

The Audit Court: A Constitutional Institutional Mechanism for Controlling Public Funds

مجلس المحاسبة آلية مؤسساتية دستورية للرقابة على الأموال العمومية

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Abstract:

The Auditors Court is a supreme constitutional institution for subsequent financial oversight. Since its establishment, it has undergone many amendments and changes, reflecting its importance and the role it plays in protecting public funds. It carries out its assigned tasks with independence, ensuring the objectivity, neutrality, and effectiveness of its work and uses several important tools and mechanisms to audit the conditions under which public funds are managed and used by entities within its jurisdiction. It ensures the compliance of financial and accounting operations with applicable laws and regulations. The oversight exercised by the Court of Auditors aims to promote the proper and regular use of public funds by emphasizing the obligation to present accounts. It also contributes to the prevention of all forms of corruption and unlawful practices that negatively impact state property and public funds.

Key words: Court of Auditors, public funds, corruption, audit, management quality control.

Introduction:

The topic of financial oversight is of great importance, as it focuses on how public funds are managed by those responsible for them, with the aim of reducing financial corruption and promoting the rationalization and efficiency of public spending. This is done by granting various bodies the authority to oversee public funds, whether through ex-ante (prior) or ex-post (subsequent) audits. To provide adequate protection for public funds, most countries establish independent bodies entrusted with the task of ex-post financial oversight of state funds, local authorities, public institutions, and also the commercial assets owned by the state. The Court of Auditors was first established in independent Algeria by Decree 63/127, which is considered the first legal text that created the Court of Auditors under the Ministry of Finance, the establishment of the Court of Auditors was not constitutionally specified until the 1976 Constitution, in the section dedicated to the oversight function. However, its actual implementation on the ground only took place in 1980, under Law 80/05.

This study is of great significance due to the prominent oversight role played by supervisory bodies in general, and the Court of Auditors in particular. It ensures transparency in the management of public funds to prevent corruption and the irrational consumption of these funds after public expenditures are carried out, in compliance with established programs and legal provisions. It also helps strengthen the relationship between citizens and the administration by improving the image of local and central administrative bodies, as well as various facilities and institutions under the Court's oversight, thereby contributing to the development of good governance. From this perspective, the topic requires addressing the concept of oversight on public funds and the role of the Court of Auditors in promoting the effective and strict use of these funds

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by the bodies under its supervision. To answer this question, the study will first explore the concept of oversight on public funds (Chapter One), followed by an examination of the oversight powers of the Court of Auditors as a constitutional body tasked with safeguarding public funds (Chapter Two).

1-Tilte I: The Theoretical Framework of Oversight on Public Funds

Maintaining public funds requires taking measures to protect them by adopting the appropriate means for this purpose. Oversight is the essential tool to ensure the accuracy of financial operations, both revenues and expenditures, when executing the state's general budget. It is necessarily a continuous and ongoing process that accompanies every stage of the budget¹ in order to avoid wasting and squandering funds in a manner that contradicts the legal provisions governing revenue collection or expenditure execution

1.1- First Subtitle : The Concept of Oversight on Public Funds

It is difficult to find a universally agreed-upon definition of oversight on public funds due to the different perspectives from which this issue is approached, whether constitutional, administrative, or economic. However, what remains consistent is that oversight on public funds is one of the precautionary measures to prevent financial and administrative corruption and is an essential necessity to ensure the detection of crimes committed against public funds.²

a- Definition of Oversight and Public Funds :

Oversight is the process of monitoring activities and ensuring that they are carried out according to what has been planned and outlined, and then making corrections for any deviation that occurs or is likely to occur in the future. It is one of the fundamental functions that has played a key role in organizing society and maintaining the economy of nations. It is a necessary and natural phenomenon, as it serves as a regulator for any action that constitutes a violation or deviation from the intended goal.

The French scholar **Henri Fayol** defined it as "ensuring that everything is happening according to the established plan, the issued instructions, and the renewed principles. Its purpose is to identify weaknesses and errors with the aim of addressing them and preventing their recurrence. It applies to everything."³

- Public Funds Definition: Public property is defined as "property owned by the state, whether it is public property over which the state exercises its authority as the holder of public power, or private property subject to the rules of private law⁴." It is also defined as "a collection of assets that belong to the public authority."

