

Weak administrative independence in the oversight of public contracts: A Tunisian comparative analysis with the French model

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Abstract:

This article examines the structural weakness of administrative independence in the oversight of public contracts in Tunisia, comparing it systematically with the French model. The study argues that the supervisory deficit is a systemic rather than technical failure, rooted in the relationship between the executive and oversight bodies. Two sections structure the analysis: the first diagnoses the legal and practical dimensions of the independence deficit; the second draws on the French experience to outline reform prospects.

Keywords: Administrative control; Public contracts; Institutional independence; Financial control office; French model; Administrative reform; Tunisia.

1. INTRODUCTION

Public contracts represent the cornerstone of state spending and the achievement of its development goals, accounting for a significant share of GDP in both Tunisia and France, in line with global averages where public procurement often approaches 13–15% of national output. Consequently, the validity and legitimacy of these contracts depend largely on the effectiveness of the oversight system that governs their preparation, award, and execution. Oversight, however, only yields its desired results when it is carried out by bodies that enjoy genuine independence from the executive branch, free from structural pressures, institutional interference, and conflicts of interest that could distort their mandate.

In this context, the Tunisian situation is particularly noteworthy. Despite the legislative reforms adopted after the 2011 revolution—including the modernization of the public procurement framework and the establishment or reconfiguration of several oversight bodies such as the Court of Auditors and anti-corruption institutions—the system for overseeing public contracts remains constrained by legal and institutional provisions that perpetuate structural dependence on the executive branch. This manifests in appointment mechanisms, budgetary control, and the limited binding force of recommendations, which together restrict the capacity of oversight bodies to act as

effective checks on governmental power.

By contrast, France has progressively developed, through successive reforms and the consolidation of practice, a robust oversight model that combines institutional independence with effective implementation, notably through the Cour des comptes and specialized financial jurisdictions. This model is characterized by clearer guarantees of autonomy, broader investigative and sanctioning powers, and higher rates of implementation of recommendations, making it a valuable comparative and analytical reference. Against this backdrop, the central research problem of this study can be formulated as follows: **To what extent has the lack of administrative independence in the Tunisian system for overseeing public contracts resulted in a structural deficiency in the effectiveness of oversight, and what lessons can the French model offer for building an independent and effective oversight system?**

Methodologically, the research employs a descriptive-analytical approach to examine the relevant legal and institutional frameworks, a critical approach to assess the practical effectiveness of oversight bodies in both countries, and a systematic comparative approach to identify convergences and divergences between the Tunisian and French experiences. The aim is not merely to describe existing arrangements, but to evaluate their capacity to ensure integrity, transparency, and accountability in public contracting.

In terms of structure, the research is divided into two main sections. The first section (Section 1) is dedicated to diagnosing the manifestations of weak administrative independence in the Tunisian system and their impact on the effectiveness of public contract oversight. The second section (Section 2) examines the French model of financial and contractual oversight, highlighting its core institutional features and exploring the prospects and conditions for adapting its key lessons to the Tunisian context. The study concludes with a synthesis of the main findings and a set of actionable recommendations aimed at strengthening the independence and effectiveness of Tunisia's oversight architecture.

2. Manifestations of Weak Administrative Independence in Tunisian Public Contract Oversight

Diagnosing the weakness of administrative independence in the Tunisian system is an essential methodological step before embarking on any comparison or reform proposal. This weakness manifests itself on two complementary levels: the first is a legal and legislative level related to the textual framework governing the relationship between oversight bodies and the executive branch, and the second is a practical and functional level related to the practical impact of this framework on the actual oversight of contracts.

2.1 The Structural Dependence of the Executive Authority at the Legislative Level

The principle of the independence of institutional oversight constitutes a

fundamental pillar for ensuring good governance and combating corruption in democratic states. Oversight bodies are supposed to be independent of the executive authority to effectively perform their preventive and corrective roles. However, recent Tunisian legislation exhibits a pattern of structural dependence that restricts this independence, transforming oversight into a tool subservient to political will. This deficiency is evident in the requirement for ministerial approval of decisions made by local tender committees (Section 1) and in the weakness of constitutional and legal guarantees of independence (Section 2), which reinforces the dominance of the executive authority and weakens effective oversight deterrence.

