounded when the declared objectives are vague or possibly inconsistent with the actual policy intentions.

### 23

It is therefore difficult to draw a precise line between the implementation of policies, which is a legitimate concern of performance audits, and the merits of policy, which should in principle be left out of the audit scope. It is very difficult to assess the effectiveness of policies in terms of outcomes without taking into account the extent to which the weak policy results are influenced by policy design. A number of recommendations in this respect can be found in special reports of the ECA.

### 24

The issues outlined above are addressed in more detail in the rest of this review. The intention is to highlight the issues in relation to EU accountability and audit arrangements.

# Part II — The challenge of EU accountability and audit

## The call to improve EU accountability

### 25

Following several years of financial crisis, the reputations of certain governments and institutions have been severely damaged. The quality of governance of the EU's highly interdependent economies and the related role of certain EU institutions has been questioned and extended in certain circumstances. Public trust and confidence in EU institutions and policies declined during this period — in autumn 2007, 48 % of citizens trusted the EU<sup>4</sup>. Five years later, in spring 2012, the level of trust had dropped to 31 %<sup>5</sup>.

### 26

The ECA and SAIs of Member States have stressed the importance of applying the principles of transparency and accountability in a coherent and consistent way for all public funds used in response to the crisis<sup>6</sup>.

### 27

This call was also made by the presidents of the European Council, Commission, Eurogroup and European Central Bank (ECB) in the European Council conclusions of December 2012, where they outlined a vision for a genuine economic and monetary union (EMU) based on four building blocks. The first three building blocks concern the development of the EU's financial, fiscal and economic frameworks, while the fourth specifically recognises the need to ensure democratic legitimacy and accountability. So far, the components of the fourth building block have been addressed on a case-by-case basis for the different proposed policy instruments.

- 4 See Standard Eurobarometer, spring 2007, spring 2012 editions; European Commission Directorate-General for Communication (link: [http://ec.europa.eu/public\\_opinion/archives/eb/eb77/eb77\\_publ\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb77/eb77_publ_en.pdf)).
- 5 Sixty per cent of respondents to the Eurobarometer survey (spring 2012) said they distrusted the EU (versus 31 % who trusted the EU). A slight improvement was noted in the autumn 2012 survey (57 % distrust versus 33 % trust), but nevertheless in 20 of the 27 EU Member States a majority of citizens still distrusted the EU.
- 6 See Contact Committee of the Supreme Audit Institutions of the EU statement 2013 on the 'Importance of appropriate audit and accountability arrangements in the economic and monetary union and EU economic governance' (<http://www.contactcommittee.eu>).

The main EU accountability and audit challenges

28

In reflecting on the call for improving accountability, the ECA has identified a number of specific challenges (see **Table 2**).

Table 2

Six areas facing accountability and audit challenges

	Areas		The nature of the challenge	Paragraphs
1.	<b>EU–MS coordinated actions</b>	→	Ensuring coordinated public scrutiny and audit at EU and national level for coordinated actions	30–42
2.	<b>Funds managed in partnership with others</b>	→	Accountability for funds managed in partnership with others (external or private partners). Meeting the transparency and accountability needs of both public and other stakeholders involved in partnerships	43–65
3.	<b>EU multi-speed/variable policy architecture</b>	→	Providing democratic scrutiny and comprehensive public audit for subsets of MS and third countries participating in different policy areas or instruments	66–76
4.	<b>EU set-up (institutions and bodies)</b>	→	Ensuring efficient and effective oversight and audit of the totality of EU institutions and bodies	77–114
5.	<b>Financial and performance management</b>	→	Improving accountability for the overall quality of EU financial and performance management	115–139
6.	<b>Policy impact and results</b>	→	Monitoring and evaluating the impacts and results of EU policy	140–149

Source: ECA.

29

The sections of **Part II** below examine these areas in detail.

### 1. Coordinated action by the EU and Member States

#### 30

In most policy areas covered by the EU treaties, the competences are shared between the EU and its Member States. For example, various EU policies depend in large part on Member State budget resources (the EU budget represents less than 1 % of GDP compared to 49 % of EU GDP spent by governments in 2013<sup>7</sup>); achieving broad treaty objectives through strategies and targets (for example Europe 2020 targets) depends mainly on Member States' actions financed by their national budgets; the new EU fiscal and economic coordination arrangements cover the totality of public spending in the EU, but all actions in this area are subject to a complex system of cooperation. In such cases, coordinated action by the EU is required in order to achieve common objectives.

#### 31

This creates parallel lines of accountability. The Commission is accountable to the European Parliament and the Council for the coordinating measures under its responsibility and can be audited by the ECA<sup>8</sup>. National authorities are responsible to their parliaments for the actions taken under national law, for the use of national budgets, and can be audited by their SAIs.

#### 32

The challenge faced is that accountability for most coordinated actions remains fragmented. Responsibilities are dispersed among Member States' respective parliaments and audit authorities. Moreover, where the policy action is intended to deal with supranational systemic risk but the policy intervention takes place through EU coordination between Member States, the EU faces a challenge in coordinating their audit and parliamentary scrutiny.

#### 33

Providing a full overview of public finance and policies coordinated between Member States and the EU requires also coordination and cooperation between all SAIs and parliaments. The required coordination goes substantially above what is necessary for the audit of the EU budget.

7 Eurostat data on total general government expenditure as a percent of GDP (<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00023>).

8 Whether the Commission expends funds indirectly, through Member States, or directly, these expenditures are subject to ECA audit.

### Europe 2020 strategy coordination

#### 34

Many examples of coordinated actions can be found in the Europe 2020 strategy. As the Commission notes, the success of the Europe 2020 strategy crucially depends on the ability of EU Member States to play their part in implementing the necessary reforms at national level that are required to boost growth under the seven flagship initiatives<sup>9</sup>.

#### 35

The governance framework for the Europe 2020 strategy<sup>10</sup> stipulates that:

- political direction is the responsibility of the European Council;
- the Commission proposes the strategy, monitors implementation and reports on progress;
- Member States are required to produce two reports each year, explaining what they are doing to move closer to the Europe 2020 national targets. Both reports should be fully integrated within the national budgetary procedure and the European semester, which was introduced to improve policy coordination throughout the EU.

#### 36

The governance arrangements require the European Parliament to participate in the dialogue leading up to the final decisions by the Council and to encourage discussion within and between national parliaments. However, the strategy does not explicitly provide for any parliament to oversee its implementation or results, nor does it provide for a coordinated public audit between the respective EU and MS levels.

### Fiscal and economic coordination under the European semester

#### 37

The European semester aims to streamline national and EU economic and fiscal coordination processes and involves a strict annual timetable for collecting, analysing and assessing a broad range of economic indicators. Paragraphs 174 to 176 and **Figure 7** in **Part III** below elaborate on the implications of this strengthened role for EU coordination.

9 COM(2010) 2020 final of 3 March 2010, 'Europe 2020 — A strategy for smart, sustainable and inclusive growth', executive summary, p. 5 to 6, paragraphs 2 and 7.

10 COM(2010) 2020 final, executive summary, p. 28, Section 5.2.

### 38

The effectiveness of the surveillance framework relies upon the performance of different actors within the process: the Council has responsibility for decisions related to economic coordination and governance, the Commission is responsible for the coordination and surveillance functions. Moreover, all regulations provide for information to be submitted to the European Parliament for the purpose of dialogue on the various findings and recommendations.

### Intergovernmental instruments

### 39

Similarly, some measures in response to the economic and financial crisis also require coordinated action by Member States, which is regulated by intergovernmental agreements or treaties. **Part III** of this report gives a more complete analysis of the implications for public accountability and audit of measures taken by the EU in response to the economic and financial crisis.

### 40

In its 'Blueprint for a deep and genuine EMU'<sup>11</sup> of 2012, the Commission has identified democratic legitimacy as a cornerstone for a genuine EMU, reflecting two basic principles:

- firstly, accountability should be ensured at the same level as that where the respective executive decision is taken, whilst taking due account of the level where the decision has an impact;
- secondly, in developing EMU and EU integration in general, the level of democratic legitimacy always needs to remain commensurate with the degree of transfer of sovereignty from Member States to the EU level.

### 41

In terms of the second principle a political and legal choice has to be made, depending on circumstances, whether to use intergovernmental mechanisms outside the scope of existing EU accountability mechanisms or not. However, an expansive use of this option might give rise to accountability and governance issues, which would sooner or later need to be addressed.

### 42

The Commission has recommended that future instruments to govern EMU should be designed within the legal and institutional framework of the EU, which provides, amongst other things, for the European Parliament's scrutiny and control.

11 COM(2012) 777 final of 30 November 2012.



### 2. Funds managed in partnership with others

#### 43

In various policy areas, the achievement of EU objectives requires EU institutions to work in partnership with others, either through external partnerships (e.g. third countries or international organisations) or partnerships with the private sector. In such cases accountability relies on external audit, the governance structure of partnering bodies, as well as the EU's own audit and accountability arrangements.

#### 44

To avoid overlaps or gaps, partners should be able to rely on a single audit system. This requires that reporting and auditing systems be sufficient and reliable. This could be achieved through more advocacy and verification of partners' own internal and external audit systems. The following sections give examples of where such challenges are faced.

#### External partnerships

#### 45

The EU, for example, has a number of partnerships with authorities of non-Member States and/or international organisations (such as the United Nations or the World Bank). This is often the case where the EU and its Member States need to help address global challenges, such as achieving the UN's millennium development goals, action on climate change or fighting against the proliferation of weapons of mass destruction. The partnerships entail either the provision of EU funding or joint actions involving EU bodies.

46

The Commission recognises that ensuring transparency and accountability with respect to actions carried out with partners can be particularly challenging<sup>12</sup>. ECA performance audits related to EU assistance implemented through the UN organisations also identified a number of challenges (see **Box 1**).

47

If the EU chooses to work with partners and to rely on their control and reporting systems, it should advocate and ensure a high level of transparency and accountability.

48

**Budget support** is used by the EU to provide assistance to over 70 countries through a transfer of funds to be programmed and managed by the national public finance management systems. In providing budget support, the Commission must comply with specific conditions and demonstrate that general eligibility conditions are met by beneficiary states.

49

**Multi-donor actions** coordinated by the United Nations or the World Bank manage funds from donors which are pooled and are not earmarked for specific uses. In such circumstances, the Commission relies on the financial control systems of the UN<sup>13</sup>.

12 For example, SEC(2010) 409 final of 1 April 2010, 'Innovative financing at a global level', p. 14, Section 2.5, in the context of innovative financing cooperation, and COM(2011) 218 final of 19 April 2011, 'Enhancing EU accountability on financing for development towards the EU official development assistance peer review', p. 7, paragraph 1, in the context of finance related to climate change.

13 The payments made to international organisations from the general budget in 2012 amounted to 1,4 billion euro, more than half of which was implemented through multi-donor projects. ECA annual report 2012, paragraph 7.6, footnote 3.

Box 1

**Weak monitoring of UN implementation and achievement of results**

In Special Report No 15/2009 the Court pointed out the following.

- o Although the Commission verifies the financial management systems of its UN partners (using a four-pillar analysis), the Commission depends on UN reports for confirming the practical operation of control systems and the achievement of results. At the time of the audit the Commission had not yet succeeded in obtaining adequate information from the UN in this regard (executive summary IV).
- o The UN Panel of External Auditors does not provide the Commission with satisfactory evidence that financial control procedures work in practice, and the ECA faced challenges in the course of auditing the use of EU funds channelled through the UN (executive summary V).

### 50

In its annual report of 2012, the Court identified challenges in two particular areas: budget support and multi-donor projects.

