

## CA1 on paragraphs 2, 2a and 3, covering AMs 2, 6, 7 and 8 (EPP); 3 and 4 (S&D)

2. *Notes* that the Court's follow-up to the 2019 discharge resolutions provided only general responses to Parliament's remarks; reiterates that appropriate and comprehensible follow-up is essential to enable Parliament's Committee on Budgetary Control to determine whether the Court has taken into due consideration Parliament's recommendations; asks the Court to **simplify the structure of its next follow-up report and** include all necessary responses, with **detailed** and concrete explanations of the implementation of Parliament's recommendations, making explicit reference to each paragraph of this discharge resolution;

**2a. Notes that the Court is governed by Articles 285-287 TFEU, which provide that the Court shall draw up its own Rules of Procedure upon approval of the Council, and that the Council shall determine the conditions of employment of its Members and in particular their salaries, allowances and pensions; notes that the Court's competence to adopt rules on working methods is part of its internal organisation and notes that the Court's decision-making procedure is laid out in its Rules of Procedure; calls on the Court to keep the discharge authority informed on the ongoing and future amendments of its internal rules; notes that the Court's Code of Conduct emphasises the core ethical values of the Court and its Members, and sets out various procedural obligations;**

3. Notes that the Court's budget continues to grow and amounted to EUR 152 million in 2020 (compared to EUR 147 million in 2019) which represents less than 0,1 % of total Union spending and around 1,4 % of total Union spending on administration; **notes that the Court's budget is mostly administrative, with the main amount being used for expenditure related to human resources, buildings and furniture, equipment and miscellaneous operation costs;**

## **CA2 on paragraphs 9, 9a and 10; covering AMs 9 (EPP), 10 (Left), 11 and 13 (Greens), 12 (S&D)**

9. Notes that 2020 was the last year of implementing the Court's 2018-2020 strategy and welcomes the progress achieved in a number of areas, in particular that more resources were allocated to performance audits, the increased productivity across all types of audit, and the intensified stakeholder interest in and media uptake of the Court's reports; notes the publication of the peer review report on the implementation of the 2018-2020 strategy; appreciates the participative approach adopted to prepare the new strategy 2021-2025, adopted in January 2021, that involved all the Court's members, managers and staff through workshops, webinars and surveys to collect and discuss inputs;

***9a. Underlines that the priorities reflected in the Court's work programme should take due note of the focus areas suggested by the discharge authority; recalls the Joint statement by the Parliament and the Council on the reinforcement of the establishment plan of the Court of Auditors; recalls that Parliament and the Council consider it essential that the Court allocates sufficient resources for the implementation of its core activities and invited the Court to provide in future budgetary exercises an overview of the allocation of staff implemented in the previous year; reiterates Parliament's request for a specific independent annual report on the Union institutions;***

10. Acknowledges that the Court applies a set of key performance indicators to provide institutional stakeholders with information on the performance levels, to inform management about progress made towards achieving strategic goals and to support decision-making; observes that in 2020 a total of 69 publications were issued (33 annual and special reports, 11 opinions, 6 reviews, 14 audit previews and 5 other documents), compared to 67 publications in 2019; ***welcomes the fact*** that the Court published for the first time ever an annual report on the overall performance of the Union budget ***which contributes to give more prominence to the results achieved by a sample of Union spending programmes and evaluates to what extent recommendations from the Court's special reports have been implemented by the auditees;*** ***welcomes the Court's initiative to consult key stakeholders, including Parliament's Committee on Budgetary Control, on the future strategy regarding the annual performance report;***

**CA3 on paragraphs 14 and 15, covering AMs 14 and 17 (EPP), 16 and 18 (RE), 19 and 22 (Greens) and 20 (S&D)**

14. Notes that the installation allowance for the Court's Members, governed by Article 4 of Council Regulation (EU) 2016/300, is conditioned on providing evidence that a change in the place of residence was necessary to reside "either in the place where he is employed or at no greater distance there from as is compatible with the proper performance of the duties assigned to him" as stated in Article 20 of the Staff Regulations; *points out that, even if the mere declaration of an address has been accepted by the Paymaster Office (PMO) of the Commission thus far, a rental contract for or a purchase contract of a property shall not be considered sufficient evidence in the sense of the Article 20 of the Staff Regulations as such property may be destined for other uses than primary residence; is of the opinion that the mechanism for verifying the legal conditions of the installation allowance needs to be reviewed to request other documents as evidence to the greatest extent possible with respect to privacy;*

