

**Statutory Auditing: Accomplice or Contributor to Combating
Financial Corruption?
An Applied Study in a Group of Economic Institutions -"**

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Abstract:

This research paper aims to understand and analyze the role of the statutory auditor in reducing financial corruption in Algerian economic institutions and to demonstrate the most important obstacles that limit his effectiveness in combating this corruption or the facts that make him complicit in it. In order to complete this study, we relied on the descriptive analytical approach in the theoretical aspect. Then an applied study in four institutions at the region of Tlemcen.

Our study led to several results, the most important of which is that mandatory audit remains one of the most important mechanisms for monitoring institutions in the Algerian business environment in order to strengthen transparency and accountability, despite the presence of many obstacles that limit its role, and sometimes even its contribution, in reducing financial corruption

Keywords: statutory auditor, financial corruption, Mandatory auditing

Jel Classification Codes: D73, M42

Introduction :

Financial corruption is one of the most prominent challenges facing institutions and countries in the modern era. As this phenomenon poses a major threat to sustainable development and the stability of societies by destroying the economic and financial system and thus deteriorating confidence in institutions. Among the crimes that recently affected several companies at the national territory in general and in Tlemcen in particular, it sparked controversy on various economic, social, political and media, due to the huge amount of money lost and the involvement of a number of state employees. Based on this, studying the role of mandatory audit in reducing

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financial corruption in institutions is vital and very important for understanding and analyzing this phenomenon, as well as providing appropriate solutions. We consider that this kind of auditing is one of the most effective methods adopted to combat corruption in worldwide. From this perspective, this paper will attempt to discuss the following question:

Is mandatory auditing a contributor to reducing financial corruption or complicit in corruption?

To answer to this problematic, we will try to defined in the first step the concept of financial corruption and its forms, the factors and causes that contribute to the occurrence of financial corruption in institutions, and in the second step, the concept of mandatory auditing and its legal framework, as well as its role in detecting and preventing financial corruption. The following hypotheses have been formulated to present possible insights and solutions, as follows:

- Statutory auditor contributes to uncovering financial corruption;
- The mandatory audit profession faces a number of challenges that limit its effectiveness in detecting financial corruption;

In this context, the importance of the research lies in the fact that mandatory auditing is considered an effective and indispensable mechanism in reducing financial corruption at the level of Algerian economic institutions, as it works to evaluate and examine the credibility and fairness of the information contained in the financial statements and detect any possible corruption, falsification, or manipulation.

In order to achieve this purpose, this study seeks to highlight the importance of mandatory auditing in reducing financial corruption, in addition to shedding light on the obstacles and challenges facing auditors in performing their role effectively in combating financial corruption within Algerian economic institutions.

- **Methodology Adopted:**

To address the main research question and test the validity of hypotheses, we relied on the descriptive-analytical approach to describe and analyze the function of mandatory auditing and financial corruption. Subsequently, we employed a case study methodology by conducting a field study on four institutions in the Tlemcen region.

1. Financial corruption: its manifestations, causes and repercussions

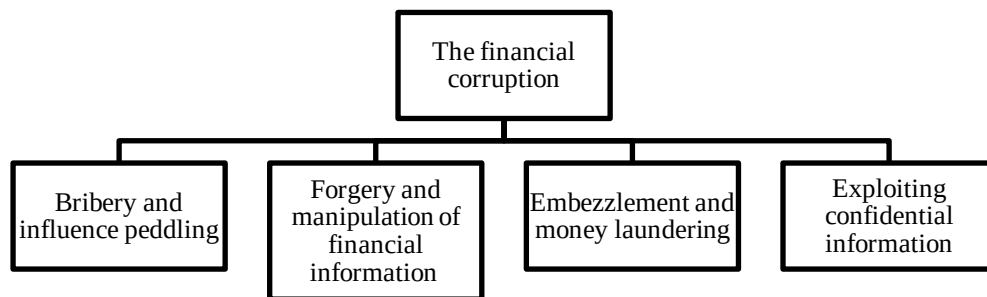
Transparency International defines financial corruption as the illegal or unethical exploitation of public authority or job position to achieve illicit financial gain. This includes suspicious acts such as bribery, embezzlement, money laundering, money smuggling, influence trading, and the illegal exchange of non-public information¹. This definition agree with the World Bank's definition that corruption is the illegal exploitation of financial resources in order to achieve illegal personal gains, and this