- For budget support, the ECA audit of regularity cannot go beyond the stage at which aid is paid to the partner country. Accountability for such funds from that point onwards relies on the recipient country's accountability and audit arrangements<sup>14</sup>.
- For EU expenditure under budget support, multi-donor actions and similar cooperation instruments, the complex system of rules and procedures (including those for tendering and award of contracts) means that the risks to regularity are high. However, the nature of these instruments and payment conditions limit the extent to which transactions are prone to errors as defined in the ECA's audit of regularity<sup>15</sup>.

### Leverage of private sector finance

### 51

A number of EU activities involve private finance, either directly or indirectly. This includes borrowing and lending activities of EU bodies, such as the European Investment Bank (EIB), as well as using the EU budget to leverage private sector investment. The leverage of private finance with EU funds looks set to increase. The Europe 2020 strategy highlights that investing in growth will require the mobilisation of private finance, and that 'Europe must also do all it can to leverage its financial means, pursue new avenues in using a combination of private and public finance, and create innovative instruments to finance the needed investments'<sup>16</sup>. The multiannual financial framework (MFF) for 2014–20 also places considerable emphasis on the role of the private sector in leveraging investment and the role of financial instruments (FIs) in strengthening the potential impact of the EU budget<sup>17</sup>.

### 52

Under the new financial regulation<sup>18</sup>, the EU may collaborate with the private sector in a framework of PPPs to provide alternative financial support for EU activities and for delivering or implementing EU projects. The challenges faced by these instruments include the need to have an adequate level of transparency and accountability for the public funds. Moreover, the performance measurement of such instruments against the intended objectives of the financed activities is also needed.

14 ECA annual report 2012, paragraphs 7.6 to 7.8.

15 ECA annual report 2012, paragraphs 7.5 to 7.6.

16 COM(2010) 2020 final, p. 20.

17 COM(2011) 500 final of 28 June 2011, 'A budget for Europe 2020 — Part I', p. 9.

18 Regulation (EU, Euratom) No 966/2012 of the European Parliament and Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EU, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1) and Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

### 53

EU funds used in FIs and public–private partnerships (PPPs) are audited by the ECA and scrutinised by the Parliament under the general discharge process. However, these instruments by their very nature bring with them challenges of governance, audit, and parliamentary oversight, as outlined in the sections below.

### 54

**FIs** may take the form of equity/risk capital or debt instruments (such as loans, guarantees or risk sharing with financial institutions in order to leverage the potential impact of EU funding) with the aim of addressing market failure or suboptimal investment situations and of achieving a leverage effect of the EU funding. FIs may be implemented under central management (direct or indirect management) and under shared management with Member States (generally referred to as financial engineering instruments (FEIs)).

### 55

For FIs under indirect management<sup>19</sup>, the Commission is responsible for setting the policy objectives and strategic directions of centrally managed funds. It also participates in the governance structures of such instruments, and is ultimately accountable for the use of EU funds.

### 56

The Commission has identified a number of shortcomings in the accountability and audit arrangements related to FIs under the previous MFF for 2007–13<sup>20</sup>. The ECA has also identified a number of challenges, in particular as regards the financial engineering instruments under shared management with Member States (see **Box 2**).

### 57

The newly adopted rules for FIs<sup>21</sup> applicable under the current MFF aim to ensure coherence of rules, management practices, control and reporting requirements across all FIs. In addition, the Commission shall annually report on the performance of all FIs to the European Parliament and the Council<sup>22</sup>.

- 19 In accordance with Articles 58(1)(c) and 139(4) of the financial regulation applicable to the general budget of the Union, the Commission may entrust the implementation of FIs to: (ii) international organisations and their agencies; (iii) the EIB and the European Investment Fund; (v) public law bodies; (vi) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees'. These entities 'may further entrust, under their responsibility, part of that implementation to financial intermediaries'.
- 20 COM(2011) 662 final, 'A framework for the next generation of innovative financial instruments — the EU equity and debt platforms'.
- 21 Title VIII, Articles 139 and 140 of the financial regulation (Regulation (EU, Euratom) No 966/2012).
- 22 Article 140(8) of the financial regulation.

## Box 2

**Examples of shortcomings in current accountability and audit chain for financial engineering instruments**

The ECA identified the following main weaknesses<sup>23</sup>:

- insufficient leverage and fund-revolving provisions;
- the possibility of excessive allocations being committed to such instruments;
- the possibility of unjustified preferential private sector treatment; and
- unclear eligibility conditions for working capital.

Such instruments present risks and problems, for example in the accounting for the use of EU funds, their supervision, the ownership of the instruments and the capacity of the Commission to manage them.

The ECA also identified weaknesses in the regulatory framework.

<sup>23</sup> Opinion No 7/2011.

**58**

In order to comply with the requirements of the new financial regulation, the Commission proceeded to sign financial and administrative framework agreements (FAFAs) with the EIB and the European Investment Fund (EIF), which set out the operational and financial reporting requirements, as well as the audit requirements<sup>24</sup> for the centrally managed FIs to be set up for the period 2014–20 and to be entrusted to the EIB and the EIF.

**59**

As regards FIs under shared management, the common provision regulation (CPR)<sup>25</sup> sets out the types of instruments and the types of implementation, as well as the reporting requirements, establishing standardised rules for the FIs in order to ensure the consistent reporting and monitoring of policy achievements across all Member States.

**60**

It is too early to say whether the implementation of these new rules will be sufficient to address all the shortcomings.

<sup>24</sup> The FAFA requires that an independent external auditor provides assurance on the financial statements of the instruments as well as establishing that the control systems of the instrument function properly and that the underlying transactions are legal and regular.

<sup>25</sup> Title IV of Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320) ('the common provisions regulation').

### 61

**PPPs** are forms of cooperation between public authorities and the private sector. Traditional PPPs are normally set up in Member States for the delivery of infrastructure or public services, usually under private law. They aim at promoting efficiency of public services through risk sharing and the harnessing of private sector expertise.

### 62

Specific types of PPPs include: build-own-operate (BOO) with no transfer of assets to the public sector; buy-build-operate (BBO) sales of public assets to a PPP for the improvement and provision of service; build-operate-transfer (BOT) builds, operates and transfers after a specific time; and design-build-finance-operate (DBFO), which is similar to BOT.

### 63

At EU level PPPs are either set up to manage certain EU funds (such as joint undertakings set up mainly for research) or are themselves the beneficiary of EU funds. Such PPPs are in essence a form of public procurement governed by EU public procurement rules. These partnerships must be compatible with the rules of the EU as regards the operation of the internal market; the Stability and Growth Pact; Union legislation on public procurement and concessions; and competition rules.

### 64

**Blended instruments (BIs)** combine different types of assistance for external actions, including interest rate subsidies, technical assistance, direct grants, loan guarantee, costs and a risk capital envelope. BIs are mainly implemented through the EIB. The Parliament has on various occasions called for more and better quality of information in the context of the EDF or by the Commission and the EIB (see paragraph 107).

### 65

Accountability for both PPPs and BIs depends on the arrangements applicable for intermediaries charged with managing such instruments as well as the arrangements at the level of the specific instrument itself. Accountability and audit issues for intermediaries such as the EIB and the EIF are discussed later (see paragraphs 103 to 110) whereas accountability at the level of the instrument would require a case-by-case analysis.

3. Multi-speed EU and variable policy architecture

66

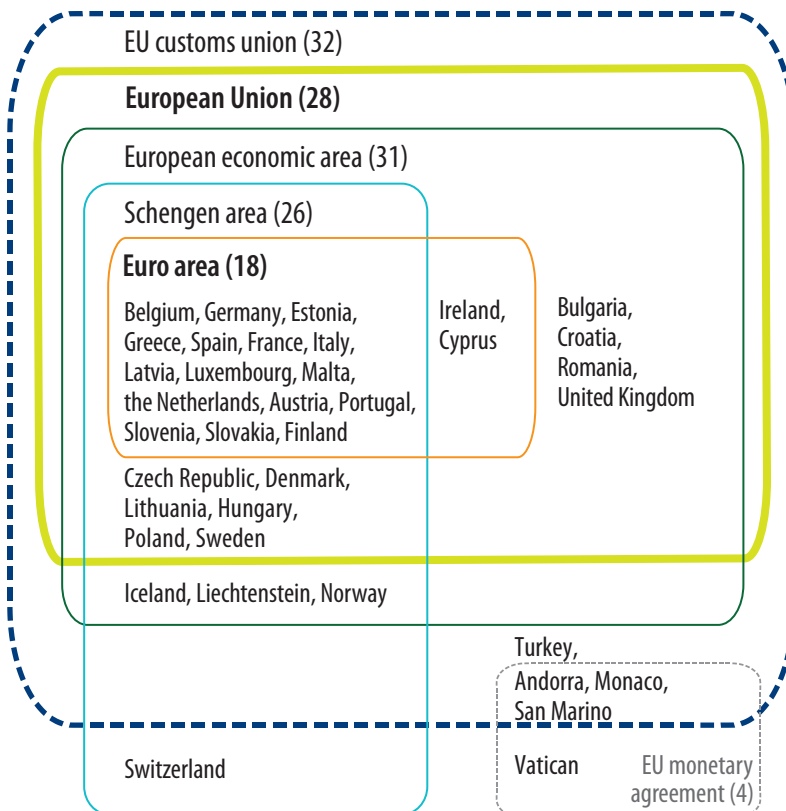
Various forms of deeper integration within the EU and within the wider European economic and political context continue to develop, but not all MS are in a position to or wish to move at the same pace. Certain initiatives therefore move ahead with only a subset of MS and/or third countries participating. This leads to the so-called ‘multi-speed Europe’ (see **Figure 4**).

67

The euro area is an important example of a subset of Member States adopting a particular policy arrangement ahead of or separate from other Member States, as a result of which a complex policy architecture, governance arrangements, and parliamentary scrutiny / audit issues have emerged.

Figure 4

Multi-speed Union and third country cooperation



Source: ECA.

### Different levels of integration between MS in various policy areas

#### 68

As more MS have joined the EU, it has become more difficult to reach unanimity on various policy initiatives, and the more likely it is therefore for some of them to advance at a different pace than others. Multiple subsets can result from the following.

- **Opt-ins, opt-outs and derogations:** leave MS option to implement or not to implement certain EU policies<sup>26</sup>.
- **Enhanced cooperation:** a set of countries might agree to cooperate on specific policy issues (for example EU patent<sup>27</sup>, divorce law<sup>28</sup> and the proposed financial transaction tax (FTT)<sup>29</sup>).
- **Related treaties:** several treaties have been signed outside the EU legal framework among a subset of EU Member States. For example, the Schengen Treaty was agreed in 1985 in this manner, although it was subsequently incorporated into EU law by the Amsterdam Treaty. Other examples are the European Stability Mechanism, the Prüm Convention, the fiscal compact and the Unified Patent Court.
- **Verification and suspensions:** on the basis of benchmarks for adoption of certain EU conditions or criteria. The Mechanism for Cooperation and Verification (CVM) is a safeguard measure that may be invoked by the Commission when a new Member State has failed to implement commitments entered into during the accession negotiations in the areas of freedom, security and justice, or internal market policy.
- **Open method of cooperation:** a method of EU governance based on voluntary cooperation of MS, which uses soft law such as guidelines and indicators, benchmarking and best practices (for example the Euro Plus Pact).

#### 69

As evident from **Figure 4** there are also policies involving different subsets of third countries. Complex policy and governance architecture has been put in place in the multi-speed environments in which initiatives in a number of policy areas apply to a subset of EU Member States. This leads to equally challenging accountability and audit arrangements.