15. *Notes that Members have provided either a rental contract for or a purchase contract of a property, and a residence certificate issued by the Luxembourgish authorities; insists, however, that installation allowance is paid only on production of evidence establishing the fact that Members have settled at the place where they are employed following Article 5(3) of Annex VII of the Staff Regulations since the entry into force of Council Regulation (EU) 2016/300; deems that collecting that allowance should be considered an obligation for the Members' to actually relocate their residence to Luxembourg on an effective and stable basis during their term of office and recalls, in this regard, that Article 5(4) of that Annex stipulates that "an official who is entitled to the household allowance and does not settle with his family at the place where he is employed shall receive only half of the allowance to which he would otherwise be entitled"; notes that the Court has recently approved a modification of its Code of Conduct to set out the obligation to reside where the Court has its seat and asks the Court to report on the entry into force of the revised Code of Conduct;*

**CA4 on paragraphs 16, 17 and 18; covering AMs 21, 24 and 25 (EPP); 23 and 26 (S&D), 27 (Greens)**

16. Notes that the Article 5 of Council Regulation (EU) 2016/300 entitles *EU high-level public office holders such as* the Members of the Court to a residence allowance equal to 15 % of their basic salary during their term of office; is aware of *the fact that the said Regulation does not contain any* condition for the disbursement of the residence allowance, but that it is based solely on the recipient being holder of an high-level public office; acknowledges that that approach follows the wording of *the Regulation and understands that only the Council is competent to amend Council Regulation (EU) 2016/300*; believes, nevertheless, that the residence allowance must be consistent with the installation allowance and, therefore, that logic dictates the same correlation with Article 20 of the Staff Regulations while respecting the distinct purpose of each allowance; stresses, in this regard, that *the revised Code of Conduct will settle that* the residence allowance *will* be interpreted in light of Article 10 on commitment and loyalty of the Code of Conduct for the Members of the Court and Article 14 of Protocol No 3 on the Statute of the Court of Justice of the European Union, annexed to the Treaty on European Union and the TFEU, providing that Judges shall reside at the place where the Court of Justice has its seat;

17. Understands that the Court has no role in defining the rules and conditions for granting the installation and residence allowances and that the responsibility for the verification *of the legal conditions for the installation allowance* and the payment authorisation *of both installation and residence allowance* stays with the Paymaster Office (PMO) of the Commission *on the basis of a service-level agreement*; notes that, *upon request by the Court*, the PMO also *carried out in 2021 an ex-post control* on the installation allowance and *reported* the results to the Court; observes that no irregularity *was* reported *in 2021*; regrets that *some Court's Members fail* to consider that the residence allowance implies the effective residence at the place of employment, especially in the cases when the installation allowance has been paid;

18. Appreciates *that the Court has recently introduced a legal provision* in its Code of Conduct for its Members expressly requiring *them* to reside at the place where the Court has its seat (*reflecting Article 14 of Protocol No 3 on the Statute of the Court of Justice*) and to provide *the* Secretary-General (in addition to the PMO) with proof of residence in Luxembourg upon taking up office and every three years thereafter, *which is in line with the interpretation expressed by Parliament, the principle of sound financial management and the ethical standards expected of the Court*; deems that the said revision might substantiate the Court's recognition of the allowance residence as consistent with the effective residence in Luxembourg, allowing the proper performance of the member's duties;

**CA5 on paragraphs 19 and 20, covering AMs 28 and 31 (S&D), 29 and 33 (Greens), 30 (EPP), 32 (Left), 34 (Renew) and 35 (NI)**