¹ *transparency International*. (2021, JANVIER 31). Retrieved from "What is Corruption: https://www.transparency.org/en/gcb?gclid=Cj0KCQiAn-2tBhDVARIsAGmStVl4dmGNTQxbzB567oAbBzfNKuGNQS6qha5lcFhpg2xxobfi9rMF_caAqmNEALw_wcB&gad_source=1

is by bypassing financial laws, manipulating the financial markets and other practices that negatively affect institutions and the economy. The United Nations defines it as the exploitation of an official job or position to achieve illegal or illicit benefits for the individual himself or for others¹. In the same context, the Organization for Economic Co-operation and Development (OECD) believes that financial corruption is the exploitation of power or public office for illegal purposes, such as rigging tenders, discrimination in granting government benefits and licenses, and other dishonest acts.²

Based on the previous definitions, various manifestations of financial corruption can be extracted, encompassing a wide range of illegal behaviors and unethical activities. Some of these were mentioned in the following diagram:

Figure 1: Manifestations of financial corruption



Source: Prepared by researchers

1.1. **Causes of financial corruption:** There are several reasons that can be multiple and intertwined with each other, including:

- **Weak legal and administrative systems:** Lack of stringency and lack of clarity in legislation, in addition to a lack of oversight and effectiveness of oversight bodies that contribute to the spread of corruption.³

¹ CONVENTION., U. N. (2004). *UNITED NATIONS OFFICE ON DRUGS AND CRIME*. .New York,: UNCAC.

² Organisation for Economic Co-operation and Development (OECD). (2013). *Recommendation* . paris: ECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence.

³ Palifka, S. R.-A. (2016). *Corruption and Government*. British: Cambridge University Press: 2nd edition.

- **Collusion and corrupt culture:** Influence peddling and offering bribes to officials, employees, or judges to obtain favorable treatments or bypass laws promotes corruption.¹
- **Lack of transparency and governance:** The lack of integrity in the management of financial and governmental affairs, and the lack of effective oversight and accountability mechanisms²
- **Lack of ethical culture:** Lack of sufficient awareness of financial ethics prompts people to take advantage of questionable opportunities³
- **Poverty and inequality:** Significant differences in income and wealth and lack of economic opportunities can lead individuals to seek financial gain through illegitimate means⁴

1.2. Repercussions of financial corruption:

Financial corruption significantly undermines institutional quality in countries, leading to the following repercussions:⁵

- Impeding the growth of the private sector through unfair competition practices and the detrimental impact of corrupt commercial dealings.
- Economic deterioration due to hindered domestic and foreign investments, resulting in increased unemployment rates, exacerbated poverty, societal disparities, and marginalization.
- Erosion of trust in institutions, reducing their ability to achieve primary objectives and serve the community, subsequently diminishing innovation and investment prospects."
- Misallocation of public resources designated for development and provision of essential services like education and healthcare, negatively impacting growth opportunities.

2. The role of mandatory auditing (statutory auditor) in reducing financial corruption:

According to Law 10-01 regarding the profession certified public accountants, statutory auditors and chartered accountants, statutory auditor is defined as a person or a professional who routinely, under their own name and responsibility, verifies the accuracy of accounts for companies and entities, ensuring their compliance with applicable legislation.⁶

¹ Mauro, P. (August 1995). Corruption and Growth. *The Quarterly Journal of Economics*, 681–712,.

² Vicente, D. K. (2011). *LEGAL CORRUPTION*. ECONPAPERS, 195-219

³ Heidenheimer, A. J. (2002). *Political Corruption*. British: Routledge 3rd Edition.

⁴ Hanna, A. B. (2017). CORRUPTION. *Journal of Economic Literature*, 1329-1371.

⁵ Mastruzzi, D. K. (September, 2010). The Worldwide Governance Indicators. *Policy Research Working.*

⁶ Law 01_10. (June 29, 2010). Relating to the profession of accounting expert, certified accountant and auditor. Article 08. Algeria: Official Gazette.

2.1. Readings on the legislative framework for statutory auditing and its relationship to financial corruption in Algeria:

The profession of a statutory auditor entails obligations to ensure an acceptable level of necessary professional care while performing duties and to comply with legal requirements and contractual terms with clients. Additionally, specific procedures must be followed upon discovering financial irregularities, fraud, or forgery.