- 26 Currently, five Member States have such opt-outs: Denmark (four opt-outs), Ireland (two opt-outs), Poland (one opt-out), Sweden (one opt-out, but only *de facto*) and the United Kingdom (four opt-outs).
- 27 Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection (OJ L 361, 31.12.2012, p. 1), including any subsequent amendments.
- 28 Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (OJ L 343, 29.12.2010, p. 10) also known as the Rome III regulation.
- 29 European Parliament legislative resolution of 12 December 2012 on the proposal for a Council Decision authorising enhanced cooperation in the area of the creation of a financial transaction tax (COM(2012) 0631 — C7-0396/2012 — 2012/0298(APP)).



### Euro, fiscal governance and democratic oversight

**70** The euro area is a subset of Member States adopting the euro as their currency. Its existence has by far the most profound implications for the EU. Not only do the different groups of MSs participate in different pacts or are subject to different regulations (see paragraph 172), but some of these measures are also based on intergovernmental agreements between MSs rather than on EU law.

**71** For these measures and instruments based on the TFEU, the role of the EP has been strengthened in terms of the legislative process, but remains weak in terms of accountability over decisions taken by the Council. Moreover, actions taken under intergovernmental instruments such as the fiscal compact bypass completely the EU's institutional and procedural system of checks and balances.

**72** The decisions taken to safeguard the euro have far-reaching democratic accountability implications for fiscal policy. A significant level of power lies with the European Parliament, the Council and the Commission, but most emergency measures were decided by the euro area finance ministers, the 'Eurogroup'. The Eurogroup, which has provided a platform for cooperation between the governments of the euro area, has been left without a parallel level of coordinated democratic oversight between the European Parliament and national parliaments, to control, intervene and provide the necessary legitimacy for the decisions and actions taken.

**73** Foreign ministers of 11 Member States have proposed that democratic control over euro area policy should be exercised not by the EP as a whole but only by MEPs from euro area countries<sup>30</sup>.

30 The Foreign Ministers of Austria, Belgium, Denmark, Spain, France, Germany, Italy, Luxembourg, the Netherlands, Poland and Portugal. Final report on the Future of Europe Group (Westerwelle Report), 2012.

### 74

However, the euro is the currency of the EU and not of the euro area (Article 3 TEU) and the European Parliament is the parliament of the EU (Article 14 TEU). The treaty currently stipulates that the Member States of the EU are represented in the Council of Ministers. Members of the European Parliament do not represent their Member States but are ‘representatives of the Union’s citizens’ (Article 14 TEU).

### 75

These provisions lead the European Parliament<sup>31</sup> and the Commission<sup>32</sup> to conclude that, since the European Parliament is the parliament for the EU and hence for the euro, it is the EP that is required to provide the necessary democratic legitimacy for EU decisions.

### 76

The fact that this debate exists shows the link between democratic accountability mechanisms and perceived democratic legitimacy. The multi-speed approach, particularly in most important policy areas, can trigger long-term consequences for accountability.

31 European Parliament, Thyssen report, 2012.

32 COM(2012) 777 final, p. 35.

### 4. Accountability arrangements for EU institutions and bodies

#### 77

The EU institutional framework comprises seven EU institutions, two advisory bodies, the European External Action Service (EEAS) that is considered as an institution for the purpose of the financial regulation, the EIB, 41 agencies<sup>33</sup>, eight joint undertakings and other entities<sup>34</sup> established by EU treaties and secondary legislation. These bodies perform a variety of functions related to the achievement of EU objectives, often in coordination with bodies in the Member States. Although most EU bodies are fully funded by the EU budget, others are not. The different funding sources have implications for the accountability and audit arrangements which apply.

### Discharge procedure for EU institutions and other bodies of the EU

#### 78

The Commission, most other EU institutions and a number of EU bodies are subject to the discharge procedure (see paragraph 18). Some EU bodies not covered by the discharge procedure may nevertheless be subject to other forms of scrutiny by the EP. A number of EU bodies are held financially accountable primarily to their governing boards.

#### 79

The Commission has overall responsibility for implementing the EU budget and it is subject to the discharge by the EP for that budget. However, other institutions and bodies spend parts of the EU budget under their own authority and in some cases have non-EU budget related sources of funds. To hold them accountable, the Parliament delivers individual discharge decisions.

- 33 See the **Annex** for a list of 40 agencies: 33 decentralised agencies, six executive agencies and one Euratom agency included. This figure also includes the Single Resolution Mechanism and Single Resolution Fund that are currently being established as a body of the Union.
- 34 The European Ombudsman, the European Data Protection Supervisor and defence related agencies under the authority of the Council.

### 80

The Parliament's rules of procedure provide that this individual discharge is based on the same procedure as the discharge for the general budget (see **Box 3**).

#### Box 3

### Rule 94 of procedure of the European Parliament

The provisions governing the procedure for discharge to the Commission in respect of the implementation of the budget shall likewise apply to:

- the procedure for discharge to the president of the European Parliament in respect of the implementation of the budget of the European Parliament;
- the procedure for discharge to the persons responsible for the implementation of the budgets of other EU institutions and bodies such as the Council (as regards its activity as the executive), the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions;
- the procedure for discharge to the Commission in respect of the implementation of the budget of the European Development Fund (EDF);
- the procedure for discharge to the bodies responsible for the budgetary management of legally independent entities which carry out EU tasks, insofar as their activities are subject to legal provisions requiring discharge by the European Parliament.

### 81

The Council plays an important role in the discharge process, in particular by making recommendations to the Parliament on the discharge each year (Article 319 TFEU). However, although financed by the EU budget, the Council does not participate in the Parliament's discussions as regards the discharge of the Council itself. De facto, there is no separate process for Council's accountability and public scrutiny in respect to its own expenditure.

82

A number of exceptions exist to the normal discharge procedure, particularly when public funds are made available from sources other than the EU budget (see **Table 3**).

**Table 3** Coverage of the discharge procedure

Entity group	Institution/body	Source of funding	Discharge process
EU institutions	European Parliament, European Commission, Court of Justice, Court of Auditors	EU budget	EP discharge <sup>1</sup>
	European Council and Council <sup>2</sup>	EU budget	<i>Sui Generis</i> <sup>3</sup>
	European Central Bank	National Central banks	Governing Council
Other bodies, offices or agencies set up by the EU	Advisory bodies (EESC and CoR)	EU budget	EP discharge
	Agencies (funded by budget)	EU budget	EP discharge <sup>4</sup>
	Other bodies <sup>5</sup>	EU budget	EP discharge
	Joint undertakings	EU budget contribution	EP discharge
	European External Action Service	EU budget	EP discharge
	Agencies (self-funded)	Self-funded	Governing board discharge
	Agencies (under Council authority related to defence)	Member States contributions	Governing board discharge
	EIB	Capitalised by Member States <sup>6</sup>	Governing board discharge

- 1 See paragraphs 78 to 80.
- 2 On 1 December 2009, with the entry into force of the Treaty of Lisbon, the European Council became one of the seven institutions of the Union. Article 13(1) of its Rules of Procedure provides that the European Council and its president shall be assisted by the General Secretariat of the Council, under the authority of its secretary-general.
- 3 See paragraph 81.
- 4 The six ‘executive’ agencies are not subject to an individual discharge decision, but are included under the general discharge to the Commission.
- 5 These include the European Ombudsman and the European Data Protection Supervisor.
- 6 Capitalised by Member States (see paragraph 105) and funded from its own operations.

Source: ECA.

### EU institutions and bodies not covered by Parliament's discharge process

#### 83

A number of EU institutions and bodies are not financed by the EU budget directly.

- The ECB is capitalised by national central banks and has an income stream deriving from its monetary role within the European System of Central Banks (ESCB). Its accounts are audited by an independent auditor, and it is also audited by the ECA in terms of its operational efficiency and the SSM (see paragraphs 87, 88 and 96).
- The EIB is self-financed and audited by an independent auditor (see paragraph 108).

#### 84

With respect to EU agencies: three agencies are self-financed (OHIM, CPVO<sup>35</sup> and CdT) and are audited by the ECA. Three agencies related to defence (EDA, EUISS and EUSC<sup>36</sup>), which fall under the authority of the Council, are financed through Member States' contributions and are audited by independent external auditors. The discharge authority is the governing board of the respective body. Since such bodies are not financed by the EU budget, they do not depend on the European Parliament discharge procedure. However, although the source of revenue is not the EU budget, the revenue of these entities arises from the exercise of public authority at the EU level and their use of resources has the same public nature as other EU funds. There is therefore no compelling reason for this different treatment.

#### 85

By contrast, the new legislation establishing the Single Resolution Mechanism (SRM) as an EU body requires the ECA to audit the SRM under Article 287(1) TFEU. This empowers the ECA to audit the accounts, the legality and regularity of underlying transactions and aspects of sound financial management (including economy, efficiency and effectiveness), even though the SRM is not financed from the EU general budget. The regulations require that the ECA also reports on the related Single Resolution Fund, contingent liabilities that may arise for both the SRM and the Commission, and on any other matters that the European Parliament and Council may require to be addressed.

35 The Office for Harmonization in the Internal Market (Council Regulation (EC) No 40/94 (OJ L 11, 14.1.1994, p. 1) and the Community Plant Variety Office (Council Regulation (EC) No 2100/94 (OJ L 227, 1.9.1994, p. 1).

36 The European Defence Agency (EDA), the European Institute for Securities Studies (EUISS) and the European Union Satellite Centre (EUSC).

### 86

Similarly, although the EDF is not financed by the EU budget, the ECA is empowered to audit expenditure and performance for projects and budget support, and the European Parliament exercises discharge over EDF spending that is managed by the Commission. A different regime applies to the EDF funds managed by the EIB under the Investment Facility, representing 1 500 million euro (10 %) of the 10th EDF. The ECA stated in its opinion on the financial regulation governing the EDF that it regrets the exclusion by the legislators (Council and Parliament) of the Parliament's discharge authority over this Facility. The facility is run on behalf of and at the risk of the EU. This exclusion of the discharge authority has therefore created an accountability gap.

### European Central Bank accountability and audit

### 87

Under Articles 130 and 282 of the TFEU, the ECB and the national central banks of the euro area countries are independent from the other EU institutions and from MS governments. This status has important consequences as to the accountability and public audit arrangements for different functions of the ECB.

### 88

Article 127 of the TFEU and Protocol No 4 set up the objectives and tasks of the ECB. The primary objective is to 'maintain price stability' and the secondary objective is to 'support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union'. More recently, the ECB has been made responsible for the Single Supervisory Mechanism (SSM) under the provision of the same Article 127 TFEU, which allows the Council to 'confer specific tasks upon the ECB concerning policies relating to the prudential supervision of credit institutions and other financial institutions'.

### 89

The ECB is governed by its Governing Council and Executive Board. The president of the ECB is required to report annually to the Parliament, the Council and the Commission on the activities of the ESCB and on the monetary policy of the previous and current years, on which a debate can be held. At the request of either the Parliament or the ECB, the president may be questioned by the relevant Parliament committees on specific issues<sup>37</sup>.

37 Article 284(3) TFEU.

### 90

The European Central Bank is not funded from the EU general budget, and the protocol does not provide for budgetary discharge by the Parliament. The statute of the ECB requires its accounts to be audited by an independent external auditor recommended by the Governing Council and approved by the Council<sup>38</sup>. The ECA audits the ‘operational efficiency of the management of the ECB’ under the same provisions of Protocol 4 of the TFEU<sup>39</sup>.

### 91

There is considerable literature and debate on the extent to which central banks should communicate and account for their activities in relation to monetary policy, often focusing on the importance of such communication in regard to the effectiveness and transmission of monetary policy in financial markets and banking systems. It is not the purpose of this review to enter into this debate, notwithstanding its importance. Instead this paper focuses on the parliamentary accountability of the ECB and the applicable audit arrangements.