The Algerian legislator intervened to define public property and its legal system, and did not leave this matter to the interpretations of legal scholars and the judiciary. This was addressed in several key texts, the most important of which is the amended 1996 Constitution, which defined the nature of public ownership in Articles 20 and 22. It is also addressed in the Civil Code⁵ in Articles 688, 692, 689, 733, as well as the Law on National Property⁶, in addition to the specific provisions regulating each type of public property and the implementing texts for the aforementioned provisions.

From the above, we can conclude that oversight on public funds refers to inspection, observation, monitoring, and verification of the proper use of human, material, and financial resources, as well as documents and accounts. It also involves ensuring compliance with laws, decrees, and instructions set as standards for the actions of administrators, and punishing those who violate them. However, oversight does not stop at merely addressing violations; it extends to prevention. This means that the goal of oversight is not only to impose penalties for the violations and mistakes made by employees responsible for executing the budget, but also to offer advice to help them avoid making mistakes in the future.⁷

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b- The Relationship between Public Funds and Public Benefit, and the Stance of the Algerian Legislator on this Matter

Public funds are assets allocated for public benefit, either through direct use by the public or for serving a public utility. In this regard, they differ from the objectives intended to be achieved by privately owned assets, which makes their legal framework entirely distinct from that governing private assets. Public benefit refers to the welfare of society as a whole and is independent and separate from the benefit of individuals individually.

The Relationship between Public Funds and Public Benefit: Both jurists **Hauriou** and **Waline** argue that the criterion for distinguishing public funds from private funds lies in their allocation for public benefit, whether this allocation is for direct use by the public or for a public service provided by the state. Most countries' legislation has adopted this criterion⁸. However, this has not prevented researchers from identifying other criteria for distinguishing public funds from private ones, such as the public service criterion, the exercise of regulatory powers, and others. The focus on a single criterion in this study aims to reveal the relationship between public funds and public benefit, as the two terms are closely linked, especially when defining public funds in terms of their goal of achieving public benefit.

From another perspective, public interest can be defined by differentiating it from assets. Assets refer to anything that meets a human need, while public interest represents the relationship between the asset and the individual. In other words, it is the characterization or evaluation of that relationship between the individual's needs and the means used to satisfy them.⁹

- The Stance of the Algerian Legislator :It is evident from the legal texts that the Algerian legislator has adopted the criterion of allocation for public benefit, considering an asset as public if two essential conditions are met:

-These assets must be owned by one of the public law entities, such as the state, the province, the municipality, or public institutions.

-Assets allocated for public use or designated for serving a public utility are considered public assets. This is stated in Article 688 of the Civil Code, which defines state assets as movable and immovable properties that are allocated, either in practice or by legal provision, for public benefit, administration, public institutions, or entities with an administrative nature.¹⁰

-The mentioned legal text indicates that the legislator has adopted public benefit as the criterion for classifying assets as public assets, specifically those owned by the state, the province, or the municipality.

1.2- Second Subtitle: Objectives and Tools of Oversight on Public Funds

There is no doubt that the process of oversight on public funds requires the necessary means to implement it, especially if its direct purpose is to achieve the goals set for it and to ensure the attainment of public benefit.

a- The Objectives of Oversight on Public Funds

The primary goal of financial oversight in general is to preserve public funds and protect them from misuse. These objectives are reflected in the following main points:

- Ensuring that resources have been obtained in accordance with the applicable laws, regulations, and rules, and identifying any violations or negligence.
- Ensuring that spending has been carried out according to its intended purpose and verifying the proper use of public funds for their designated objectives without waste.
- Monitoring the implementation of the planned strategy and evaluating performance to ensure that the execution is in line with the established policies, identifying any deviations or shortcomings in performance and their causes, in order to take necessary corrective actions in the future.

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- Ensuring the soundness of laws, regulations, and financial instructions, their appropriateness, and providing means of remedy that ensure more effective oversight to protect public funds, without being overly strict in procedures that could hinder the speed of execution.

Thus, these objectives can be divided into:

- **Developmental Objectives:** Development is achieved through the realization of programs and objectives set in advance before starting expenditure. The first of these objectives is the realization of political goals, particularly in monitoring the extent to which the legislative authority adheres to the laws it issues for the implementation of public projects and services, as it is the body that expresses the will of the people and represents them. Therefore, respecting what is issued by Parliament is a manifestation of respecting the will of the people.

