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Norms, legitimacy and institutional independence: the active role of the European Court of Auditors in setting international standards

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Abstract

The European Court of Auditors (ECA), established in 1977, is the external auditor of the EU budget. It was given full EU institutional status in 1993. The Treaty of Amsterdam reaffirmed its independence and extended its audit powers. Based in Luxembourg, it employs around 900 people, of whom less than half are auditors. The ECA is meant to carry out its audit tasks ‘in liaison with’ the supreme audit institutions (SAIs) at the national level, each cooperating ‘in a spirit of trust while maintaining their independence’ (TFEU Art 287(3)). Through its work, it shapes and adopts new audit standards that guide its practice. It is member of International Organisation of Supreme Audit Institutions (INTOSAI) (1953), a forum that brings together professional and technical experts worldwide through working groups and task forces. Drawing on Oliver Buntrock’s notion of ‘micro-institutionalization’, this article examines how and why the ECA formally engages in standard-setting at the international level. Drawing on primary documents and interviews, it analyses socialization processes and considers motives for participation. The article argues that membership of INTOSAI has helped bolster the ECA’s professional and technical legitimacy over 20 years, and reinforced its independence vis-à-vis its main stakeholders, the European Parliament and European Commission. The paper contributes to our understanding of how a lesser-known EU body contributes to the evaluation of EU budgetary spending.

Keywords

EU budget, European Court of Auditors (ECA), International Organisation of Supreme Audit Institutions (INTOSAI), norms, socialization, standards, legitimacy

The European Court of Auditors (henceforth ‘ECA’), established in 1977, is responsible for auditing EU budgetary spending. In carrying out its task, it adheres to international audit standards, financial reporting rules and best practices of good governance. However, in addition to embracing international standards, it also helps shape them through its participation in committees and organizations of technical experts at the international level. These highly specialized forums for audit promote dialogue among the EU member states’ own audit bodies at the national level – the supreme audit institutions (SAIs) – as well as with SAIs beyond the EU. Through international engagement, the ECA helps write and promote international audit norms, even establishing itself in areas such as performance audit in the vanguard of international audit practice. Various task forces and issue groups within these forums bring together audit practitioners from across Europe and beyond. These voluntary arrangements for knowledge exchange and the sharing of best practice shape the very mechanisms by which the EU and its member states help deliver financial accountability for the EU budget.

The ECA’s landscape review (ECA 2014a) examines how current accountability and audit arrangements should be developed in the coming years. It states that the EU’s overall

performance, hinges on the level of accountability in a representative democratic setting. As a corollary to this, the performance of an institution of the EU also hinges on its level of accountability. When the ECA accounts for its audit findings, it is also accounting for the rigour with which it has undertaken its audits, i.e. the rules, practices and standards that form the foundations of its practice. Notions of accountability relate to the *output legitimacy* of the EU in terms of what it has produced (Schmidt 2013). However, arriving at any notion of what the EU delivers itself depends on *throughput legitimacy*, i.e. on ensuring the effective governance processes and practices of EU institutions and their administrative machinery. Throughput is 'based on the interactions – institutional and constructive – of all actors engaged in EU governance' (Schmidt 2013: 5). The quality of interaction and deliberation matters, as do the standards by which EU institutions operate. Thus, *throughput legitimacy* relies on the effective audit and financial control of budgetary spending by the ECA, and thereafter, effective scrutiny processes in the EP and national parliaments (an ex post function traditionally carried out by the Budgetary Control Committee (CONT), which takes a retrospective perspective). In fact, notions of organizational legitimacy and reputation go hand-in-hand, both resulting from social construction processes and linked to regulatory compliance (Deephouse and Carter 2005). Moreover, the acquisition and maintenance of legitimacy and reputation improve the organization's ability to acquire resources (Hall 1992; Suchman 1995). What does this mean for the ECA?

Thus, though we might talk of financial accountability in the EU in broad terms, we need to look more closely at the *practice* of holding to account. This means examining technical expertise, work methodologies and aspects of organizational legitimacy. We might do this by exploring the social construction of standards that guide and constrain audit practice day-to-day, identifying where public and private sector actors and norms may come together. It would seem important, therefore, to consider, how the norms of EU audit practice are shaped. Who shapes them? What competence do they have? And to what extent are EU institutions merely receivers of existing norms of practice, and to what extent do they shape norms at the international level? What does it mean if the day-to-day norms of a EU institution are shaped partly by non-EU actors and adopted voluntarily?

This article explores how and why the ECA has taken part in international standard setting in recent years. The aim is to understand where the ECA gets its norms from, and what these norms look like. It examines the experience of negotiating and drafting audit norms and considers the broader perspectives one might take on such action, when analyzing the development of the ECA over time within the EU's institutional architecture. The second section considers the secondary literature on the ECA, international standard-setting and norm dynamics. The third section introduces the forums in which audit standards are set, including INTOSAI (International Organisation of Supreme Audit Institutions) and private audit firms. The fourth section examines the types of accountancy and audit standards that have emerged internationally over recent years. The fifth section examines how the ECA takes part in them: using Oliver Buntrock's four-part functional perspective from 'micro-institutionalization', it considers how a small part of the ECA has established dialogue and built contacts around audit standards at the international level, and explores the benefits of this cooperation over time.

BACKGROUND

Existing scholarship on the European Court of Auditors

The predecessors to the ECA were the European Coal and Steel Community's single Comptroller General, and thereafter, the Audit Board of the European Communities, established in 1959. Stephenson (2016a) has examined the very beginnings of audit governance in the Communities, tracing the early emergence of norms central to exercising the external control function. The first literature on the ECA examined institutional creation and saw it as somewhat of an enigma – 'the other European Court in Luxembourg' (Kok 1989). Laffan (1999, 2003a, 2003b) made a significant contribution to our understanding of the auditors by addressing its inter-institutional relations over time, conceiving of principals and agent in audit practice, and exploring the ECA as the EU's emerging 'financial conscience'. Cipriani (2010), an ECA official, took on the big theme of the accountability of the EU budget. Sánchez Barrueco (2011) adopted a legal perspective on issues of legitimacy and audit governance post-Lisbon, before looking further at the ECA's contribution to financial accountability in the EU (Sánchez Barrueco 2015). De Bondt (2014) closely looked at the phenomenon of performance audit and the tension between a discourse of accountability versus a discourse of learning. Stephenson (2014) examined the procedure for appointing ECA members and the role of collegiality, looked at the rise of performance auditing and its approximation to evaluation (2015), and took a longitudinal perspective on audit governance over six decades (2016b).