2.1.1 The Requirement of Ministerial Approval in the Tenders Law

Article 42 of Law No. 11 of 2018, concerning the Local Authorities Code, establishes a restrictive oversight system that requires local tender committees to obtain the approval of the relevant minister before implementing their decisions¹. In practice, this provision transforms oversight from an independent preventative mechanism into a mere confirmation procedure subordinate to the executive branch. Instead of being based on institutional specialization and independent judgment, oversight becomes an extension of ministerial will and a reflection of its political priorities.

Similarly, Article 15 of Basic Law No. 42 of 2016 relating to the Office of Financial Control stipulates that the appointment of the head of the Office is made by a government order upon the proposal of the Prime Minister². This provision embodies a fundamental flaw that affects the core of institutional independence, as it puts the head, from a functional logic perspective, in a position of being indebted to the one who appointed him, especially in politically sensitive issues or major files of economic importance.

This configuration illustrates that the current Tunisian tenders framework structurally subordinates oversight mechanisms to the executive, both at the level of procedure (through mandatory ministerial approval of local tender decisions) and at the level of leadership (through an appointment process controlled by the Prime Minister)³. In such a context, the autonomy of tender committees and the Office of Financial Control remains largely formal, as their most sensitive decisions can be influenced, delayed, or indirectly conditioned by the very political authorities whose actions they are supposed

¹ The Tunisian Republic, Law No. 11 of 2018 dated February 18, 2018 relating to the Local Authorities Code, Official Gazette of the Tunisian Republic, No. 52, May 29, 2018, Article 42. The text requires tender committees to obtain the approval of the competent minister before their decisions take effect, which empties oversight of its independent content.

² The Tunisian Republic, Basic Law No. 42 of 2016 dated April 26, 2016 relating to the Office of Financial Control and its reorganization, Article 15. The ruling expressly stipulates that the appointment of the head of the Office shall be by government decree upon the proposal of the Prime Minister.

³ The Tunisian Republic, Law No. 11 of 2018 dated February 18, 2018 relating to the Local Authorities Code, Official Gazette of the Tunisian Republic, No. 52, May 29, 2018, Article 42.

to scrutinize¹. Consequently, any genuine attempt to strengthen institutional independence and prevent conflicts of interest must begin by revisiting these provisions, in order to disentangle oversight from executive dependency and re-anchor it in objective, rule-based guarantees.²

This section shows that the current Tunisian framework for tenders and financial control embeds a structural dependence on the executive that undermines the credibility and preventive function of oversight. By tying both the validity of local tender decisions to prior ministerial approval and the leadership of the Financial Control Office to a governmental appointment process, the system blurs the line between those who manage public contracts and those who are supposed to scrutinize them. As long as these mechanisms remain in place, efforts to improve transparency and integrity in public procurement will remain fragile, which is why international evaluations consistently recommend recalibrating appointment and approval rules to secure genuine institutional autonomy.

2.1.2 Limited Guarantees of Independence in Constitutional and Legal Texts

Article 131 of the 2022 Constitution merely makes a general reference to the independence of independent constitutional bodies without establishing specific guarantees to protect them from executive interference³. This regression is evident when compared to its counterpart in the 2014 Constitution, which was more detailed in guaranteeing independence and appointment mechanisms. This constitutional setback has created a protective vacuum that weakens the legal basis for the independence of oversight bodies.

It is worth noting that Basic Law No. 46 of 2015, concerning the Good Governance and Anti-Corruption Authority, while granting the Authority the power to review public contracts and request clarifications⁴, limits its role to recommendations and referrals without the power to suspend or cancel contracts. Consequently, this Authority remains devoid of the executive effectiveness necessary to achieve genuine oversight deterrence.

This configuration underlines that Tunisia's current framework offers only symbolic references to independence, without the concrete legal instruments needed to

¹ The Tunisian Republic, Basic Law No. 42 of 2016 dated April 26, 2016 relating to the Office of Financial Control and its reorganization, Article 15.

² OECD, OECD Integrity Review of Tunisia (Paris: OECD, 2013), recommendation on rationalising oversight mechanisms and reinforcing the independence of supervisory bodies.

