An evaluative reading of the legal system of the financial and accounting auditing profession in Algeria.

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Abstract:

As part of the economic reforms undertaken by Algeria, reforms were introduced in the financial and accounting auditing profession by modifying the legal system which specifically regulates the auditing profession. From this point of view, we have attempted, through this research paper, to highlight the most significant stages that the legal organization of the accounting audit profession in Algeria has taken, in particular with the adoption of the accounting system and financial in 2007, as well as by examining to what extent these legislations meet the principles of accounting auditing; This is done by adopting the descriptive analytical approach.

The study concludes that the success of the profession of accounting auditor in Algeria requires a comprehensive accounting reform within the framework of a reconsideration of the legal system of entities related to the subject, such as banks, financial institutions, tax administration, training establishments...etc.

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1. INTRODUCTION

Following the emergence of the Industrial Revolution, the need to create large industrial enterprises arose, which increased interest in accounting and auditing systems. This task was entrusted to people with the required academic and practical skills and qualifications, hence the emergence of the auditor or accountant.

In this context, Algeria, in an effort to adapt to international accounting standards in this area, has made great efforts, leading to a stage prior to the promulgation of law 07-11, which includes the Algerian system of financial accounting, followed by the promulgation of many important legislations aimed at regulating the profession of accountant and financial auditor in particular.

In these circumstances, the problem of this study is the following:

How did the legal system of the auditor profession develop in Algeria?

In order to understand the most important aspects of this topic, the following sub-questions can be asked:

What is the conceptual framework of the accounting audit process?

- What are the types of accounting audits?

What are the stages in developing the legislative framework for the accounting audit profession in Algeria?

1.1. The importance of the study : This study is of particular importance because it addresses the legislative framework of the financial and accounting audit profession, in addition to the fact that this work involves a legal responsibility of which the auditor must be well aware and ensure that his intervention is in accordance with the law.

1.2. Objectives of the study: This study aims to:

- Introduce the concept of accounting audit according to the Algerian legislative system

- Review the most important legislative stages that the accounting audit profession has experienced in Algeria, clarifying the specificity of each stage.

- Determine the relevance of the legislation currently adopted in this area in Algeria given the ongoing transformation in the field of accounting in particular.

1.3. Methodology of the study: in order to become familiar with the most important aspects of the subject studied, the deductive approach was used with the tools of analysis and characterization by approaching the axes of the subject, in particular with regard to the analysis of the legal provisions related to the accounting audit profession.

1.4. Structuring of the study: This study is divided into the following axes:

1. The theoretical concept of the accounting and financial auditing process.
2. Stages of development of the legislative process of the financial and accounting auditing profession in Algeria.
3. Limits of the auditor's legal liability

2.The theoretical concept of the accounting and financial auditing process.

2.1. The concept of Accounting Audit

The importance of auditing in economic enterprises has grown as an advisory and necessary function that helps provide the necessary information and data as required by managers to diagnose and assess the capabilities of the enterprise comprehensively and continuous, in order to reduce risks and detect weaknesses in order to correct, strengthen and correct them in a timely manner, as well as to identify strengths in order to strengthen them and to develop decisions based on them within the framework of the company's performance.(Ben Azza Mohamed & Zohri Jalila, 2012, p. 140)

The American Accounting Associationdefines it as "an organized and systematic process of collecting and objectively evaluating evidence and evidence related to the results of economic activities and events to determine the compatibility of those results with established standards. and to notify interested parties of the results of the investigation."(Majid Jassim Al- Shara , 2003, p. 11)

Whereas, auditing is professionally defined as "the process of examining business documents, books, and records with neutral technical and critical examination to verify the accuracy of transactions and express an opinion on the 'Fairness of the organization's financial reporting, based on the strength and durability of the internal control system. (Ahmed Helmy Juma, 2005, p. 5)

Auditing with this concept is based on three basic elements, namely:

A- Review**:** This is to ensure the accuracy of measurement of the processes that have been recorded, analyzed and tabulated.

B- Verification: This involves being able to judge the validity of the financial statements, which reflect the legality of the cycle's work.

C- This is a summary of what has been achieved in the two previous stages, prepared in such a way as to facilitate its use by the parties concerned.

