

## LANDMARKS REGARDING THE EXTERNAL PUBLIC AUDIT IN ROMANIA

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### **Abstract**

*This paper falls within the category of those about the external public audit in Romania and is intended to be an investigative approach through which we propose to bring in the light of the scientific reflectors certain significant landmarks in the field, starting from the premise that it is a subject of considerable interest from multiple directions. In the described context, the coordinates of the article focus on the topical elements of the approached field and include conceptual delimitations regarding the external public audit, normative approaches in our country, aspects regarding the organization, functioning and management of the supreme audit institution, the presentation of competencies, the field of application for the activities of the Romanian Court of Accounts, as well as its specific attributions related to the external public audit. At the end of the paper, the conclusions on the debated topic are outlined.*

**Key-words:** external audit, external public audit, public institutions, Court of Accounts, Supreme Audit Institution.

**JEL Classification:** H83, M42.

### **1. Introduction**

ACCA was highlighting the importance of the external audit in the public sector as an essential part of the accountability process in spending public money and the public services governance. [1]

This paper falls within the category of those about the external public audit in Romania and is structured in several parts. A first part of the article is dedicated to the reflection in polyhedral view of the concepts of *external audit* in general and *external public audit* in particular, in the light of the delineations offered by the specialized literature, being followed by a part that presents the regulatory approaches in the field of the external public audit in Romania, in the terms of the constitutional and legal frameworks. In the following, not only some topical issues regarding the institutional organization of the external public audit activity in our country are exposed, but also the competencies, the field of application of the specific activities, as well as the attributions of the Court of Accounts, as the Supreme Audit Institution at national level. At the end of the paper, the conclusions on the topic debated are outlined.

Works on this topic have also written several authors from our country, namely: Ispir O. (2008), Mitea A., Băncuță A., Polifrone A.M. and Ciucardel M. (2006), Bostan I. (2011), Hurjui I. and Bostan I. (2015) and also the specialists in the fields of accounting and audit from the Academy of Economic Studies (2011). Therefore, the literature which was consulted and which came to support the elaboration of the present paper is mostly Romanian.

### **2. Methodology**

Through this paper, we aim to bring to the attention of those interested an overview of the external public audit in Romania, using the scientific documentation. In terms of methodology, the investigative itinerary is a qualitative research, based on the study of the specialized literature and on the analysis of the national normative framework.

### 3. Conceptual delimitations regarding the external public audit

In the following, we propose to reflect in a polyhedral view the concepts of *external audit* in general and *the external public audit* in particular, in the light of the delineations offered by the specialized literature.

Regarding the concept of external audit, a simple search on the World Wide Web reveals about 460,000 results in Romanian and 6,200,000 results in English related to this concept.

As the authors Domnișoru S. and Vinătoru S. (2009, p. 23) explain, the external audit is carried out by authorized and independent persons in relation to the targeted entity, being addressed to third parties in particular, without excluding the management from the recipients. The professionals come into contact with the entity, either on the basis of a status conferred by law or on the basis of a free agreement with it. [2]

According to Toma M. (2012, p. 33), the external audit generally focuses on the financial statements and also on other tasks or objectives set by the law, ensuring through independence the necessary credibility for third parties regarding the periodical synthesis reports of the audited entity. [3]

Another opinion worth taking into consideration is that of the authors Sanchez Fernandez de Valderrama J.L. and Alvarado Riquelme M. (2014, p. 56). They consider the external audit an approach focused on the following objectives: discovering the frauds and the irregularities by checking the existence of any differences between the accounting reports and the supporting documents underlying their elaboration; verifying the extent to which the audited entity complies with the regulations in force (especially the accounting, trade and tax ones); verifying the existence of the adequate internal control systems, assessing their efficiency and identifying the improvements that can be implemented in this regard; ensuring the reasonability of the financial statements in the light of the generally accepted accounting principles; increasing the financial information reliability, assessed in terms of truthfulness and fair presentation; analyzing the financial statements integrity. [4]

Focusing our attention on the public sector, in the vision of Ispir O. (2008, p. 107), the external public audit is usually referred to as the audit performed by the national Supreme Audit Institution and its field of activities generally include the certification of accounts (the financial audit) or the assessment of the internal control systems of public bodies, as well as the internal control system of the government as a global system. [5]

