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European Investment Bank

Strengthening the supervisory and control framework

RESULTS OF A PARALLEL AUDIT CONDUCTED BY
THE GERMAN FEDERAL COURT OF AUDITORS
AND THE AUSTRIAN COURT OF AUDIT

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European Investment Bank

Strengthening the supervisory and control framework

RESULTS OF A PARALLEL AUDIT CONDUCTED BY THE GERMAN FEDERAL COURT OF AUDITORS AND THE AUSTRIAN COURT OF AUDIT

Audit findings and conclusions at a glance

STRENGTHENING SUPERVISION AND CONTROL AT THE EUROPEAN INVESTMENT BANK

The European Investment Bank (EIB) has significantly expanded its operating activities in recent years and assumed additional risks. As a result, the liability risks for the EU Member States as EIB's shareholders have also increased. If the EIB suffers losses, the EU Member States are liable up to the amount of their subscribed capital, and ultimately through their national budgets.

In order to fulfil its mandate effectively, the EIB requires up-to-date professional governance and independent supervision and control. However, the EIB is neither subject to external banking supervision nor to a comprehensive audit performed by an external audit institution. These gaps in the supervisory and control framework increase the EIB's risks and hamper transparency and accountability vis-à-vis the national parliaments.

WHAT IS IT ALL ABOUT?

As a development bank of the EU Member States, the EIB promotes investments by providing loans and guarantees at favourable conditions. In recent years, the EU Member States have contributed more and more liable capital to the EIB. As a result, the risks for the EU Member States have increased. This is because losses incurred by the EIB would ultimately be borne by national budgets. The EU Member States are represented on the EIB's decision-making bodies. In these bodies, they decide what risks the EIB is allowed to take and how the EIB is supervised and controlled. Against this background, the German Federal Court of Auditors and the Austrian Court of Audit have conducted a parallel audit on how the respective governments meet their responsibilities in connection with shareholdings in the EIB. The present report summarises the key findings.

WHAT NEEDS TO BE DONE?

The use of public funds entails a special responsibility for all public authorities. EIB shareholders should therefore ensure that the supervisory and control framework is strengthened. The EIB should be subjected to independent external banking supervision. In addition, an independent external audit institution should review all activities of the EIB.

WHAT IS THE OBJECTIVE?

Effective governance and a strengthened supervisory and control framework will improve the protection mechanisms at the EIB and reduce the liability risks for the EU Member States. In addition, these measures will increase transparency and promote accountability vis-à-vis the Member States' parliaments. This is also of particular importance because the EIB's capital stems from public funds provided by the Member States and because any losses that the EIB may suffer would burden national budgets.

PREFACE

SEIZING THE OPPORTUNITY TO STRENGTHEN THE EUROPEAN INVESTMENT BANK'S SUPERVISORY AND CONTROL FRAMEWORK

One way in which the public sector acts is through development banks, which carry out their functions – being in the public interest – by providing funds or guarantees. Development banks aim to foster economic development by supporting socially significant but high-risk investments that would otherwise not be made. The operations carried out by development banks are not part of the government's core budget, but they are only made possible thanks to public funds. For this reason, development banks are subject to special requirements in terms of transparency and accountability so that parliament and government – but also citizens – can understand their actions.

The European Investment Bank (EIB), based in Luxembourg, is the world's largest multilateral development bank. Its mission is to contribute to the balanced and steady development of the EU's single market by funding public and private investments through low-interest loans and guarantees. The EIB's shareholders – the EU Member States – are liable for the bank up to the amount of their subscribed capital. The EU Member States provide the EIB with funds from their respective national budgets. Since its establishment in 1958, the EIB has expanded its activities considerably. This also results in higher liability risks for the shareholders.

Due to the EIB's special position 'between' the EU Member States and the European Union, the European Court of Auditors' audit mandate only covers the small part of operating activities that are financed via the EU budget. The much larger part of the EIB's operations is not audited, not even by the Member States' external audit institutions.

Against this background, the German Federal Court of Auditors and the Austrian Court of Audit carried out a parallel audit to examine whether their respective governments and the relevant ministries at national level are sufficiently committed to ensuring professional structures, adequate risk management and appropriate supervision and control at the EIB.

For the first time ever, our audit addressed this financially significant area. We revealed a number of shortcomings, particularly in the EIB's supervisory and control framework, which we have summarised in this joint report in an independent and evidence-based manner.

Now the relevant authorities have the task to tackle these shortcomings promptly. The main addressees of our recommendations are primarily the German government and the Austrian government. However, all EIB shareholders should feel addressed and respond to the challenges outlined, in the interest of their respective national budgets and the citizens of the European Union.

Dr. Margit Kraker
President of the
Austrian Court of Audit
Vienna, June 2024

Kay Scheller
President of the
German Federal Court of Auditors
Bonn, June 2024

Rechnungshof Österreich

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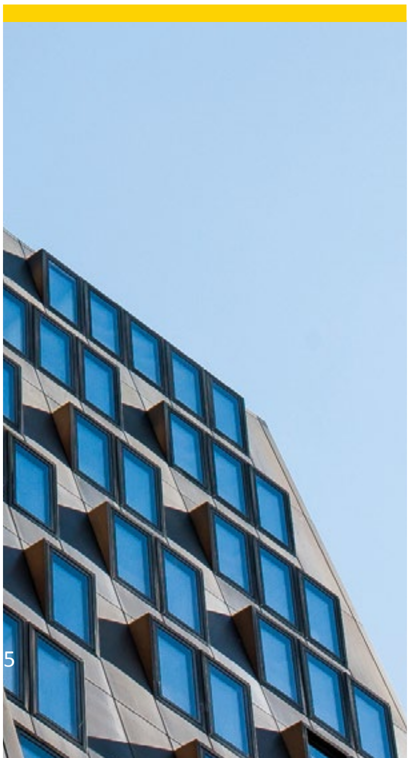

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INTRODUCTION

EIB – SHAREHOLDERS AND TASKS

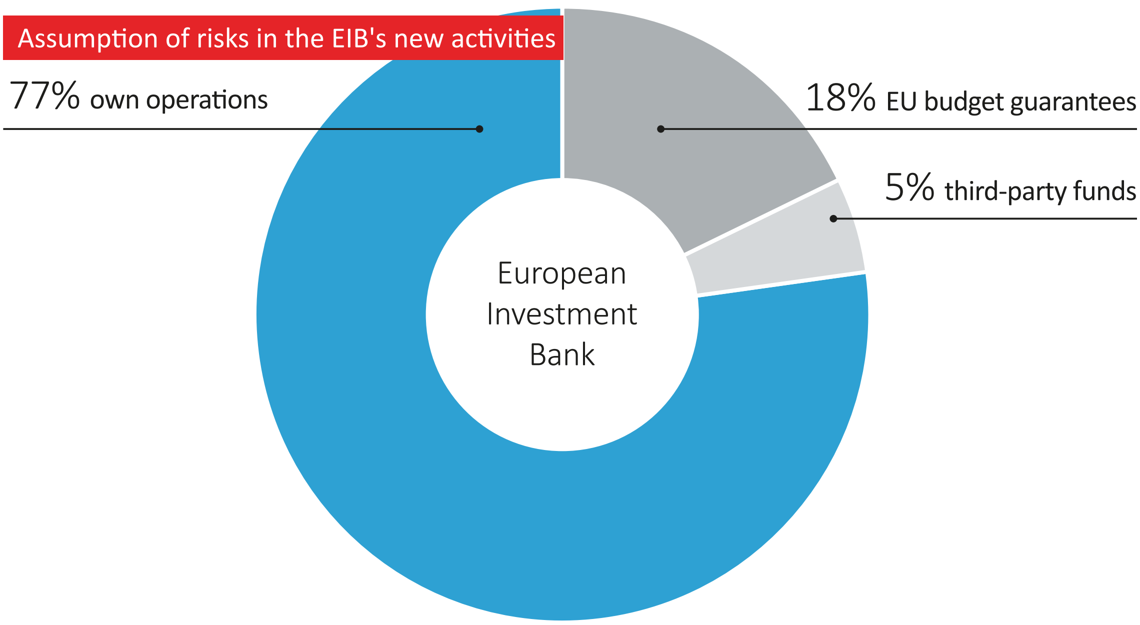
The European Investment Bank (**EIB**) is a development bank of the Member States of the European Union (**EU**). They founded the bank in 1958 and, as shareholders, currently provide liable capital[1] of EUR 248.8 billion. The EIB is a public financial institution with its own legal personality. Its main task is to contribute 'to the balanced and steady development of the internal market in the interest of the Union'.[2] To this end, the EIB supports public and private investments in the form of favourable development loans and guarantees, 'to the extent that funds are not available from other sources on reasonable terms'.[3]

The main basis for the EIB's operating activities is the liable capital provided by the Member States (EIB's own resources). In addition, the Member States may provide the EIB with further capital for specific purposes (third-party resources). This is the case, for example, with the European Guarantee Fund (EGF).[4]

In the case of own resources financing, the EIB generally bears the associated risks itself. Potential losses must first be offset against its reserves[5]. Only when this has been done may the EIB rely on the liable capital of the shareholders.