Economic objectives are achieved when ensuring the proper use and allocation of public funds in a way that serves the public benefit. Additionally, protecting public funds from crimes such as embezzlement, waste, theft, or any negligence in collection or expenditure is essential, as these issues hinder economic development and contribute to poverty and lower living standards. Social objectives include combating corruption in all its financial and administrative forms, such as bribery, theft, neglect, and fighting social ills that harm society.¹¹

- **Legal and Financial Objectives:** Ensuring that the legal texts governing the financial field and oversight procedures comply with the stages of revenue collection, expenditure, and execution. It also aims to monitor the officials during the exercise of their legally granted powers and the appropriateness of their actions. Financial oversight is based on two principles: responsibility and accountability.

Rationalizing the management of open appropriations and identifying areas of weakness in their distribution is one of the ways to protect public funds. Moreover, financial oversight, as a deterrent measure, aims to identify errors made by the officials responsible for managing these funds and refer those responsible to the competent authorities for accountability and punishment.¹²

b-Tools of Oversight on Public Funds

Oversight of public funds relies on a set of tools that are essential and necessary to achieve the ultimate goal of financial oversight, which is the preservation of funds. These tools are diverse, including legal texts, complaints, inspections, audits, and other methods mentioned below.

- **Legal Texts:** Legal texts are the primary and fundamental tools, as financial oversight on public funds can only be carried out based on legal provisions, with the constitution being the foremost. Article 199 of the amended and supplemented 1996 Constitution enshrines financial oversight through investigations authorized for the relevant bodies and agencies. Additionally, organic laws, especially those related to the judiciary as an oversight body, the organic law concerning financial laws¹³, annual finance laws, public accounting, public procurement, and all regulations such as decrees, circulars, and instructions that include the scope of oversight on public funds in general, play a crucial role.

The general budget is considered a legal document that estimates the necessary expenditures to meet the needs of society and the revenues required to cover these expenses for a specified period of one year. It is defined in Article 6 of Law No. 84/17 related to financial laws and Article 3 of Law No. 90/21 related to public accounting as the document that “estimates for the civil year the total revenues and expenditures related to management and investment, including public equipment expenditures and capital expenditures, and authorizes them.”

This is where it is verified whether financial actions align with the objectives expressed in the budget plan. Subsequent oversight of implementation is carried out by comparing what has actually been done with what was estimated in the budget, with the aim of identifying and analyzing deviations, as well as investigating the causes and factors that led to them.¹⁴

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- Auditing and Inspection: It is done through monitoring accounts in a precise manner by external oversight bodies. This includes a series of procedures taken by the auditor, whether an individual or an agency that did not participate in the executive operations, with the aim of examining accounts, books, and documents. The goal is to assess the accuracy of execution in accordance with the previously established rules and instructions, which those responsible for carrying out various tasks must adhere to. A report on the results of the examination is then submitted to the competent authority.

- Reports and Complaints: Reports are considered a means of oversight, and these reports, of course, vary based on many different criteria, such as their subject matter and the entity to which they are directed. The importance of financial reports prepared for monitoring and financial oversight purposes lies in their role in drafting corrective or developmental texts necessary to ensure the smooth functioning of operations and achieve effectiveness in the results and objectives aimed at.

When something inconsistent with the set objectives is observed, some parties may submit complaints, especially if it involves the waste, embezzlement, or misuse of public funds for personal gain. This requires conducting investigations and verifying the credibility of the complaints.

2-Tilte II: The Role of the Court of Auditors in the Oversight of Public Expenditure

The Court of Auditors is a specialized administrative judicial body and one of the most important constitutional institutions established by the 1976 Constitution, amended in 1980. It is a high institution for ex post oversight, and it currently operates under the provisions of Ordinance No. 95/20 dated July 17, 1995, as amended and supplemented by Ordinance No. 10-02, which defines its powers, organization, and management. The Court of Auditors contributes to combating corruption through the exercise of its judicial and administrative powers, which are manifested in addressing and correcting errors and holding accountable the entities subject to its oversight.