### 92

It is fair to say that the treaty provisions concerning the ECB and the ESCB grant a very high degree of independence to the ECB and the constituent central banks of the ESCB, even compared to other central bank systems. Perhaps reflecting this focus on independence, or reflecting a view that the parties concerned can best work out their own arrangements, the treaty is relatively sketchy on issues of parliamentary and public accountability of the ECB.

### 93

The ECB is required by the treaty to provide quarterly reports on the activities of the ESCB<sup>40</sup>, and to provide an annual report on the ESCB and monetary policy to the Parliament, the Council and the Commission. The report is to be presented by the President of the ECB to the Parliament and the Council, for general debate. The treaty also allows for other invitations (‘requests’) to members of the Executive Board. This has been elaborated more fully in practice — the Parliament’s rules of procedure provide for the president of the ECB to be invited to speak to the Parliament four times per year, and also make provisions for ad hoc invitations to executive board members, so that there are regular exchanges of views with the EP, while the ECB also replies to written questions from MEPs.

### 94

Generally speaking, the extent to which central banks are subject to independent external audit by public external auditors varies from country to country. As regards the ECB, its accounts are audited, as per the treaty<sup>41</sup>, by independent external auditors, and not the ECA. The ECA’s audit remit ‘shall only apply to an examination of the operational efficiency of the management of the ECB’.

38 Article 27(1) TFEU, Protocol No 4 on the statute of the European System of Central Banks and the European Central Bank.

39 Article 27(2) TFEU, Protocol No 4.

40 In practice this requirement is met by the publication of monthly bulletins by the ECB.

41 Article 27 of Protocol 4, TFEU.



### 95

This formulation does give considerable scope to the ECA in relation to audits of sound financial management (economy, efficiency and effectiveness), however the impact of the protocol confining the role of external auditors to the accounts on the one hand and to 'the operational efficiency of the management' on the other does amount to a difference of definition of the role of the ECA in relation to the ECB relative to other EU institutions<sup>42</sup>. Presumably this reflects the importance of independence for decision making in monetary matters, and the specialist nature of the ECB functions.

### 96

The regulations establishing the SSM have entrusted the ECB with supervisory tasks over credit institutions within the euro area and in other participating Member States<sup>43</sup>. A particular accountability regime is provided under the establishing regulation. The ECB remains independent in relation to the SSM functions, but the regulations specify that the ECB is accountable for its SSM-related activities to the European Parliament and to the Council. There are provisions for reporting to the EP and to the Eurogroup (in the presence of participating non-euro area Member States).

### 97

A relatively extensive interinstitutional agreement<sup>44</sup> has been concluded between the European Parliament and the ECB, elaborating on the accountability mechanisms to apply to the SSM. The ECB provides:

- a report to be submitted each year;
- quarterly progress reports in the start-up phase and oversight over the exercise of the tasks conferred on the ECB within the framework of the SSM;
- attendance of the chair of the SSM's Supervisory Board at regular (twice yearly) and ad hoc hearings of the relevant EP committees;
- special confidential meetings in certain defined circumstances;
- a role for the EP in the selection process for the chair and vice-chair of the Supervisory Board;
- cooperation with certain investigations.

42 In correspondence in relation to the new SSM functions of the ECB, the ECA has already indicated that its examination of the 'operational efficiency of the management of the ECB' will encompass the audit of sound financial management, as applies to other bodies within its remit (ECA president's letter to president of the EU Parliament of 7 February 2013).

43 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

44 Interinstitutional agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism (2013/694/EU).

### 98

The European Systemic Risk Board (ESRB) has no budget of its own. The ECB is its secretariat and the ECB finances the ESRB activities. Whilst the ECB has its own set of audit arrangements, there are no specific audit arrangements for the performance of the ESRB.

### 99

As is clear from the discussion above, the role of the ECB has been changing quickly in reaction to the pressures and lessons from the financial crisis, and its special position and expertise have led to the ECB being given a wide range of new tasks. The ECB has had to take on new functions at relatively short notice. These new roles have, to a large extent, been formally assigned through appropriate legal instruments — in other cases the roles are less formal.

### 100

A particular example is the role of the ECB in its interactions with euro area Member State governments during the economic and financial crisis. Within the so-called 'Troika' or 'programme partners' charged with overseeing the EU/IMF support programmes for Member States, the EU is represented by the Commission 'in liaison with the ECB'. This formula, where the Commission works 'in liaison' or 'in consultation with' the ECB, is specified in certain legal instruments (e.g. the European Financial Stability Facility (EFSF) framework agreement and the regulation establishing the European Financial Stabilisation Mechanism (EFSM). However, the role is not clearly defined by these instruments. What is clear is that in this role and more generally the ECB has been engaged more directly and influentially with Member States and their political authorities than hitherto in relation to the management of Member State economies.

### 101

In this regard, the ECB has indeed, through its regular engagements with the European Parliament, discussed these new roles and how they are being carried out. This is important, given the complex nature of the ECB's various roles in advising the Commission regarding such Member States, interacting with the Member States directly, holding sovereign bonds outright or as collateral, supplying liquidity to banks within the Member States, etc., while at the same time fulfilling its functions in relation to euro area monetary policy, economic support and (now) banking supervision. However, while the 'operational efficiency of the management' of the ECB in relation to all of its functions is subject to audit by the ECA, the functions of engaging with Member State governments and assisting them and of participating in the Troika activities have not yet been subject to external audit.

### 102

Given all of the new roles being played by the ECB, and the necessary pace at which these roles have developed the new structures and their effectiveness and implementation will need to be monitored and evaluated. This monitoring/evaluation ought to include the robustness and appropriateness of accountability and audit arrangements in the light of ongoing experience. The pace of change is also a real challenge for the audit community; ECA as one of the ECB's external auditors and national SAIs and other external auditors of central banks within the ESCB system must ensure that skills and knowledge are updated to match the demands of the audit role in a fast changing context.

### European Investment Bank and European Investment Fund accountability and audit arrangements

### 103

The EIB is the EU's financing institution which contributes to European integration, development and cohesion by financing projects in support of EU policies. Although the majority of projects financed by the EIB are located within the EU, the EIB also carries out operations outside the EU.

### 104

The EIF is the EU's specialist vehicle for venture capital and guarantees, primarily in support of SMEs and new technologies. The EIF is part of the EIB group and is partly owned by the European Commission. The rules for the Commission's participation in the EIF are set out in a Council decision.

### 105

In terms of accountability, the EIB is another 'special case' in terms of the arrangements in place. Although established as an EU body, its capital resources come from the Member States. The bank is therefore required to account for its activities to its Board of Governors, comprised of the finance ministers of Member States.

### 106

The EIB as a body of the Union has an onus under Article 15 of the TFEU to work as openly as possible. There are no specific provisions for the EIB to report to the European Parliament or for the EP to have any direct authority over the bank and the fund. However, the EIB does report on its activities and provide the EP with annual information on a voluntary basis, and the Parliament approves annual resolutions on the bank's performance.

### 107

In recent years, the EP has expressed a number of accountability concerns in relation to the EIB, including:

- the level of prudential supervision over the EIB, which could be provided by either the ECB, the EBA or national supervisors;
- the exclusion of some of the EIB's management of EU programmes and funds from the discharge procedure for EU spending and reporting on the results achieved;
- the assessment of activities with major multiplier effects which are guaranteed by the EU budget;
- the explanation of the risks involved in increasing the amount of guarantees provided by the EU budget for loans granted by the EIB and an explanation of how the revenue generated by these guarantees is used;
- the need for a detailed explanation of the administration fees received from the EU budget by the EIB.

### 108

As regards the public audit arrangements for the EIB and its subsidiary, the EIF, the situation is as follows.

- The EIB has an Audit Committee in place, the six members of which are nominated according to a rotation arrangement between Member States. The members are formally appointed (unanimously) by the Board of Governors, and must meet certain criteria, including financial audit or banking supervisory expertise. The Audit Committee delegates responsibility for the audit of the banks' accounts to an external firm, which reports directly to the Audit Committee. The Audit Committee provides an opinion on the accounts to the governors together with a report and recommendations.
- For the EIF there is an Audit Board appointed by and answerable to the EIF shareholders (with the EIB being the major one). It consists of three members, each nominated by one of the shareholding groups: the EIB, the European Commission and the financial institutions. Appointments to the Audit Board are for three consecutive financial years and are renewable, with the term of one member expiring each year. Similarly to the EIB, the Audit Board of the EIF relies on commercial external firm to audit the accounts of the institution and its subsidiaries.

### 109

EU expenditure managed by the EIB or the EIF and the EU contribution to the capital of the EIF is subject to audit by the ECA, as laid down in a 'tripartite agreement' between the EIF, the ECA and the Commission. However, EU expenditure which the EIF handles on behalf of the Union is not subject to the rules in the tripartite agreement, and the ECA audits such expenditure through to beneficiary level in a similar way to all other expenditure financed from the EU general budget.

### 110

The EIB's activities in Europe and abroad are of keen interest to a range of stakeholders. The main challenge for all parties involved is obtaining and providing accurate and comprehensive information for evaluating the effectiveness of the various FIs in respect of their intended public objectives.

### Disproportionate scrutiny and audit towards smaller entities and budgets

### 111

The Treaty (Article 287 TFEU) requires the ECA to audit the implementation of the EU budget and the EDF, as well as all other bodies, offices and agencies set up by the EU, insofar as this is not precluded by the legislation establishing the entity in question.

### 112

In effect, this means that the ECA is required to perform annual audits of the implementation of the EU budget and the EDF, as well as specific annual audits on each and every agency (40 agencies in 2014: 33 decentralised agencies, six executive agencies and one Euratom agency<sup>45</sup>) and joint undertakings (six in 2014) irrespective of the size of their budgets and whether they are subject to the discharge procedure.

### 113

As a result, the ECA's audit effort is proportionately higher for the agencies and JUs than for the EU institutions. In future, the agencies will be required to have the reliability of their accounts audited by private audit firms prior to their submission to the Commission for consolidation. Moreover, the ECA will provide specific annual reports for each agency.

45 See the **Annex** for a full list of EU agencies in 2014.

### 114

The current arrangements require separate audits for smaller entities but cover the larger institutions in a single overall audit. A more consistent approach to accountability would require that all institutions and bodies should publish separate accounts and have separate audit reports or, alternatively, all agencies to be covered in one single audit report. The balance between these options depends on a judgement about the importance of a more proportionate use of resources against the importance of ensuring separate audit and accountability arrangements to reflect the nature of the governance arrangements for the bodies concerned.

## 5. EU financial management and control arrangements

### 115

Member States participate in the implementation of the EU budget. However the Commission is responsible overall for ensuring reliable financial reporting, legal and regular financial operations and economic, efficient and effective financial management (i.e. sound financial management). All three elements are essential. The ECA's work shows that the Commission is not in a position to provide positive assurance on all these elements.

### The reliability of the accounts

### 116

The accounts are now prepared in accordance with an independently agreed set of standards which provide a complete view of the assets and liabilities of the Union. The transparency of the underlying economic reality of the EU's finances has improved significantly since the introduction of accrual-based accounting in 2005. For example, the accounts now consolidate a number of European bodies, which gives a more comprehensive view of EU investments. Moreover, they also show the EU's net financial liabilities, the budget's exposure to financial support mechanisms to Member States in need and the extent to which the long-term commitments exceed the annual payment appropriations.