In our country, as shown by the authors Mitea A., Băncuță A., Polifrone A.M. and Ciucardel M. (2006, p. 18), the external public audit is a notion that defines how the Romanian Court of Accounts addresses the audit activity at the level of public institutions. [6]

In turn, Bostan I. (2011, p. 37) points out that the activity of the Court of Accounts of Romania is divided into three pillars: control, financial audit and performance audit, a clear distinction being made between the term of *control*, as the activity of verifying the mode of compliance with the law regarding the establishment, administration and use of the public funds, and the notion of *external public audit*, including the financial audit and the performance audit. [7]

The important role of the Court of Accounts in the process of validating the establishment, management and use of the public sector financial resources was also highlighted by the specialists in the fields of accounting and audit from the Academy of Economic Studies (2011, p. 220). [8]

Also, in a more recent approach, the authors Hurjui I. and Bostan I. (2015) expressed their interest regarding the legal implications of the external public audit exercise in our country, highlighting the most important legislative sides and how they evolved, so that the items they exhibited could be used in order to elaborate this paper. [9]

#### 4. Regulatory approaches in the field of the external public audit in Romania

At this level, we consider interesting to follow and to highlight how the concept of external public audit is approached and regulated by the constitutional and the legal framework in Romania.

The constitutional framework refers to the Romanian Constitution which, through the 6 paragraphs of the Article no. 140, regulates the activity of the Court of Accounts. Thus, under the fundamental law of the Romanian state, *“The Court of Accounts exercises control over the formation, management and use of the financial resources of the state and the public sector. Under the terms of the organic law, the disputes arising from the activity of the Court of Accounts are settled by the specialized courts”*. Each year, as a result of the work carried out, the Court has the responsibility to present to the legislative a report on the management accounts of the national public budget (the general consolidated budget) from the previous budget year, including the irregularities identified. Each such annual report is published in the Official Gazette of Romania, Part III. [10]

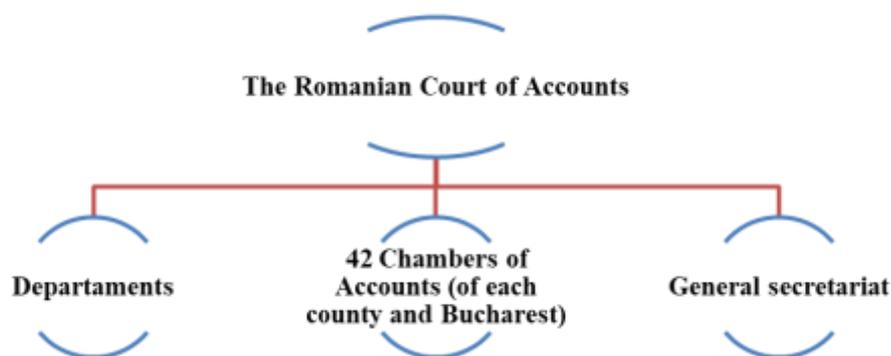
But, from the point of view of the recipients of the information disseminated through the reports on the adequate use and management of the financial resources of the state and public sector through the 3E (economy, efficiency and effectiveness), the Parliament is not the only beneficiary, the results of the missions carried out by the specialized staff within the Court of Accounts being useful also for the public authorities and institutions, as well as for the taxpayers.

The legal framework mainly refers to the specific law on the organization and functioning of the Court of Accounts. According to it, the Court carries out its work autonomously, representing Romania, as its Supreme Audit Institution in the international organizations of these institutions. The Court's control function is carried out through external public audit procedures set out in its own audit standards, drawn up in accordance with the generally accepted international audit standards. According to this law, the external public audit is *“the audit activity carried out by the Court of Accounts, which mainly includes the financial audit and the performance audit”*. [11]

The legal framework is complemented by the Regulation regarding the organization and operation of the Court of Accounts' specific activities, as well as the capitalization of the acts resulting from these activities, approved by the plenum of the Court of Accounts and published in the Official Gazette of Romania, Part I. According to it, the external public audit is *“the specific activity performed by the Court of Accounts on the basis of its own audit standards and this Regulation. The external public audit includes: the financial audit, the performance audit and the compliance audit (control)”*. [12]

#### 5. Aspects regarding the organization, functioning and management of the National Supreme Audit Institution

The specific activities of the Supreme Audit Institution of Romania are carried out at the level of its central and territorial structure. As can be seen from Figure no. 1, *the structure of the Court of Accounts* includes departments, 42 Chambers of Accounts (structures without legal personality), as well as a general secretariat.