19. Notes *the* Court's Decision No 30-2019 on the management and use of its car fleet; is aware that the *car* fleet is leased from a supplier using an interinstitutional framework contract and that, in addition to the rental charge, the Court bears the costs related to the use of the cars (i.e. tolls, parking, fuel, *electric charges*, cleaning and other expenses) in connection with journeys covered by a travel order; notes that journeys without travel orders are *also* allowed when *they are* related to the *performance of the duties* of the Members;

20. *Observes that the Court allows its Members to make private use of the car fleet without drivers for journeys not covered by mission orders in exchange of a EUR 100 contribution per month*; is concerned that the EUR 100 contribution system *designed to allow the private use* could facilitate potential misuses of the car fleet *and in itself damage the reputation of the Court*; notes the recent Court Decision No 10-2022 that reviews the management and use of the car fleet; is of the opinion that the EUR 100 contribution still does not reflect the full cost of such use and that the new system introduced by the said decision is not reasonable or administratively efficient; calls on the Court to rationalise all uses of the car fleet that are reasonably necessary for the performance of the duties of its Members and include them in the travel orders; reiterates its opinion *expressed in previous discharge resolutions* that the use of the car fleet outside of the strict performance of the duties of the members of the Court should not take place under any circumstance;

## CA6 on paragraph 21, covering original text and AM 36 (EPP)

21. Notes that the Court offers its Members language training in the interest of the Court either through the interinstitutional framework shared with other Union institutions located in Luxembourg or directly from professional suppliers of language training; *notes the Court's statement that for the period 2017-2021 Members have followed intensive language courses outside the interinstitutional framework only for French, German and English languages*; points out that conditions seem to apply only to the characteristics of the language training (i.e. two weeks per year, at least four hours per day), not to the language selected by the *requesting* Member; *notes the Court's recent decision providing that Members may follow language courses covering primarily the working languages of the Court (English and French) but also other official languages of the EU in the interest of the service*;

**CA7 on paragraphs 22 and 23, covering AMs 15 and 41 (NI); 37 and 42 (EPP); 38, 45 and 46 (RE); 39 and 61 (Left); 40 and 43 (S&D);**

22. Notes that *it took until 2018 for* a register of attendance *to be* set up to record the presence or absence of the members at all formal meetings of the Court and its chambers and committees; notes that for the first time, the Court's 2020 annual activity report includes information on attendance; is aware that such meetings constitute only a part of the Members' activities, *which also includes audit missions and promoting the work of the Court in the Member States*, and agrees that the independence required of the members necessarily encompasses a certain degree of autonomy in organising their work; reminds, however, that the Members have an obligation to devote themselves fully to the fulfilment of their mandate *as enshrined in Article 10 of the Court's Code of Conduct* and, therefore, calls on the Court to use the attendance register as a tool to proactively prevent potential cases of absenteeism; *proposes that the register of attendance be extended to working days, missions, periods of leave and justified absences in order to represent an accurate mapping of the work carried out by the Members; requests the Court to provide the discharge authority with annual updates of the register of attendance so it can be considered during the discharge procedure;*

23. Notes that missions, *which are essential to fulfil the role of the Court (i.e. to audit national bodies on the spot or to present the annual report to national Parliaments)*, are limited by the annual budget and have to undergo both comprehensive ex ante controls and ex post controls carried out on monthly samples; welcomes that Court Decision No 59-2017 delegated the role of authorising officer for all Court Members' missions and expenses to the Secretary-General, while Court Decision No 61-2017 clarified the rules governing missions, in particular the obligation to demonstrate the relation to the Court's work, *and emphasises that missions must be clearly and unambiguously declared as such; notes that Members of the Court also serve as contact points for national audit institutions and to inform citizens about the use of Union funds;* notes with concern, however, that no limitation or condition applies to the duration or place of missions *which potentially creates risks of inefficient time management; believes that particular attention should be paid to missions to third countries with regard to duration, added value and costs;* calls on the Court to set appropriate rules to prevent any possible misuse of mission orders which may call into question the integrity, independence and objectivity of its members; *points out in particular that Members' missions shall start or end in Luxembourg in a general basis in accordance with the implicit residence obligation, except in occasional and justified exceptions; expects that the Members of the Court actively take part in audit missions and that their tasks and responsibilities must be specified to avoid any form of potential misconduct;*