### 117

Since the 2007 financial year, the ECA has issued an unqualified opinion that the consolidated accounts of the European Union present fairly, in all material respects, the financial position of the Union, the results of its operations, its cash flows and the changes in net assets, in accordance with the financial regulation and with accounting rules based on internationally accepted accounting standards for the public sector, i.e. that the accounts are reliable.

### Legality and regularity of underlying transactions

#### 118

The ECA provides a statement of assurance on the legality and regularity of underlying transactions which includes an opinion on revenue and another on expenditure. Both revenue and shared management of expenditure with the MS present challenges to accountability and audit.

#### EU revenue

#### 119

EU revenue consists of gross national income (GNI)-based own resources, value added tax (VAT) and traditional own resources (customs duties on imports and a sugar production charge). EU revenue is considered to have been free from material error since 1994 by the ECA, whose statement of assurance explains the specific characteristics of VAT, GNI and traditional own resources<sup>46</sup>.

#### 120

The GNI-based own resources for instance result from the application of a uniform rate to MSs' GNI. The GNI data are the most important determinant of each MS's contribution to EU revenue and are estimated at national level. The GNI estimates are highly complex and the ECA cannot provide any assurance as to their accuracy. Any understatement (or overstatement) of GNI for a particular MS has the effect of increasing (or decreasing) the contributions from other MSs. The distribution of EU contributions among MSs depends therefore on the quality of estimates provided by the national statistics offices. While the Commission (Eurostat) provides guidance and seeks to check the quality of GNI statistics, recent audit work by the ECA suggests that such controls are limited in their nature and extent<sup>47</sup>.

#### 121

The consequence for EU accountability is that EU-level authorities depend heavily on national controls and verifications.

46 See for example the ECA opinion on revenue annual report 2012, p. 11 to 12, points VIII and X.

47 ECA special report No 12/2012, 'Did the Commission and Eurostat improve the process for producing reliable and credible European statistics?' (<http://eca.europa.eu>)

### Shared management with MSs

#### 122

EU financial management and control arrangements for the implementation of the EU budget raise a number of accountability and audit issues, reflecting the fact that the responsibility for managing over 80 % of the EU budget is shared by the Commission and the Member States ('shared management').

#### 123

The Commission implements the budget in cooperation with the Member States on its own responsibility, having regard to the principles of sound financial management. On the other hand, Member States must cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management (Article 317 TFEU).

#### 124

Under shared management the Member States have responsibility for managing expenditure programmes and schemes, executing payments to beneficiaries and taking all the necessary measures (legislative, regulatory and administrative) to protect the EU's financial interests. In many cases, EU funds are also used to co-finance projects funded by national or regional authorities in the Member State. Member States finance the costs to administer the relevant EU programmes and schemes under their responsibility. If a national or regional authority is not performing its role as required, the Commission may impose financial corrections and recoveries on the Member States in question.

#### 125

These arrangements create overlapping lines of accountability rising up to the level of the political authorities at both EU and national level. Managing authorities in the Member States are accountable both to the Commission and to their own national authorities.

#### 126

In 2004, the ECA proposed the introduction of an integrated internal control system<sup>48</sup>. It identified important characteristics necessary for such a system to enable the Commission to meet its obligation under the treaty in a more effective way.

48 ECA opinion No 2/2004.



### 127

The Commission adopted an action plan in 2006 for implementing such an integrated internal control framework. Related measures have been incorporated in the financial regulation, including the annual summaries of audit opinions, voluntary national declarations by Member States and voluntary reports and certificates of national audit bodies on the management of EU funds. As a result, important elements of the integrated internal control system have been put in place, but more could be achieved (see paragraph 137).

### 128

The financial regulation requires Member States' authorities to produce annual accounts and management declarations regarding the use of EU funds as well as a summary of audit reports and of controls carried out. Member States may also decide to issue national declarations at political level. So far four Member States (Denmark, the Netherlands, Sweden and the United Kingdom) have done so.

### 129

In areas under shared management, the Commission is empowered to conduct ex post checks of the operation of control systems and of declared expenditure. It can then impose corrective measures as follows.

- Recoveries from beneficiaries — recovery action is taken by authorities in Member States (for expenditure covered by shared management) and by the Commission (notably in areas of direct management). The beneficiary is required to repay all or part of the funds received.
- The application of financial corrections to Member States' authorities — the Commission can initiate financial corrections where Member States fail to detect and correct irregular expenditure. Corrections may be calculated on a case-by-case basis, by extrapolating the test results or imposing a flat-rate correction (if the other two methods cannot be used).

### 130

In its annual report for 2012, the ECA made a number of observations on recoveries and financial corrections<sup>49</sup>, on the Commission's annual synthesis report and on the assessment within this report of errors, and related recoveries and financial corrections<sup>50</sup>. The ECA also explained the implications of such corrections on the ECA's opinions for the reliability of accounts and the regularity of transactions<sup>51</sup>.

49 ECA annual report 2012, paragraphs 1.19 to 1.35.

50 ECA annual report 2012, paragraphs 1.41 to 1.45.

51 ECA annual report 2012, p. 52, Annex 1.1, Part 3, paragraph 22.

### 131

Under the current system, the corrections may take up to 10 years to happen from when the errors occurred. They are primarily aimed at protecting the EU budget, and not focused on encouraging Member States and beneficiaries to comply with the rules. The result is that ineligible expenditure that is not recovered from final beneficiaries is still borne by national taxpayers. Moreover, the accountability for incorrect expenditure is not achieved until many years after the irregular expenditure has taken place<sup>52</sup>.

### 132

The introduction of an accreditation procedure in the common provisions regulation<sup>53</sup> for structural funds in the period 2014–20 will reinforce Member States' responsibilities concerning the administrative capacity of national management and control bodies. However, the ECA is of the opinion that the Commission, as holder of the ultimate responsibility for the budget's implementation, should have a supervisory role in the process to mitigate the risk of late detection<sup>54</sup>.

## Sound financial management

### 133

As regards sound financial management, effective accountability for results achieved with the EU budget needs considerable improvement. The challenges faced are covered separately in Section 6 hereunder.

## Legal framework governing the EU budget

### 134

Since 1 January 2013, the 'new' financial regulation<sup>55</sup> and its rules of application<sup>56</sup> are in force. While the main features of the previous accountability arrangements remain in place, important new elements have been introduced and are worth considering.

### 135

Under the new regulation, the European Commission remains accountable to the European Parliament and the Council — through the discharge procedure — for the implementation of the EU budget, as before.

52 ECA Special Report No 7/2010, 'Audit of the clearance of accounts procedure', p. 5, Executive Summary, paragraph V.

53 Regulation (EU) No 1303/2013.

54 ECA opinion No 7/2011, paragraph 25.

55 Regulation (EU, EURATOM) No 966/2012.

56 Commission Delegated Regulation (EU) No 1268/2012.

### 136

Moreover, the overall architecture of financial control has largely remained as it was. It is based on an internal control framework primarily designed to enable the European Commission to take overall political responsibility for the implementation of the EU budget under the discharge procedure.

### 137

However, the new regulation has strengthened the arrangements by which audited management declarations and annual summaries are to be provided by MSs to the Commission, but in line with the principle of subsidiarity it does not cover the political oversight of those national authorities in the Member States. Furthermore, national declarations remain optional.

### 138

A number of important new elements foreseen by the common provisions regulation are yet to be fully elaborated, such as national partnership contracts, new performance frameworks and performance reserves<sup>57</sup>. These and other new elements will need to be integrated into the internal control arrangements. In addition, the Commission still needs to propose measures to ensure the quality of the new declarations of assurance provided by national authorities, as well as the quality of the information on the implementation of programmes.

### 139

Taken together with reforms initiated in 2006, progress has been achieved towards an integrated control system that will ensure greater national and EU-level accountability for EU funds. However, a fully comprehensive system is not yet in place. The ECA's annual audits show that claims submitted to the Commission contain many errors that could have been corrected by national authorities beforehand. In many cases, the ECA also finds that claims certified by audit authorities contain errors. Given this situation, the ECA continues to audit down to the level of the final recipient of EU funds. If systems improve, there should be more scope — the ECA will be able to rely more on the work of other auditors in its financial audit.

57 Performance frameworks consist of selected financial, output and result indicators, as well as key implementation steps for each priority, for European Structural Fund programmes. They are intended to ensure that programmes deliver what is under the control of the managing authorities in Member States. A performance reserve represents 6% of the Structural Funds allocated, conditional upon the successful implementation of programme priorities. See Regulation (EU) No 1303/2013 (Articles 20 and 21).

6. EU policy impact and results

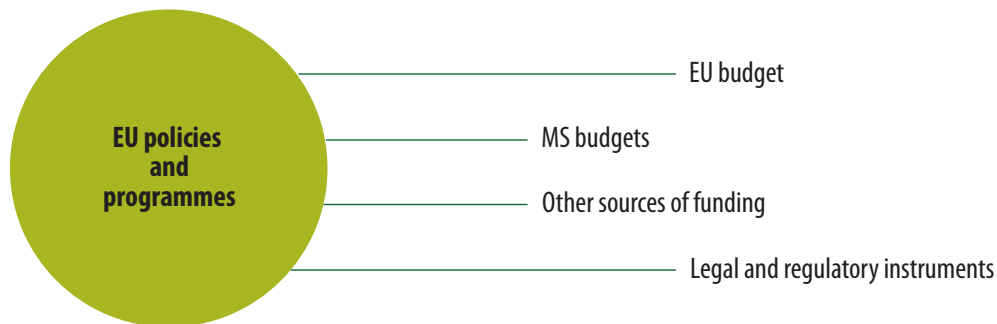
140

EU policies are realised partly by budgetary instruments and partly by legal and regulatory instruments (see **Figure 5**).

- **Budgetary instruments:** EU policies rely on the EU budget for their implementation. A number of policies are largely financed from national budgets, and to a lesser extent from other sources of funding (such as leverage of private finance).
- **Legal and regulatory instruments:** the EU adopts numerous laws and regulations every year. Much of this legislation involves setting rules or standards in areas such as the single market, environmental protection, social policies and competition.

Figure 5

Instruments for implementation of EU policy



Source: ECA.

141

EU-level accountability is strong where the principal instrument is the EU budget and diminishes as other sources of finance or form of instrument is relied upon. The following sections outline the main challenges for measuring the impact and results of activities funded by the EU budget, as well as for measuring the impact of regulatory instruments.

### Challenges of measuring the impact and results of the EU budget

#### 142

The ECA has argued for a stronger focus on results in budget operations in the period 2014–20. The ECA invited the Commission to rethink its reporting and accountability systems to focus not only on compliance but also on the achievement of outcomes (results and impact)<sup>58</sup>.

#### 143

Member States should also improve reporting on performance. Reliable financial information must be matched by reliable non-financial information, and the EU's focus on compliance should be matched with a focus on results.

#### 144

The main challenges in this respect concern:

- (a) consistent performance indicators and reliable information;
- (b) systems that produce accurate information on results; and
- (c) improving the Commission evaluation report in terms of the results achieved.

### Weak performance indicators and information quality

#### 145

The ECA has identified cases of inadequate monitoring and evaluation arrangements and the need to improve the relevance, reliability and timeliness of performance data provided by management systems (see **Box 4**). Even more fundamentally, the ECA has often found that programmes financed by EU funds lack clear and measurable objectives. Where legislation or guiding documents set unclear or unmeasurable objectives, or where objectives are hidden or implied, it is very difficult for auditors or others to determine whether EU spending has been economical, efficient or effective — in such cases, public representatives cannot properly hold the Commission and Member States to account for the expenditure made on their behalf.