The EIB also undertakes some of its financing activities on behalf of the EU or individual shareholders. In these cases, not the EIB but the mandator is liable for the risk. The EIB's largest mandator is the EU (operations under EU mandate). In the current planning period from 2020 to 2025, 18 per cent of newly signed loans are backed by EU budget guarantees, e.g. under the InvestEU Programme.

The EIB finances approximately three quarters of its new activities in the period from 2020 to 2025 at its own risk (own operations). Out of the new activities, 18 per cent are secured by guarantees from the EU budget (EU budget guarantees). The remaining 5 per cent are financed by third parties (see figure[6]).



EIB – ORGANIZATION AND DECISION-MAKING BODIES

The EIB has four **statutory bodies**: the Board of Governors, the Board of Directors and the Management Committee as decision-making bodies and the Audit Committee as a control body.

As the supreme decision-making body, the **Board of Governors** lays down the general guidelines for the EIB's lending policy and the principles governing the granting of loans. It may also decide to increase the subscribed capital. Such a decision requires unanimity.

The four statutory bodies of the EIB

Board of Governors
Ministers of the EU Member States

The Board of Governors adopts the general guidelines for the activities of the bank.

Board of Directors
28 ordinary and 31 deputy members

The Board of Directors is responsible for the strategic management of the bank.

Management Committee
1 President and 8 Vice Presidents

The Management Committee is responsible for the day-to-day management of the bank.

Audit Committee
6 members with specialist experience

The Audit Committee monitors whether the bank's activities are conducted properly.

Decision-making bodies: Board of Governors, Board of Directors, Management Committee

Control body: Audit Committee

The **Board of Directors** is responsible for the strategic management of the bank. It consists of 28 directors and of 31 alternate directors (deputy members). The ordinary members are appointed by the EU Member States and the European Commission, while the alternate members are appointed according to a key laid down in the Statute. The Board of Directors decides on granting funding and raising loans. It also determines the funding conditions. It as well decides by a qualified majority on the bank's operational plan.[7]

The **Management Committee** is responsible for day-to-day management. It prepares the decisions of the Board of Directors, in particular decisions on granting funding, and ensures that these decisions are implemented.

The EIB has set up an internal **Audit Committee** as a control body. It consists of six members who must have experience in the fields of finance, auditing or banking supervision. They are appointed by the Board of Governors.[8] The Audit Committee ascertains that the operations of the EIB and its books kept have been conducted in a proper manner and examines the financial statements. The Audit Committee also checks whether the activities of the EIB are in line with best banking practice.

REASON FOR AND OBJECTIVE OF THE AUDITS

The EU Member States committed themselves to covering potential losses of the EIB up to a total amount of EUR 248.8 billion. They must provide the liable capital required by the EIB from their national budgets. In addition, the EU Member States are liable – through their contributions to the EU budget – for the EU budget guarantees that the EIB has received. The EIB's operating activities can therefore lead to significant **budget risks** facing the EU Member States.

The governments of the EU Member States appoint members to the Board of Governors and the Board of Directors. Through these two bodies, they are involved in all major decisions and, in particular, exert an influence on the EIB's organizational structure and operating activities.

Against this backdrop, the German Federal Court of Auditors and the Austrian Court of Audit have examined in a parallel audit whether

- their respective governments
  - appropriately analyze and effectively limit potential risks to their national budgets arising from EIB shareholdings;
  - ensure that public funds are used properly by the EIB and in accordance with their purpose;
  - provide adequate information to their parliaments; and
- the EIB's conduct is subject to effective scrutiny.

Both Supreme Audit Institutions revealed structural shortcomings in the EIB's supervisory and control framework. They also found that, in some cases, the EIB's lending projects were insufficiently assessed and that national parliaments were not always adequately informed of risks and developments at the EIB. Based on their findings, the Supreme Audit Institutions present recommendations for action to the EIB's shareholders. These recommendations are aimed at improving the EIB's supervisory and control framework in order to increase transparency and accountability and to reduce the risks for the Member States' budgets.

The German Federal Court of Auditors audited the 'performance of government tasks related to the Federal Government's shareholding in the European Investment Bank' and summarized the findings in a report submitted to the Bundestag, the Bundesrat and the German Government dated 19 June 2024 pursuant to Article 99 of the Federal Budget Code.

The Austrian Court of Audit summarized its audit results in the 'European Investment Bank (EIB): Role and mission performance of the Federal Ministry of Finance' (volume Federation 2024/19) and submitted the report to the Austrian National Council in accordance with Article 126d (1) of the Federal Constitutional Law (https://www.rechnungshof.gv.at/EIB).

SECTION I: CAPITAL, OPERATING ACTIVITIES AND RISK

BACKGROUND

The EIB is the world's largest multilateral financial institution. Since its establishment in 1958, it has granted financing of approximately EUR 1,500 billion. At the end of 2022, the EIB reported a balance sheet total of EUR 544.6 billion.

From 2018 to 2022, the EIB's economic development was stable, with annual profits ranging from EUR 1.7 billion (in 2020) to EUR 2.6 billion (in 2021). Over the same period, the number of employees increased from 3,410 to 4,020 (+17.9 per cent), while salaries rose from EUR 422.1 million to EUR 526.3 million (+24.7 per cent).