## CA8 on paragraph 24, covering AMs 47 (EPP), 48 (RE) and 49 (Greens)

24. Notes that, under Court Decision No 60-2017, each Member has an annual budgetary allocation to use for representation expenses, subject to ex ante controls and with the reimbursement being made upon presentation of supporting documents; is surprised by the fact that **Article 9 of the Decision provides that** part of this allocation can be used, even in a limited manner, to cover **invitations by the Members to close collaborators (i.e. the Member's Private Office, an audit team, Chamber staff, or staff of the same nationality as the Member)**, without external participants, **to promote** team-building activities or to **celebrate the achievement of a key working objectives**; recalls that **in the Article 1 of the said Decision** the Court defines 'representation' as professional interaction by Members of the Court with external persons and that the current use is not in line with that definition; calls on the Court to rationalise and clarify the rules governing the use, conditions and ceilings of budgetary lines for the **representation, team-building and internal celebration** purposes in order to respect the principles of sound financial management and transparency; **takes note of the Court's recent decision providing that events without external participation will not be covered any longer by the representation expenses**; **asks the Court to provide Parliament's Committee on Budgetary Control with annual overviews on the use of the representation expenses**;

**CA9 on paragraphs 25 and 27; covering AMs 50 and 52 (EPP), 53 (Greens), 54 (RE), 55 and 63 (Left) and 56 (S&D)**

25. Notes that in 2020 the Court's internal audit service reviewed the Court's risk management policy and issued reports or finalised the main audit work for a number of tasks, and did not identify any shortcomings affecting the overall reliability of the internal control systems put in place to ensure the legality and regularity of the Court's financial operations in 2020; *notes the independent assurance report by the Court's external auditor from December 2021 which concluded that the resources assigned to language courses, missions and representation have been used for their intended purposes and the control procedures in place provide the necessary guarantees to ensure the regulatory compliance*; encourages the Court's internal *and external* auditors to include in its audit plan topics related to ethics matters;

27. *Fully acknowledges the value of serious and fact-based investigative journalism to provide the necessary checks and balances for the proper financial and ethical functioning of Union institutions; is concerned by the findings in the media coverage of a number of ethical and financial management issues at the Court relating to its Members; emphasises that the Court's audit work has never been called into question and that the Court is subject to several layers of control by its internal and external auditors and the discharge authority*; is concerned, however, about the damage caused to the reputation *and integrity* of the Court, which should be a model with respect to the implementation of the Union budget and the highest ethical standards; *asks the Court to entrust a newly elected ethics committee not appointed on a proposal by the president to examine the areas reported and assess the ethical adequacy of the existing rules, including the new system related to Article 73 of the Financial Regulation*; trusts that the discharge procedure will, in close cooperation with the Court, identify *areas for improvement* and lead to the necessary reforms being undertaken, *in particular of the Code of Conduct*; recalls the Court's role as the Union's independent external auditor and guardian of its finances and thus, strongly reaffirms its belief that any unethical behaviour by the Members of the Court has a huge impact on the reputation of both the Court and the Union as a whole, raising the question of who is watching *over the Union's watchdog*;

**CA10 on paragraphs 28 and 29, covering AMs 60 and 64 (S&D), 62 and 65 (EPP)**

28. Notes with concern that the total cost of the irregularities committed by Karel Pinxten, a former Member of the Court, as identified in the relevant report by the European Anti-Fraud Office (*OLAF*) is EUR 570 824; regrets that, following the Court’s legal analysis, the Court could only request Karel Pinxten to return EUR 153 408 on the grounds that there is no legal basis to recover his salary for days of ‘unjustified absences’; stresses the reputational prejudice to the institution and to the Union as a whole *caused by this kind of behaviour which, as indicated by the Court of Justice in its judgement of 30 September 2021, was “favoured by the vagueness of the internal rules and allowed by the shortcomings of the controls put in place”*; *takes note of the Court’s follow-up to this case during the OLAF investigation, which includes waving immunity and a successful conclusion of the procedure under Article 286(6) TFUE, as well as the measures taken as a result*;