When a statutory auditor believes that the facts discovered may constitute violations or breaches, whether criminal offenses like breaches, theft, or misappropriation, it's their duty to report to the public prosecutor without detailing these incidents. Determining whether these matters constitute a criminal offense falls within the jurisdiction of public authorities, regardless of the individual or entity involved."

The Algerian legislator has specified the connection between the profession of a statutory auditor and various types of financial corruption, manifested in:

- **Statutory auditor and preventing financial fraud and deception:**

Under Law 06-01 dated February 20, 2006, aimed at preventing and combating financial corruption, which includes recording financial transactions outside the accounting records, documenting fictitious expenses, utilizing forged or inaccurate accounting documents, and failing to maintain archives within legal deadlines, the role of mandatory auditor in combating financial corruption becomes apparent. This role involves uncovering these illegal activities during the performance of their legally mandated tasks and reporting them to the relevant public authorities. The objective is to take necessary measures to deter violations that negatively impact various interests such as clients, suppliers, banks, taxes, civil society, stakeholders, and the public treasury, thereby serving the Algerian economy as a whole

- **Statutory auditor and combating illegal money transfers:**

As per Directive 61 dated January 21, 2009, individuals subject to foreign taxes are required to include a report from mandatory auditor to justify transferring profits abroad. Therefore, the authorization for such transfers relies on the statutory auditor validation of the information provided to substantiate the money transfer abroad.

- **statutory auditor and Anti-Money Laundering and Combating the Financing of Terrorism:**

According to Article 19 of Law 05-01 dated February 6, 2005, related to preventing and combating money laundering and terrorist financing, as amended in 2012, statutory auditors are subject to the provisions of this law. The article stipulates that any transactions suspected to originate from a crime, forgery, narcotics-related activities, or sources associated with funding terrorism must be reported by the statutory auditor to the competent authorities upon suspicion.

2.2. Statutory audit steps in order to discover financial abuses and violations

Article 715 bis 13 of the Commercial Law and Article 65 of Law 10-01 stipulate the obligation of the accountant to report to the Public Prosecutor any infractions or instances of fraud discovered during the accounting auditing tasks to absolve their liability. This reporting is among the responsibilities entrusted to **the statutory auditor**, in addition to what is outlined in Article 714 (bis 4), which emphasizes their verification of the institution's account accuracy and ensuring the documentation and safeguarding of investors' interests. Consequently, the mandatory auditor's procedures upon discovering violations during their duties include:

- **In case of doubt:**

The statutory auditor works on oral or written bases to ensure that appropriate work procedures are complied with. Reporting concerns factual situations that are considered reliable evidence admissible in a trial. It is not the mandatory auditor's duty to actively seek out infractions, but if they receive a tip or discover infractions during their duties, they bear the responsibility to assess whether to take them into account. This might prompt additional audit procedures within the scope of their role. Consequently, it outlines the stages and measures to be taken.

- **Intent element:**

the statutory auditor must take into consideration the mental element, whether there is an intentional act or not, and be convinced that the violation occurred intentionally or unintentionally. Assessing fraudulent intent is challenging whether the irregularities are the result of inaccuracies or non-compliance with laws or are reportable irregularities. For example, some questions should be asked: Are these breaches recurring? What is the extent of the damage caused? Was there a settlement without affecting the institution's reputation? Who initiated it? Accounting auditors may seek judicial authorities to gain further guidance on necessary actions to be taken.

- **The appropriate time to report:**

There is a specific timeframe that varies depending on the circumstances. For instance, complex and difficult situations might take longer than straightforward and obvious. It's crucial to consider that delayed reporting could raise doubts about the statutory auditor's ability to fulfill their duties.

- **In the event that the relevant authorities do not take the necessary measures reported by him:**

If the statutory auditor reports discovered violations and instances of fraud but no follow-up actions are taken by the relevant authorities, after consulting a lawyer, they have the right to resign from their position.