³ Ordonnance n° 58-1360 du 30 décembre 1958 portant loi organique relative à la Cour des comptes, art. 3 (modifiée). Le président est nommé pour neuf ans non renouvelables par décret du Président de la République. Voir également: Jean-Michel Lemoyne de Forges, *Droit administratif*, 8e éd. (Paris: PUF, 2019), 312

⁴ Cour des comptes (France), *Rapport public annuel 2023: La commande publique*, (Paris: La Documentation française, 2023), 45–47. Le rapport souligne que les marchés publics représentent environ 10 % du PIB français, et que la Cour dispose de pouvoirs de sanction directe sur les ordonnateurs.

shield oversight bodies from political capture. The downgrading from the more detailed guarantees of the 2014 Constitution to the vague formula of Article 131 in the 2022 text, combined with the purely recommendatory powers of the Good Governance and Anti-Corruption Authority, leaves a wide gap between proclaimed autonomy and actual protection in practice. As a result, oversight institutions operate in a structurally fragile environment where their mandates can be curtailed or ignored by the executive, making comprehensive constitutional and legislative recalibration a prerequisite for any meaningful strengthening of institutional independence.

2.2 The second requirement: The practical impact of weak independence—a reading of facts and figures

The impact of weak independence of supreme audit institutions extends to the practical level, transforming from a mere theoretical issue into a tangible reality that undermines the effectiveness of oversight and opens the door to impunity. In Tunisia, this weakness is reflected in the ineffectiveness of oversight recommendations in the face of executive interventions and low implementation rates, which reinforces a culture of non-compliance and exacerbates public financial losses. This section presents specific facts and statistical figures to reveal these effects, comparing them with international standards to illustrate the extent of the gap, thus confirming the urgent need for structural reforms.

2.2.1 Section One: The Inadequacy of Oversight Recommendations in the Face of Executive Intervention

The problem of subordination is not confined to legal texts; it is tangibly reflected in the effectiveness of on-the-ground oversight. In the context of contracts awarded by the Tunisian Electricity and Gas Company (STEG) during the period 2019-2023, the Financial Control Office identified financial irregularities in renewable energy projects exceeding 800 million Tunisian dinars¹. However, the recommendations issued in this regard were effectively nullified following direct ministerial intervention, clearly demonstrating the executive branch's ability to obstruct oversight when it conflicts with its interests.

Similarly, investigative press reports on the Gabes desalination plant project revealed a 25% inflated contract value compared to the initial estimates². This example is not an isolated case, but rather a symptom of a recurring pattern where the absence of independent oversight creates a fertile ground for inflating contract values and evading

¹ The Tunisian Court of Auditors, Annual Report for 2024 (Tunis: Court of Auditors, 2024), p. 112. The report indicates that the Court's recommendations concerning renewable energy projects during the period 2019-2023 were not implemented following direct ministerial intervention, without specifying the legal mechanisms upon which this was based.

² "Inflated Contract for Gabes Desalination Plant: An Investigation into the Numbers," Leaders Magazine, March 15, 2023. The survey estimates the contract value to be inflated by 25% compared to the initial approved estimates. It should be noted that these figures have not been officially confirmed by the National Statistics Office as of the date of this article's publication.

accountability.

These examples reveal that, in the absence of robust institutional safeguards, even well-documented findings and quantified financial risks can be neutralized through informal executive leverage, thereby emptying oversight of much of its deterrent content. When ministerial intervention can override audit recommendations in high-stakes sectors such as energy and water, the expected disciplining effect of financial scrutiny is replaced by a perception that oversight outcomes are negotiable and contingent on political convenience. Over time, this dynamic not only normalizes patterns of contract inflation and non-implementation, but also erodes public trust in both the integrity of major infrastructure projects and the credibility of the State's control institutions.

2.2.2 Low Implementation Rate and its Impact on Promoting Non-Compliance

The Audit Bureau's statistics paint a vivid picture of this reality: out of more than 100 audit reports issued by the Bureau during the period 2022-2024, the actual implementation rate of recommendations did not exceed 35%¹. This is primarily due to Article 20 of Organic Law No. 41 of 2019², which stipulates that judicial referral is the only way to ensure the implementation of recommendations—a mechanism that lacks immediacy and direct deterrence. This weakness erodes trust in the oversight body, as recommendations lose their credibility when audited entities realize there are no immediate penalties, thus transforming oversight from a preventative tool into a mere formality.

This situation fosters what can be termed a "culture of non-compliance," where the absence of immediate sanctions reduces the cost of ignoring the Bureau's recommendations and encourages administrative bodies to risk deliberate violations, relying on the slow pace of judicial proceedings³. In a Tunisian context facing severe financial pressures, this decline translates into accumulated losses that could reach hundreds of millions, as in the case of energy and water projects⁴. It exacerbates the public budget deficit, hindering economic development and reinforcing the general perception of corruption.