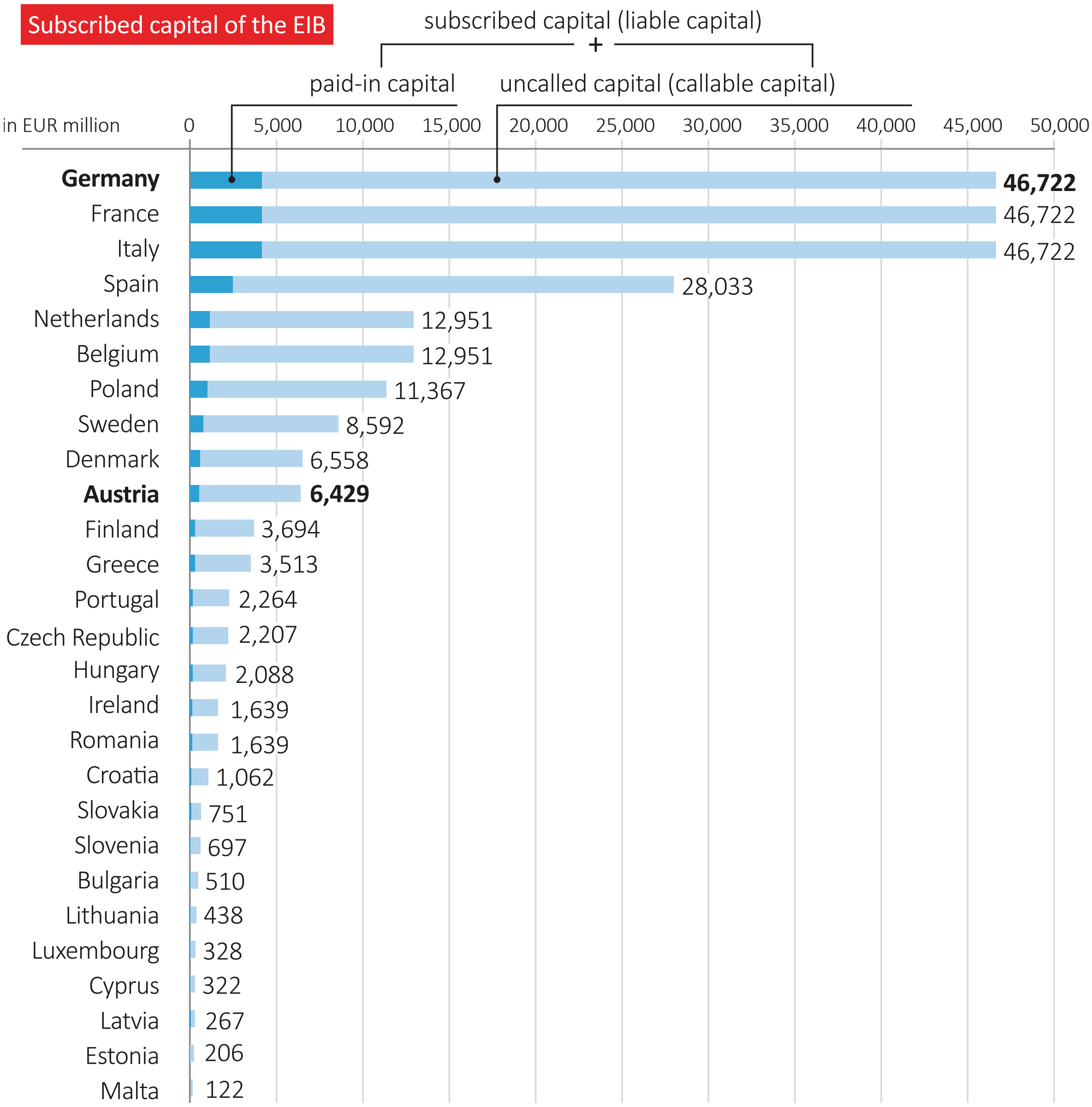
Capitalisation and refinancing

CAPITALISATION AND REFINANCING

At the end of 2022, the EIB's subscribed capital totalled EUR 248.8 billion. This capital stemmed entirely from its shareholders, the EU Member States. With a share of EUR 46.7 billion (18.78 per cent) each, Germany, France and Italy were the EIB's largest shareholders. Austria held a share in the subscribed capital of EUR 6.4 billion (2.58 per cent).

The shareholders actually paid in EUR 22.2 billion. However, the shareholders' risk is not limited to the paid-in capital but also extends to the remaining callable capital of EUR 226.6 billion as the shareholders are liable for the liabilities incurred by the EIB. This means that Germany is liable for EUR 42.6 billion and Austria for EUR 5.9 billion. The following figure shows the distribution and composition of the capital subscribed by the EIB's shareholders as at 31 December 2022:

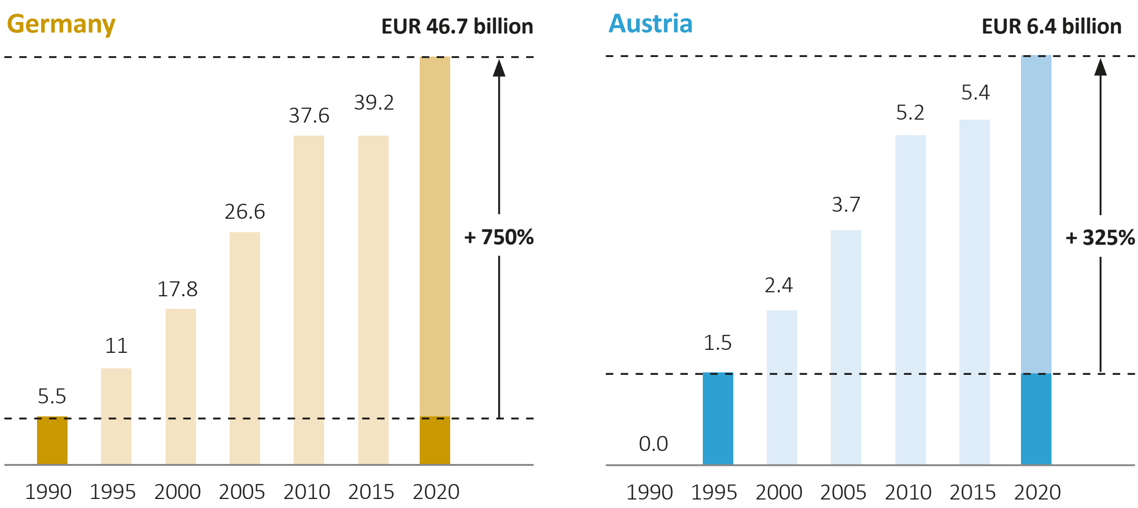
Subscribed capital of the EIB



The UK's share of EUR 39.2 billion in the EIB, which was terminated in 2020 when the United Kingdom withdrew from the EU[9] – and thus also from the EIB – was replaced in the same year by a pro rata increase in the subscribed capital of the remaining 27 shareholders (i.e. the EU Member States). In addition, Poland and Romania increased their subscribed capital by EUR 5.4 billion and EUR 125.5 million, respectively.

In recent years, the EU Member States have contributed more and more liable capital to the EIB. For example, the German share increased by more than EUR 41.2 billion between 1990 and 2020, from EUR 5.5 billion to EUR 46.7 billion, while the Austrian share rose from EUR 0 to EUR 6.4 billion. The following figure shows the significant increase in the German and Austrian share in the EIB since 1990 and 1995, respectively:

German and Austrian capital shares of the EIB from 1990 to 2020



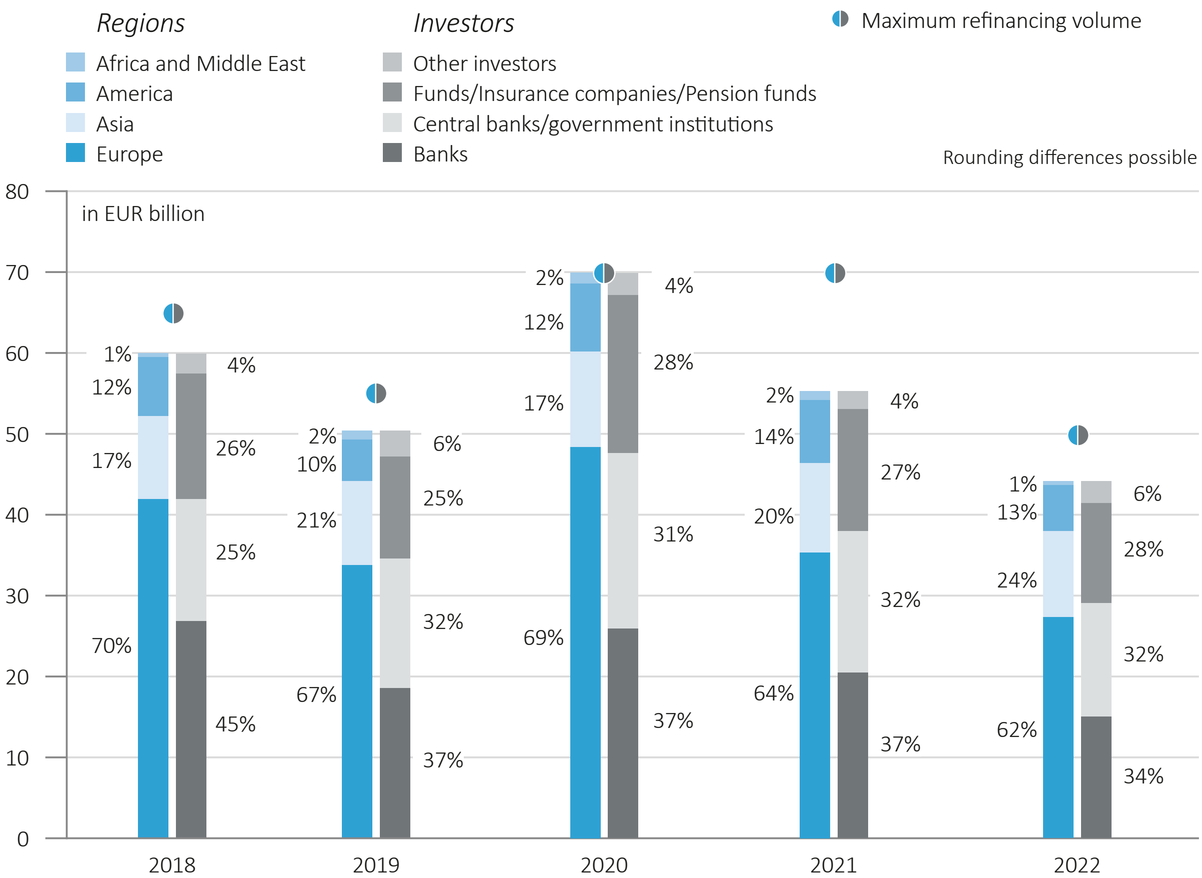
The different percentage growth in the share is due to the fact that Austria was not a member of the EU or the European Community (EC) in 1990 and therefore not an EIB shareholder. On the basis of 1995, the respective shares have the same percentage growth of approximately 325 per cent.