29. Is aware that the Court and its internal auditor, as a consequence of the *procedures* involving Karel Pinxten, undertook *from 2016 to 2019* a review of its control procedures and that no indication of similar cases was found; notes that the Court deems that it has dealt with the weaknesses detected in the audit acknowledges that delegating the duties of authorising officer within the meaning of Article 73 of the Financial Regulation exclusively to the Secretary-General of the Court and no more to each of its Members is instrumental in delivering on the principle of sound financial management; observes that the Court considers the system now in place to be fully viable and reliable;

## CA11 on paragraphs 30 and 31; covering AMs 66 (EPP) and 67 (Left)

30. Highlights the findings of the 2019 peer review of the Court's ethics framework, indicating that ethics should receive a prominent place in the Court's strategic documents, advising greater consistency and clarity in the rules as well as appropriate training, that awareness-raising activities should be strengthened, and that the Court's ethics control system should be further improved; notes that the peer review concluded that the Court's ethical standards are generally compliant with the code of ethics of the International Organization of Supreme Audit Institutions but that further improvement is needed; emphasises in that regard that supreme audit institutions like the Court are held to high expectations and, therefore, need to act as model organisations and inspire confidence and credibility to which end the leadership must set the tone by its actions; ***notes that the Court is currently reviewing its ethics framework, including an assessment of the ethics-related risks by an external provider, which will evaluate the maturity level of the Court's ethics framework and assess the ethics-related risks of the Court; points out that the conclusions will serve to update the Court's ethic framework in early 2022 and asks the Court to keep the discharge authority informed without undue delay;***

31. Welcomes the adoption of the new Code of Conduct for the Members and former Members of the Court of Auditors on 14 December 2020 which is considerably more detailed and explicit than the 2012 version; ***notes that Members are now under obligation to submit an annual 'Declaration of Interests' but is concerned by the Court's lack of examination capacities, which is key to avoid conflict of interests, and therefore invites the Court to reinforce the current system;*** emphasises the obligation for the Members of the Court to observe the highest standards of ethical conduct and the ethical values and principles that shall be observed, such as integrity, independence, objectivity, professional behaviour, dignity, commitment and loyalty;

**CA11a on paragraphs 32 and 32a, covering AMs 68 (S&D), 69 (EPP), 70 (Greens) and 71 (RE)**

32. Welcomes that the Code of Conduct elaborates procedural rules for the obligations of the Members of the Court regarding external activities and occupations after ceasing to hold office; agrees that Members should not engage in any external activity that is incompatible with their duties and, therefore, is alarmed that Article 12 explicitly allows for Members to hold honorary, unremunerated offices in organisations in the political sphere; stresses that the values of independence and objectivity are specifically and seriously compromised the moment a Member during his or her term of office maintains any concrete relation with a political party, as clearly declared by the Court of Justice in its judgment of 30 September 2021; ***asks therefore the Court to update and clarify its Code of Conduct to explicitly forbid Members to hold honorary offices in political organisations in order to maintain its independence;***

***32a. Stresses*** that the President of the Court must be a model in avoiding any real or perceived conflict of interest that can undermine the Court's impartiality ***and, therefore, condemns his missions carried out with a clear political purpose which are not in line with the ethical standards and principles expected from the Court; recalls, in this regard, Article 7(2) of the Court's Code of Conduct which states that "Members of the Court shall be mindful of the importance of their duties and responsibilities; they shall, leading by example, take into account the public nature of their duties and shall conduct themselves in a way that maintains and promotes the public's trust in the Court";***