2.2. The definition of the profession of auditor by the Algerian legislator

In what follows, we try to review the concepts related to the profession of accountant auditor in certain fundamental laws, starting with the laws regulating the profession of auditor, then commercial law and finally the finance law.

1.2. Laws regulating the profession: (Ordinance 69-107) is considered to be the first legal text to define the profession of auditor through the text of article 39 thereof, which reads as follows: "the minister responsible for Finance and Planning appoints accountants in national companies and public establishments of an industrial or commercial nature in order to ensure the legality and validity of their accounts and to analyze their situation of assets and liabilities.

(Law No. 91-08): whose provisions provided for the delimitation of two types of auditors (accountant, auditor) authorized to exercise the profession in their own name and under their personal responsibilities as follows:

- the Chartered accountant: organizes accounting and accounts of all kinds, and their examination, rectification and analysis with institutions and commercial or civil companies in the cases provided for by law to exercise a contractual capacity of expertise or calculation ".

- **thestatutory auditor**: certifies the validity and regularity of the accounts of companies and organizations of commercial companies and capital companies, in accordance with the provisions of commercial law, as well as associations, social cooperatives and unions".

- (Law 10.01) **:** Law 91-08 was repealed by this law, in which the tasks and powers of the expert, the accountant and the accountant were defined as follows:

Chartered Accountant: Under Algerian law, From the point of view of Algerian law, an accountant is any person who meets the legal requirements to carry out accounting operations in his own name on a permanent basis and bears responsibility for them.

Auditor: This is the person legally authorized to approve the accounts of companies and organizations responsible for accounting in accordance with the approved legislation.

It should be noted that these tasks largely coincide with the definition of accounting audit mentioned in the introduction to this research.

2.2. Commercial code': the amendment contained in this law by (Ordinance 96-27), in particular in articles 10 bis and article 73 bis 2, included the following: "the accounts and receipts of traders are intended to control the evolution of the financial solvency elements of the company in an objective manner in accordance with the regulatory techniques according to the legal forms, in addition, commercial legal persons are required to carry out or instruct another person to investigate and certify their accounts and receipts according to the forms provided for by law, to carry out the legally prescribed publications under their civil and criminal responsibilities".

3.2. Finance law: in accordance with article 101 of the finance law (The law of 30/12/1999) of the year 2000, the competences of the accounting portfolios have been extended to include the control of State expenditure granted within the framework of subsidies to associations, so that the subsidy prescribed by the State or the local groups will not be granted to associations and organizations as of January 1, 2000, after presentation of an audited account on the payment of subsidies from which they previously benefited, and verification of the conformity of their expenditure with the objectives for which they were granted.

3.Accounting audit, its objectives and types:

1.3. The importance of the audit: The accounting audit aims to uncover deficiencies and gaps in the application of legally approved accounting rules, in accordance with the institution's strategy. It also allows managers to intervene and correct omissions in a timely manner. It is important for:

***** Importance for project management, owners and economists: the accounting data used in controlling and planning for the future is considered the basis on which the management of the company depends to achieve its objectives with efficiency required, and the data should be

audited by an impartial, effective and credible body, as to which class of investment owners are obtaining the highest possible return, and this is based on correct and accurate financial statements, the latter is also the objective of economists in the elaboration of their economic plans and programs.

***** Importance for Creditors, Suppliers (financial institutions): The financial statement indicator is the basis of trust for both the creditor and the supplier, in order to know the financial situation of the company and its solvency to honor its debts. By the same logic, banks and lending institutions want to know the institution's financial situation to make future financing decisions.

***** Importance to trade unions, tax administration and government agencies: prepared and audited financial statements are of the utmost importance to trade unions, in their negotiations to increase wages and share profits earned, and government agencies also rely on these lists in several areas, including planning, control, determination of the tax base...Etc.

2.3. Objectives of the accounting audit: the accounting audit process aims to achieve a number of objectives, including:(Youssef Mohammed jerboa , 2000)

A- Check the validity and accuracy of accounting entries recorded in the institution's books and ensure their compliance with approved legislation.

B - detect any error or fraud that may exist in the accounting books.

C - obtain an impartial technical opinion on the conformity of the financial statements with what is recorded in the books and registers.

D- Attempt to avoid errors and inaccuracies in recording through unannounced visits by the auditor to the institution.