The EIB raised the funds for its project financing mainly by issuing bonds on the capital markets. Between 2018 and 2022, the EIB issued bonds ranging from EUR 44.3 billion (2022) to EUR 70 billion (2020) per year. The EIB's shareholders, the EU Member States, have significantly facilitated these refinancing operations on favourable terms. The fact that the shareholders are liable for the debts and the shareholders' willingness to support the EIB, for example by replacing the UK's subscribed capital, have been key factors for international rating agencies and investors to positively assess the EIB (AAA rating).

The following figures show the maximum refinancing volume of the EIB approved by the Board of Directors for the years 2018 to 2022 and set it in relation to the volume of bonds actually issued, broken down by geographical area and type of investor:

The geographical distribution shows that the majority of the bonds issued were subscribed by European investors. The distribution by type of investor shows that financial institutions subscribed to the largest share. However, the share of financial institutions decreased from 45 per cent in 2018 to 34 per cent in 2022, while the share of central banks and government bodies increased from 25 per cent to 32 per cent.

Refinancing of the EIB



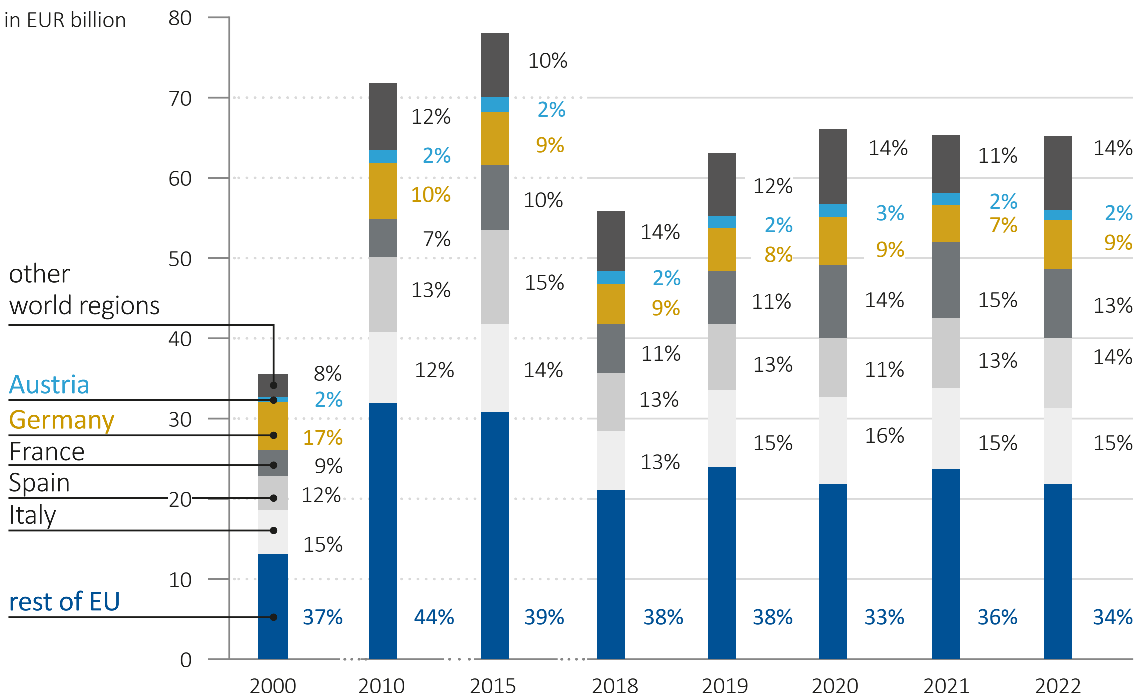
SECTION I:
CAPITAL, OPERATING ACTIVITIES AND RISK

Operating activities

OPERATING ACTIVITIES

The figure below shows the regional distribution of the EIB's project financing (mainly development loans) in the years from 2018 to 2022. To illustrate the long-term trend, also previous years are included:[10]

Regional distribution of the EIB's project financing



While the EIB financed projects worth EUR 35.5 billion in 2000, this figure doubled to EUR 71.9 billion by 2010 and reached EUR 78.1 billion in 2015. It was not until 2018 that annual project financing fell below EUR 70 billion, and in the years from 2018 to 2022, the financing oscillated between EUR 55.8 billion (in 2018) and EUR 66.1 billion (in 2020).

The percentage of projects financed in EU Member States was 92 per cent in 2000, 88 per cent in 2010 and 90 per cent in 2015. For the years from 2018 to 2022, it ranged between 86 per cent (in 2018 and in 2020) and 89 per cent (in 2021). The rest of the project financing was attributed to other regions of the world and ranged between 8 per cent (in 2000) and 14 per cent (in 2018, in 2020 and in 2022).

Germany, France, Italy and Spain, the EIB's four largest shareholders[11], accounted for approximately half of the total project financing. In 2000, 17 per cent of the total project financing volume was allocated to Germany, in the remaining years, it was less than 10 per cent. France's share fluctuated between 7 per cent and 15 per cent of total project financing. In Italy and Spain only, project financing reached an annual amount of more than EUR 10 billion: in Italy in 2015, 2020 and 2021 and in Spain in 2015. Austria's share of EIB's project financing was mostly between 2 per cent and 2.5 per cent in the years in question.

SECTION I:

CAPITAL, OPERATING ACTIVITIES AND RISK

Risk profile of the EIB

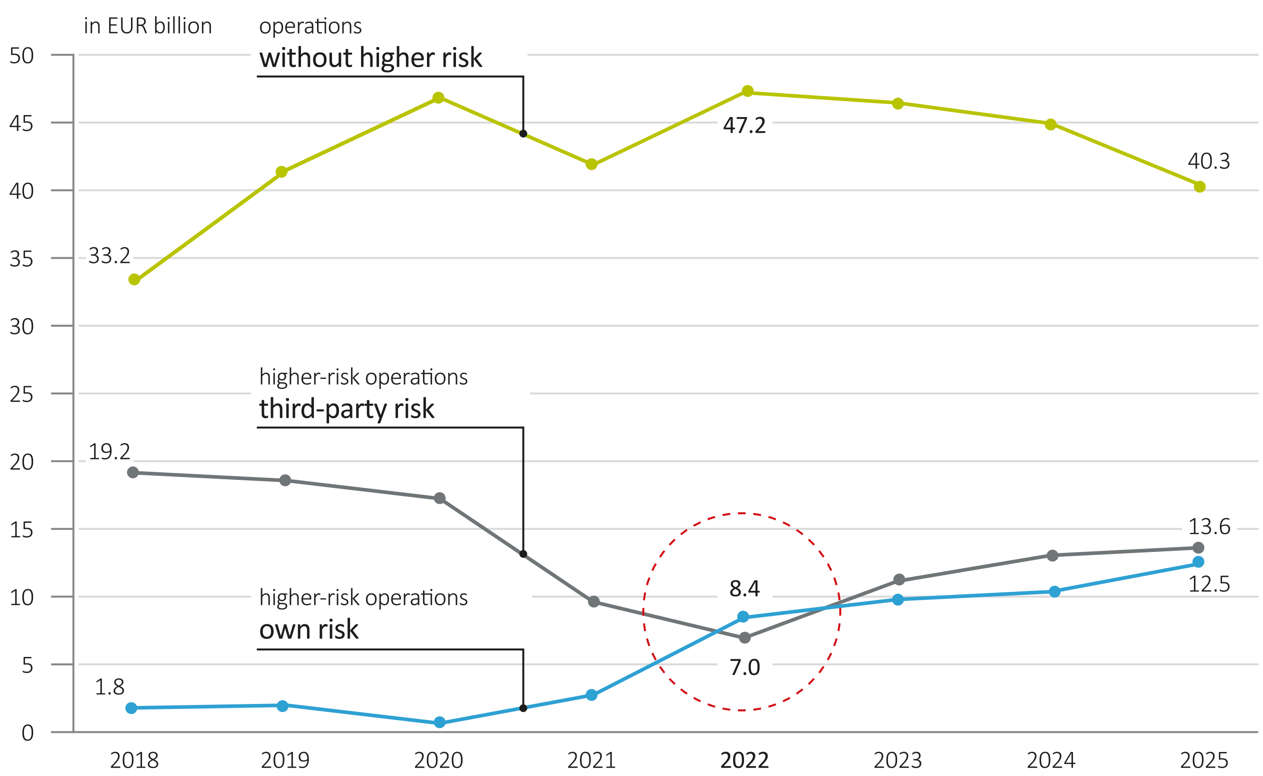
RISK PROFILE OF THE EIB

During the period under review, the EIB generally had a low-risk loan portfolio, with the proportion of loans at risk of default never exceeding 0.4 per cent. However, the EIB also deliberately entered into 'higher-risk operations' (project financing with an expected default rate of at least 2 per cent) in order to respond to changing market needs and to develop new financing structures and products.

The increase in higher-risk operations was largely not at the EIB's own risk, but was carried out mainly under various EU mandates, e.g. the European Fund for Strategic Investments (EFSI)[12]. As a result of the decline in EU mandates, in particular the investments under InvestEU[13], the operational plans from 2021 onwards included a gradual increase in higher-risk operations at the EIB's own risk.

The following figure shows how the EIB has steadily increased its own risk exposure in the project financing agreements it has signed:

Trend in the EIB's higher-risk operations



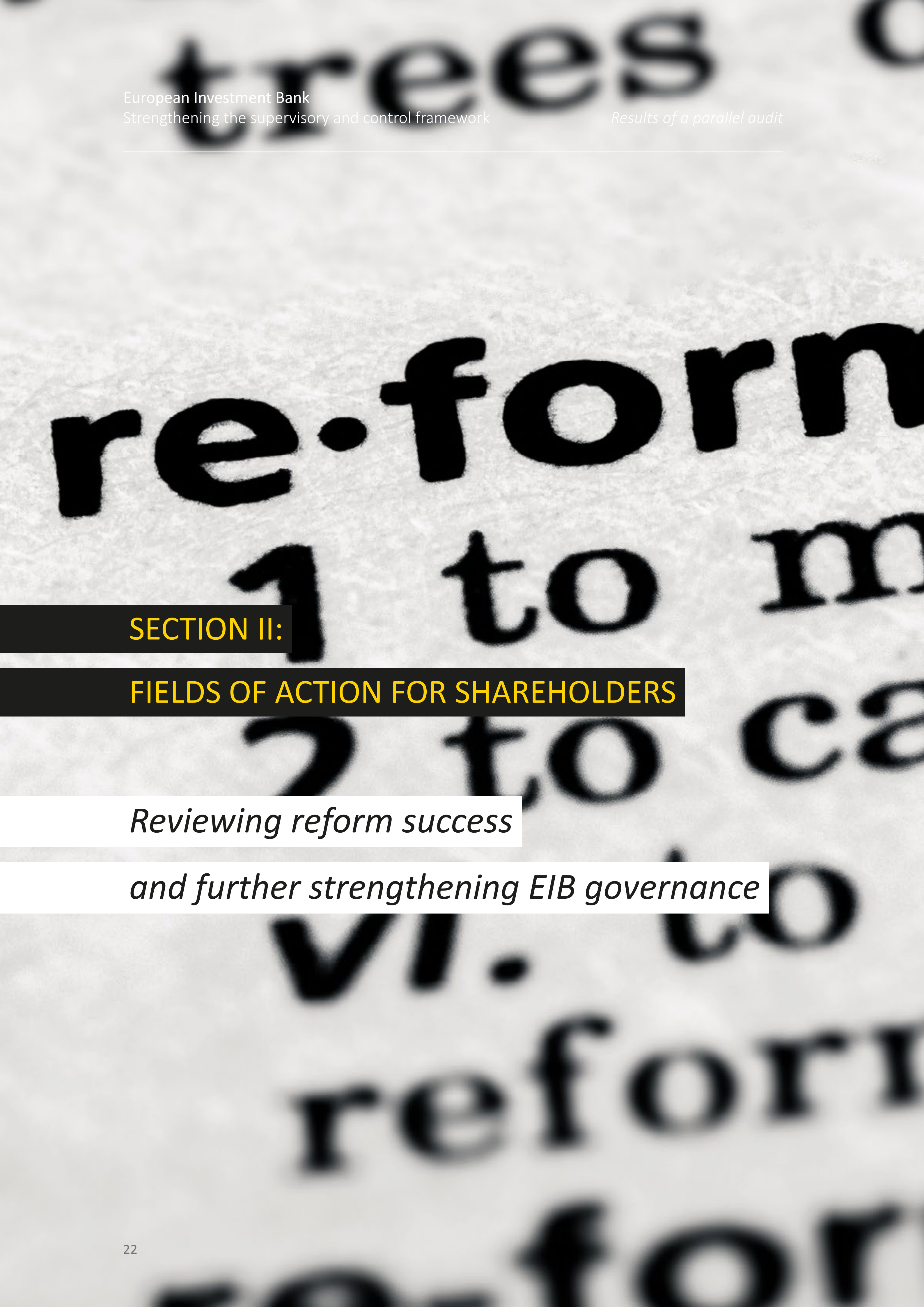
While the volume of higher-risk operations at the EIB's own risk was still EUR 1.8 billion in 2018, it was more than four times higher in 2022 (EUR 8.4 billion). In the same period, the volume of higher-risk operations secured by guarantees of third parties dropped from EUR 19.2 billion to EUR 7 billion. In 2022, the share of higher-risk operations at the EIB's own risk was 55 per cent, thus exceeding higher-risk operations secured by guarantees for the first time. The EIB's operational plan for the years from 2023 to 2025 envisaged a further expansion of higher-risk operations – at the EIB's own risk and at the risk of third parties.

This trend shows that the EIB significantly increased its own risk exposure associated with project financing during the period under review and planned to further increase its risk exposure – at least until 2025. This also means that the risk exposure of its shareholders (e.g. the Federal Republic of Germany and the Republic of Austria) has increased, as they are liable for the EIB's liabilities in proportion to their subscribed capital.

In summary, it may be concluded that the EIB has changed considerably since its establishment in 1958. This trend has also changed the nature of the EU Member States' shareholding in the EIB. Today, the Member States provide the EIB with an amount of liable capital which is several times higher than before.

The EIB is increasingly financing higher-risk investments and is expanding its funding focus, also outside the EU. The importance of the EIB as a bank, development institution and manager of public funds has thus increased considerably.

The EIB and its shareholders must keep pace with this change. This applies above all to the executive branches of the Member States. However, given the fact that the shareholdings in the EIB are relevant to the budgets of the EU Member States and in the view of EIB's role as a public development bank, the budget legislators, the external audit bodies and the European Banking Authority are also called on to act.



SECTION II:

FIELDS OF ACTION FOR SHAREHOLDERS

Reviewing reform success

and further strengthening EIB governance

REVIEWING REFORM SUCCESS AND FURTHER STRENGTHENING EIB GOVERNANCE

With Brexit, the United Kingdom left the EU in 2020 and consequently also ceased to be a shareholder of the EIB. For the EIB, this meant the loss of the British capital share. The remaining shareholders then decided to compensate for the loss of the British capital share by increasing their own EIB shares.

This was to enable the EIB to continue its operational activities. At the same time, they decided to fundamentally reform the EIB governance. Changes to decision-making procedures and professional risk management in line with international standards were supposed to strengthen the EIB and protect its shareholders from capital calls.