58 ECA annual report 2012, Chapter 10, paragraphs 10.25 and 10.26. See also ECA opinion No 4/2012, opinion No 7/2011, opinion No 1/2012, ECA annual report 2010, paragraph 8.54, and the ECA's response to the Commission's second Article 318 evaluation report.

### Examples of performance data weaknesses

#### Weak performance indicators

- The Commission’s monitoring role on whether the reform of the wine market is meeting its objectives was limited by the absence of key performance indicators (ECA Special Report No 7/2012, paragraphs 50 and 57).
- The ECA concluded that in the case of financial engineering instruments co-financed by the ERDF, the standard cohesion policy monitoring instruments were not adequate and not adapted for providing information on sound financial management of FIs (ECA Special Report No 2/2012, paragraphs 82 and 121).

#### Relevance, reliability and timeliness of performance data

- The ECA found that in the case of aid for modernisation of agricultural holdings, the common monitoring and evaluation framework did not provide relevant data for monitoring the results obtained with the funds spent (ECA Special Report No 8/2012, paragraph 70).
- In its audit of the Common External Relations Information System (CRIS), the ECA identified information that was missing, invalid or not updated, and which undermined the system’s reliability as a management tool (ECA Special Report No 5/2012, paragraph 79).

### Commission evaluation report on the results achieved

#### 146

Since the Lisbon Treaty came into force, the Commission has been required to produce an evaluation report about the results of budget spending programmes. The report is part of the discharge procedure for the implementation of the EU budget<sup>59</sup>. However, the first two evaluation reports have not demonstrated that the building blocks for performance assessment are yet in place. In June 2012, the ECA issued its opinion on the first Commission evaluation report and concluded that it was vague, short on substance and added little value<sup>60</sup>.

#### 147

The reasons why the Commission is not in a position to provide an overall assessment in terms of the results achieved have been documented by the ECA in previous special reports on the performance of different policies and instruments which present challenges to comprehensive performance evaluation.

59 Article 318 TFEU.

60 ECA opinion No 4/2012 on the Commission’s evaluation report on the Union’s finances based on results achieved established under Article 318 of the Treaty on the Functioning of the European Union (OJ C 179, 20.6.2012, p. 1).

### The challenge of measuring the impact of regulatory instruments

#### 148

*Ex ante* impact assessment is carried out to identify the potential social, economic and environmental impacts of proposals, as well as the administrative burden entailed for national authorities, businesses and citizens. The Commission's *ex ante* impact assessments are a key source of information for EU legislators, in particular for the members of the specialised committees of the European Parliament and the Council. However, they are not systematically matched by *ex post* impact assessments. The ECA has identified weaknesses regarding impact assessments<sup>61</sup>.

— For *ex ante* assessments:

- analysing all economic, social and environmental impacts is a challenge;
- direct comparisons between alternative options are often difficult;
- availability of data for impact assessments remains a problem;
- implementation aspects are not always sufficiently analysed.

— For *ex post* assessments:

- evaluations are not carried out systematically across all legislative areas;
- enforcement costs and administrative burdens are not sufficiently quantified.

#### 149

As the 'guardian of the treaties', the Commission is responsible for monitoring compliance with EU laws, referring deviations to the CJEU. It is also responsible for *ex post* evaluation of EU activities, including those which predominantly involve regulatory measures. However, conducting *ex post* assessments of economic, social and environmental impacts is challenging. For example, the causal relationships between EU regulations and impacts may be difficult to prove; the data on costs and administrative burdens may be lacking or costly to collect; and coordination with national authorities may not be straightforward<sup>62</sup>.

61 ECA Special Report No 3/2010, 'Impact assessments in the EU institutions: do they support decision-making?', paragraphs 57 to 81.

62 ECA opinion No 1/2010: Improving the financial management of the European Union budget: risks and challenges, paragraphs 14 to 16.

# Part III — Challenges associated with the EU response to the financial crisis

## 150

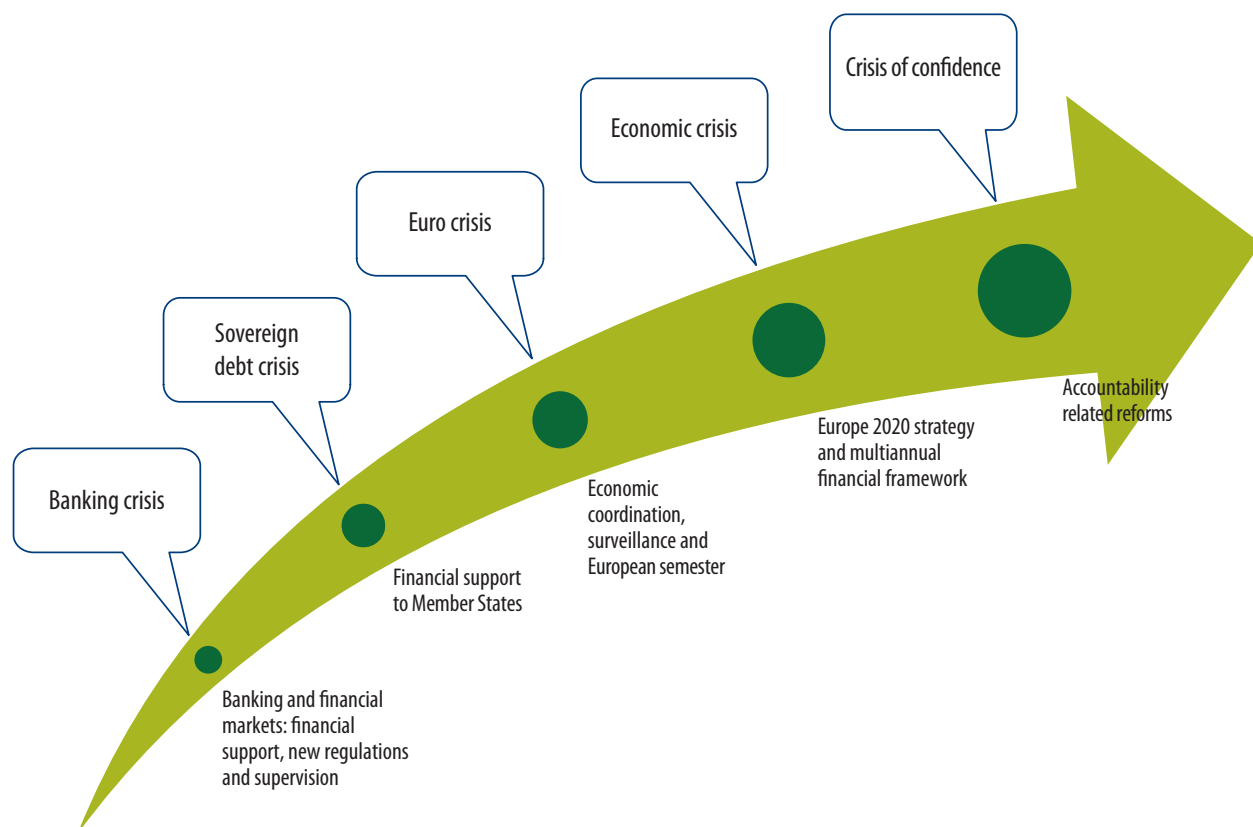
The financial crisis and the measures taken to address it pose significant new challenges to audit and accountability at national and European levels. Gaps have opened up and important questions about accountability have yet to be addressed by the EU and its Member States. The sections below provide an overview of the response to the financial and economic crisis and the implications for public accountability and audit.

### The chain of events and EU responses

## 151

The crisis that started in 2007 in the banking sector subsequently spread to other areas with negative consequences for the sustainability of sovereign debt, euro stability, growth and public confidence. Resolving the crisis required urgent and extraordinary measures at EU and Member State level. Reforms have also been needed for longer-term restructuring of Europe's financial, economic and political governance frameworks (see **Figure 6**).

**Figure 6** EU response to the financial crisis



Source: ECA.



## Part III — Challenges associated with the EU response to the financial crisis

### Regulation and supervision of the financial sector

#### 152

The first phase (2007–09) was a global crisis in the financial sector. A combination of excessive risk taking and adverse developments in financial markets resulted in considerable losses on investments, which pushed bank regulatory capital below the required levels. Moreover, the interbank market dried up and, because of interconnectedness, the serious difficulties of certain big financial institutions put many other institutions under severe pressure ('systemic risk').

#### 153

To avoid a collapse of the banking system, MSs used public funds to recapitalise their banks, while central banks provided the banking system with liquidity. The Commission approved over 5 trillion euro of state aid for the financial sector and provided guidance on its criteria for approving aid to banks<sup>63</sup>. Taxpayer support with which banks were actually provided between 2007 and 2011 amounted to 1,6 trillion euro (12,8 % of EU GDP)<sup>64</sup>.

#### 154

The EU also adopted a series of rules governing the operations of financial operators and markets, mostly resulting from international negotiations in the G20, within the Financial Stability Board (FSB) and the Basel Committee on Banking Supervision (financial regulation reform). In addition, the EU created a European System of Financial Supervision (ESFS) which entered into force on 1 January 2011 (see **Box 5**).

63 COM(2012) 778 final of 21 December 2012, SEC(2012) 443 final of 21 December 2012, p. 29.

64 The largest part went on guarantees, which amounted to roughly 1 085 billion euro (8,6 % of GDP), followed by recapitalisation (about 322 billion euro or 2,6 % of GDP), impaired assets (about 119,9 billion euro or 0,9 % of GDP) and liquidity measures (89 billion euro or 0,7 % of GDP).

#### Box 5

### European System for Financial Supervision

The ESFS consists of two elements, as follows.

- Macroprudential oversight, which is the responsibility of the ESRB, made up, inter alia, of central bankers and representatives of national supervisory authorities.
- Microprudential oversight, which is the responsibility of national supervisory authorities at a national level and of three European supervisory authorities (ESAs) at EU level: the European Banking Authority (EBA); the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA).

### 155

In line with the conclusions of the June 2012 euro area summit and with a view to further strengthening banking supervision, in October 2013 the Council approved the Commission's proposal for an SSM<sup>65</sup>. Within the SSM, the ECB has direct supervisory powers over the more 'significant' banks within the relevant Member States and also has monitoring rights over the supervision of other banks by relevant national supervisors. 'Significance' for this purpose is determined by size or certain other criteria.

### 156

As a further step towards a banking union, and to prevent more bank bailouts in the future, the Commission proposed on 10 July 2013 to create an SRM, which is expected to be adopted shortly<sup>66</sup>. Under the SRM, the proposal is that any resolution costs would be first borne by a bank's shareholders and creditors ('bail-in'), and, if necessary, as a last resort by a Single Bank Resolution Fund financed by contributions from the banking sector.

### 157

The crisis revealed general failures in governance and scrutiny of the global financial system: the structure of incentives for banks to take risks, the accounting rules for the valuation and disclosure of financial assets and liabilities, and the role of business analysts, rating agencies, auditors regulators and supervisors that were too close to the industry and not sufficiently focused on ensuring the stability of the market and the interests of consumers.

### 158

The response which included the bailout of many banks by Member States, and in certain cases the nationalisation of private banks, the introduction of new banking and financial market regulations and the reforms and set-up of new supervisory mechanisms at EU level, all raise issues of governance, transparency and accountability.

### 159

One of the challenges faced during the response has been on how to ensure democratic legitimacy in the way regulations are developed and adopted, and the way new instruments operate. Less attention has been given in the early phases to the necessary accountability arrangements for the results these instruments are expected to achieve.

65 Council Regulation (EU) No 1024/2013.

See also Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013 (OJ L 287, 29.10.2013, p. 5).