E - monitoring plans, monitoring their implementation, the extent to which the objectives set have been achieved, identifying imbalances and how to correct them.

Types of Accounting Audit:

According to the independence standard, auditing is divided into internal auditing and external auditing.

Below we try to present a brief concept of each type as follows (Mohamed Amine lunessa , p. 34)

*** Internal audit:** In this type of audit, a person in the organization checks the books and records for compliance with accounting standards during the process of entry in the books and records, the process is called internal audit, which is the one of the internal control tools or is (Kamal al-Din Mustafa al- dahrawi , 2001, p. 162): "the evaluation function of activities recognized within the entity as a service to the entity includes its functions and other elements such as inspection, evaluation and monitoring the efficiency, effectiveness and relevance of internal control.

The internal audit process is no longer limited to accounting and finance as it was before, but now audits the functions and operations of internal control systems, degree of compliance with laws, veracity and accuracy of the information circulating in the company.

*** External audit:** This is a critical examination of information and processes to ensure their accuracy and credibility in the evaluation of the internal control and internal audit system and the extent of their efficiency in order to express an impartial technical opinion on the results of the operations carried out. the external audit also relies heavily on the internal audit, because the latter's effectiveness has been proven by its evaluation tests. if the internal audit is good and effective, it is reliable, with a set of analytical tests in kind to increase the margin of reassurance and confirmation. if proven otherwise, external audit requires a full review process to identify the most significant errors in numbers or processes and the following is a summary of the most significant differences between internal audit and external audit. internal audit outside.

Table 01: differences between internal audit and external audit.

Differentiation standard	Internal Audit	external audit
1.the objective	serve management by ensuring that the accounting system is efficient, provides solid and accurate data to management and the objective is to detect and prevent errors and deviations from established policies	. Serve owners by providing technical advice on the fairness of financial statements, while error detection is a secondary objective.
2-quality	An employee affiliated with the establishment and appointed by the administration	An independent professional from outside the company appointed by the owners.
3-degree of Independence	enjoys partial independence as it is independent of certain departments, such as the accounting and finance departments, but caters to the wishes and needs of all departments.	It is completely independent of management in the review, evaluation and opinion-making process.
4-responsibility	accountable to management and then submits its report with the results of the review	He reports to the owners and then submits his report on the results of the examination and his technical opinion on the

	and study to higher administrative levels.	financial statements to them.
5. Field of work	the department determines the scope of work based on the number of responsibilities assigned to internal audit which will constitute the scope of work.	This is determined by the order of appointment, current standards, professional standards and what is prescribed by laws and regulations
6. Schedule of audit	the audit is carried out continuously throughout the financial year.	The review is often done after the end of the fiscal year and can sometimes take place during intermittent times of the year.

Source: Hussein Ahmed Dahdouh and Hussein Youssef El-Kady, Advanced Audit, Theoretical Framework and Practical Procedures, P. 1, Dar Al- Kultura Publishing and Distribution, Amman, Vol. December 1, 2009, p. 53.

2. Stages of development of the legislative process of the financial and accounting in auditing profession Algeria

It should be noted that the nature of these texts and the dates of their publication show that the Algerian legislator tried each time to adapt to the nature of the economic system in force, and within this framework, the way of the regulation of This profession from the legal side can be divided into three main stages, namely:

1. The first stage from 1969 to 1990:

First of all, it should be noted that since 1962 (date of independence of Algeria) until 1969, there was no Algerian legal provision for the accounting audit profession because French laws were the direction of this activity, and the laws issued in the name of independent Algeria in this field were as follows:

***** Decree No. 69-107 containing the 1970 finance law: It is considered the first legal text dealing with the profession of auditor in Algeria, because its article 39 stipulates that the minister in charge of finance and planning appoints auditors to national institutions, public establishments of an economic and commercial nature or Companies in which the State or a public body holds part of its capital in order to ensure the regularity and integrity of its accounts and the analysis of its assets and liabilities.

*(Ordinance 71-82)on the regulation of the accountancy profession and the chartered accountant:

Under this order, the accounting profession was organized in Algeria for the first time, and as with the accounting portfolios of public establishments, it was entrusted to the General Inspectorate of Finance (IGF).

Decree 70-173 specifying the duties and responsibilities of the statutory auditor:

This text confirmed that the statutory auditor is a permanent controller of the management of public institutions, and that the exercise of this function was authorized for government employees. As a result, the statutory auditor has the status of a government employee.