Core elements of the reform were mainly aimed at

- stipulating a qualified majority voting in the Board of Governors and the Board of Directors for certain matters (e.g. for appointing members to the Management Committee);
- further aligning the EIB with best banking practice and implementing an internal supervisory and evaluation process; and
- further professionalizing the Audit Committee and including, for example, banking supervision experts.

The individual reform components were implemented through numerous, sometimes complex individual measures. As a result, the implementation of the reform took several years. The reform measures and their overall impact have not yet been evaluated externally.

The shareholders should therefore review the success of the reform and, if necessary, continue to work towards ensuring that the EIB actually achieves the objectives pursued by the reform. In particular, they should – in the Board of Governors and the Board of Directors – request a final documentation from the EIB on implementing the governance reform. This documentation should contain an overall assessment of the actual success of the reform by external experts and, based on this, recommendations for any necessary follow-up measures.

SECTION II:
FIELDS OF ACTION FOR SHAREHOLDERS

Strengthening the independence of the Audit Committee

STRENGTHENING THE INDEPENDENCE OF THE AUDIT COMMITTEE

The EIB has an internal control body, the EIB Audit Committee. The powers and responsibilities of the Audit Committee are set out in the Rules of Procedure and in the EIB's Statute. However, the Statute does not contain any provisions governing the independence of the Audit Committee. The members of the Audit Committee are appointed by the Board of Governors. They directly report to the Board of Governors. The Board of Governors may dismiss members of the Audit Committee by a qualified majority.

The shareholders should therefore ensure that regulations governing the independence of the Audit Committee are included in the Statute with the aim of strengthening the independence of the Audit Committee and its members.

The tasks of the EIB's Audit Committee include

- auditing whether operations of the EIB have been conducted and its accounts have been kept in a proper manner (in particular reviewing risk management and the internal control environment); and

- examining as to whether the operations of the EIB are in line with best banking practice.

According to its reports, the Audit Committee has not yet verified the use of EIB funds for their specified purpose at the level of individual project financing. Project financing, which is implemented, for example, through development loans, sometimes amounts to several hundred million euros.[14]

The shareholders should ensure that the EIB's Audit Committee also regularly and consistently reviews whether funds have been used in accordance with their specified purpose at the level of individual project financing.

SECTION II:

FIELDS OF ACTION FOR SHAREHOLDERS

Ensuring that EIB development loans are granted pursuant to the Statute

ENSURING THAT EIB DEVELOPMENT LOANS ARE GRANTED PURSUANT TO THE STATUTE

Pursuant to its Statute, the EIB should use its financial resources to enable investments that would not be made without a development loan. The projects supported by the EIB should also contribute to an increase in economic productivity and to the development of the EU single market. In view of the EIB's limited resources, it is important to support only investments that are in line with these criteria. This is the only way to ensure that the funds made available by the EU Member States are used in the best possible way to achieve the EIB's objectives. In the EIB's Board of Directors, the EU Member States decide on granting development loans.

In early 2022, the EU Member States approved a loan of EUR 120 million to the EU for constructing a new conference centre for the European Commission. This loan is to be noted with concern for two reasons:

- Financing this project through the EIB will not result in any additional positive effects for the economic productivity or the EU single market. This is because the European Commission would realize the construction of its new conference centre even without a loan from the EIB. The loan absorbs the limited resources of the EIB for an investment that is not additional. It therefore does not meet the mandatory criteria for granting a loan set out in the Statute.

- In addition, the loan-financed construction of a new administrative building for an EU institution is incompatible with the relevant budgetary provisions.

Nevertheless, the EIB's Board of Directors, which is made up of members delegated by the EU Member States, has approved the funding application.

In order to prevent this type of financing, a strict standard should be applied in the future when deciding on funding applications in the EIB's Board of Directors. In principle, projects of the EU institutions should not be financed through the EIB, but from the EU budget, or alternatively through a credit institution. The mere fact that the EU can finance itself more favourably via the EIB than via the market, for example, is no reason to use the EIB's limited resources for such projects.

SECTION II:
FIELDS OF ACTION FOR SHAREHOLDERS

Ensuring independent, external banking supervision

ENSURING INDEPENDENT, EXTERNAL BANKING SUPERVISION

In the EU, banks are subject to special requirements with regard to their operational activities and risk management. The applicable rules are intended to prevent financial market crises. This is because such crises regularly lead to considerable economic and social costs. An independent, external banking supervisory authority monitors compliance with the rules and enforces them, where necessary. It has extensive supervisory powers for this purpose. A core element of banking supervision is the supervisory review and evaluation process. As part of this process, the banking supervisory authority reviews in particular a bank's operational model, organizational structure as well as capital and liquidity risks. If the authority identifies shortcomings, it demands binding corrective measures. The Single Supervisory Mechanism (SSM), under which the European Central Bank assumes direct supervisory powers for 'significant' banks, has been in force since 2014. 'Less significant' banks are overseen by the relevant national authorities.

At EUR 544.6 billion (at the end of 2022), the EIB's total assets are significantly higher than the total assets of many supervised banks in the EU. Nevertheless, unlike the EU-based banks, the EIB is not subject to comprehensive, independent, external banking supervision – neither by the European Central Bank nor by the relevant national authorities, e.g. the Federal Financial Supervisory Authority in Germany or the Financial Market Authority in Austria. Instead, the EIB oversees itself. To this end, it has set up a process based on the supervisory review and evaluation process, which is implemented by an internal unit. However, this process cannot replace independent external supervision.

The EIB's internal review and evaluation process lacks in particular

- independence, as the supervisory staff – including the management – is economically dependent on the EIB;
- sufficient autonomy, as the EIB decides which information – and therefore which powers – are given to the supervisory staff;
- consistency, as the liquidity and refinancing risks of the EIB are not examined in this process but separately; and
- enforcement, as the internal supervision may not adopt any binding measures but has only the right to make recommendations.

The EIB's 'self-supervision' is not adequate given the scope and risks of its operational activities and cannot replace independent external banking supervision.

The EIB should therefore be subjected to appropriate banking supervision without delay. In the view of the two Supreme Audit Institutions, many factors suggest that this should be done within the framework of the SSM or directly by the European Central Bank; for example, by the EIB shareholders agreeing on voluntary supervision by the European Central Bank and reaching an agreement with it in this regard. This would ensure independent, efficient and professional supervision. It would also avoid a duplication of structures at the EIB and deviations from the principle of harmonized banking supervision.

SECTION II:

FIELDS OF ACTION FOR SHAREHOLDERS

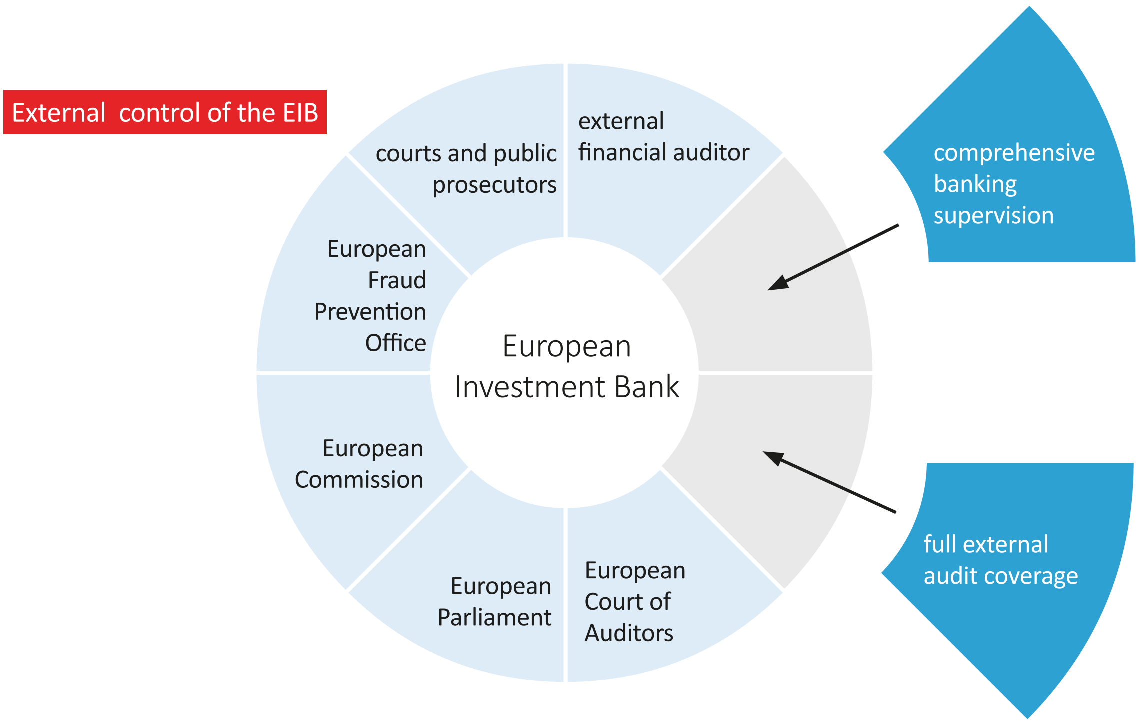
Ensuring full external audit coverage

ENSURING FULL EXTERNAL AUDIT COVERAGE

The EIB is embedded in a network of internal and external control bodies. Due to its position as an intergovernmental development bank, auditing and control tasks are performed by various actors. These include, for example, EU bodies and their offices as well as courts and public prosecutors. In addition, the EIB is audited by an external financial auditor, which has been the same audit firm since the audit of the 2009 financial statements. This audit mandate is scheduled to end with the audit of the 2026 financial statements in 2027 – and thus after 18 years. The EIB could strengthen its control framework by selecting a new audit firm more regularly.

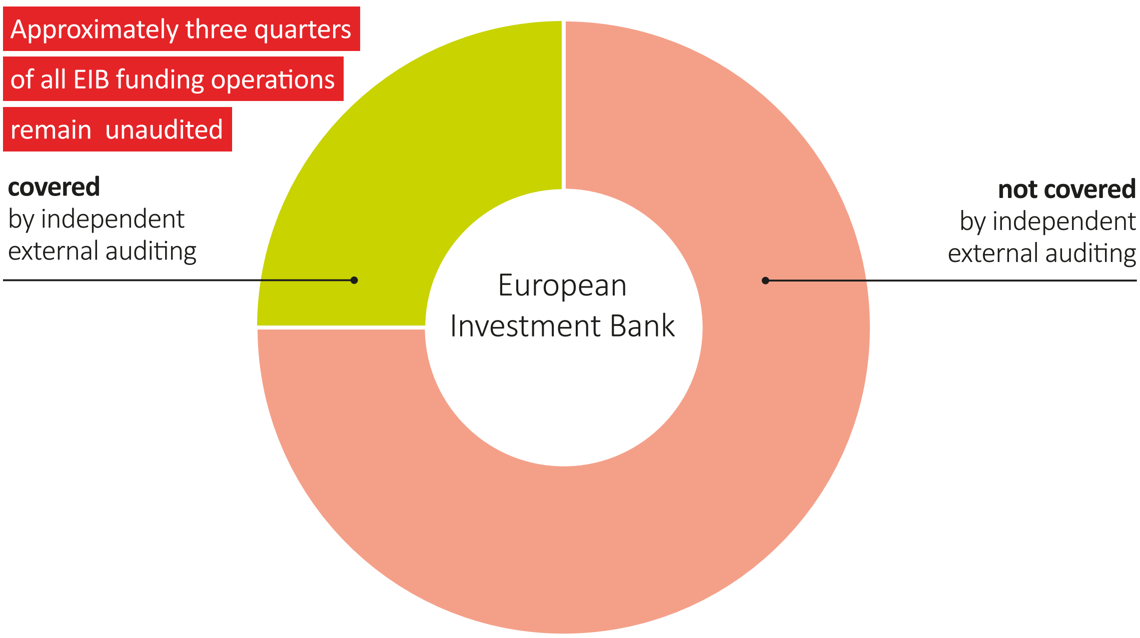
The current control and audit rights of the aforementioned actors are limited to individual matters and partial aspects of the EIB activities – such as accounting, project financing or criminal offences.

However, the EIB has not yet been subject to a structured and comprehensive control by one independent external audit institution. At present, only a small part of the funding activities is audited by the European Court of Auditors (ECA), namely project funding that is financed or secured via the EU budget. The EIB's own operations (operations at its own risk) are neither audited by the ECA nor by national Supreme Audit Institutions. This means that, in addition to external banking supervision, the EIB lacks a second key element of external control.



The ECA's audit mandate does not cover the EIB's own operations. However, the own operations represent the EIB's main field of activity, accounting for approximately three quarters of all funding operations. Both Supreme Audit Institutions note that this part is not reviewed by an independent external audit institution – pursuant to the criteria of regularity and compliance, effectiveness and efficiency.

The lack of control is all the more serious given the fact that the EU Member States bear the liability risk and have provided the EIB with EUR 248.8 billion in subscribed capital.



Currently, the audit functions are performed by an Audit Committee that was set up by the EIB. However, this control body cannot replace independent external audit and therefore cannot close the existing audit gap. Thus, transparency and accountability vis-à-vis parliament and the public on using public funds are currently not guaranteed at the EIB.

The shareholders should advocate that the legal requirements are put in place to close this audit gap at the EIB without delay. All EIB funding activities should be subjected to independent and unrestricted external audit. With their subscribed capital, the EU Member States bear the brunt of the risk associated with the EIB's activities. It therefore makes sense to involve the Member States' Supreme Audit Institutions in the audit of the EIB, as a complement to the ECA's mandate.

SECTION II:

FIELDS OF ACTION FOR SHAREHOLDERS

Informing parliaments about EIB issues

INFORMING PARLIAMENTS ABOUT EIB ISSUES

The duties of the government and the relevant ministries to provide information to the parliament – the Bundestag in Germany and the National Council in Austria – are designed differently in Germany and in Austria. However, in both countries, both Supreme Audit Institutions identified a need for improving the disclosure of EIB-relevant information to the parliaments.

ENSURING INVOLVEMENT OF THE GERMAN BUNDESTAG IN EU AFFAIRS

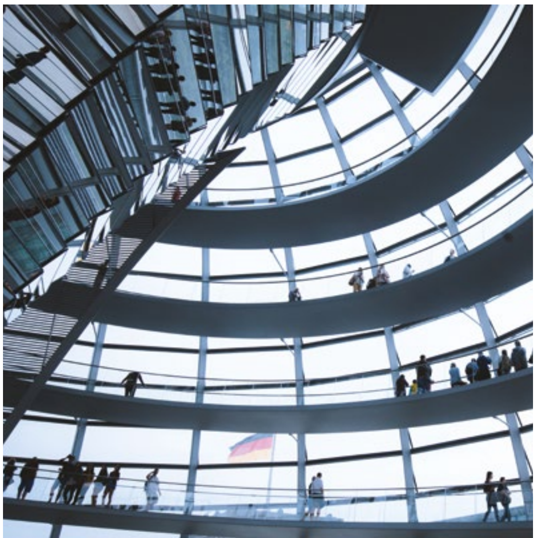
The Federal Government in Germany is constitutionally obliged to inform the German Bundestag comprehensively and as early as possible on EU matters. This is to put the Bundestag in a position to effectively shape the Government's decision-making process.

The Government's reporting practice has not always been appropriate. This was for example evident in the way the German Bundestag was informed about the capital increase in the wake of Brexit:

With its withdrawal from the EU, the United Kingdom also ceased to be a shareholder in the EIB. The remaining EU Member States were to take over the British share of the EIB's subscribed capital. In mid-2018, the Government decided to support the planned capital increase. For Germany, this meant an increase in its share in the EIB of EUR 7.5 billion. However, the Government failed to inform the Bundestag of its decision in a timely manner and did not comply with the required procedure. The Bundestag only became aware of the project after the Government had already approved the capital increase in the EIB's Board of Directors.

In this case, the Federal Government did not adequately meet its statutory duties to provide information. This impaired the Bundestag's ability to comprehensively deal with the potential impact on the federal budget at an early stage and to shape the Government's decision-making on this basis. This is particularly serious as Germany has assumed additional liability risks with the capital increase.

In future, the Federal Government must meet its statutory duties to provide information. It must be ensured that the German Bundestag can comment on an EU project before the Federal Government takes a position in negotiations with third parties.