1.1- First Subtitle : The Legal Framework of the Court of Auditors

Often, when mentioning constitutional institutions, people refer to the three branches of government: the legislative, executive, and judicial powers. However, the reality is different, as the constitution recognizes other institutions, such as the Court of Auditors. Oversight bodies are tasked with investigating the alignment of legislative and executive actions with the constitution. The forms of oversight on public funds vary depending on the body exercising it.

a: The Constitutional and Legislative Foundation of the Court of Auditors

Both the 1963 Constitution and the 1976 Constitution overlooked the establishment of the Court of Auditors until 1980, when the 1976 Constitution was amended to include its creation in Article 190. Since then, it has been addressed in successive constitutions, starting with Article 160¹⁵ of the 1989 Constitution, followed by the 1996 amended and supplemented Constitution.

Based on the provisions of Article 199 of the amended 1996 Algerian Constitution, which are included in Title IV, titled "Oversight Institutions," under Chapter 2, titled "Oversight," it explicitly states that the institutions mentioned in the constitution, alongside the oversight bodies, are responsible for ensuring the conformity of legislative and executive actions with the provisions of the constitution. The article also clarifies that the scope of oversight extends to the conditions of use and management of material resources and public funds.¹⁶

The constitutional founder recognized the Court of Auditors as a constitutional institution by including it in the same chapter related to oversight, as mentioned earlier. This indicates that the Court derives its oversight powers primarily from the provisions of Article 199 of the constitution, which grants it the task of ex post oversight over state funds, local communities,

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public utilities, and state-owned commercial capital. The Court of Auditors also contributes to the development of good governance and transparency in the management of public funds.

- The Legislative Foundation of the Court of Auditors : The Court of Auditors is a high constitutional institution for financial oversight, classified as a specialized judicial body¹⁷, also referred to as a body with a specific mandate. It was first established by Decree 63/127, which was later abolished by Decree 71/259, which reorganized the central services of the Ministry of Finance. The Court reappeared in the 1976 Constitution under the chapter on oversight functions, but it was not fully realized until 1980 with Law 80/05¹⁸, which strengthened its powers and scope of action in ex post oversight of public funds. However, this was short-lived due to the adoption of Law 90/32, which limited the Court's jurisdiction to a narrower scope, covering only bodies that manage their finances in accordance with public accounting rules.

Article 03 of this law stipulated: "The general task of the Court of Auditors is to carry out subsequent oversight of the finances of the state, local communities, public utilities, and any entity subject to administrative law and public accounting rules." Furthermore, Article 04 explicitly stated that the Court of Auditors does not have jurisdiction over operations involving funds managed according to civil and commercial law, nor over public economic enterprises.

This narrowing of the scope of oversight was accompanied by a similar reduction in the Court's powers. It no longer had the authority to impose sanctions directly but could only file petitions before criminal courts, after issuing warnings to the concerned parties or notifying the Minister of Finance¹⁹. This led the legislator to abolish this limitation under Ordinance 95/20²⁰ dated July 17, 1995, amended and supplemented by Ordinance 10/02²¹ dated August 26, 2010, in order to enhance the effectiveness of financial oversight and achieve the objectives of ex post financial oversight within the scope of Article 199 of the constitutional amendment²². This reform restored the Court of Auditors' oversight authority over public funds, whether held by public law entities or private law entities. Wherever public funds exist, the Court's oversight is exercised.

b-Powers of the Court of Auditors

Through an examination of Ordinance No. 95/20, amended and supplemented by Ordinance No. 10/02, which governs the Court of Auditors, it is clear that the legislator has entrusted the Court of Auditors with a range of powers in the area of public financial oversight. Notably, this oversight encompasses all public entities subject to public accounting rules²³, as well as institutions in which public legal persons hold a stake in their capital. Furthermore, the Court's jurisdiction over public funds extends to the oversight of the use of financial resources collected by public entities during national solidarity campaigns.

In any case, it seems that Articles 06 to 15 of Ordinance 95/20, as amended and supplemented, have outlined the scope of oversight exercised by the Court of Auditors.²⁴

-The Institutional Scope Subject to the Oversight of the Court of Auditors The Court of Auditors exercises its oversight over the various interests of the state, local communities, public institutions, utilities, and entities of all kinds. It also oversees companies, institutions, and organizations in which the state, local communities, or other public bodies or institutions hold a majority share or exercise dominant decision-making authority. The areas subject to oversight include:

- Oversight of Central and Decentralized Administrative Bodies: The interests of the state, local communities, public institutions, utilities, and various public entities, which are subject to public accounting²⁵ rules, fall under the oversight of the Court of Auditors. This includes state administrations, the Constitutional Court, the National People's Assembly, the Court of Auditors itself, entities with attached budgets, local communities, and public institutions with an administrative nature.²⁶

- Oversight of Economic Institutions and Utilities: The oversight of the Court of Auditors extends to public facilities with industrial, commercial, or financial activities, including public institutions

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and entities engaged in industrial, commercial, or financial operations, whose funds, resources, or capital are of a public nature. This includes monitoring the management of public shares in companies, institutions, or entities, regardless of their legal status, in which the state, local communities, or other public bodies own a part of the capital.