To date, there have been few studies on the ECA's intra-institutional working practice, organizational design, change or reform. However, ECA insiders have provided some insights into the entrepreneurship of the ECA. The current Secretariat-General, Ruiz García (2015), has written on the ECA's role in modernising the accounting system of the EU institutions and developing an accounting 'doctrine'. Its series of negative observations related to poor quality systems and the limited scope of proposed reforms, led to institutional change within the Commission. Indeed, the ECA pushed for the basic accounting framework to conform to INTOSAI standards. Brenninkmeijer (2014), former Dutch Ombudsman and member of the ECA, has questioned what 'quality' means and whether the 'scrupulous obedience' to international norms alone guarantees quality. With colleagues, he has also reflected on the role of standards, comparing the difference in use between private and public sector, and recognising the 'increasing need for global comparability of financial reporting and auditing' for good governance (Brenninkmeijer et al. 2014). Karakatsanis (2015) has examined the evolution of different forms of accountability mechanisms more broadly, discussing public sector auditor in the context of new public management, while recognising the 'blurry relationship' between principals and agents.

The structure and practice of the European Court of Auditors

The ECA's work is organized around five vertical chambers, comprising auditors at various stages of their career. Each chamber carries out audits in specific policy fields: Chamber 1 (Sustainable Use of Natural Resources), Chamber 2 (Investment for Cohesion, Growth and Inclusion), Chamber 3 (External Action, Security and Justice), Chamber 4 (Regulation of Markets and Competitive Economy) and Chamber 5 (Financing and Administering the Union). Each chamber is led by a group of 5-6 Members of the ECA, though the majority of the day-to-day audit work is conducted under the supervision of chamber directors and heads of unit (though in the recent reforms implemented in January 2017, the roles and responsibilities of these posts have changed), causing some friction. Some might be tempted to argue that ECA

Members, under pressure from the European Parliament to justify their numbers (each of the 28 Members has its own cabinet of 4-5 staff), have used the reform process to position themselves as integral to the audit task, or at least to project this image through the new organisational chart.

In addition, the horizontal 'Audit Quality Control Committee', brings together three ECA Members (one of whom, the Member for Audit Quality Control, acts as chair) with three principal managers and advisors from senior audit staff and the director of communications. It should be noted that this represents a very recent reorganization as part of the internal reform process. The previous four chambers have been expanded to five; and what is now a quality control committee was previously a chamber in its own right (CEAD – Coordination and Evaluation of Audit) own right. A small group of senior auditors working on methodology has over time developed audit handbooks, methodologies and training for audit staff. Its members have regularly attended INTOSAI and EUROSAI meetings and negotiated and/or drafted standards. Its manuals lay down quality control procedures and seek to 'internalize' international norms. The manuals have also cultivated internal norms specific to the culture and identity of the ECA auditors. Fortvingler (2010), tracing the evolution of the ECA's audit methodology, analyses four levels of guidance within the ECA's own reference framework: level 1 (Treaty, Financial regulation); level 2 (international audit standards; Court audit policies (CAPS)); level 3 (performance and financial audit manuals, general audit procedures manual); level 4 (guidelines – toolbox).

Norms, international politics and European integration

March and Olsen (1996) define 'institution' as 'a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations'. An essential difference therefore is aggregation: a norm isolates single standards of behaviour, whereas institutions emphasize the way in which behavioural rules are structured together and interrelate (a 'collection of practices and rules'). Scholars can focus on behavioural norms as a way of understanding the social components of institutions, as well as 'the way these elements are renegotiated into new arrangements over time to create new patterns of politics' (Finnemore and Sikkink 1998: 891).

Normative and ideational concerns have always informed the study of international politics (Finnemore and Sikkink 1998: 887; Barnett and Finnemore 1999). Scholars have been particularly interested in where norms come from and how they change (and secure change), seeking to find out the mechanisms by which norms exercise influence and the pattern by which they evolve. In the 1970s, academics drew attention to how transnational actors were influenced by norms and ideas (Keohane and Nye 1971). The regimes scholarship in the early 1980s emphasized the role of principles and norms. A norm may be understood as 'a standard of appropriate behaviour for actors with a given identity'. In the 1990s, Finnemore and Sikkink (1998: 898) considered actor motives for shaping norms as being legitimacy, reputation and esteem, driven by the dominant mechanisms of socialization, institutionalization and demonstration, through a three-stage process of norm emergence, cascade and internalization.

There are various examples of studying norm construction in the EU: Elgström (2000) analysed norm negotiations and construction regarding gender and development in EU foreign aid policy. Dimitrakopolous (2003) analyses the interplay of power and ideas (cognitive limits) in the construction of a normative order in the free movement of goods and its effect on institutional change. Examining voluntary arrangements for OMC in education policy, Gornitza

(2006) studied the modes of interaction taking place at the European level, examining the deliberation of benchmarks and indicators for accounting for performance. Meyer (2006) looked at changing norms in security and defence while Lewis (2010) looked inside at strategic bargaining and the deliberation of norms in the Council. In short, Laïdi (2008) has called norms the 'enigma' of European power. Orsini (2014) has looked more broadly at the role and actorness of the EU in a range of international organizations (United Nations, World Trade Organization, International Labour Organization) over time, its consistency, commitment and effect on shaping standards.

If international norms set standards for the appropriate behaviour of states, then in the context of the European Union, we might say that standards established in international forums may be 'downloaded' (to use a term from the Europeanization literature; see Graziano and Vink 2007) by both the EU institutions (here, the ECA) and the institutions of the member states (here, national audit offices, regional and local authorities managing public funds). A particular challenge is that, international norms 'must always work their influence through the filter of domestic structures and domestic norms, which can produce important variations in compliance and interpretation of these norms' (Finnemore and Sikkink 1998: 893).