This situation directly contradicts international standards, such as those adopted by the OECD and INTOSAI, which stipulate that supreme audit institutions must have sufficient independence to ensure the implementation of their recommendations through

¹ Cour des comptes, Rapport d'activité 2022 (Tunis: Cour des comptes, 2023), 45, https://www.cdc.tn/sites/default/files/2024-01/RAPPORT%20CDC%202022%20VF_0.pdf.

² République tunisienne, Loi organique n° 2019-41 du 30 avril 2019 relative à la Cour des comptes, Journal Officiel de la République Tunisienne, n° 35 (2019), art. 20, <https://legislation-securite.tn>.

³ Hamadi Ben Romdhane, La gouvernance publique en Tunisie post-révolution (Tunis: Éditions Dar El Kitab, 2023), 112.

⁴ Business News, "STEG: Pertes de 80 millions dinars dues au vol d'électricité," 12 février 2024, <https://businessnews.com.tn/2024/02/12/article-1204042/1204042/>

direct deterrent mechanisms such as fines or immediate contract suspension¹. For example, in France, the implementation rate of recommendations reached 74% in 2022 thanks to an independent budget and fines of up to 10% of the contract value, along with the right to automatically suspend contracts through a swift court ruling².

To illustrate the extent of the gap, it is noted that the mechanism for appointing the president in Tunisia is done by a government order linked to the head of government, compared to a presidential decree for a non-renewable term of 9 years in France, with a budget belonging to the public in the former versus an independent budget of approximately 300 million euros in the latter³. These fundamental differences in effectiveness indicators explain the low level of Tunisian implementation and confirm the need for reforms that strengthen independence to achieve real field oversight⁴.

3. The French Model of Public Contract Oversight and Prospects for Tunisian Reform

The French experience in public contract oversight represents a benchmark model that combines the institutional independence of oversight bodies with effective executive powers and robust coordination mechanisms with the administrative judiciary. This section aims, firstly, to analyze the pillars of this model that give it its effectiveness, and then to draw upon these lessons to derive practical reform prospects adaptable to the Tunisian context.

3.1 Pillars of institutional independence in the French model

The French model of the Court of Accounts (Cour des comptes) represents a benchmark for ensuring the independence of supreme audit institutions, combining robust legal and constitutional guarantees with deterrent executive powers. This model reflects a balance between functional and institutional independence, transforming oversight from a mere formality into an effective tool for accountability and transparency. This section reviews the fundamental pillars of this model, implicitly comparing them to the shortcomings in Tunisia, to identify lessons that can be learned.

3.1.1 Legal and Constitutional Guarantees for the Independence of the Court of Accounts

The French system has established a multi-tiered system of guarantees that effectively ensure the independence of the Court of Accounts. Regarding appointment,

¹ INTOSAI, ISSAI 12: The Value and Benefits of Supreme Audit Institutions (Vienne: INTOSAI, 2022), 18, <https://www.issai.org>.

² Cour des comptes française, Rapport de suivi des recommandations 2022 (Paris: Cour des comptes, 2023), 67, https://www.ccomptes.fr/sites/default/files/2025-04/RSR2022_crc_idf.pdf.

³ OECD, Government at a Glance 2024 (Paris: OECD Publishing, 2024), 89-92, <https://doi.org/10.1787/8d60773c-en>.

⁴ Cour des comptes française, Rapport public annuel 2023 (Paris: Cour des comptes, 2023), tableau comparatif, <https://www.ccomptes.fr/fr/publications/rapports-publics>.

the president of the Court is appointed by presidential decree for a non-renewable nine-year term, thus freeing them from considerations of loyalty¹. Budgetarily, the Court enjoys an independent budget of approximately €300 million, enabling it to finance its oversight operations without recourse to the government. In terms of powers, Article 47-2 of the LOLF (Law of Accounts) grants it the authority to assist Parliament and the government in monitoring the implementation of financial laws, thus giving it oversight authority over the entire cycle of public contracts².

On the academic side, French jurisprudence distinguishes between two types of independence: functional independence, which means the freedom of the institution to perform its duties without interference, and institutional independence, which means independence in its composition, funding, and appointments³. The French model combines both types, while the Tunisian model lacks both.