* (Law 80-05)on control by the Court of Auditors:

Under this law, effective control mechanisms have been put in place to prevent embezzlement of funds in national institutions by setting up an accounting system and giving it the right to control and ensure the accuracy and the integrity of the accounts which include the financial and accounting operations of the institution.

From the review of the most important legal texts published during this period, it is concluded that the audit function began as a task assigned to state employees who carried out their activities as observers and inspectors in Ministry of Finance until the promulgation of law 91-08, which was the first law establishing the independence of this function.

2.The the second stage 1991-2009

* Law 91-08 relating to the profession of chartered accountant, bookkeeper, chartered accountant: (Law 91-05)

It is considered the first law directly concerned with the audit function, announcing the creation of the National Register of Chartered Accountants, Auditors, Chartered Accountant, which is an independent body, which means the opening of this position, but those who meet certain conditions and not only the observers of the Ministry of Finance, and therefore the most important condition in the professional practice of the audit function has been achieved, independence.

* (Decree 96-136)relating to auditing and accounting ethics

This decree included the rules of ethics for chartered accountants, accountants and chartered accountants registered with the Council of the National Union instituted by decree 92-20 of 13/01/1992.)

The National Accounting Board is an advisory body to the Department of Finance, which deals with research, development and benchmarking in the accountancy profession, and is important to the auditor and to account portfolios.

* Executive Decree No. 96-431 appointing the Governor of Accounts

This decree includes the appointment of auditors in public establishments of an industrial and commercial nature, research and development centers, social security bodies, public offices of a commercial nature, as well as non-independent public establishments.

3. The third stage, from 2010 to the present day:

This stage has undergone a qualitative change in the legal framework of the profession, which is no longer essentially called the liberal profession, so that it has become subordinate in its procedures and stages to the National Accounting Council represented by the Minister of Finance, and thus the Ministry of Finance regained many of the powers it had relinquished under Law 91-08 in the area of the accountancy profession.

*(Law No. 10-01) regulating the profession of chartered accountant, bookkeeper, chartered accountant

According to this law, the government decided to restructure the organization of the accountancy profession as a whole, and decided to dissolve the only organization that represented activists in this sector and under this law, three professional organizations were created, to know :

- National directory of chartered accountants.

- National Chamber of Auditors.

- National Organization of Chartered Accountants.

Each of these bodies has a legal personality and brings together approved natural or legal persons authorized to exercise the profession of chartered accountant, accountant and chartered accountant under the conditions set by this law.

With the promulgation of this law, it has become possible to practice the profession of Accounting Audit in Algeria by constituting public limited companies, public limited companies, civil companies or associations for common benefit, provided that all the partners are of Algerian nationality.

The publication of this law was also followed by several other legal texts within the same framework, the most important of which are:

Executive Decree No. 11-38 of 27/01/2001 containing everything concerning the appointment of auditors by the book of conditions.

Resolution No. 30 of 06/24/2013 issued by the Ministry of Finance defines a set of criteria for the preparation of a report by the auditor, and also indicates the content and content of each report according to different types of reports .

Decision No. 02 of 02/24/2016 issued by the National Accounting Council, contains certain Algerian auditing standards (NAA) in accordance with international auditing standards.

According to Decision No. 150 of 11-10-2016 issued by the National Accounting Council, it includes four Algerian auditing standards, standard 300 planning of the audit of financial statements, standard 500 convincing elements, standard 510 Preliminary Audit Tasks, Standard 700 Establishing the Audit Opinion and Report on Financial Statements.

Decision No. 23 of 03/15/2017 issued by the National Accounting Council contains four Algerian accounting auditing standards, standard 520 analytical procedures, standard 500 business continuity, standard 610 use of the work of internal Auditors standard 620 use of the work of an expert appointed by the auditor.

A joint ministerial decision dated 03/07/2017 established a specialized training institute for the accounting and auditing profession in Algeria. However, this institute has not yet entered into operation.

In conclusion of this stage, we can say that the most important legal text is the publication of Law 10-01, according to which the professional accounting organizations have been restructured by updating their tasks and roles in accordance with the requirements of the reform accounting, especially after the adoption of the financial accounting system under .