Negotiating technical standards and audit norms

Kooiman and Jentoft (2009) refer to the term 'meta-governance' in consideration of how values, norms and principles come to underpin governance systems, recognizing that these outputs are deliberated through a process of interactive learning. Hooghe (2005), for example, used surveys to look in-depth at the role of socialization in the Commission, and the 'several roads to international norms', recognizing the dominant influence of existing national norms in shaping new international norms. Indeed, peering inside the 'black box' of international forums, one might also use deliberative institutionalism (Schmidt 2010) and negotiation theory to analyze how different types of actor assert their preferences to shape the standards. There may be institutional actors who not only set audit standards, but then act to mediate this process of filtering norms to lower level audit actors. An institution or community may act as an entrepreneur of new norms but also be a forum for the negotiation and deliberation of received norms, playing a gate-keeping role when it comes to norm diffusion, only letting through those norms appropriate for use by the wider group of EU audit practitioners.

Schueler et al. (2008) have examined the process of negotiating norms and standards, looking at various perspectives on negotiations in telecoms and transport. They assert that 'standards play a crucial role in facilitating the international exchange of goods, people and information' (Schueler et al. 2008: 10); 'technical standards are a typical phenomenon of complex societies. They are a means to achieve control and to regulate [...] they act as control procedures and enable the interoperability of socio-technical systems' (Schueler et al. 2008: 13). Standardization is technical and in some cases technological, but it is also social and political:

Although standardization is sometimes seen as a boring, highly technical and a-political process, the contrary is true. Standards are socially constructed in complex and lengthy interaction and negotiation processes. They are inherently political. The high stakes involved in standardization processes (political, economic, but also in terms of reputation and prestige) and their contested nature, make standards and the processes interesting strategic research sites. Standardization processes are complex and difficult to achieve.

The negotiate norms and standards proves to be a technological as well as political tour de force. In formal standardization processes, a variety of actors are involved: engineers, politicians, industrialists, international standardization bodies etc. These negotiation processes often remain hidden to the general public and for scholars interested in studying these processes it is often hard to find out what happened and why (Schueler et al. 2008: 13-14).

What if we transpose this understanding of socio-institutional norms to the technical aspects of audit? Arguably we could argue that an audit norm – i.e. a new definition, approach or form of best practice – is a standard of appropriate *technical* behaviour for *auditors* with a given identity, i.e. all auditors engaged in the financial control of EU budgetary expenditure, that is to say, of financial transactions financed by the European taxpayer. In the same manner, executive institutions (here international audit bodies) emphasize – perhaps encourage and promote – the structured use and practical adoption of new audit rules, definitions and standards. Audit norms are negotiated within these governance arrangements – and trickle down to lower levels of audit – to create new patterns of audit practice.

If we consider the above from the perspective of audit we might say that technical audit norms are regulative where they create fundamental systemic rules that provide a framework of international audit (transparency, ethics), but constitutive where they lay out new technical rules and codes for financial control in emerging policy areas and/or involving new actors and beneficiaries (codes of practice, access to information). They may also be evaluative/prescriptive when it comes to guidelines shaping the behaviour of the auditor him/herself and the evolving organizational rules of the audit body (reporting evidence, communicating with auditees). For the remainder of this paper, I use the terms interchangeably, understanding that standards in the case of audit are in most cases textual prescriptions that define and constrain behaviour; and that once these standards have been adopted they become norms of working practice.

THE ECA AND FORUMS FOR SETTING INTERNATIONAL STANDARDS

Multi-level auditing and the challenge of financial control

Audit would at first glance appear to be an area where the division of labour in a system of multi-level governance (MLG) are clear, with local auditors accounting for expenditure at project level, national auditors accounting for all projects and programmes implemented in their member state, and then the ECA checking the reliability of lower-level audits and engaging in performance audits of EU policies at a supranational level. This is not necessarily the case. How can auditors at one level rely on audit findings at another level, if not everybody is using the same standards (rules, definitions, procedures)?

The ECA works in cooperation with the supreme audit institutions (SAIs) of the member states (national audit offices). This would seem logical since 80 per cent of the EU budget is spent on policies implemented under a system of shared management between the European Commission and the member states. The treaties encourage cooperation but do not stipulate that the member states must adopt the same norms and practices. Moreover, the SAIs enjoy varying degrees of independence from their parliaments. The nature of their relation with the ECA has varied over the years. ECA twinning exercises and professional/technical group meetings have helped forged dialogue where previously it has been unforthcoming.

In practice, audit can involve duplication and overlap and induce considerable inter-institutional conflict between the ECA and Commission, and between the ECA and SAIs at member state level. Over time, the ECA has carved out its own no-surprises approach to audit, reconciling audit concerns of legality and regularity (compliance audit), used in France and the Mediterranean with that of effectiveness (value-for-money audit), as favoured in Anglo-Saxon and Nordic member states. The challenge has been to cope with the differentiation among national audit offices in terms of their own legal status, the culture of audit, and the definitions used in the day-to-day practice of audit.

The ECA applies internationally accepted public-sector auditing standards, and international cooperation provides valuable opportunities to exchange views and share experience on their use. The ECA cooperates with other SAIs mainly through: the Contact Committee of the ECA and SAIs of EU Member States (see following section); the Network of the SAIs of candidate and potential candidate countries to the EU; and international organizations of public audit institutions, chiefly the International Organisation of Supreme Audit Institutions (INTOSAI) and its European regional grouping (EUROSAI), as discussed in the following sections.

The ECA also engages with a further range of standard-setting stakeholders, mostly independent professional bodies, related to the governance and management of IT systems (Information Systems Audit and Control Association, ISACA), financial reporting standards (International Financial Reporting Standards Foundation (IFRS)/IAASB International Auditing and Assurance Standards Board) and enterprise risk management, and internal control and fraud deterrence (Committee of Sponsoring Organizations of the Treadway Commission (COSO)). These are large international umbrella bodies that represent huge numbers of practitioners from public bodies and private firms. They would appear to exert a significant impact on the work of the ECA, and indirectly on SAIs in the EU. There is no room within the scope of this article to examine these norm-setting bodies here.

The Contact Committee of Supreme Audit Institutions (SAIs)

The Brussels Treaty (1975), in its original form, stated that the ECA shall undertake its audit in 'liaison' with the SAIs of the Member States, while the Treaty of Amsterdam later added 'the Court of Auditors and the national audit bodies shall cooperate in a spirit of trust while maintaining their independence' (TFEU Article 287(3)). Although cooperation between member state SAIs and the ECA is a legal obligation, in practice, what the national supreme audit institutions provide the ECA's auditors with is local practical and logistical support, as well as specific knowledge of the audited field.

