

## Institutional Metamorphoses regarding the Exercise of External Public Audit in Romania

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**Abstract.** *This work attempts a synthetic approach of the evolution of institutional organization and the exercise of public financial audit in Romania, emphasizing on historical, as well as on modern elements. Recent changes, based, obviously, on legal regulations, aim at implementing the types of audit specific to the audit supreme institutions and founded on the basis of their own external public audit standards, adopted according to the INTOSAI audit standards, the European guidelines for their application and other standards relevant to the public sector, elaborated by IFAC and accepted by the European Union. The finding of the accounts in order is followed by issuing of a conformity certificate for the audited entity.*

**Keywords:** Audit Office; external public control; special jurisdiction; financial audit; preventive and subsequent financial control; performance audit.

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## 1. Introduction

Institutional modernization is fundamental for any state found in the process of European integration. In Romania's case, recent changes in legislation aimed at settling the audit types specific to SAI (Supreme audit institution) on the basis of the Audit Office's standards, adopted according to INTOSAI audit standards, the European guidelines for their application and other audit regulations relevant for the public sector, issued by IFAC and accepted by the European Union (Bostan, 2010).

According to the revised Constitution, the Audit Office is defined by article 140, paragraph 1, as the institution "exercising control over the formation, administration and usage of the state and public sector funds". This function is specific to the supreme institution of audit, defined by INTOSAI audit standards as "the state's public authority which, irrespective of its constitution and organization form, fulfills the public audit function, at the highest level in the state" (INTOSAI, 2008).

## 2. Significant moments in the evolution of the external public audit institution (Audit Office)

### 2.1. The century-old pathway of Magna Curia Rationum

Within a state's institutional system, the financial system plays an important part in the configuration, evolution and performance of economy. The financial system's appearance is related to some premises (Popescu, 1995):

- the organization of the state and its institutions;
- accounting organization;
- the achievement of monetary unification within the framework of national economy.

So, a financial system and even the Audit Office has existed ever since antiquity. There are enough relevant elements capable of supporting such an affirmation. For example, the Bible says: "Anything you shall give, you'll give it after counting and measuring, and write down everything you give or take".

The first accountants were the scribes and the first information support – tablets and papyruses. Documents certify the existence of certain audit office forms in ancient Greece and the Roman Empire. In Greece, in the III<sup>rd</sup> century BC, we find the *legislators' court* or *the audit office "of the 10"*, made up of Senate members. There was also an organization of auditor accountants. The accountants were *public* or *private*.

The Roman Empire had *Magna Curia Rationum*, an institution similar to the later Audit Office, and around 1000 AD *maestri dei conti* were the ones controlling public administrators.

## 2.2. The appearance of the national Audit Office

Quantitative and qualitative accumulation during Middle Ages, encouraged the process of democratization starting with the XVII<sup>th</sup> century. We are talking about separation of powers, parliamentary life, political parties and, later on, even labour unions.

In the XIX<sup>th</sup> century, as a reflection of the society's democratic progress and due to the progress of the economy and the institutional system, the modern Audit Office appears as a state institution (Popescu, 1995).

The first national audit offices were founded during the first half of the XIX<sup>th</sup> century (Austria – 1805, France – 1807, Bavaria – 1812, Württemberg – 1818, The Great Duchy of Hessa – 1821, Prussia – 1824, The Netherlands – 1840, Saxa – 1842, Hanover – 1848, Spain – 1851).

The tasks found within this context were to be shaped and crystallized in time. They were closely connected to the realisation of morality – ethics and equity – and the control of law obedience in the financial field, as well as to maximizing economic efficiency.

Fulfilling these tasks was fundamental for the “health” and performance of the economic mechanism, as well as for the society's morality.

## 3. Historical stages in the development of the Romanian Institution of financial control/external audit: from the High Audit Office to the Superior Court of Financial Control

In Romania, the Audit Office was established by the Act of January 24<sup>th</sup> 1864, published by “Monitorul Oficial” N<sup>o</sup> 18 from January 24, 1864, under the name of “The High Audit Office”. According to art. 15 from the above act, “the Office is charged with investigating and deciding upon the reckonings related to incomes of the treasury, counties' pay offices, administrations and indirect contributions administrations”.

Art. N<sup>o</sup> 116 from the Constitution of 1866 (published by “Monitorul Oficial” N<sup>o</sup> 142 from July 13, 1866) says that “For the whole Romania there is one Audit Office”, while art. N<sup>o</sup> 114 says that “the reckonings' final regulation must be presented at the latest within two years after the end of each accounting

period”. Art. N<sup>o</sup> 116 from the Constitution of 1923 (published by “Monitorul Oficial” N<sup>o</sup> 282 from march 29, 1923) says that: “Preventive and management control of all state revenues and expenses shall be performed by the Audit Office, which will present every year to the Deputies Assembly the general report showing the previous budget’s management accounts and pointing out irregularities committed by ministers during budget implementation”.

According to the Act of 1929, “the Audit Office is an independent institution, has the same rank as the High Court of Cassation and enjoys the same rights”. With this new regulation the Audit Office keeps its control functions as well as the judicial ones.