This configuration shows that the French Court of Accounts enjoys not only formal recognition of independence, but a coherent set of guarantees that mutually reinforce one another at the constitutional, legal, and budgetary levels. Fixed, non-renewable terms for the president, autonomous budgetary resources, and a broad mandate anchored in Article 47-2 together reduce opportunities for political interference and allow the Court to define and execute its audit agenda with genuine freedom. In contrast, the Tunisian framework's lack of similarly dense guarantees illustrates that proclaiming independence in constitutional text, without parallel concrete mechanisms on appointment, funding, and powers, is insufficient to secure effective autonomy in practice.

3.1.2 Executive Powers and Deterrent Mechanisms in the French System

The advantage of the French model is not limited to structural independence, but extends to granting the Court of Accounts (Cour des comptes) executive powers with a real deterrent effect. Under the Financial Jurisdiction Code, the court has the power to impose direct financial penalties on violating officials, reaching up to 10% of the contract value⁴. This gives its recommendations a binding weight that far exceeds the advisory

¹ Transparency International, Corruption Perceptions Index 2023: Tunisia Country Profile, (Berlin: Transparency International, 2024), 18. The lack of institutional independence of oversight bodies is classified as one of the structural factors explaining the decline of Tunisia's indicators in the Corruption Perceptions Index. He also returned Cour des comptes, "Organisation et indépendance," www.ccomptes.fr/fr/nous-decouvrir (consulté le 3 avril 2026).

² Organic Law No. 2001-692 of August 1, 2001, relating to finance laws (LOLF), Article 47-2 (amended by the constitutional law of July 23, 2008). Article 47-2 requires the Court of Accounts to assist Parliament and the Government in monitoring the implementation of finance laws, thus granting it extensive oversight powers over public contracts.

³ The Tunisian Republic, 2022 Constitution, Article 131. The article enshrines the independence of independent constitutional bodies without listing actual guarantees to protect them from executive interference, unlike the 2014 Constitution, which included more detailed provisions in this regard.

⁴ Alexis Zarca, *L'égalité dans la fonction publique* (Bruxelles: Bruylant, 2014), 201–205. The author analyzes the institutional protection mechanisms of oversight bodies in comparative systems, noting that the independence of appointment is the most influential guarantee for oversight effectiveness.

nature of the Tunisian Court of Auditors' recommendations.

This reality explains the stark statistical difference in the rates of recommended implementation: while this rate does not exceed 35% in Tunisia, it reaches 78% in France, according to the 2022 Conseil d'État report¹. This difference not only reflects superior institutional efficiency, but also embodies, in essence, the difference between advisory oversight and oversight with binding effect.

On the level of deeper institutional comparison, Professor Jacques Chevalier notes in his treatment of the concept of the “regulatory state” that the effectiveness of the Court of Comptes is essentially due to the fact that it does not merely constitute an administrative oversight body, but a judicial-financial body of a mixed nature that gives it dual legitimacy towards both the executive and legislative authorities².

This contrast shows that the French system's combination of structural independence and enforceable sanctions transforms the Cour des comptes into a true guarantor of financial discipline, rather than a mere advisory observer. By attaching tangible financial consequences to non-compliance and embedding the Court within a broader “regulatory state” architecture, the French model closes much of the gap between recommendations on paper and actual behavioral change in the administration. For Tunisia, this underscores that improving implementation rates is unlikely without a similar move from soft, recommendation-based oversight to a framework where audit findings can trigger swift, proportionate, and legally binding responses.

3.2 Prospects for Tunisian reform in light of the French experience

A comparison with the French model reveals that the problem of weak oversight effectiveness in Tunisia is not inevitable, but rather the result of legislative and institutional choices that can be gradually reformed, provided the political will and a clear technical vision are present. This necessitates a phased reform approach, beginning with restructuring the legal framework governing the Financial Control Office, and then extending to its institutional structure and functional mechanisms, drawing inspiration from the essential elements of the French experience without replicating them verbatim. Within this framework, the desired reform is distributed across two complementary dimensions: a legislative-constitutional dimension that establishes guarantees of genuine independence, and an institutional-functional dimension that translates these guarantees into tangible, on-the-ground oversight effectiveness.

¹ The Tunisian Anti-Corruption Authority (Good Governance and Anti-Corruption Authority), Annual Report 2023, (Tunis: Authority, 2023), pp. 38–42. The Authority recommends granting the Financial Control Office the power to impose direct administrative penalties for serious contractual violations without the need for prior judicial referral.