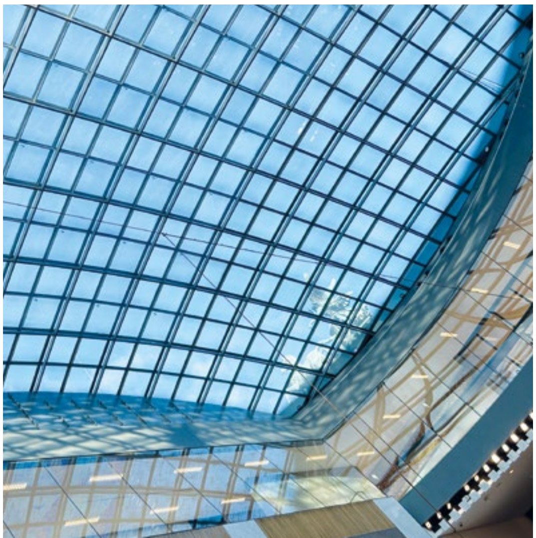
BROADENING THE SCOPE OF REPORTING TO THE NATIONAL COUNCIL IN AUSTRIA

The Federal Minister of Finance is required by constitutional and ordinary law to inform the National Council of any EIB projects that cannot be decided exclusively by the EIB. This was the case, for example, with the amendment of the EIB's Statute by the Council of the EU, which required a special legislative procedure (pursuant to Article 308 TFEU).

In the period under review (2018-2022), the Minister of Finance informed the National Council about EIB-related projects as required – such as the increase in Austria's contribution to the liable capital and the necessary amendment to the EIB's Statute, the extraordinary capital increase by Poland and Romania and the establishment of the European Guarantee Fund.

In contrast to the reporting on other international financial institutions, parliament has not been regularly informed on EIB issues. However, reporting on the EIB was not legally required, even though the EIB was the second largest capital investment of the Republic of Austria in the area of international financing institutions – after the European Stability Mechanism with an Austrian share of EUR 19.4 billion.

In view of the EIB's high funding volume, the capital shares of the EU Member States, the liability for the EIB's liabilities and the resulting risks for the Republic of Austria, it would appear appropriate for the Federal Ministry of Finance to report regularly to the National Council on the main developments at the EIB – including the capital share and the value of the shareholding of the Republic of Austria, the operational activities of the EIB and the associated risks for the Republic of Austria – even without a mandatory statutory provision.



CONCLUSIONS

The EIB has changed enormously since its establishment. It has expanded its funding focus – also outside of the EU – and has become considerably more important, particularly in recent decades. This is also reflected in the sharp increase in liable capital during this period. Naturally, this trend also leads to higher liability risks for shareholders, which need to be addressed with professional structures, adequate risk management and appropriate supervision. Essentially, this means that the supervisory and control structures in and over the EIB must keep pace with this development and also grow with it. This has not been fully achieved.

The EIB has undergone various reforms in recent years, which can be seen as steps in the right direction. However, it has not yet reached its goal. Despite these reforms, there are still considerable gaps in the external supervisory and control framework. For example, the EIB is not subject to any independent external banking supervision. In order to counteract this shortcoming, the internal review and evaluation process was set up. However, this falls far short of the EU banking standard. In addition, the EIB's own operations are not subject to any independent external audit. The two facts are unacceptable in the long term.

The gaps in the supervisory and control framework are also particularly critical because the EIB is a public development bank. In the case of commercial banks, investors decide voluntarily whether or not to invest and to provide equity capital. In the case of the EIB, the EU Member States have decided on behalf of their citizens that they provide the EIB with public funds as liable capital. This entails a special responsibility on the part of the EU Member States for the EIB, which must also be reflected in the supervisory and control framework.

The executive branch of the EU Member States is directly represented in the most important bodies of the EIB. The EU Member States can therefore shape the supervisory and control structures of the EIB and decide on the operational guidelines. As a result, they can also manage the risks to which the EIB is exposed. Against this backdrop, the German Federal Court of Auditors and the Austrian Court of Audit have issued recommendations for action to their respective governments. These recommendations aim at closing the existing gaps.

RECOMMENDATIONS

The Member States, as shareholders of the EIB, should work to ensure that

*the **governance reform** is subject to a performance review by external experts in a timely manner, and that unachieved targets are followed up and open recommendations of the EIB's Audit Committee are promptly and fully implemented;*

***the independence of the EIB's Audit Committee** and its members is strengthened, also by including corresponding provisions in the EIB's Statute;*

*the EIB's Audit Committee also regularly and consistently reviews whether the **EIB's funds have been used for their specified purpose** at the level of individual project financing;*

***strict criteria** are applied when **approving funding applications** in the EIB's Board of Directors, and that projects of the EU institutions are generally not financed by the EIB;*

*the EIB is immediately subjected to an **independent external banking supervision** that basically meets the requirements of the EU banking standard;*

*the EIB is immediately subjected to a **consistent and independent external audit**, which involves the Member States' Supreme Audit Institutions and covers all EIB funding activities;*

*the governments regularly inform their respective **national parliaments** about major developments in the EIB – in particular about the risks to national budgets.*

Rechnungshof
Österreich

Dr. Margit Kraker
President of the
Austrian Court of Audit
Vienna, June 2024

Bundes
rechnungshof

Kay Scheller
President of the
German Federal Court of Auditors
Bonn, June 2024

ENDNOTES

1 The subscribed capital is the capital with which the Member States are liable to the EIB's creditors. At the EIB, it is made up of a paid-in and a callable portion. The paid-in share amounts to just under 9%.

2 See Article 309 of the Treaty on the Functioning of the European Union (TFEU).

3 See Article 16(1) of the EIB Statute.

4 The EGF was set up by 22 EIB members in 2020 to support companies in the EU in dealing with the consequences of the COVID-19 pandemic. It is endowed with EUR 24.4 billion.

5 The EIB is a non-profit organization. It transfers any profits to its reserves.

6 The shares shown here are average values for new business in the planning period from 2020 to 2025. The EIB Group Operational Plan 2023–2025 shows actual figures for the years 2020 to 2022 and target figures for the years 2023 to 2025. Financing with guarantees from the EU budget only forms part of the EU mandate activities.

7 A qualified majority requires 18 votes and 68% of the subscribed capital.

8 See Article 12(1) and (4) of the EIB Statute; Article 27(2) of the EIB Rules of Procedure.

9 After a transition period of several years, the United Kingdom left the EU at the end of the 31 January 2020. On 1 February 2020, the United Kingdom's share of the EIB's subscribed capital was replaced by a pro rata increase in the shares of all other shareholders. The actual paid-in capital of the United Kingdom was replaced by a reallocation of the EIB's reserves.

10 'Rest of EU' also includes the figures for the United Kingdom, which left the EU on 31 January 2020. In 2000, the United Kingdom accounted for 9% of the EIB's global project financing, in 2010 it was 7%, in 2015 10%, in 2018 2% and in 2019 1%. As of 2020, there was no EIB project financing in the United Kingdom.

11 The share of subscribed capital as at 31 December 2022 was 18.78% (EUR 46.7 billion each) for Germany, France and Italy and 11.27% (EUR 28.0 billion) for Spain.

12 The fund was intended to help use public funds – particularly from the EU budget – to mobilize private investment for projects in the EU. The projects were implemented in the areas of infrastructure, research and innovation, education and health, among others. The fund was a permanent entity managed by the EIB as a separate account. It was established in July 2015.

13 The InvestEU Programme is the successor program to the Investment Plan for Europe ('Juncker Plan') and combines the European Fund for Strategic Investments (EFSI) and 13 other EU financing instruments that have been in place since the 2014–2020 budget.

14 For example, in 2022 in Austria around EUR 250 million for AT & S AUSTRIA TECHNOLOGIE & SYSTEMTECHNIK AG, in Germany around EUR 700 million for BASF SE, in France around EUR 800 million for SOCIÉTÉ DU CANAL SEINE-NORD and in Poland around EUR 600 million for PKP POLSKIE LINIE KOLEJOWE SA.

LIST OF ABBREVIATIONS

ECA	European Court of Auditors
e.g.	for example
EGF	European Guarantee Fund
EIB	European Investment Bank
EU	European Union
EUR	Euro
p.	page
SSM	Single Supervisory Mechanism
TFEU	Treaty on the Functioning of the European Union

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