**Figure no. 1 – The structure of the Romanian Court of Accounts**

Source: Projection after the *Law no. 94/1992 regarding the organization and functioning of the Court of Accounts, republished, subsequently amended and supplemented*

The Court of Accounts' actions are carried out on the basis of *the annual activity program*, regarding to which the Court decides autonomously. The missions of the Court of Accounts are initiated ex officio and can only be stopped by the Parliament and only in case of exceeding the competences stipulated by the law. Equally, only the Chamber of Deputies or the Senate may oblige, by their decisions, the Court of Accounts to carry out certain controls, but only within the limits of its powers.

*The own budget* is made and approved by the Court, after which it is submitted to the Government, with the purpose of its inclusion in the draft of the state budget submitted to the approval of the Parliament. The Court's budget control is carried out by a commission set up for this purpose by the two Chambers of the Parliament.

*The management of the Court of Accounts* is exercised by the plenum of the Court of Accounts, which is made up of 18 members, counselors of accounts appointed by the Parliament for a nine-year term mandate that cannot be extended or renewed. The Court is renewed by one-third of the accounts counselors, from 3 to 3 years, under the terms of its organic law. The members of the Court are independent in the exercise of their mandate and irremovable throughout it, being subject of the incompatibilities provided by the law for judges. The revocation of the members is done by the Parliament, in the situations and under the conditions provided by the legislation in force. Also, we must note that the plenum sets out and decides on the issues related to the Court's organizational structure, its status of posts, the number of posts, the areas of activity and the attributions of the structures within it.

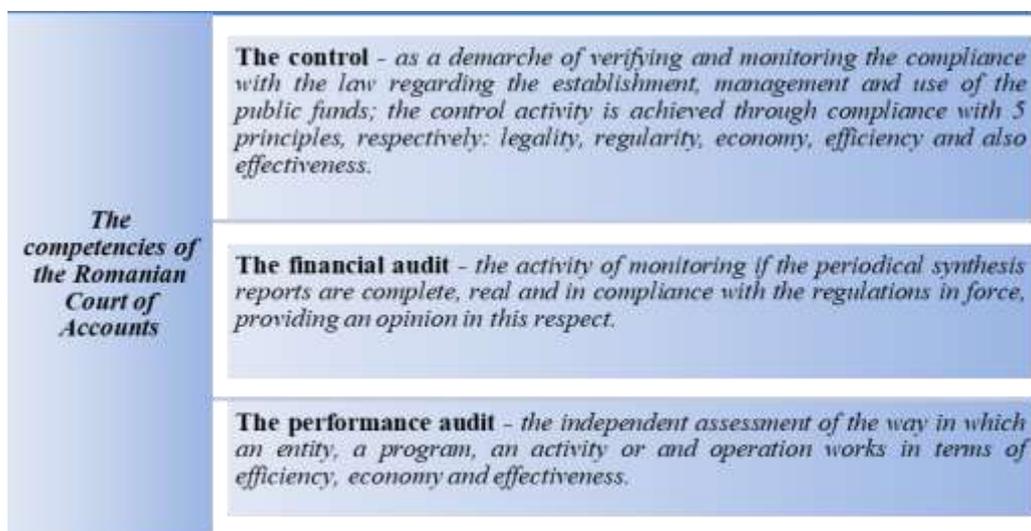
*The executive management of the Court* is exercised by the chairman, assisted by two vice-presidents, who are accounts counselors. The plenary sessions are headed by the president and, in his absence, by a vice-president. The meetings may be attended by the general secretary and also highly trained specialists in various areas of activity which fall within the competence of the Court, as guests.

*The management of the departments* is provided by a counselor of accounts, who also serves as head of department, being appointed by the plenum. Within the departments, directions, services, offices and specialized compartments can be organized. The management of the Chambers of Accounts is provided by a director and a deputy director and in their structure may work services and offices. In turn, the general secretariat is headed by a general secretary.

Also, in order to fulfill some obligations in the field of the external audit, which belong to Romania as a member state of the European Union, the Audit Authority for non-refundable community funds is organized and works as an independent body of the Court of Accounts, from the operational point of view.

## 6. The competencies and the field of application of the Romanian Court of Accounts specific activities

As shown in Figure no. 2, *the competencies of the Court* include the following types of demarches: control, financial audit and performance audit. All these specific activities are carried out by the external public auditors employed within the Court of Accounts.