In the Treaty of Nice, Declaration 18 of its final act invited the ECA to set up a Contact Committee with the SAIs of the Member States. In fact, this already existed: a Contact Committee meets every year since its establishment in 1960 as an autonomous, independent and non-political assembly. The Contact Committee acts as a forum where matters of common interest are discussed. With the introduction of own resources to finance the EU budget in the late 1960s, and the subsequent extended role of the European Parliament in budgetary matters, the committee has been instrumental in pushing for an independent external audit body for the EU. Composed of heads of national audit offices – some 9 in 1973 – it invited the ECA to become its tenth member in 1978. Rather like COSAC for national parliaments, the Contact Committee provides a forum for the exchange of knowledge and sharing of best practice. It arguably been the crucial epistemic community (Haas 1992) in the field of audit and financial control, staffed as it is by senior experts from the member states, i.e. it is a network

of professionals with recognized expertise and competence, and an authoritative claim to policy relevant knowledge within the domain of audit.

The Contact Committee looks to the work of INTOSAI and EUROSAI (see below), examining the outputs from various task forces, for example, on the global financial crisis, on the impact of the European Semester, and on recent developments in EU economic governance (outside the EU budget), the role of national parliament post-Lisbon, and latest developments regarding the EU financial regulations. In addition, the various working groups discuss and disseminate the work of these umbrella audit bodies, ensuring that practices adopted by SAIs are in line with those advocated by INTOSAI/EUROSAI. A working group on auditing standards was established in 2006, seeking to ensure 'symmetry' between the Contact Committee's documents and those of INTOSAI.

INTOSAI

INTOSAI was established in 1953 and today has 192 full members and 5 associate members (see INTOSAI Statutes). It is an autonomous, independent and non-political and non-governmental organisation. It has special consultative status with the Economic and Social Council (ECOSOC) of the United Nations. As such, membership of INTOSAI is open to any SAIs of countries that are members of the UN and/or any of its specialized agencies. The Lima Declaration of 1977 recognized the rule of law and democracy as essential principles for independent government accounting among the international audit community. The 14th congress of INTOSAI in October 1992 in Washington D.C. adopted a series of Statutes, which replaced the standing orders effective since 1968. Its PSC (Professional Standards Committee) and knowledge sharing committee have developed 'an impressive array of standards, guidelines and best practices within its ISSAI framework' developed since 2007 – now some 70 standards and guidelines. Much of its work thus focuses on its development and dissemination at regional and country level. Moreover, the International Journal of Government Accounting is committed to the advancement of government accounting and auditing techniques (for more on the globalisation of accounting standards see Godfrey and Chalmers 2007).

The ECA has spent many years as an active member of the PSC (Professional Standards Committee) subcommittees on financial, compliance and performance audit standards. It has also chaired expert working groups of SAIs to draw up guidance on implementing INTOSAI auditing standards (Contact Committee 1998). Since becoming a full member of INTOSAI in 2004, the ECA has provided input for the work of subcommittees promoting best practice and quality assurance, even hosting committee meeting and with ECA representatives moderating workshops. In 2016, the ECA was appointed vice-chair of the Professional Standards Committee (PSC) by the Governing Board of the International Organisation of Supreme Audit Institutions (INTOSAI). The appointment came at a critical time for INTOSAI, which was reviewing its framework for standard-setting processes in order to further improve and strengthen this core activity. The appointment gave the ECA visibility as an international standard-setter, promoting its expertise in developing high-quality public sector audit standards.

EUROSAI

EUROSAI (European Organisation of Supreme Audit Institutions) is the newest of seven regional groupings of INTOSAI, established in 1990. The idea of a European organization of SAIs (supreme audit institutions) dates back to the foundation of INTOSAI. The first active steps towards the establishment of EUROSAI took place in 1974 during the VIII INTOSAI Congress in

Madrid (1974). Between 1975 and 1989 the SAIs of Italy and Spain, counting on the Contact Committee of Heads of SAIs of the EEC countries, paved the way by preparing initial drafts of the EUROSAI Statutes. In June 1989, the XIII INTOSAI Congress, held in Berlin, adopted the 'Berlin Declaration', comprising the agreement of creating the European organisation of SAIs. Its work today is organized into four 'group teams': Capacity Building, Professional Standards, Knowledge Sharing, and Governance and Communication.

EUROSAI was founded with 30 members, comprising the supreme audit institution (SAI) of 29 European Countries plus the ECA; today it has 50 members. Its vision is to strive for good governance, including *accountability, transparency and integrity*. Its objectives are defined in Article 1 of its Statutes: to promote professional cooperation among SAI members and other organizations; to encourage the exchange of information and documentation; to advance the study of public sector audit; to stimulate the creation of university professorships in this subject; and to work towards the harmonisation of terminology in the field of public sector audit. The 9th EUROSAI congress in The Hague from 15-19 June 2014 focused on innovation in audit. The congress offered more than 230 participants the possibility to choose among 35 different workshops to exchange with colleagues experiences and ideas regarding issues of public audit such as *sustainability* and the impact of SAIs, citizen participation and the use of new media.

The Big Four

One must also acknowledge, when considering standard-setting (and indeed, how norms ultimately 'travel') that a significant number of auditors recruited by the ECA have private sector professional experience working in tax, accountancy and audit. The 'Big Four' – Deloitte & Touche Tohmatsu, PricewaterhouseCoopers, Ernst & Young and KPMG – are the four largest international professional service networks worldwide, offering audit, assurance, tax, consulting, advisory, actuarial, corporate finance and legal services. They handle many audits for publicly traded companies as well as many private companies. It is reported that they audit 99 per cent of firms in the FTSE 100 and 96 per cent of the firms in the FTSE 250 index (note, the name FTSE originates from 'Financial Times' and 'London Stock Exchange').