66 Currently at the stage of a decision by Parliament, first reading/single reading; Ref. T7-0341/2014, as at 15.4.2014.

## Part III — Challenges associated with the EU response to the financial crisis

### Coordinated actions

#### 160

The accountability in the new architecture of financial regulation and supervision established in response to the crisis relies on a framework that is not fully spelled out. For example, some systems at EU level are at times only partially covered by the mandate of the ECA.

- The three supervisory authorities (ESAs) are audited by the ECA.
- The SSM is covered by specific provisions — described earlier — which require the ECB to be accountable to Council and the European Parliament and subject to audit for sound financial management by the ECA<sup>67</sup>, but national supervisory authorities within the SSM are not dealt with by the ECA — there are no provisions in place for the assessment by auditors of the supervisory system as a whole. It is possible that a deeper level of cooperation with SAIs in the respective Member States might allow for some more comprehensive assessments, but no such arrangements currently exist.

67 Article 27(2) of Protocol No 4 TFEU on the statute of the European System of Central Banks and the European Central Bank.

### Financial support mechanisms for Member States

#### 161

The second phase of the crisis, which started in 2010, was related to sovereign debt. By January 2013, no fewer than 20 EU Member States were subject to a Council decision under the excessive deficit procedure. The link between banks and sovereign debt affected the fiscal performance of Member States: on the one hand some governments bailed out several banks facing financial difficulties, while on the other hand high bank exposure to sovereign debt threatened a dangerous spiral which called for immediate intervention at EU level. By mid 2013 macrofinancial stability mechanisms had been set up, providing a cumulative 890 billion euro, of which 313,6 billion euro had been used up to that point<sup>68</sup>.

#### 162

The banking and sovereign debt crisis had an impact on economic performance. Austerity measures, fiscal adjustments, increasing debt servicing costs and the impact of a distressed banking sector exacerbated the recessionary impact on the EU economy.

- Government budget deficits in both the euro area and the EU-27 exceeded 6 % of GDP between 2009 and 2010 (more than twice the ceiling agreed in the Maastricht Treaty).
- Government debt in the euro area increased from 66,4 % to 92,7 % of GDP from 2007 to 2013<sup>69</sup>.
- GDP growth in both the euro area and the EU dropped below its long-term potential, becoming negative in 2009 (–4,4 % for the euro area) and 2013 (–0,4 % for the euro area). In real terms, GDP in the euro zone was lower in 2013 than before the start of the crisis in 2007.

#### 163

The EU responded to the sovereign debt crisis by providing financial support for Member States in difficulty through a series of mechanisms (see **Table 4**).

#### 164

Initiatives taken within the framework of the EU include:

- the **EFSM**, which was envisaged to grant financial assistance to MSs on the basis of EU budget guarantees (the Council decided to abolish this instrument by the end of 2013); and
- the **balance of payments** (BoP) assistance, which predates the crisis and also offers loans and lines of credit guaranteed by the EU budget.

68 Updated until 30 June 2013. Based on the combined lending capacity of the BoP mechanism, the Greek loan facility, the EFSM and the combined ceiling of the EFSF and the ESM set at 700 billion euro (see **Table 4**).

69 Eurostat, online data, government finance statistics, general government deficit (as a percentage of GDP) and general government gross debt (as a percentage of GDP); see also Eurostat news release of 22 January 2014.

**Table 4** EU and intergovernmental financial support mechanisms

Financial support instruments	Balance of payments assistance (BoP)	Euro area intergovernmental loans to Greece	European Financial Stabilisation Mechanism (EFSM)	European Financial Stability Facility (EFSF)	European Stability Mechanism (ESM)
<b>Legal/institutional form</b>	EU mechanism	Intergovernmental agreement	EU mechanism	Private company owned by euro area countries	Intergovernmental organisation
<b>Capital structure</b>	Guaranteed by EU budget (i.e. all EU Member States)	None, bilateral loans pooled by the European Commission	Guaranteed by EU budget (i.e. all EU Member States)	Guarantees and over-guarantees from euro area countries	80 billion euro paid-in capital and 620 billion euro callable capital
<b>Lending capacity</b>	50 billion euro	80 billion euro	60 billion euro	440 billion euro	500 billion euro
<b>Amounts lent and beneficiary MSs</b>	13,4 billion euro (Latvia, Hungary and Romania)	52,9 billion euro (Greece)	43,8 billion euro (Ireland and Portugal)	166,1 billion euro (Greece, Ireland and Portugal)	44,3 billion euro (Spain and Cyprus)
<b>Instruments</b>	Loans, credit lines	Loans	Loans, credit lines	Loans, bond purchases on the primary and secondary markets	Loans, bond purchases on the primary and secondary markets
<b>Duration</b>	Permanent mechanism	Loans to be repaid seven and a half years after disbursement date in 22 equal quarterly payments	Until the end of June 2013. Will also remain operational thereafter until all outstanding liabilities are repaid	Until the end of June 2013. Will also remain operational thereafter until all outstanding liabilities are repaid	Permanent mechanism since October 2012
<b>Main decision-making bodies</b>	Council decision, acting by qualified majority voting on proposal from European Commission	Eurogroup	Council decision, acting by qualified majority voting on proposal from the European Commission	Eurogroup/EFSF Board of Directors	Eurogroup/ESM Board of Governors
<b>Legal basis Financing</b>	Article 143 TFEU	Intergovernmental decision and Article 136 TFEU	Article 122 TFEU (a Member State facing 'exceptional occurrences beyond its control')	Intergovernmental decision	Intergovernmental treaty linked to amended Article 136 TFEU
<b>Accountability</b>	Subject to the EU discharge procedure	Instrument does not fall under EU discharge scope  Commission activities in support of mechanism subject to EU discharge procedure	Subject to the EU discharge procedure	Instrument does not fall under EU discharge scope  Shareholder's annual general meeting serves to discharge the accounts  Commission activities in support of mechanism subject to EU discharge procedure	Instrument does not fall under EU discharge scope  Board of Governors is the discharge authority  Commission activities in support of mechanism subject to EU discharge procedure
<b>Public audit</b>	ECA audit under Article 9a of Regulation (EC) No 332/2002	No provision	ECA audit under Article 8 of Regulation (EU) No 407/2010	Private auditor has been appointed	ESM audited by a Board of Auditors of five members, including one from the ECA, acting in their personal capacity. Use of private auditor foreseen.

Source: ECA.

### 165

However, some key initiatives were taken by EU Member States outside the framework of the EU. This was the case for the following.

- The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG).
- The Greek Loan Facility — an instrument of the euro area countries, financed by bilateral loans and by the EFSF and facilitated by the European Commission. National contributions to the Greek Loan Facility can be audited by national SAIs; the Greek audit office could audit the legality of spending in Greece but not its effectiveness, as it does not carry out performance audits; the ECA can only audit the technical support given by the European Commission.
- The EFSF, funded with public money, was created by the Member States of the euro area as a private vehicle, without provisions for audit or accountability by European institutions.
- The European Stability Mechanism (ESM), created to provide assistance to euro area Member States in financial difficulties. Some EU institutions will implement this intergovernmental treaty: dispute settlement has been delegated to the CJEU, while post-programme surveillance will be carried out by the European Commission and the Council. No role has been envisaged for the European Parliament (accountability), or the ECA; the ESM will be audited by an audit board of five people who serve in a personal capacity. Contrary to the fiscal compact, there is no provision in the ESM that envisages its future incorporation into the EU Treaty. However, EU political authorities highlighted that although ‘some intergovernmental arrangements have been created as a result of the shortcomings of the previous architecture ... these would ultimately need to be integrated into the legal framework of the European Union’<sup>70</sup>.

### 166

The ECA may audit those mechanisms set up within the EU legal framework (BoP and EFSM) and the roles assigned to EU institutions (e.g. DG Economic and Financial Affairs) for all support mechanisms (including the EFSF, ESM and Greek loans) in terms of the assessment for qualification to different support mechanisms, the formulation of conditions, the monitoring of country performance and the process for formulating country-specific recommendations. Certain performance audits are in train in these areas.

70 ‘Towards a genuine economic and monetary union’, Roadmap developed by the President of the European Council in collaboration with the Presidents of the European Commission, of the Eurogroup and of the European Central Bank, 5 December 2012.

## Part III — Challenges associated with the EU response to the financial crisis

### 167

All support instruments based on intergovernmental agreements have a provision for an external auditor. Moreover, some national SAs audit the respective national shares across different financial support instruments. This fragmented approach, combined with different legal bases and diverse accountability arrangements result in a complex governance and accountability structure.

#### Coordinated actions

### 168

The fragmented approach to the establishment of the financial support mechanisms and the partial audit rights of different public audit authorities are not conducive to a comprehensive overview of the response at EU level. Audit arrangements would need to be reinforced for this purpose.

#### Performance management

### 169

Currently, the Commission is not providing comprehensive information and reporting on whether financial support measures are effective at mitigating spillovers and whether beneficiary states are successful at overcoming their financial difficulties as a result of complying with the conditions and programmes agreed.

### Enhanced economic and fiscal surveillance

#### 170

Several measures have been taken to ensure the economic coordination to reduce the negative spillover effects of actions implemented by one Member State. They include a set of regulations and directives (the so called 'six-pack' and the 'two-pack'), as well as a set of treaties outside the EU legal framework which apply to signatory Member States (the fiscal compact).

#### 171

These rules impose ceilings on budget deficit and debt and surveillance mechanisms to prevent spillover effects, primarily within the euro area. They also streamline the timetable of the budgetary process across the 28 Member States within the European semester framework, and address issues related to underlying national accounts and statistics.

### Strengthened EU-level fiscal and economic coordination measures

#### 172

In the wake of the financial crisis, the EU took measures to reform the Stability and Growth Pact (SGP). The first attempt was the Euro Plus Pact. The more recent reform is a set of legislation referred to as the 'six-pack' and 'two-pack', aimed at strengthening EU-level fiscal and economic coordination and surveillance. The Treaty on Stability, Coordination and Governance in the EMU (commonly known as the 'fiscal compact') also reinforces accountability of MSs towards each other.

- The **SGP** is an agreement, among the 28 EU MSs, to facilitate and maintain the stability of the EMU. Based primarily on Articles 121 and 126 of the TFEU, it consists of the fiscal monitoring of Member States by the European Commission and the Council of Ministers, and the issuing of a yearly recommendation for policy actions to ensure full compliance with the SGP also in the medium term. The pact was outlined by a resolution and two Council regulations in July 1997. The first regulation 'on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies', known as the 'preventive arm', entered into force 1 July 1998<sup>71</sup>. The second regulation 'on speeding up and clarifying the implementation of the excessive deficit procedure', known as the 'dissuasive arm', entered into force 1 January 1999<sup>72</sup>. All EU Member States except the UK<sup>73</sup> are automatically members of both the EMU and the SGP, as this is defined by paragraphs in the EU Treaty itself.

71 Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

72 Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

73 Under Article 4 of Protocol 15 (TFEU), this obligation does not apply to the United Kingdom; under Article 5 of Protocol 15 (TFEU), the obligation to avoid excessive deficits applies to the United Kingdom.



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- The **'six-pack'** is EU secondary law and applies in principle to all 28 Member States, but also includes some specific rules for euro area Member States only. The **'two-pack'** applies only to euro area MSs.
- Regulations in the **'six-pack'** and the **'two-pack'** reinforce different aspects of economic and fiscal surveillance. Important common features include: (i) adoption through the ordinary legislative process; (ii) a higher level of consultation between the EP and national parliaments in the context of the economic dialogue; (iii) periodic reviews of the effectiveness are required from the Commission; and (iv) provisions on lines of accountability between the parties involved.
- The **fiscal compact** (TSCG)<sup>74</sup> is a separate treaty which addresses the responsibility of MSs towards each other with respect to the budgetary practices required for safeguarding the euro. It empowers the Commission to take cases to the CJEU and for such rulings to be enforceable. The treaty also reinforces EU economic and fiscal rules by requiring such conditions to be embedded into national legislation, and that coordination and surveillance relies on EU institutions and measures stipulated by EU law<sup>75</sup>. The Commission provides the monitoring and activation of necessary correction processes.