Previously excluded from the Court's oversight under Law 90/32, these entities have been brought under the Court's jurisdiction by Ordinance 95/20. Notably, the scope of this oversight was expanded under Article 8 bis of Ordinance 10/02, which amended and supplemented Ordinance 95/20²⁷. This expansion extends the Court's oversight to the management of companies, institutions, and entities, regardless of their legal status, where the state, local communities, public institutions, or other public entities hold a majority share or have dominant decision-making power in the capital.

This change restores and broadens the Court of Auditors' authority to ensure that the management of public financial resources in all sectors is accountable and transparent, reinforcing the protection and proper use of public funds.

- **Other Areas Subject to the Oversight of the Court of Auditors:** The Court of Auditors exercises its oversight over entities involved in managing compulsory insurance and social protection systems²⁸, in accordance with the applicable laws and regulations. It is also authorized to monitor the use of financial aid provided by the state, local communities, public utilities, or any other body under the Court's supervision. This includes financial assistance in the form of subsidies, quasi-taxes, or other contributions, regardless of the beneficiaries, and evaluating their effectiveness. Moreover, the Court of Auditors can oversee the use of resources collected by entities, regardless of their legal status, that rely on public donations to support humanitarian, social, scientific, educational, or cultural causes, particularly in the context of national solidarity campaigns²⁹. This oversight aims to prevent misuse, waste, and embezzlement. The Court is also authorized to monitor the conditions for granting and using donations and financial aid, ensuring that they align with the established objectives and that the funds are used effectively and appropriately in accordance with the intended purposes.

1.2- Second Subtitle: The forms of oversight exercised by the Court of Auditors

Article 2 of Ordinance 95/20, as amended, refers to the types of oversight exercised by the Court of Auditors, albeit in a general manner. It clarifies that its functional scope, as the supreme body for ex post control over the state's, local authorities', and public institutions' funds, lies in auditing the conditions of use of the resources, material means, and public funds falling within its jurisdiction. It evaluates their management, ensures compliance with legal and regulatory frameworks, and verifies **the correctness** of the financial and accounting operations of these bodies.³⁰

Accordingly, a distinction can be made between the administrative and judicial powers that the Court of Auditors is vested with.

a- The Administrative Oversight of the Court of Auditors

The independence enjoyed by the Court of Auditors does not exempt it from subjecting its decisions to administrative oversight, while taking all necessary measures to ensure the confidentiality of its investigations and inquiries. It is granted access to any document or information it deems necessary for carrying out its audit of financial and accounting operations and for evaluating the management of public resources and funds. It also receives audit reports prepared by external oversight bodies regarding the management of entities. The Court of Auditors' observations and reports are then communicated to the relevant authority of the institution or body under its audit.

His Right to Access and his Authority to Investigate: The Court of Accounts has the right to access all documents that would facilitate audit operations in the fields of finance and accounting, or that are necessary for evaluating the management of the bodies and services under its oversight.

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It also has the right to summon any official and to exercise its authority to investigate, access, and enter any premises that belong to public entities or bodies under its control³¹. It is required to take measures to maintain the confidentiality of commercial and industrial information of the institutions under its audit. Furthermore, it has the right to request documents, information, and reports prepared by external audit bodies responsible for monitoring the entities under the Court of Accounts' supervision, and it also has the authority to consult specialists or appoint experts to assist and provide support in its work.