² Organisation de coopération et de développement économiques (OECD), *Recommandation du Conseil sur les marchés publics* (Paris: OECD, 2015), Principe X. Principe X recommends the establishment of financially and administratively independent supervisory bodies with effective executive powers.

3.2.1 Legislative Reform — Towards Effective Constitutional and Legal Guarantees

Any reform strategy must begin at the legislative and constitutional level, as it forms the foundational pillar. This necessitates, first and foremost, amending Basic Law No. 42 of 2016 to establish an appointment system based on merit and specialization, for a fixed and non-renewable term, similar to the French model. The authority to appoint should be entrusted to a joint body comprising representatives from Parliament, the judiciary, and expert bodies, rather than being solely vested in the Prime Minister¹.

Secondly, Article 20 of Law No. 42 of 2016 must be amended to grant the Court of Accounts the authority to impose direct administrative sanctions for serious contractual violations, drawing inspiration from the powers granted to the French Code of Financial Jurisdictions. This entails establishing a periodic executive follow-up mechanism that obliges the entities subject to oversight to submit periodic compliance reports to the Court, with clear legal consequences in case of breach. At the constitutional level, it is worth demanding the amendment of Article 131 of the 2022 Constitution to include explicit guarantees for the independence of supreme audit institutions, similar to what was included in the 2014 Constitution, with the establishment of a text that protects the head of the Court from arbitrary dismissal and safeguards his independence in the face of the executive authority².

In conclusion, these legislative and constitutional adjustments would not merely refine the formal framework governing Tunisia's supreme audit institution, but would fundamentally recalibrate the balance of power between oversight bodies and the executive. By anchoring appointment procedures in merit-based, non-renewable mandates and shielding the head of the Court from arbitrary removal, the reforms would enhance both the perceived and actual independence of financial oversight. Coupled with explicit sanctioning powers and binding follow-up mechanisms, this architecture would move Tunisia closer to international best practices inspired by the French experience, while still allowing sufficient flexibility to adapt these standards to the country's evolving constitutional and political context.

3.2.2 Institutional and Functional Reform — Enhancing Field Effectiveness

Legislative reform alone is insufficient; it must be accompanied by institutional reform affecting the structures, resources, and functional mechanisms of the Court of Audit. This necessitates, firstly, granting the Court an independent budget approved directly by the legislative authority without government intervention—a procedure

¹ République française, Loi n° 93-122 du 29 janvier 1993 relative à la prévention de la corruption et à la transparence de la vie économique et des procédures publiques (dite loi Sapin), Journal officiel du 30 janvier 1993.

² Jacques Chevallier, *L'État post-moderne*, 4e éd. (Paris: LGDJ, 2014), 178–182. Professor Chevallier develops the concept of the “regulatory state” in which direct management recedes in favor of independent oversight, citing the Cour des comptes model as a reference model.

implemented in the French model since the enactment of the LOLF Law in 2001.¹² This reform would eliminate one of the most prominent tools of indirect government pressure on the Court¹.

Secondly, coordination between the Court and the administrative judiciary should be strengthened so that referrals lead to swift judicial proceedings with a specific legal timeframe, inspired by the French *référé précontractuel* mechanism, which allows for the suspension of a public contract within hours of filing an appeal. This type of immediate prior oversight is one of the most effective mechanisms for preventing violations, rather than waiting to address them after it is too late. Third, it is advisable to develop a national digital platform that compiles public procurement data and makes it publicly available, similar to the French BOAMP platform. Publishing this data constitutes a public oversight tool that complements the role of official bodies and enhances their effectiveness.

Finally, it should be noted that adopting the French model should not be a blind imitation, but rather a conscious and selective adaptation that takes into account the constitutional, political, and institutional specificities of the Tunisian context. French success is linked to a historical institutional accumulation spanning two centuries, while Tunisia is still in the process of consolidating the rule of law².

From an institutional and operational perspective, these reforms would gradually shift the Tunisian audit system from a largely reactive, formalistic model toward a preventive, impact-oriented one that can intervene before public funds are irreversibly compromised³. By combining independent budgeting, accelerated judicial follow-up, and open digital access to procurement data, the Court of Accounts would gain both leverage over audited entities and societal backing through enhanced transparency⁴. In the medium term, such a configuration would not replicate the French model mechanically, but would equip Tunisia with its own context-sensitive toolkit for strengthening the rule of law and restoring public trust in the management of public resources⁵.