While the ECA does not explicitly adopt audit standards specific to, and used by, these private firms, a number of newly-recruited staff members bring with them the professional norms, practices and rules of behavior that they have adopted. As such they may have been socialized and trained in the private sector and subsequently bring this mindset and *way of doing* to the ECA. It should be noted, however, that there are also many lawyers and scientists among the audit staff, and increasingly – given the demands of performance audit – the ECA is looking to recruit staff with a mix of backgrounds, from engineers, political scientists, doctors, vets and linguists. Moreover, the Members of the ECA are not all qualified auditors but include former MEPs, academics and business people. Thus, there are a variety of disciplinary and sectorial influences on the ECA's work beyond finance and accountancy. Finally, who audits the auditor? The ECA itself is audited by private sector audit bodies (PriceWaterhouseCoopers), which look for evidence that international audit standards are operating as norms within audit practice. It is also subject to international peer review where selected representatives from SAIs go in and check *inter alia* that audit standards/norms are being internalized (ECA 2011b, 2014).

TYPES OF NORMS: PROFESSIONAL STANDARDS, ETHICS, TRANSPARENCY, COMPLIANCE

The ECA and INTOSAI norms

The ECA claims to perform its audits in accordance with international auditing standards and a code of ethics, which it applies to the specific EU context. These standards are framed as ensuring the *quality, professionalism* and *efficiency* of the ECA's work. The ECA contributes to the development of these standards through its voluntary participation in these forums. The ECA's audit approach is described in a set of manuals, standards and guidelines, which apply international standards to the specific EU audit context. They help auditors provide high quality professional work, and to operate efficiently and effectively. Regarding its methodology, the ECA states that its audit policies and standards set out the principles and norms that it follows to ensure the quality of its audit work and resulting reports. These standards are meant to help safeguard the independence of the auditors in their professional practice and the integrity of their work (ECA 2011).

Building on the Lima Declaration (ISSAI 1), INTOSAI's framework comprises pre-requisites for the functioning of SAIs pertaining to independence, good practice, value and benefits, transparency and accountability, ethics and quality control (ISSAI 10-40). It has also laid down four sets of fundamental auditing principles for public sector, financial, performance and compliance audit (ISSAI 100-400). It has developed a wide range of general auditing guidelines for financial audit (ISSAI 1000-2999) and guidelines on specific topics, including international institutions, environmental audit, privatisation, the use of IT, public debt, disaster-related aid, peer review, corruption prevention and cooperative audit, among SAIs worldwide (ISSAI 5000-5899). In addition, it has developed guidance for good governance in areas of internal control (ISSAI 9100-9199) and accounting standards (ISSAI 9200-9299) (see Table 1 below). As such, the ECA's audit manuals contain detailed instructions and guidance for carrying out its audits, in line with commonly accepted, though non-binding, standards. They cover the three main audit types, as well as a *vademecum* of procedures common to all. Its set of policies and standards are an interpretation of the ISSAIs and can be divided into three categories as outlined here (ECA 2011).

Participation/role of individual

These include: objectives and responsibilities (professional ethics, professional judgment, competences of audit staff, professional skepticism, quality control, audit documentation):

In carrying out audits, auditors of the Court have regard to the obligations of officials and other servants of the European Union, as laid down in the Staff Regulation, and to the Code of good administrative conduct for staff of the European Court of Auditors. **They conduct themselves in accordance with the INTOSAI Code of ethics.** In particular, they ensure that audits are conducted in such a way as to protect and enhance the Court's independence, integrity, objectivity and professional standing, and to protect the confidentiality of information obtained in the audit process. (Professional Ethics)

The Court establishes a system of quality control designed to provide it with reasonable assurance that the Court and its **personnel comply with professional standards and regulatory and legal requirements**, and that reports issued by the Court are appropriate in the circumstances. (Quality Control).

Reasoned decision-making/the audit function

This includes: planning and carrying out audits; financial and compliance audit (introduction, financial audit, compliance audit, the auditor's responsibility to consider fraud); performance audit; programming and planning (understanding the entity and its environment and assessing the risk of material misstatement); audit evidence; using the work of others:

In conducting an audit of financial statements, the auditor: (a) Obtains reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework; and (b) Reports on the financial statements, and communicates **as required by the international standards**, in accordance with the auditor's findings. (Financial Audit)

In conducting regularity (financial) audits, a test is made of **compliance with applicable laws and regulations**. The auditor designs audit steps and procedures to provide reasonable assurance of detecting errors, irregularities, and illegal acts that could directly or indirectly have a material impact. (Compliance Audit).

When the Court uses the work of others, it applies adequate procedures to provide assurance that they have **exercised due care and complied with relevant standards**, and may review the work to satisfy itself as to the quality of that work (Using the Work of Others).

Transparency/Results

These include: audit conclusions and reporting; and communication of audit matters with those charged with governance.

The Court: (a) **Communicates clearly** with those charged with governance the responsibilities of the auditor, and an overview of the planned scope and timing of the audit; (b) Obtains from those charged with governance information relevant to the audit; (c) Provides those charged with governance with timely observations arising from the audit that are significant and relevant to their responsibilities; and (d) **Promotes effective two-way communication** between the auditor and those charged with governance. Before adopting an audit report, the Court gives the auditee(s) the **opportunity to comment** on the audit findings; conclusions, and recommendations. Where disagreements occur they are analyzed and factual errors corrected and the impact of preliminary audit conclusions evaluated. (Communication of Audit Matters with those charged with governance)

Types of audit norm

We can distinguish between different types of norms: while *regulative* norms order and constrain behaviour, *constitutive* norms create new actors, interests, or categories for action (Ruggie 1998; Wendt 1994, 1995). Alternatively, we might talk of *evaluative* or *prescriptive* norms equivalent in their way to 'oughtness' (Gelpi 1997), and relating to standards of appropriate or proper behaviour. Different norms will command different levels of agreement, i.e. not all members of the audit community will necessarily recognize the need for a new standard (norm); those negotiated in pluralistic forums might help secure that agreement. Agreement may be reached through socialization and negotiation. A shared (moral) assessment of a particular approach to, or desirable quality to, audit practice, may result in the formal drafting and adopting of a new standard. The standard, once adopted and implemented – often with accompanying guidelines – will be diffused among the auditors.

Many of the norms set down in the ECA's own audit policies and standards are in fact *prescriptive* or *evaluative* in so far as they are qualitative in nature and focus on the desirable approach to audit and behaviour of the auditor. They focus to a great extent on norms of professionalism regarding ethics, quality control, and individual judgment. Table 1 lists the fundamental international standards applicable to supreme audit institutions worldwide, as listed in the annex of the ECA's Standards and Policies (ECA 2011). First, there are *founding principles* and *prerequisites*, as laid down in declarations (Lima 1977, Mexico 2007), which pertain to the essential characteristics of the SAI. These are the foundations on which norms such as transparency and accountability are guaranteed. Second, *fundamental principles* relate to auditing as a profession, comprising a series of general *standards* for accounting. Third, there is a wide range of *guidelines* meant to steer and support the day-to-practice of three different types of audit (financial, compliance, performance).