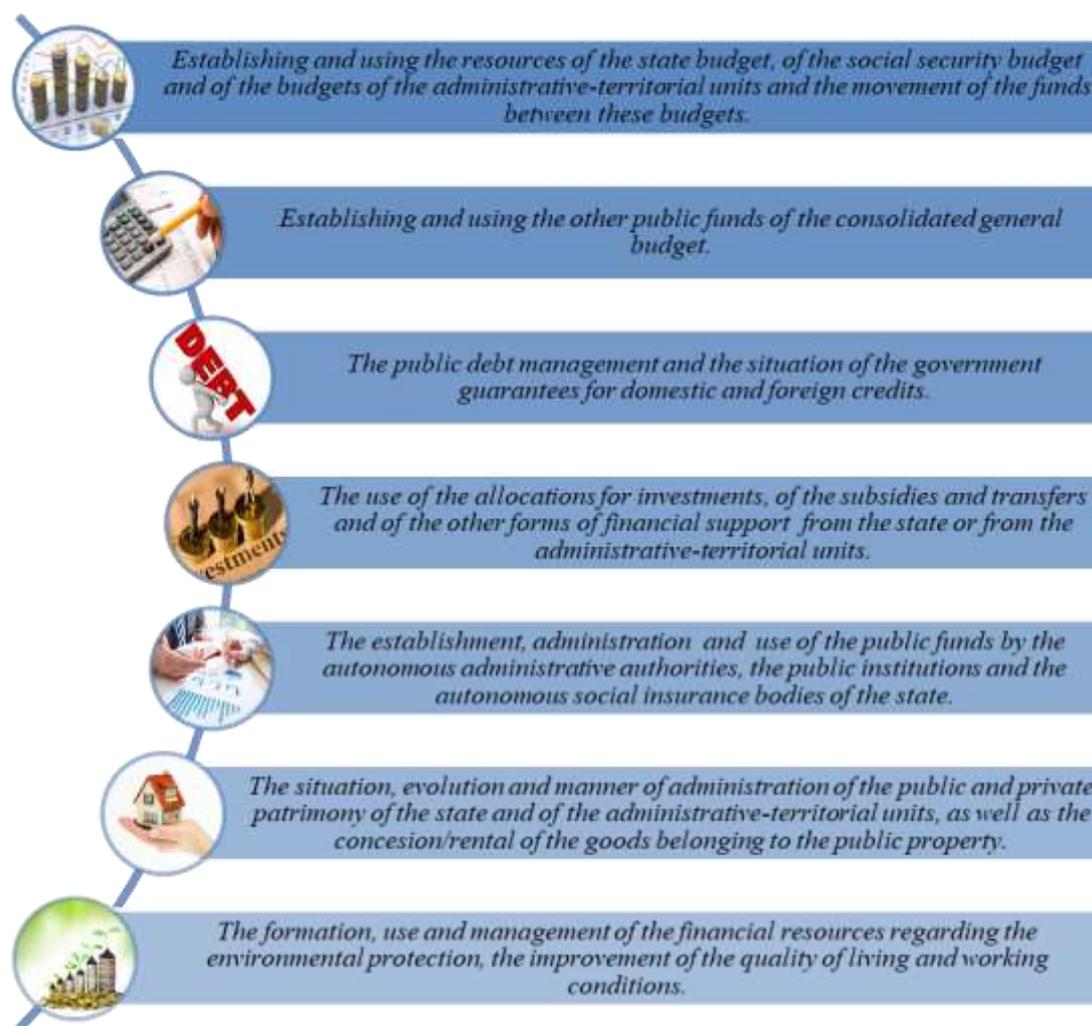


**Figure no. 2 – The competencies of the Romanian Court of Accounts**

Source: Projection after the *Law no. 94/1992 regarding the organization and functioning of the Court of Accounts, republished, subsequently amended and supplemented*

Regarding *the specific attributions of the institution of external public audit*, these are mainly carried out on *the domains* presented through Figure no. 3, while *the field of application of the specific activities* includes the following *categories of entities*:

- the state and the administrative-territorial units, with their autonomous or non-autonomous services and public institutions;
- the National Bank of Romania;
- the autonomous administrations;
- the companies in which the state, the administrative-territorial units, the public institutions or the autonomous administrations own, alone or together, wholly or more than half of the share capital;
- the autonomous social insurance bodies or others, which manage goods, values or funds in a legally binding regime, under the circumstances in which this thing is provided by the law or by their statutes.