This stage was marked at the decision-making level by the control of the National Accounting Council (CNC), but the future of this profession in Algeria remains uncertain.

3.Limits of the auditor's legal liability

The auditor exercises his profession under his own responsibility and on all those who work under his responsibility with his assistants, he thus assumes legal obligations (duties) which he must fulfill, failing which he falls under the sanction of the law, and considering that the accountant according to the Algerian legal texts is the person qualified to carry out the accounting audit, we will discuss below the nature of these legal duties then the types of responsibilities to which he is subject.

1. The formula of the auditor's obligations: the examination of errors is inevitably due to the obligations and standards legally stipulated before he begins his profession, and therefore the error made by the auditor is the result of his inability to execute and apply professional rules, legal obligations and applicable standards.Therefore, the task of the auditor is to ensure the accuracy and credibility of the annual accounts, which requires an exhaustive control of all the writings and a control of specific samples, and he can also deepen the control if it seems necessary. Overall, the auditor is subject to three types of responsibility:(Yacoub _ Ould Cheikh, p. 229)

1.1. Civil liability: the civil liability of the auditor takes two forms, as it can be contractual towards the institution audited under the contract of its power of attorney to practice the profession of auditor, and on the contrary, it is considered as tort towards the other parties used to report the auditor on the institution's financial statements and only undertakes this responsibility

if the elements are available (error, damage, causal link between error and damage) with the obligation to the injured party to provide proof (Article 49).

The provisions of the Commercial Code also indicate that the account holder is liable vis-à-vis the controlled legal person, in accordance with article 715 BIS 14 of this law.

As for Law 10.01 on the professions of chartered accountant , bookkeeper and chartered accountant, article 61 states: "the accountant is liable to the controlling entity for errors committed by him in the exercise of its functions.

The management of the entity or the management of third parties is deemed to be protected from any damage resulting from the violation of the provisions of this law.

He does not exonerate himself from liability for violations in which he did not participate unless he proves that he fulfilled the normal requirements of his job and that he reported the violations to the board of directors. ...".

2.1. Criminal liability: Article 52 of Law 91-08 stipulates that "accountants, bookkeepers and accountants may be held criminally liable in accordance with the code of criminal procedure for any breach of the legal obligation incumbent upon them.

This negligence may relate to several offences, either directly qualified as crimes following the failure to fulfil certain of the obligations assigned to it, or indirectly, such as collusion in the case where the directors commit crimes and fail to report them to the competent authorities. (Yacoub _ Ould Cheikh, p. 229).

In a list of cases in which computer wallets are subject to criminal sanctions, in the event that(Article 52 of Law 91-08):

- He performed his duties illegally ؛

- Gave or transmitted false information to the company ؛

- The public prosecutor was not informed of the events related to the offenses he identified ؛

- He revealed professional secrets ؛

3.1. Disciplinary liability: Article 63 of the aforementioned Law 10-01 Stipulates the following (Article 63 of Law 10-01, as already mentioned): "the chartered accountant, the accountant and the chartered accountant engage their disciplinary liability before the disciplinary commission of the National Accounting Council itself after having resigned from their functions for any violation or technical or ethical omission of the professional rules in the exercise of their functions".

The disciplinary sanctions that can be taken in ascending order according to their seriousness are:
- Reprimand;

- Alarm ؛

- Temporary arrest for a period of 06 months ؛

- Removal from the table ؛

Each appeal against disciplinary sanctions is brought before the competent judicial authorities in accordance with the applicable legal procedures ؛

4. Conclusion

After examining the evolution of the auditing profession in Algeria from a legal perspective, we can conclude the following:

- This profession has undergone several legislative amendments aimed at adapting to changes in the financial and accounting environment, notably through the provisions of Law No. 10-01 of 2010.
- The gradual evolution of these laws aims to ensure that the profession adheres to the principles of credibility, transparency, and independence, which must translate into quality financial reporting.
- The activation of training programs in specialized schools for this purpose will strengthen the effectiveness of professionals in the sector.

Recommendations:

- Update the legislative and regulatory framework for the audit profession whenever necessary depending on developments in the economy as a whole.
- Strengthen the legal protection of the auditor so that he can fulfill the mission entrusted to him with complete objectivity and independence.
- Continuing training of practitioners in the audit profession and keeping them up to date with developments in this field.

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