Can we categorize these standards according to the types of norms put forward by Finnemore and Sikkink (1998)? Those standards signed up to in international declarations (Level 1 and 2) are arguably *regulative norms*, shaping and constraining the very existence and nature of SAIs as international organizations – their legitimacy comes from acceptance and adherence to these norms. Second, fundamental auditing principles of government accounting, including general, field and reporting standards (Level 3) would be *constitutive norms* since they define public sector interests and create categories for audit action. Thereafter, with the auditing guidelines (Level 4) and INTOSAI guidance for good governance, there is a mix of *constitutive norms* with three categories for action, and *evaluative* or *prescriptive* norms, including guidance on how best to define terms, disclose evidence, report to stakeholders, analyze information and communicate findings. In short, these guidelines help auditors decide how to perform the audit function most effectively. Nonetheless, the distinction between standards/norms is not always clear.

Table 1: Principles, prerequisites, guidelines and standards for international SAIs

List of International Standards of Supreme Audit Institutions (ISSAIs)		
Level 1 – Founding Principles		Endorsed
ISSAI 1	The Lima Declaration	1977
Level 2 – Prerequisites for the Functioning of Supreme Audit Institutions		
ISSAI 10	Mexico Declaration on SAI Independence	2007
ISSAI 11	INTOSAI Guidelines and Good Practices Related to SAI Independence	2007
ISSAI 20	Principles of Transparency and Accountability	2010
ISSAI 21	Principles of T&A (Good Practices)	2010
ISSAI 30	Code of Ethics	1998
ISSAI 40	Quality Control for SAIs	2010
Level 3 – Fundamental Auditing Principles		
ISSAI 100	Basic Principles in Government Accounting	2001
ISSAI 200	General Standards in Government Accounting and standards with ethical significance	2001
ISSAI 300	Field Standards in Government Accounting	2001
ISSAI 400	Reporting Standards in Government Accounting	2001
Level 4 – Auditing Guidelines		
ISSAI 1000	General Introduction to the INTOSAI Financial Audit Guidelines	2010
ISSAI 1003-1810	Glossary of Terms (1003); Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing (1200); Consideration of Laws and Regulations in an Audit of Financial Statements (1240); Audit Evidence (1500); Written Representations (1580), etc.	2007-2010
- Implementation Guidelines on Performance Audit		
ISSAI 3000, 3100	Standards and Guidelines for performance auditing based on INTOSAI's auditing standards and practical experience, Performance Audit Guidelines: Key Principles	2004- 2010
- Implementation Guidelines on Compliance Audit		
ISSAI 4000, 4100, 4200	Compliance Audit Guidelines – General Introduction, Guidelines for Audits Performed Separately from the Audit of Financial Statements, Audit Related to the Audit of Financial Statements	2010
INTOSAI Guidance for Good Governance (INTOSAI GOV)		
GOV 9100-9199 - Internal Control		Endorsed
GOV 9100	Guidelines for Internal Control Standards for the Public Sector	-
GOV 9110	Guidance for Reporting on the Effectiveness of Internal controls: SAI Experiences in Implementing and Evaluating Internal Control	-
GOV 9120	Providing a Foundation for Accountability in Government	-
GOV 9130	Guidelines for Internal Control Standards for the Public Sector – Further Information on Entity Risk Management	2007
GOV 9140	Internal Audit Independence in the Public Sector	2010
GOV 9150	Coordination and Cooperation between SAIs and Internal Auditors in the Public Sector	2010
GOV 9200-9299 – Accounting Standards		
GOV 9200	Accounting standards framework	-
GOV 9210	Accounting standards framework implementation guide: departmental and governmental-wide reporting	-
GOV 9220	Management discussion and analysis of financial, performance and other information	-
GOV 9230	Guidance on Definition and Disclosure of Public Debt	2007

Source: Adapted from 'Court Audit Policies and Standards' (ECA 2011).

Note: Level 4 Auditing guidelines comprise 38 different ISSAI standards

MICRO-INSTITUTIONALIZATION, SOCIALIZATION AND THE BENEFITS OF STANDARD SETTING

As Oliver Buntrock (2008: 282) asserts, the study of problem-solving in 'cross-national multi-layered political systems' has tended to focus on the policy process (decision-making, implementation), rather than examining the problem itself. He argues that one needs to understand the external criteria with which one is to evaluate the performance of an organization, if one is to be able to assess how it solves problems. Furthermore, he recognizes the difficulties that lie in 'the political dimension of problem-solving between policy process and outcome' and therefore the importance of focusing our analysis on the 'interactions among the problem-relevant societal actors who – based on a given policy – need to behave in the adequate problem-solving manner' (Buntrock 2008: 283).

What is the problem in this case? Finding the best way to conduct audit effectively. The solution lies in identifying the most appropriate rules, practices and standards to enhance the throughout legitimacy of external financial control in the EU. If we transpose this way of thinking to the ECA, we need to examine how audit is conceived and constructed – the social and cognitive reality of the audit function – in order to understand how it is carried out. By extension, we need to know how auditors behave and interact to shape *what* audit is and *how* it takes place, i.e. the standards that audit bodies create and adopt together. Problem-solving in the audit field means writing, updating and diffusing audit standards, sometimes in new areas of policy activity. Audit standards are the 'rules of the game' (Buntrock 2008: 288). Thus, INTOSAI brings together audit institutions to play the audit game. This process has clear implications for the circulation of ideas and the role of professional expertise.