- **In the event that it informs the boards of the entity being audited of detected violation:**

In fact, paragraph 3 of Article 61 in Law 10-01 doesn't exempt the accounting auditor from the obligation to report to the Public Prosecutor. This article mandates the statutory auditor to inform the Public Prosecutor of all discovered violations, in addition to notifying the Board of Directors about these breaches. If these violations aren't addressed, the statutory auditor must inform the General Assembly at its nearest meeting. Therefore, this provision makes it clear that informing the Board of Directors does not exempt the statutory auditor from reporting to the Public Prosecutor.

3. Limitations or restrictions (failure) of statutory auditing in detecting financial corruption:

Through reviewing the laws and standards governing the profession of statutory auditing in Algeria, along with various discussions and meetings held with a group of statutory auditors in Tlemcen, it became evident to us that the mandatory auditing profession suffers from several shortcomings attributable to various reasons:

- Due to the presence of a weak stock market for trading securities, alongside the management methods of Algerian companies and the social-cultural environment of Algerian society. Mandatory auditing in Algeria is still considered a profession that various companies seek services from to comply only a legal obligation.
- Most accounting auditing firms are small-scale, typically consisting of an office manager and a few experienced or trainee statutory auditors specializing in auditing, accounting, and tax consulting.
- The fees of statutory auditors are considered as the main basis of competition among auditing offices, which deprives them of essential elements such as quality and independence.
- When studying the professional code of ethics laws and through the surveys conducted with mandatory auditors, it became evident that there is a lack of strict enforcement of those regulatory laws. One of the prime examples of this is the widespread presence of auditing firms without their owners obtaining the necessary legal licenses to practice the profession.
- Despite the issuance by the National Accounting Council, through its standards committee, of 16 auditing standards, they remain merely theoretical and exist as paper documents. The majority of mandatory auditors do not adopt these standards, as they are not enforceable and therefore violators are penalized.
- Due to the lack of commitment by statutory auditors to professionalism, composure, integrity, and independence during their accounting auditing

duties, most of them seem to have lost the professional conscience required to conduct mandatory audits diligently and maintain professional secrecy.

- The inefficiency and lack of real presence on the ground of the Quality Control and Professional Performance Oversight Committee, as stipulated in Law 10-01 and its executive decrees, is apparent.

Despite the considerable impact of Law 10-01 and its associated decrees on the statutory auditing profession in Algeria, this remains insufficient. Activating the role of the National Council of Accountancy and other professional organizations in practical terms is crucial to ensure continuous professional development and training, which works towards enhancing the mandatory auditing quality.

4. Real facts about revealing statutory auditor and reporting financial corruption:

We mention four real cases of financial and institutional corruption in which the auditor was faced with reporting or not reporting to the Public Prosecutor about the violations found during his legal duties in the mandatory audit of a sample of companies, without mentioning the names of the institutions concerned, while maintaining professional confidentiality in accordance with Article 70 of the law. 10-01 for a sample of auditors for the state of Tlemcen

4.1. First institution case :

The directors of this organization chose to use the "gré à gré" method without opening a tender to import large production equipment from Germany. This method violated three basic requirements stipulated in the Tender Law: Transparency of information, fair access to the transaction, and fair treatment of all economic participants. As a result, the public prosecutor decided to open a judicial investigation and prosecute the managers for violating public procurement laws. The auditor was also prosecuted for not informing the public prosecutor of this offence, as he is obliged by the legal regulations defining the duties of the statutory auditor, which ensure transparency in the management of financial affairs, contracts and transactions within public institutions, which includes the examination and audit of tenders.

During the confession before the judge, the mandatory auditor stated that his monitoring task was not comprehensive but rather relied on sampling methodology (audit sampling techniques). Therefore, his failure to report was unintentional as this particular transaction was not part of the sample he was testing and was not brought to his attention. Accordingly, the judge asked the statutory auditor to justify the sampling method and provide his work files, along with detailing how other contracts and deals within the institution were examined and audited. This was to ensure integrity of the statutory auditor.

As the mandatory auditor was unable to present this evidence and proofs, he was charged with complicity and failure to report. Fortunately, the institution's directors managed to prove that the choice of the gré à gré method was justified due to the exclusive technological link available only with this foreign supplier, asserting that this procurement method was necessary and within the confines of the law. Consequently, the lawsuit was dismissed, and both the institution's directors and the mandatory auditor were acquitted.