74 Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), referred to also as the 'fiscal compact'.

75 See Article 10 and 11 of the TSCG.

## Part III — Challenges associated with the EU response to the financial crisis

### European semester

#### 173

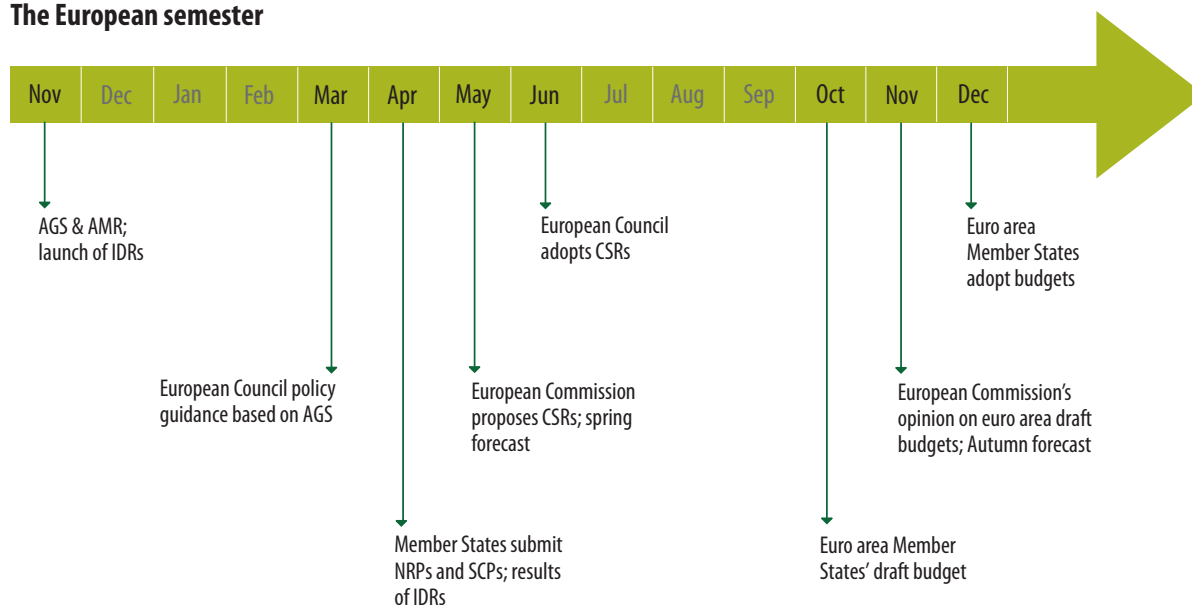
The European semester is a new governance architecture agreed to by EU Member States in 2010<sup>76</sup>. It is designed to streamline national and EU-level economic and fiscal coordination and involves a strict annual timetable for collecting, analysing and assessing a broad range of economic indicators. It should give all stakeholders (European Parliament and national parliaments, Member States and EU institutions) the necessary framework for improved surveillance and coordination (see **Figure 7**).

76 Agreed to by EU Member States on 7 September 2010 following Commission proposals IP/10/561 and IP/10/859 of May and June 2010, respectively.

Figure 7

### European semester timetable

#### The European semester



#### Glossary

**AGS** annual growth survey — **AMR** alert mechanism report — **CSRs** country-specific recommendations — **IDR** in-depth review — **NRP** national reform programme — **SCP** stability and convergence programme

Source: European Commission.

## Part III — Challenges associated with the EU response to the financial crisis

### Reliable national accounts and statistics

#### 174

The measures taken to promote sustainable public finances present new public accountability and audit challenges. Fiscal and economic coordination rely to a large extent on high-quality accounting estimates and statistics that are comparable across the Member States. Evidence suggests that the lack of fiscal transparency has real costs for Member States and the EU. The failure of certain governments to assess their true fiscal position was an exacerbating factor in the peak crisis period<sup>77</sup>.

#### 175

In response, the Commission through Eurostat carried out an assessment in 2012<sup>78</sup> of the situation with regard to accounting standards applied in Member States. The report considered the implications of harmonised public accounting standards across MSs. IPSAS are a set of public sector accounting standards designed to ensure that accrual-based accounts provide timely, accurate and reliable information on the financial and economic position of a public body. The Commission (Eurostat) is consulting stakeholders on the suitability of IPSAS as a basis for the development of European Public Sector Accounting Standards (EPSAS), which could regulate accruals-based public sector accounting standards in MSs.

#### 176

Whichever accounting standard is agreed on, transparency needs to encompass:

- quality information on risks to maintain awareness of potential economic shocks to public finances;
- proper and full disclosure of existing and potential liabilities of government and related sectors (to clarify the scope for off-budget fiscal activity whose costs can later rebound on the government); and
- timely, efficient and accurate reporting of all economic events in the integrated accounting system of public entities.

77 International Monetary Fund (2012), 'Fiscal transparency, accountability and risk', Fiscal Affairs Department and Statistics Department, 7 August 2012.

78 Report from the Commission to the Council and the European Parliament, 'Towards implementing harmonised public sector accounting standards in Member States — The suitability of IPSAS for the Member States' (SWD(2013) 57 final), COM(2013) 114 final.

### Coordinated actions

#### 177

The effectiveness of the surveillance framework relies upon the performance of different actors within the process: the Council has responsibility for decisions related to economic coordination and governance, while the Commission is responsible for the core operations underlying the coordination and surveillance functions of the EU.

#### 178

The six-pack, two-pack and fiscal compact have inbuilt provisions for consultation with the European Parliament: all regulations include provisions for information to be submitted to the EP and for dialogue to be held with the EP within the European semester. The rules provide for a more informed EP and an opportunity for the EP to influence the Council in its decisions. It is not clear whether (or how) the European semester and the economic dialogue would take account of work carried out by SAs on the relevant issues.

#### 179

Citizens expect public authorities, including auditors, to warn them of major systemic risks to their financial interests. Auditors recognise their responsibility. During the 2013 international congress (XXI Incosai) of the International Organisation of Supreme Audit Institutions (Intosai), members concluded in their accord that SAs have a role in drawing attention 'to any aggregate or systemic issues that are of such significance that they may impact on the long-term sustainability of government policies and finances'. As the SA of the EU, the ECA may be expected to warn of potential European systemic risks.

#### 180

Whilst the role of audit institutions is not meant to duplicate that of institutions that are meant to identify and deal with systemic risks as early as possible, it is the role of auditors to evaluate whether or not such entities are fit for such purposes. Any extended role of auditors as suggested by the conclusions of the Incosai would require wider consensus with other stakeholders and reflection on the capacity required for such activities.

## Part III — Challenges associated with the EU response to the financial crisis

### 181

The current system, however, is fragmented and increases the complexity of accountability and public audit. Clear lines of responsibility are necessary for authorities to be held accountable, including responsibility for the management of public funds. It has become progressively more difficult to understand who in the EU is responsible for what in the areas outlined above. This growing complexity poses risks to the legitimacy of the EU.

### 182

Both the roadmap of the president of the European Council and the Commission's blueprint have outlined proposals for an enhanced EMU and banking union. Elements currently under discussion include possible powers to revise national budgets in line with European commitments, more EU influence over taxation and employment, and in the longer term the development of a fiscal capacity, a redemption fund to manage critical debt situations and common issuance of government debt by euro area Member States. Several of these elements would require amending the treaties. Care must be taken to provide any such mechanisms with clear, coherent and transparent mechanisms for audit and accountability.

### 183

The financial crisis has accelerated the creation of new instruments with specific accountability and audit arrangements. Such arrangements are examples of more general challenges identified in *Part II* above. The speed at which certain instruments have been designed and their novelty suggest that accountability and the audit arrangements applied so far should be kept under review in the coming years and wherever public money is directly or indirectly at stake, arrangements for adequate transparency, audit and accountability should be put in place.

## 184

Adequate accountability and audit arrangements are essential for the process of democratic oversight. In reviewing the EU institutional environment and its recent developments the Court has identified six areas (see Table 2) which pose particular challenges.

## 185

Improving accountability and public audit at EU level requires the following.

- Consistent and comprehensive accountability and audit arrangements should be in place for all EU policies, instruments and funds.
- Coherent and consistent accountability and public audit arrangements are required in particular for coordinated and intergovernmental instruments. Given the complexity, the corresponding framework needs to be well structured and ensure coordination between parliaments and public audit institutions at both national and EU level.
- A more consistent and comprehensive set of arrangements is necessary to cover the use of all funds managed by EU institutions and bodies.
- All parties involved in the management and control of the EU budget need to improve the following aspects in particular: the articulation of objectives; the controls for adherence to the rules; the measurement of outcomes and results; and the related internal control and reporting systems.
- Enhanced cooperation is needed for parliaments to provide comprehensive scrutiny of European instruments. The existing accountability and audit architecture of EU and intergovernmental based European instruments needs to be improved.

## 186

Reflecting on developments arising from the financial crisis, and more generally, within the EU and Member States, and the current level of economic, budgetary and monetary integration, it seems clear that greater cooperation between the ECA and Member States' SAIs is necessary, on a bilateral or wider basis depending on the issues under consideration, so as to provide a more complete and comprehensive overview. It is also the case that there is a need for considerable reflection and debate on the overall systems of accountability and audit within the EU. This review has pointed to various accountability and audit gaps and overlaps in these systems and should help to promote and focus that debate.

## List of EU agencies

### Thirty-three decentralised agencies

1. Agency for the Cooperation of Energy Regulators (ACER)
2. Body of European Regulators for Electronic Communications (BEREC)
3. Community Plant Variety Office (CPVO)
4. Eurojust
5. European Agency for Safety and Health at Work (EU-OSHA)
6. European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)
7. European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)
8. European Asylum Support Office (EASO)
9. European Aviation Safety Agency (EASA)
10. European Banking Authority (EBA)
11. European Centre for Disease Prevention and Control (ECDC)
12. European Centre for the Development of Vocational Training (Cedefop)
13. European Chemicals Agency (ECHA)
14. European Environment Agency (EEA)
15. European Fisheries Control Agency (EFCA)
16. European Food Safety Authority (EFSA)
17. European Foundation for the Improvement of Living and Working Conditions (Eurofound)
18. European GNSS Agency (GSA)
19. European Institute for Gender Equality (EIGE)
20. European Institute of Innovation and Technology (EIT)
21. European Insurance and Occupational Pensions Authority (EIOPA)
22. European Maritime Safety Agency (EMSA)
23. European Medicines Agency (EMA)
24. European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
25. European Police College (CEPOL)
26. European Police Office (Europol)
27. European Railway Agency (ERA)
28. European Securities and Markets Authority (ESMA)
29. European Training Foundation (ETF)
30. European Union Agency for Fundamental Rights (FRA)
31. European Union Agency for Network and Information Security (ENISA)
32. Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)
33. Translation Centre for the Bodies of the European Union (CdT)

**Six executive agencies**

34. Consumers, Health and Food Executive Agency (Chafea)
35. Education, Audiovisual and Culture Executive Agency (EACEA)
36. European Research Council Executive Agency (ERCEA)
37. Executive Agency for Small and Medium-sized enterprises (EASME)
38. Innovation and Networks Executive Agency (INEA)
39. Research Executive Agency (REA)

**One Euratom agency**

40. Euratom Supply Agency



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