Indeed, Buntrock (2008: 288) sees micro-institutionalization as the 'creation and institutionalization of contacts and connections within an organization, in addition to its official structure, which are largely induced by the organization in the course of problem-solving efforts'. This does not imply legal amendments or changes to a mandate, but means linkages between (non-governmental) actors in horizontal and vertical dimensions. These contacts may be organized in various ways, formal and informal, regular and ad hoc, frequent or occasional. The forum constitutes a specialized form of institutional contact that strengthens the capacity for strategic action of each participating in the collective (Scharpf 1997; Buntrock 2008: 289). Buntrock (2008: 289-90) offers four ways of seeing the function of these structures. First, they provide for the *exchange of information and the possibility of anticipation*, with actors able to find out and learn about the positions of others, making it easier to build mutual trust. Second, they allow for the *structuring and bundling of preferences*, making it possible to agree on common positions and facilitating successful bargaining processes. Third, they provide a platform for *discussion, bargaining and balancing interests*, with the tabling of solutions and the opportunity to persuade 'recalcitrant actors'. Fourth, they enable *social control* as behavior over time becomes more transparent and predictable.

Though I spent several weeks in the ECA between February and July 2015, and interviewed over 60 auditors on issues related to internal organization and reform, this section draws in particular on three lengthy semi-structured interviews conducted earlier in 2014 with ECA auditors from the then CEAD chamber. I was interested to ascertain the motivations for engaging with INTOSAI and other norm-setting bodies, and the value that it potentially brings. I am aware of the potential difficulties of relying on interviews with such a small group of individuals, and of knowing whether this is a sufficient basis for knowing if these views are representative. Nonetheless, given the seniority of the informants and their privileged and relatively exclusive participation in INTOSAI, I believe that the insights are valuable and the basis for general conclusions. The interviews reveal that participation at the international level

has provided many benefits, providing for the exchange of information, discussion and a balancing of interests, but less so the social control of other countries' audit bodies.

'The exchange of information and preferences and the possibility of anticipation'

Horizontal micro-institutionalization appears to have strengthened the ECA. As one senior auditor asserted: 'I could pick up the phone and get help'. Regular contact has allowed the ECA to build steady relationships and choose whom to cooperate with: 'you work with people you most like, make formal alliances'. My interviewee referred to 'the audit family', and confirmed that the ECA had 'got a lot out of INTOSAI' but that 'now it was time to give something back', which is why 'we put a lot of resources in'. It was confirmed that participation has helped secure trustworthiness amongst the SAIs: 'Trust is quite important [...] trust was lost during the crisis'. It also provided for long-term stability in the drafting process: 'it helps to see a page that you are continuing'. A senior auditor asserted that most SAIs mentioned INTOSAI in their work today, however there 'remains some reluctance in the UK – which has pulled back and stripped using external expertise'. Thus, the reliance on, and active use of, international standards may alter over time in accordance with the changing dynamics of its internal structure: 'an SAI can change its modus operandi, its context and leadership'.

'The structuring and bundling of preferences'

The ECA forged alliances with other SAIs throughout the financial crisis. A senior auditor mentioned a common paper drafted with other SAIs, in which the ECA asserted its interest to be formally engaged in auditing the new EU instruments of economic governance set up to deal with the crisis. Nonetheless, he added, the ECA had to take care to assert itself in a subtle way: 'the Court is trying to be a leader but a leader from behind [...] the SAIs don't want us leading from the front'. Such reluctance may be because the Treaty respects the complete independence of the SAIs, encouraged to work in 'close cooperation' with the ECA, but not obliged to do so. Thus, in any attempt to expand its tasks ('stretch our mandate'), the ECA must always appear relevant and as providing added value. This said, it would seem that micro-institutionalization might have developed further. As one auditor admitted, 'I'm surprised we have not used our written contacts more, not built more bridges, taking relationships further'. This might be explained by the fact that previous ECA presidents were not as persuaded of the need to cultivate relationships with external stakeholders; senior auditors responsible for developing the ECA's methodological framework and CAPS (Court's Audit Policies and Standards) had to reach out beyond the institution, particularly since the Treaty, the financial regulations and the Court's own mission statement – while offering some guidance – and limited in detail.

Even so, one auditor claimed that there has been a certain reluctance to consolidate linkages outside of INTOSAI, perhaps owing to fundamental legal issues: 'the SAIs are standing behind constitutions [...] the Court has always had to push borders to gain territory'. Again, internal leadership has also been a determining factor for the ECA with the EU institutions more broadly: 'methodology and influence were frozen with [president] Middelhoek because of his [difficult] relations with Delors.'

'A platform for discussion, bargaining and balancing interests'

Shaping standards in performance audit is different to compliance audit and in many respects ECA auditors have had *carte blanche*: 'with PA you decide the criteria, there are no standards or stats, you need to justify added value [...] PA evidence does not need to be conclusive, it needs to be persuasive'. Drafting and agreeing on standards depends on successful

negotiation. Indeed, each SAI seeks for its own standards to become the norm: 'we all come with own standards in mind.' To some extent this resembles the notion of 'uploading' within the Europeanization literature, where member states seek to gain common approval of their existing domestic standards, in part to minimise costs (Graziano and Vink 2007). Each SAIs has its own construct: 'we have a treaty and regulation, others have a constitution'. At the same time, each SAI wants different things and conceives of audit differently, owing to long-established legal and audit cultures. As a senior auditor told me, speaking of performance audit, 'we [the Court] wanted to be creative, you need to be open-minded, see the other side of the situation, give others a look-in [...] some countries said no, we're not here to draw funny pictures [...] Scandinavia recognised creativity'. Involvement in such working groups has seen some countries more involved than others, as with the case of performance audit: 'The French have left, the Portuguese have gone, there are no Mediterraneans in fact'. Likewise, as one senior auditor illustrated, 'Austrians are all lawyers not accountants [they see audit] from a legislative not auditing view point'. Overall INTOSAI has been a place for seeking compromise and working to adopt harmonised approaches, though one where the ECA has needed to remain assertive in order to convince other SAIs of its preferred approach: 'we won it, outnumbered them early on [...] we're now on the performance audit committee'. Thus, standard-setting in performance audit reveals the cultural dimension at play in audit, something that the ECA has had to reconcile internally over 40 years.