-The Court of Accounts' Audit of Management Quality::The Court of Accounts monitors the quality of management of the public bodies and services mentioned earlier. It evaluates the conditions under which public funds are used and how they are managed in terms of efficiency, effectiveness, and economy. It also assesses the organizational structure and functioning of the bodies and provides recommendations to improve effectiveness³². Due to the significant importance of this type of audit, the legislator has dedicated a full section of the amended and supplemented Order 95/20 regarding the Court of Accounts to it. It is important to note that the Court of Accounts' authority in monitoring the quality of management does not mean reviewing the validity or relevance of the policies, programs, and objectives set by the public bodies. Its role is limited to assessing the organizational structure and functioning of the bodies under its supervision, ensuring the application of effective internal control mechanisms within each body, and verifying the legality of their financial activities and their compliance with legislative and regulatory texts by auditing the financial accounts submitted by the bodies. This is aimed at achieving the desired objectives through the optimal use and exploitation of available resources and means.³³

-Disciplinary Control in the Management of the Budget and Finances: This control is exercised by the Disciplinary Chamber, also called Compliance Control, which aims to ensure the application of laws and regulations and verify adherence to discipline in the management of the budget. This includes respecting the approvals granted by the Parliament³⁴. The Council holds accountable any officer or responsible person in the public institutions and bodies listed in Articles 7 to 12 of the same order regarding the Council of Auditors. This responsibility extends to actual accountants who collect revenues and pay expenses without having the status of public accountants or without obtaining approval from the competent authority³⁵. Violating disciplinary rules includes:

- Breaching legislative and regulatory provisions related to the collection of revenues and expenditure.
- Misuse of financial allocations and aids granted by the state, local authorities, public institutions, or granted with their guarantees, for purposes other than those for which they were provided.
- Committing to expenditures without having the appropriate status or authority, or violating the rules applied in prior control procedures.
- Committing to expenditure without available allocations or exceeding the budgetary limits.
- Illegally deducting expenditure to hide either a surplus in the allocated funds or a change in the original allocation of liabilities or loans granted for specific operations.
- Carrying out expenditure operations that clearly fall outside the goal or mission of public bodies.
- Unfounded rejection of approval or explicit obstacles by prior control bodies, or issuing approvals outside legal conditions.
- Failing to comply with the legal and regulatory provisions regarding the maintenance of accounting records and inventories, and the retention of documents³⁶ and supporting materials.
- Concealed management of public funds, assets, or resources.

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- Any negligence leading to the failure to pay tax or quasi-tax revenues that were subject to withholding at source within the prescribed time and in accordance with established legal conditions.
- Causing the state, local authorities, or public bodies to incur fines or financial compensation due to partial or late non-compliance with court rulings.
- Abusive use of procedures requiring public accountants to pay expenses on unlawful or non-regulatory grounds.
- Management actions that violate the rules for concluding and executing contracts as stipulated by public procurement law.
- Failing to comply with laws governing the sale of public assets that are no longer usable or are seized by administrations or public bodies.
- Submitting fraudulent or incorrect documents to the Council or concealing documents from it.³⁷

b- The Judicial Control of the Court of Auditors

The decisions issued by the Court of Auditors, in accordance with the amended and supplemented order 95/20, are subject to review by the court itself, which is referred to as internal control through auditing and appeal. In this regard, it is a specialized judicial body, but it is not considered a general judicial body for administrative cases, as is the case with the Council of State and administrative courts.

-Review of the Accounts of Public Accountants: The judicial audit carried out by the Council during the review of the accounts of public accountants³⁸ involves ensuring that all entities present their accounts, which serve as the primary means for the judges of the Council to review the financial status of each entity. The process of auditing public accountants' accounts begins with verifying that they include all transactions carried out during the specified financial year (i.e., the correct accounting entries for these transactions and their balances). Then, these transactions are examined by referring to the supporting documents and various related records to verify their legality and financial accuracy³⁹ from both a legal and budgetary perspective.

The investigation is conducted both in writing and in person by the rapporteur, assisted by other judges or technical assistants from the Council. The rapporteur records his observations and reasoned suggestions. The report is then sent to the examiner for a final decision in cases where no violations are found. In other cases, a provisional decision is made, and the concerned public accountant is notified, allowing them one month to submit a response to the Council. Based on this, their responsibility is determined, or they are acquitted.⁴⁰

-The Appeal :Article 107 of Ordinance No. 95/20, which regulates the Court of Auditors, states that the decisions of the Council are subject to appeal within one month from the date of notification of the contested decision. The appeal can only be filed by the concerned party, the relevant authority, the supervisory authority, or the General Auditor, through an appeal petition signed by the petitioner or their legal representative. The purpose of the appeal is to modify or annul the decision issued by the first instance, specifically decisions issued by chambers with regional or national jurisdiction or disciplinary chambers regarding budget management.