4.2. The second institution Case:

The two brothers are equal partners in a company. Both accuse each other of mismanaging the company, leading to the accounting auditor being summoned to investigate actions that contributed to the company's decline and determine each party's responsibility. However, the statutory auditor showed bias towards one of the partners, resulting in preconceived judgments against the other partner, who, in turn, hired a lawyer and filed a lawsuit.

Investigations revealed a significant increase in one partner's salary without the consent of the other partner. The statutory auditor discovered this but failed to report it, leading to charges of collusion and failure to report to the public prosecutor. Evidence includes:

- **The existence of an incident of violation and transgression:** by raising the first partner's wages without consulting the second partner's approval, and using the organization's funds to serve the personal interests of the first partner.
- **The statutory auditor's discovery of this incident:** confirming in his own report the validity of the five major wages in the organization, including the partner's wages. the first. This is evidence that eliminates the mandatory auditor's failure to address wages, and thus the lack of knowledge of the mandatory auditor, which is considered legitimate proof in court.
- **Absence of reporting:** The statutory auditor was required to inform the second partner and the public prosecutor at the same time about the violations and transgressions of the first partner regarding his use of the organization's funds without the second partner's approval.
- **Bad faith and lack of integrity:** This moral element is clear in this case, where the statutory auditor was in collusion with the first partner.

After all the judicial procedures, the mandatory auditor was sentenced to three years in prison and a large fine. Therefore, it can be concluded from this real incident that the statutory auditor should have been impartial and objective, and he should have exercised the necessary professional care, as well as notifying the Public Prosecutor of the embezzlement and serious financial violations.

4.3. The case of the third institution: A statutory auditor explodes a loud scandal and files an official complaint

The statutory auditor of this institution filed an official complaint with the Public Prosecutor's Office at the Tlemcen Court of First Instance. The complaint encompassed a series of violations, transgressions, manipulations, and embezzlement of public funds in the institution that produces forty thousand cubic meters of water daily during the fiscal year 2016. Additionally, it addressed recent unlawful practices and suspicious deals during the preceding years between 2013 and 2015.

In the text of the complaint addressed to the Public Prosecutor, the statutory auditor "L.M." stated that during his tenure at the institution following his appointment as the mandatory auditor for the company, he observed a series of blatant and evident transgressions and violations that compelled him to file a complaint with the Prosecutor's Office, accompanied by a detailed accounting report concerning these transgressions. The individual mentioned, "After monitoring and investigating the accounting auditor and documents of the company, I noticed legal transgressions registered by the law, particularly concerning public procurement processes. This included a breach of the law adopted by the company's Board of Directors in its session held on 17/03/2013 regarding Regulation No. 05, which regulates the equipment procurement process."

A new procedure called "Special Sale" was introduced and implemented without the required legal authorization from the company's Board of Directors. This procedure allowed only certain customers to benefit from it, excluding others who were in the same direction and quantity during one month in 2014. This action contributed to a company loss estimated at \$615,700. Additionally, there was a non-compliant negotiated deal aimed at supplying the institution with its equipment, accompanied by a substantial financial package. There were recorded violations regarding the payment process of the statutory auditors' dues, along with manipulation in this regard, granting the statutory auditors additional financial benefits without following legal procedures. Furthermore, a Spanish company was granted dues for a supply deal to the company without providing the required quantity and quality of the equipment. The complaint also addresses the neglect of equipment exceeding a total financial value of 120,000 euros, imported years ago and left unused, causing a loss to the public treasury of approximately \$251,000

4.4. The fourth institutional case: The statutory auditor explodes a scandal over the management of "Algerians' money"

The authorities responsible for investigating the embezzlement case within the institution were unable to determine the value of the damages suffered by the institution over the past three years. This was due to the substantial amounts of money that were squandered, whether it was gold or the funds managing this

metal, which essentially belong to "the Algerians' funds," considering the company as a public entity that operates with the country's wealth and invests in the yellow metal.

The case was forwarded to the judiciary without assessing the losses, awaiting the appointment of a financial expert to evaluate. Several officials who took turns managing the institution were implicated in the embezzlement of gold, jewelry, and ornaments in suspicious deals with specialized handling companies and exclusive dealers.

The audit report by the statutory auditor of the National Agency for the Distribution of Gold and Precious Metals unveiled massive financial irregularities in the management of this institution. These irregularities included dubious agreements between the company, private dealers, and handling companies for the purchase and sale of used and new gold, jewelry, and ornaments. There were also invoices not backed by the public procurement evidence, executed outside the legal framework of the institution, causing it to lose billions from its budget.