'Social control'

The observations so far reveal that the SAIs, including the ECA, strive to pursue their own interests. One auditor felt, however, that while 'evaluation is driven by interests', audit was more complex insofar as 'an auditor has the rite of independence but there is reliance on each other, you need good communication, its participatory in nature'. As such, perhaps individual interests only go so far, given the mutual reliance on each other's work at various levels of audit work. Socialization is crucial to the dialogue on which such reliance is built, and makes auditors aware of the different concerns at play and work being done globally; as such they control each other. The ECA has witnessed Brazil and Argentina 'doing great work' and seen Iran and US involved too (beyond Europe, the ECA also looks to the US for best practice in many audit-related areas). As a collective, INTOSAI has focused its attentions on auditing in India, Malaysia and Africa. In some cases, INTOSAI might start off with the promotion of basic audit standards, but use the 'high-quality product' delivered by the 'family in Europe' as exemplary of how to adopt audit standards. Recognition as an SAI, and participation in INTOSAI has improved the visibility and perception of the ECA in the international audit community. This has improved its professional standards and expertise. One might argue therefore, that micro-institutionalization has improved the *throughout legitimacy* of audit.

Finally, thinking back to the relationship between EP and ECA, we might consider that this engagement in INTOSAI has insulated the ECA on its work vis-à-vis the demands of other EU actors. As one auditor asserted: 'we have quite good governance standards going back to Lima, we quote them in papers and in discussion in the CONT committee. Parliament has wanted to change standards and we have used them to prevent it'. In short, it has increased its strategic capacity: 'we are a member as an SAI, in a stronger INTOSAI, it gives us a stronger armour'.

DISCUSSION

The analysis shows how a small part of an EU institution - the audit methodology unit of the ECA (previously located within the horizontal CEAD chamber) - has helped secure the status of the ECA as an SAI, and over time forged professional contacts with other SAIs within an international organization outside the EU in the pursuit of international audit standards. This would appear to be a case of norm-oriented institutionalization. INTOSAI has provided an arena for problem-solving, promoting collaboration and collective action that is structured around technical questions of audit practice while (implicitly) acknowledging the delicate power relations among audit bodies. This is a 'subtle institutional structure' (Buntrock 2008: 296) that is both cross-national and multi-layered.

The analysis reveals a number of things: First, audit governance is *far more complex* than a mere vertical relationship between the ECA, the SAIs at the national level, and public/private auditors at regional and local level. At the supranational level alone we must take into account the European Commission's own internal auditors and the EP's Budgetary Control Committee (CONT), which scrutinizes audit reports. Audit governance involves an array of non-elected actors whose own standards and norms inform and influence the ECA's work. Most of these actors are independent, non-for-profit actors, but in some cases (not examined in detail in this paper), private interests are also competing to establish standards that will become internationally accepted norms.

Second, international organizations represent well-established and *legitimate voluntary arrangements* for the exchange of knowledge and sharing of practice in the audit field. As such, they are forums through which new standards can be discussed and negotiated by representatives of supreme audit institutions – they are more likely to internalize them if they have been discussed through such professional networks of audit practitioners. The Treaties themselves, while advocating cooperation, can in fact do little to ensure the effective harmonization of audit standards in practice.

Third, the auditor is subject to/receives *a broad range of standards*. Not only is the ECA internalizing standards relevant to the specific role and practice of the auditor vis-à-vis beneficiaries and audit bodies, but it is subject to – and arguably goes looking for – standards in other areas, such as financial reporting, legal arrangements concerning the use of information technologies and computing systems, and frameworks for organizational risk management and fraud deterrence. Many of these standards are set by US-based organizations.

Fourth, as a governance body, the ECA appears to *very open to stakeholders and/or affected interests*. While these interests may not affect political decision-making, they shape the organizational norms and practices directly at the supranational level (potentially at national level), and may affect day to day technical decision-making concerning audit and operational practice. Without insider access it is difficult to ascertain who precisely has shaped norms, and to what extent domestic norms have been 'uploaded' by those national audit offices engaged in best practice. Clearly, international bodies are norm entrepreneurs, but since the ECA and SAIs are active members of these bodies, they may partially also shape those norms which they subsequently adopt 'from above'. Securing access to INTOSAI and engaging in participation observation could be part of a future research agenda, as could interviews with officials at the INTOSAI and EUROSAI secretariats (Vienna and Madrid, respectively) and working groups on standard setting.

If international audit standards are domesticated and internalized as norms for the EU, then this process occurs through international organizations, such as INTOSAI, that provide non-legally binding, voluntary platforms for discussion, best practice and learning. The behaviour of SAIs in the EU, as well as the ECA, is being regulated by a series of highly specialized technical bodies, which represent an *epistemic community* (Haas 1992) in the field of audit, but also in areas such as information systems, risk management and fraud deterrence. While some of these bodies are regional umbrella organizations that provide forums for the exchange of best practice and work to create international audit standards, others are specialized organizations that bring together experts and practitioners in a range of technical fields, mostly private, but also involving private interests.

Via these forums, the ECA updates its existing standards and provides/is provided with new ones regarding the role and behaviour of the *participant* auditor, the approach to audit practice and *reasoned decision-making*, and acceptable practices concerning external communications and *transparency*. These *horizontal governance norms* are not legally binding, though a number of declarations have been signed up to audit bodies worldwide, as an explicit recognition and endorsement of standards, which, once internalized domestically within SAIs become norms of behaviour and 'good practice'. The ECA's adherence to these standards helps underpin the values of *transparency, integrity and professionalism*: values it projects to external stakeholders as integral to its legitimacy, and by extension, continued independence.

In most areas, public actors continue to shape the ECA's norms, though there is evidence of it explicitly turning to private actors in the fields of enterprise risk management, internal control and fraud deterrence for guidance. Moreover, the ECA recruits staff with experience of working in corporate audit and accounting firms, who bring with them private sector norms, which they will have internalized. Nonetheless, we know very little about how private actors create governance norms or how they are deliberated domestically/internally, and succeed in being endorsed or internalized. There appears to be a continuous discourse (or discourses) of innovation and improvement in audit through the structured socialization of auditors in the EU.

CONCLUSION

Membership of an IO has significantly helped bolster the professional and technical legitimacy of the ECA in the last 20 years, but may now have limited additional value. Moreover, membership has reinforced the ECA's operational and institutional independence vis-à-vis its main stakeholders, the European Parliament and European Commission. Multiple interests shape the way in which audit and evaluation – performance audit is increasingly close to policy evaluation – are conducted in the day-to-day practice of multi-level audit. Shaping audit norms might seem technical and of limited political interest, but it is a process that is fundamentally about control and regulation, affecting thousands of auditors at various policy, programme and project levels, with implications for the financial control of billions of euros of public expenditure from the EU budget.

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