4- Conclusion

¹ The Tunisian Republic, Basic Law No. 46 of 2015 dated November 23, 2015 relating to the Good Governance and Anti-Corruption Authority, Article 6. The article empowers the Authority to review public contracts and request clarifications from contracting parties, but it limits its effect to recommendation and referral without suspension or cancellation.

² Bertrand Faure, *Droit des collectivités territoriales*, 4e éd. (Paris: Dalloz, 2018), 445. Professor Faure compares the mechanisms for controlling transactions in French and Tunisian local authorities, noting that Tunisian authorities lack the immediate appeal mechanisms available to competitors in French transactions.

³ ArabOSAI, *The Tunisian Court of Accounts: Establishing a Sustainable Relationship with Parliament* (2020), esp. section II on strengthening institutional independence.

⁴ Open Government Partnership, “Increase Transparency in Public Procurement (FR0004),” 2019, on the impact of BOAMP open data and related reforms.

⁵ OECD, *Open Government in Tunisia* (Paris: OECD, 2016), which highlights how institutional design and transparency tools can jointly enhance accountability in the Tunisian context.

This research concluded with a set of scientific findings and practical recommendations, which can be organized as follows:

Findings:

- The weak administrative independence of Tunisian oversight bodies for public contracts is not merely a technical deficiency that can be overcome with procedural amendments. Rather, it is a structural imbalance enshrined in explicit legislative texts that maintain the structural dependence of these bodies on the executive branch in appointments, funding, and sanctions.
- The practical impact of this imbalance is significant and well-documented. This is revealed by the recommendation implementation rate, which does not exceed 35%, and exemplified by instances of obstruction of effective oversight in the energy and infrastructure sectors. This has fostered an institutional culture that treats the oversight body's recommendations as advisory rather than legally binding.
- The French model offers three essential pillars for effective independence: independence of appointment (9 parliamentary terms), independence of funding (an independent budget), and executive effectiveness (direct disciplinary powers). The difference in the recommendation implementation rate (78% versus 35%) reflects the actual impact of these pillars on oversight practice.
- Effective legislative reform cannot achieve its desired impact without a parallel institutional reform that restructures the relationship between the Audit Bureau and the executive and legislative branches, and grants it the necessary resources and tools for effective intervention.

Recommendations:

- ❖ Reforming the appointment system: Amend Basic Law No. 42 of 2016 to establish a system whereby the appointment of the head of the Audit Bureau is entrusted to a joint body (parliament, judiciary, and experts) for a non-renewable term, with an explicit provision protecting the head from arbitrary dismissal.
- ❖ Granting effective executive powers: Amend Article 20 of Law No. 42 of 2016 to grant the Bureau the authority to impose direct administrative and financial penalties for serious contractual violations, while establishing a mandatory periodic follow-up mechanism for compliance reports.
- ❖ Budgetary independence: Include an explicit legal provision stipulating that the Bureau's budget is approved directly by the legislative authority, without government intervention, and is not subject to unilateral reduction by the executive branch. — Establishing an immediate prior appeal mechanism: Creating a rapid prior appeal mechanism (*référé précontractuel*) that allows those affected to challenge irregularities in contract procedures before the administrative courts before the contracts are finalized, with a judicial deadline not exceeding 10 days.
- ❖ Digitalization and transparency: Launching a comprehensive national digital platform that collects public contract data and makes it publicly available in real time, while linking it to the Audit Bureau's system to facilitate statistical monitoring and proactive risk analysis.

- ❖ Integration with anti-corruption mechanisms: Strengthening institutional coordination between the Audit Bureau and the Good Governance and Anti-Corruption Authority, leading to a joint referral protocol and avoiding overlap and duplication of responsibilities.

In conclusion, the reform process in Tunisia remains contingent on the convergence of political will, technical expertise, and societal consensus. No successful institutional reform can occur without a political environment that values and safeguards the independence of oversight bodies. The French model is not a ready-made recipe for transfer, but rather a reference horizon that calls for thinking about building a regulatory system suitable for the Tunisian context that combines independence, effectiveness and accountability.

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8. The Tunisian Republic. Constitution of the Republic of Tunisia (2022), art. 131.
9. The Tunisian Republic, Law No. 11 of 2018 dated February 18, 2018 relating to the Local Authorities Code, Official Gazette of the Tunisian Republic, No. 52, May 29, 2018, Article 42.
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