The statutory auditor drafted a comprehensive 15-page report submitted to the Public Prosecutor immediately after completing the audit. The obligatory report revealed that company employees deliberately increased the gold transfer price from 300 dinars to 400 dinars, an unlawful action that triggered the investigation. The clause concerning the transfer price in the agreements explicitly prohibits any manipulation or alteration of the set price, which was the basis for the investigation.

By completely eliminating both the shutdown tax and the delay tax, along with extending the manufacturing period for jewelry from one month to two months, the transgressions did not halt at this point. They surpassed it by integrating the weight of gold under the control of jewelers along with the weight of decorative stones. This contradicts the materials outlined in the concluded agreements and specified by law. The latter emphasizes the necessity of weighing gold separately from gemstones to provide the true weight of the yellow metal and avoid exaggeration, whether for handling institutions dealing with it or for internal company transactions.

The mandatory auditor, responsible for scrutinizing the company's transactions in the past period, discovered discrepancies in the gold inventory of the institution, the value of which was not determined. It was also confirmed that the gold inventory in the warehouses did not match the declared quantity in the accounting cards, but was significantly less. Security authorities are investigating the origin of these discrepancies in the pure gold, which belongs to the institution and not to the individuals responsible for its management.

Conclusion:

By reviewing the legislative framework for mandatory auditing in Algeria, we note that the primary goal of the statutory auditor is not to uncover financial corruption, but rather to evaluate the work of the administration and approve the annual accounts. He is neither an officer nor a policeman to investigate corruption crimes in the company from which he receives his fees. However, the Algerian legislator, through Law 06-01 of February 20, 2006 relating to the fight against financial corruption, obligated the auditor to inform the public prosecutor in the event he discovers any financial corruption, especially with regard to in transferring money abroad, fraud and financial shading, financing terrorism and money laundering, all of this is in order to protect stakeholders, reduce the bleeding of the public treasury, and destroy the Algerian economy.

Results:

- The mandatory auditing profession in Algeria is still viewed as a profession whose services various companies request in order to fulfill legal obligations only and not to combat financial corruption.
- The Algerian Stock Exchange as a mechanism for cooperation with the statutory anti-corruption audit... is weak.
- The majority of mandatory auditor offices are small in size and are not designed and trained to combat financial crimes.
- The mandatory auditors' fees are considered the main basis for competition between audit offices, and this is what makes them lose an important element of their requirements. This is quality and independence, which negatively affects the fight against corruption.
- The widespread spread of audit offices without their owners obtaining legal licenses to practice the profession is considered complicity in financial corruption through accounting auditing and the absence of professional ethics.
- Some statutory auditors do not apply these standards due to the ineffectiveness and presence on the ground of the Quality Control Committee. The quality of professional performance stipulated in Law 10-01, as well as executive decrees, limits its effectiveness in reducing financial corruption in Algeria.

Verifying the hypotheses:

- Statutory auditors would uncover financial corruption. Correct hypothesis by informing the public prosecutor of any suspicion of corruption in accordance with Law 06-01 relating to combating corruption.
- The mandatory auditing profession faces a number of challenges that limit its effectiveness in detecting financial corruption. Correct hypothesis.

Through the obstacles present on the ground and in the Algerian environment that limit the effectiveness of statutory auditing and even make it complicit in financial corruption at times.

Answering the main problem:

Through what was discussed in the theoretical and applied aspects of the study and after verifying the hypotheses, the main problem can be answered that statutory audit contributes to reducing corruption and is complicit with it at the same time.

Recommendations:

In conclusion, some recommendations can be proposed to reduce the manifestations of corruption in institutions, such as:

- Activating the Monitoring and Quality Committee at the level of the National Accounting Council
- Reviewing Law 10-01 and updating it with the new challenges for statutory auditors and accounting experts
- Strengthening internal control in order to reduce risks
- Strengthen communication with relevant authorities such as anti-corruption regulatory bodies
- Focus on enhancing transparency in the external audit process and publishing statutory auditor's reports publicly
- The state must adopt strong and effective legislation and deterrent penalties for violators and accomplices in corruption

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