The appeal results in two effects. First, the appeal has a suspensive effect on the execution of the contested decision, meaning that the decision cannot be enforced until the dispute is resolved. The second effect is that the appeal is reviewed by the chambers sitting jointly, excluding the chamber that issued the decision. Additionally, the decisions issued by the Court of Auditors' chambers sitting jointly can be appealed through cassation before the Council of State, in accordance with Law No. 08/09, which governs civil and administrative procedures, as amended.

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Conclusion:

The role and mission of the Court of Auditors in combating corruption are very important, as it is the highest supervisory body in Algeria. While its main task is post-audit of all aspects of public spending, through its oversight of the use of budgets allocated to the administrations and entities under its supervision, it exercises its powers with the help of administrative and judicial mechanisms granted to it by legal provisions. These include investigation, auditing, and evaluating management quality in terms of effectiveness, performance, and economy. In its final investigations and findings, the Court issues appropriate actions to improve management quality or expose financial and administrative violations. Additionally, the Court has the authority to investigate, examine, and review the management quality and the accounts of public accountants. Based on these actions, it must issue decisions against the errors committed. Negative reports that expose financial loopholes and the misuse of public funds must be accompanied by punitive measures, such as financial penalties within the limits set by law. These violations should be disclosed in the Court's annual reports when violations are confirmed. This leads to addressing and revealing all forms of corruption related to public funds. The judicial police should also rely on the Court's previous and potentially even subsequent annual reports to control, detect, and track all cases and forms of financial and administrative corruption at various levels.

References:

- ¹ Mohamed Sahil, Public Finance, Dar Al-Jisour, Algiers, 2017, p. 265.
- ² Tebboune Abdelkrim, Criminal Protection of Public Money in Public Procurement, PhD Thesis in Public Law, Abou Bakr Belkaid University of Tlemcen, Algeria, 2018, p. 82.
- ³ Ali Abbas, Essentials of Management Science, Dar Al-Masira, Jordan, 2014, p. 180.
- ⁴ Salam Rafiq Muhammad, Criminal Protection of Public Funds, Dar Al-Nahda Al-Arabiya, Cairo, p. 131.
- ⁵ The Order No. 75/58, dated 20th of Ramadan, 1411 AH, corresponding to September 26, 1975, contains the Civil Code, Official Gazette No. 78, issued on September 29, 1975, amended and supplemented.
- ⁶ Law No. 90/30, dated 14th of Jumada al-Awwal, 1411 AH, corresponding to December 1, 1990, concerning National Property, amended and supplemented.
- ⁷ Serrar Abd El-Wahid, "Public Funds Control as a Tool to Improve Government Performance," International Conference on Excellence in Organizational and Government Performance, University of Ouargla, Algeria, 2003, p. 135.
- ⁸ Boumezber Abdelmadjid, "The Legal System of Public Funds in Algerian Legislation," Master's Thesis in Public Law, Mentouri University Constantine, Algeria, 2012, p. 22.
- ⁹ Chouache Rafik, "Crimes Harmful to the Public Interest in Comparative Criminal Legislation," PhD Thesis in Criminal Law, Mohamed Khider University Biskra, Algeria, 2016, p. 28.
- ¹⁰ Belkreechi Hayat, "The Court of Auditors: Between Ambitions and Setbacks," Master's Thesis, University of Algiers 1, 2012, p. 63.
- ¹¹ Mohammed Khair Al-Akkam, "Financial Control," Publications of the University of the Syrian Arab Republic, Syria, 2018, p. 18.
- ¹² Serrama Abdelmadjid, "Op. cit.," p. 77.
- ¹³ The Organic Law No. 18/15 dated 22nd of Dhu al-Hijjah 1439H, corresponding to December 2, 2018, related to the Financial Laws, Official Gazette No. 53.
- ¹⁴ Abdelkader Mouafiq, Financial Control over Municipalities in Algeria, PhD Dissertation in Management Sciences, University of El-Hadj Lakhdar Batna, Algeria, 2015, p. 62.

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¹⁵ Article 190 of the 1976 Constitution, as amended by Law 80/01 dated January 12, 1980, concerning constitutional amendments, Official Gazette No. 3, dated January 15, 1980, p. 43.

¹⁶ Article 199 of the amended and supplemented 1996 Constitution states that constitutional institutions and oversight bodies are responsible for ensuring the compliance of legislative and executive actions with the Constitution, as well as overseeing the use and management of public resources and funds.