**Figure no. 3 – Domains corresponding to the specific tasks of the Court of Accounts of Romania**

Source: Projection after the *Law no. 94/1992 regarding the organization and functioning of the Court of Accounts, republished, subsequently amended and supplemented*

In addition, the Court of Accounts may decide on the conduct of its specific activities also on the persons who benefit from government guarantees for credits, subsidies or other forms of financial support from the state, from the administrative-territorial units, from the other public institutions or on those who manage, under a concession or a rental contract, goods belonging to the public or private domain of the state or of the administrative-territorial units, or those who manage and/or use public funds, the verifications following to be done only related to the legality of their administration and/or use.

More than that, it is important to point out that the Court of Accounts has *exclusive powers* in the sphere of the budgetary execution control of the Chamber of Deputies, the Senate, the Presidential Administration, the Government, the High Court of Cassation and Justice, the Constitutional Court, the Legislative Council and the People's Lawyer.

## **7. The attributions of the Court of Accounts of Romania in the field of the external public audit**

As national Supreme Audit Institution, the Court of Accounts performs *the financial audit* on the annual execution accounts of the following categories of budgets, ensuring that all accounts

are verified within the statutory limitation period: the state budget; the state social security budget; the local budgets, of Bucharest and its sectors, of counties, municipalities, towns and communes; the State Treasury budget; the budgets of the autonomous public institutions; the budgets of public institutions financed entirely or partially from the state budget, from the state social security budget, from the local budgets and from the special funds budgets; budgets of public institutions fully financed from own revenues; the budget of the non-refundable external funds; other budgets provided by law.



**Figure no. 4 – The main issues covered by the Court of Accounts through its verifications**

Source: Projection after the *Law no. 94/1992 regarding the organization and functioning of the Court of Accounts, republished, subsequently amended and supplemented*

Equally, the Romanian Court of Accounts has among its attributions *the performance audit* of the use of financial resources of the state and of the public sector, demarche whose findings and recommendations must ultimately lead to the resources costs reduction or to the results augmentation, after the evaluation of the projects, programs, processes or activities through the 3E (economy, efficiency and effectiveness).

Within its verification demarches, the Court of Accounts mainly focuses on the issues presented through Figure no. 4.

## 8. Conclusions

Reviewing these assertions and conceptual valences, displayed both in the specialized literature and in the specific legislation in force, we can conclude that *the external public audit* designates an independent activity carried out by authorized persons within the national Supreme Audit Institution, with the purpose of analyzing and evaluating how the audited entity has achieved its objectives, of verifying the legality and regularity of the establishment and use of the public financial resources, of their economic, effective and efficient use and of the organization and functioning of the internal audit and control systems, its results being mainly addressed to the Parliament, to the public authorities and institutions, but also to the taxpayers.

At national level, the external public audit activity is particularly important, especially in the current context, increasingly characterized by widespread corruption phenomena, which divert

resources from their destination, with negative impact on the financial discipline. Under these circumstances, the Court of Accounts has the mission to protect the public financial resources by performing high quality actions of external public audit, whose conclusions provide to the interested parties true, objective and credible information on legality, efficiency and transparency in the use of the public funds, thus contributing to identify the forms of corruption and to assess its dimension, with the purpose of keeping under control or even gradually eradicating the phenomenon. In another train of thoughts, it is important to highlight the role of the external public audit institution in our country as an independent guarantor of the financial interests of the state and the citizens and as a major contributor to improve the financial management at national level, by promoting fairness, responsibility and best practices in the operations involving public funds.

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- [10] Constituția României adoptată în anul 1991 și modificată în anul 2003.
- [11] Legea nr. 94/1992 privind organizarea și funcționarea Curții de Conturi, republicată, cu modificările și completările ulterioare.
- [12] Regulamentul privind organizarea și desfășurarea activităților specifice Curții de Conturi, precum și valorificarea actelor rezultate din aceste activități, aprobat de Plenul Curții de Conturi prin Hotărârea nr. 155/29 mai 2014, publicat în Monitorul Oficial al României, Partea I, nr. 547 din 24 iulie 2014, cu modificările și completările ulterioare.