**CA12 on paragraph 33; covering AMs 72 (S&D), 73 (EPP), 58 and 74 (Greens) and 76 (RE)**

33. Highlights that *Article 6(2) of the ethical guidelines of the Court acknowledges that close relationships can make it difficult to adhere to the equal treatment principle, while the Article 3(5) of its code of conduct prohibits spouses, partners and direct family from being part of the cabinets of the relevant Member; is of the view that, beyond personal perception, the fact that the President of the Court shared an apartment with two full-time officials of his cabinet is unusual and unwelcome, and denotes a close relationship similar to the prohibited situations as that can generate the impression of a potential conflict of interest or a violation of the principle of equal treatment due to an unfair impact on the career progression, even if the Secretary-General of the Court is its appointing authority and the grading of the staff of members' cabinets is based on the years of experience; is of the view that members of the Court should not be allowed to share their residence with members of their cabinets in the sense of Article 3(5) of its code of conduct; notes the recent revision of the Court's code of conduct subjecting contractual relationships between Members and staff of the Court to notification to the ethics committee and providing that Members shall not enter into long-term rental, sub-rental, or loan agreement with staff of the Court; regrets the infringement of the right to privacy of the concerned members of staff caused by the publication of their names in the press, as well as the consequences they have suffered in their personal lives;*

**CA13 on paragraphs 34, 35 and 37; covering AMs 44 and 79 (Greens), 77 (RE), 78 (S&D), 80 (NI) and 81 (EPP)**

34. Welcomes that the Code of Conduct also provides for an organisational framework for its application, namely an ethics committee that shall consider any ethics matter it deems relevant to the standards laid down in the Code of Conduct and to its reputation; welcomes that the ethics committee is assisted by the legal service of the Court as that measure will help to avoid any legal risks of its decisions; *notes that according to the current rules of procedure of the Court the members of the ethics committee are appointed by the Court on the basis of a proposal from the President; urgently calls on the Court to reconsider the rules for appointment and composition of the ethics committee and suggests that the ethics committee no longer be appointed on a proposal from the President of the Court;*

35. *Notes that the Court publishes its Members' missions on its website's transparency portal but only for the current year; asks the Court to publish and keep the information on all Members' missions carried out during the full duration of their mandate;* encourages the Court to *join* the EU Transparency Register on the basis of a service level agreement; *encourages the Court to publish its members' agendas of public and professional engagements;*

37. Calls on the Court to clarify the role of its ethics advisors as no reports on their activity is available; believes that, following the findings of the 2019 peer review, it would be beneficial to keep a record of the number and type of dilemmas addressed and the advice given; *notes that the ethics advisers are now required to report annually on their activities to the Secretary-General, in accordance with the rules of confidentiality;*

## CA14 on paragraphs 41 and 41a; covering AMs 82 (S&D), 83 and 84 (EPP)

41. Regrets that in 2020 the Court had only 8 female members compared to 18 male members, although appreciates that the share of women increased from 25,93 % in 2019 to 30,77 % in 2020; *finds it unacceptable, however, that the Court has had only 16 female members out of a total of 112 members since its establishment in 1977 (85.7% male, 14.3% female); recalls that the Council appoints the members of the Court of Auditors after consultation with Parliament and* understands that the nomination procedure for the members of the Court is a complex framework *that* constitutes a challenge for achieving gender balance because national nomination is solely the responsibility of the Member State in question and only one candidate can be nominated at a time; *notes that according to Article 286(2) TFEU, the Council adopts the list of Members of the Court following proposals from Member States and after consulting Parliament;* calls on the Court, however, to analyse the overall composition of the Court in order to inform *the Council and* the Member States involved so that gender balance *in particular* is considered in the nomination decisions;

*41 a. Regrets that the Council repeatedly proceeds to nominate Members of the Court despite a negative opinion by Parliament; is of the opinion that the nomination procedure of the Members of the Court in Article 286(2) TFEU should be reformed and aligned to that of the judges of the Court of Justice established in Article 255 TFEU, where a panel gives an opinion on candidates' suitability; emphasises that Parliament should have a binding role in assessing the suitability of candidates for the Court;*