¹⁷ Baali Mohamed El-Saghir, Administrative Judiciary "Council of State", Dar Al-Uloom Publishing, Algeria, 2004, p. 196.

¹⁸ Law No. 80/05, dated 14 Rabi' al-Thani 1400, corresponding to March 1, 1980, concerning the exercise of the monitoring function by the Court of Auditors, Official Gazette No. 10, dated March 4, 1980, p. 338.

¹⁹ Law No. 90-32, dated 17 Jumada al-Awwal 1411, corresponding to December 4, 1990, concerning the Court of Auditors and its operation, Official Gazette No. 53, dated December 5, 1990, p. 1690.

²⁰ Order No. 95/20, dated 19 Safar 1416 AH, corresponding to July 17, 1995, concerning the Court of Auditors, Official Gazette No. 39, dated July 23, 1995, p. 3.

²¹ Order No. 10/02, dated 16 Ramadan 1431 AH, corresponding to August 26, 2010, amending and supplementing Order No. 95/20 concerning the Court of Auditors, Official Gazette No. 50, dated September 1, 2010, p. 4.

²² Abdelaziz Azza, "The Jurisdiction of the Court of Auditors in Disciplinary Oversight in the Field of Budget and Financial Management in Algeria," Journal of Communication in Humanities and Social Sciences, Issue 32, Badji Mokhtar University, Annaba, 2012, p. 154.

²³ Ahmed Souikat, "The Court of Auditors as a Fundamental Constitutional Mechanism for Financial Oversight in Algeria," Journal of Legal and Political Sciences, Issue 14, University of El Oued, 2016, p. 168.

²⁴ Massoud Radhia, "The Role of the Court of Auditors in Protecting Public Funds from Financial Corruption in Algerian Legislation," Journal of the Professor-Researcher for Legal and Political Studies, Issue 11, Mohamed Boudiaf University of M'sila, 2018, p. 572.

²⁵ Article 2 of Executive Decree No. 91/313, dated 28 Safar 1412, corresponding to September 7, 1991, specifying the procedures, methods and content of public accounting records kept by cashiers and public accountants, JR No. 43, dated September 18, 1991, p. 1648.

²⁶ Abdelaziz Azza, The competence of the Accounting Council to exercise discipline control in the field of budgetary and financial management in Algeria, Journal of Communication in the Humanities and Social Sciences, No. 32, Annaba University, 2012, p. 157.

²⁷ Ordinance 95/20 on the Board of Accounts, as amended and supplemented, op. cit.

²⁸ See Article 10 of Ordinance 95/20, amending and supplementing Ordinance 95/20, concerning the Audit Council.

²⁹ See Articles 11 and 12 of Ordinance 95/20 amending and supplementing the Accounting Council

³⁰ Abdelaziz Ezza, op. cit. p. 156.

³¹ See Articles 55-65 of Ordinance 95/20 on the Accounting Council.

³² Kadi Kamal, The legal and institutional framework for combating corruption in Algeria, PhD thesis, University of Algiers, 2018, p. 304.

³³ Amjouj Nouar, The Accounting Council: Its System and Role in the Control of Administrative Institutions, Master's thesis, Montouri University Constantine, 2007, p. 135.

³⁴ Kemmouche Nassima, Conformity control and evaluation control of public expenditures between compatibility and contradiction, Master's thesis, University of Algiers, 2013, p. 49

³⁵ See Article 51 of Law 90/21 of 24 Muharram 1411 (August 15, 1990) on public accounting, Official Gazette No. 35.

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³⁶ Due to the special nature of the activity of public sector units, accounting documents and records must be designed to suit the nature of government activity, as “the set of books and documents is the main source of actual information on the basis of which reports of all kinds are prepared, and therefore the set of documents, if developed, enables the actual costs of government activities and projects to be accounted for” (Chalal Zohair, Prospects for reforming the Algerian public accounting system for the implementation of state financial operations, doctoral thesis, Mohamed Bouguerra Boumerd University, Mohamed Bouguerra Boumerd

³⁷ Article 88 of Ordinance 95/20 on the Accounting Council, as amended and supplemented.

³⁸ Article 74 of Ordinance 95/20 amending and supplementing the Accounting Council.

³⁹ Masoud Radia, op. cit. p. 547.

⁴⁰ Article 102 of the aforementioned Order No. 95/20.