But, after less than 20 years, the Audit Office was abolished by Decree N<sup>o</sup> 352 from December 1<sup>st</sup>, 1918.

Act N<sup>o</sup> 2 from March 28, 1973, published in “Buletinul Oficial” N<sup>o</sup> 44 from March 30, 1973, established the Superior Courte of Financial Control (SCFC), functioning under the State Council. The act has been modified by Decrees N<sup>o</sup> 150 from June 19, 1974 and N<sup>o</sup> 36 from February 21, 1981.

The institution was empowered to perform financial and jurisdictional control tasks. However, let’s just keep in mind the fact that the mentioned normative act included a series of stipulations specific of the totalitarian state. For example: “The Superior Court of Financial Control oversees the compliance with the state’s and party’s decisions and the defense of the socialist property”.

SCFC played an important part in the implementation and coordination of financial control, having, at the same time, jurisdictional functions. According to the normative act which established it, the institution had to conduct financial control on the activity of central state authorities; to oversee the implementation of the financial stipulations found in the unique national plan of economic and social development and the state budget; to keep track of the state’s property fund situation, as well as to ensure the accomplishment of the obligations stipulated in the state budget; to ensure financial discipline and the appropriate use of the state funds by the central co-operative and other public organizations.

It also (Henegaru, 1970) had to coordinate banking – financial control activities. So, SCFC’s competence was extended to the whole economy, performing direct control especially at th level of central authorities.

*Jurisdictional functions* consist of:

- judging causes that establish compensations or fines due to damage caused by: the republican budget’s authorising officers, except ministers and central institution managers appointed by the Great National

Assembly, as well as prime – vice presidents, vice presidents and secretaries of county councils or central co-operative and public organizations;

- judging causes related to economic damage brought by erroneous measures or provisions ordered by general and ministries managers, as well as leaders of the head offices or other units similar to them;
- judging appeals regarding damages imputable, according to the Labour Code, to socialist units' leaders, if their value was greater than 20.000 lei.

SCFC had the following organisational structure: the central organizations and authorities' activity control department; the central financial and credit institutions' activity control department; the economico-financial complex control department; preventive financial control department; the jurisdiction board and the public ministry; the coordinating department of banking financial control; the plan – synthesis – documentation department and the administrative service.

Within these departments there were functioning state financial inspectors, financial judges and financial prosecutors.

Later, this institution was also abolished by Decree N° 94/1990.

#### 4. Romania's Audit Office after the Revolution of December 1989

The Audit Office was reintroduced in the national administrative system by the Constitution of 1991, art. 139. According to this article: "*The Audit office exercises control over the formation, administration and usage of the state's and public sector's financial resources. Under the law, the office exercises jurisdictional tasks*".

According to Act N° 94/1992, in its initial form (it was modified and completed by Act N° 77/2002), the Audit Office was "*the supreme authority of financial and jurisdictional control within the financial department*". The Audit Office was judging and deciding regarding payment of civil compensations for damages caused by administrators, managers and accountants, as well as other persons found under the jurisdiction of the Audit Office.

The Audit Office was made up of (Băjan et al., 1994): the preventive control department, the subsequent control department, the jurisdictional department, the Office's jurisdictional board, county accounts chambers and the General Secretariat. Financial prosecutors were functioning with the Audit Office.

There were 24 (later 25) members of the Audit Office (Act N° 94/1992 regarding the functioning and organization of the Audit Office). All the members were account advisors. Since 2000, the Audit Office has

(The Government Ordinance N<sup>o</sup> 119/August 31<sup>st</sup>, 1999, regarding the preventive internal and financial control; Act N<sup>o</sup> 204/28.12.1999 for amending and supplementing Act N<sup>o</sup> 94/1992) two subsequent control departments, the second one taking the place of the preventive control department.

The county accounts chamber consisted of a financial control department, including financial inspectors, and a jurisdictional board led by a president and consisting of financial judges.

The material and territorial jurisdiction of the Audit Office courts was regulated by the Act regarding the organization and functioning of the Audit Office.

#### **5. Regulation of the external public audit in the context of European integration of the Romanian socio-economic system**

Since November 2008, when the new organization and functioning law was adopted (Act N<sup>o</sup> 217/2008 for amending and supplementing Act N<sup>o</sup> 94/1992), the activities of Romania's Audit Office were divided into three categories: control, financial audit and performance audit. As before, the Office (Cosmanaru, 2009) exercises control over the formation, administration and usage of the public sector's financial resources, but the control function is performed through public external audit procedures stipulated in its own audit standards, elaborated in accordance with generally accepted international audit regulations.

According to the same normative act, financial inspectors become external public auditors. A clear distinction is made between the term "control", as the activity of checking the law enforcement regarding the establishment, administration and usage of public funds, and the notion of "external public audit", which includes financial and performance audit.

Financial audit is the activity of checking whether financial statements are complete, real and in accordance with the laws and regulations in force, providing an opinion to that effect. Performance audit means independent evaluation of the manner in which an entity, a program, an activity or an operation functions from the viewpoints of effectiveness, economy and efficiency.

The audited entity can be any public authority, national company/enterprise, autonomous administration, corporation, if the state or an administrative – territorial unit owns, together or alone, more than a half or its entire corporate funds.

Controls no longer end with financial administration discharge, as it happened before. If the accounts are found to be in order, the audited entity will be presented with a certificate of conformity. Otherwise, when deviations from legitimacy and regulations are found, the management of the audited public entity is informed about them. Establishing the extent of the prejudice and the necessary measures for its recovery is the responsibility of the audited entity's management.

According to Act N° 94/1992 regarding the organization and functioning of the Audit Office (chapter 1), republished under the art. IV of Act N° 217/2008 for the modification and completion of Act N° 94/1992, the institution exercises control over the formation, administration and usage of the state's and public sector's financial resources.

The control function is performed through external public audit procedures stipulated in its own audit standards, elaborated in accordance with generally accepted international audit standards.

The institution's executive management is performed by the *president*, with the help of two vice – presidents, who are account advisors. The plenum consists of 18 members, appointed by the Parliament, who are, also, account advisors.

The organizational structure includes departments, Bucharest and county accounts chambers and a general secretariat (Cosmanaru, 2009). Bucharest and county account chambers are managed by a director and a deputy director.

Referring to the financial and logistical support of the institution, we mention that the Audit Office's budget approved for 2010 by the State Budget Law, with subsequent rectifications, is 151.3 million lei divided as follows: 128.8 million lei for personnel expenses, 12.2 million lei for goods and services, 6.3 million lei for investments and 3.6 million lei for contracting and implementing the project that was not contracted from PHARE 2006 Program funds and 0.4 million lei for projects funded from external grants.

## 6. Infringements and sanctions

As shown previously, if after applying financial auditing procedures the accounts are found to be in order, a *certificate of conformity* is issued and the audited entity is informed about it.

If infringements that have caused prejudices are found, the management of the audited public entity is informed about them.

Regarding infringements and sanctions, we mention that, according to Act N° 94/1992 for the organization and functioning of the Audit Office, the following facts are considered to be infringements and are sanctioned accordingly:

a) failure to present the Audit Office with the accounts to be checked in due time – sanctioned with a civil fine that equals the salary per 1-3 months of the person considered responsible for the delay;

b) failure to obey the Audit Office's orders – sanctioned with a civil fine that equals the salary per 2-5 months of the person responsible for not carrying out the established measures.

If the audited entity fails to submit the requested papers, documents and information, in due time and following the structure established by the Audit Office, as well as to provide access to its premises, it will be charged with 50 lei per day of delay.

Infringements are established by external public auditors, and the fine is set according to the Office's regulation. The amounts represent civil fines and they become revenues for the state budget.

Failure to recover the prejudices, as a result of not implementing the Audit Office's measures by the entity's management, is considered an offence and is punished by imprisonment from six months to three years. Establishing the extent of the prejudice and the necessary measures for its recovery becomes an obligation for the audited entity's management.

Prosecutor's Office will be informed when in the auditing reports are found facts for which there are indications that they were committed in violation of criminal law.

Based on its findings, the Audit Office may adopt the following measures:

a) suspending the carrying into effect of measures that contradict legal finance, accounting and tax regulations;

b) blocking of budgetary or special funds if they are found to be inefficiently or illegally used;

c) removing the irregularities found in the controlled financial-accounting or tax activity.

It can, also, request the suspension from office of the persons accused of committing acts causing important prejudices or serious financial infringements, until the cases they are involved in are solved.



## 7. Conclusions

This paper reviews the significant moments in the development of the external public audit institution (the Audit Office), referring to Romania. We considered the centuries-old pathway of *Magna Curia Rationum*, the appearance of national audit offices, the historical stages in the development of the Romanian institution of financial control/external audit – from the High Audit Office to the Superior Court of Financial Control and the phase following the Revolution of December 1989. Special attention was paid to the regulation of the external public audit in the context of European integration of the Romanian socio-economic system.

During Romania's pre-accession phase to EU, the aimed legislative changes were determined by the review of the Romanian Constitution in 2003, thus acknowledging the cancellation of the Audit Office's jurisdictional powers, as well as the necessity of introducing the audit based on systems and the performance audit. The mentioned changes, also, strengthened the financial independence of the Audit Office and introduced the provisions regarding the overseeing procedures of the recommendations by the Parliament.

Subsequently there were regulated those types of audit specific to the audit supreme institutions, based on their own external public audit standards, adopted according to the INTOSAI audit standards and to other standards relevant to the public sector, elaborated by IFAC and accepted by members of the European Union.

Presently, the finalization of the external financial audit for public institutions managed by the main authorizing officers is made by issuing an audit opinion about the audited financial situations, considering, on a selective basis, the results of the controls conducted by subordinate authorizing officers on the execution accounts.

This opinion is mainly based on the audit report containing financial findings, findings regarding the results of the evaluation of management and internal control systems of the audited entity, as well as recommendations for rectifying shortcomings or improving activities.

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