



Administrative Oversight by the Court of Accounts in Algeria

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Abstract:

The Court of Accounts is considered the highest financial oversight body, exercising ex post financial control over public funds. It was established pursuant to Article 190 of the 1976 Constitution, and its establishment was reaffirmed by successive constitutions, beginning with the 1989 Constitution under Article 160, up to the 1996 Constitution under Article 192, which entrusted the Court with the mission of contributing to the development of good governance and the promotion of transparency in the management of public funds. This same orientation was largely maintained by Article 199 of the 2020 constitutional amendment, which strengthened the supervisory role of the Court of Accounts in an unprecedented manner by granting it the authority to publish its reports independently, thereby reinforcing its sovereign oversight functions.

The Court of Accounts operates in accordance with the provisions of Ordinance No. 95/20, as amended and supplemented by Ordinance No. 10/02, which expanded the Court's powers by introducing a new type of oversight that goes beyond compliance control, known as performance (management quality) control, which constitutes the subject of this study.

Keywords: Court of Accounts; financial oversight; performance oversight; public funds; administrative oversight of the Court of Accounts.

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Introduction:

Public funds constitute the fundamental pillar of state life, given their role in development and in achieving the objectives pursued by states. Public funds have a tangible impact on the progress and advancement of nations; indeed, they represent the main artery through which the state fulfills its functions. They are an inherent right of the people in their public wealth and a right of future generations in the resources of their homeland. Accordingly, the availability of financial oversight is of paramount importance, a goal pursued by most states.

As administrative activity expanded and the volume of public funds increased, the importance of financial oversight became more evident, particularly following the trend

toward the separation of powers. Financial oversight is considered one of the most effective means available to the state for monitoring the implementation of its plans at various stages, detecting any deviations, addressing and correcting them in order to achieve appropriate performance levels. The executive authority is empowered to implement the state's general budget, which obliges it to submit a final account to the legislative authority to verify the legality of financial transactions.

Given the inability of parliaments to exercise effective financial oversight and auditing, this function was entrusted to an independent body separate from both authorities. Consequently, most states moved toward establishing specialized bodies and institutions for financial oversight, known as Supreme Audit Institutions (SAIs). Laws were enacted to ensure their independence and non-subordination, to provide them with the necessary material and human resources, and to grant them the required guarantees to perform their duties with efficiency and effectiveness¹. Accordingly, financial oversight is considered one of the most important guarantees for protecting public funds from various forms of corruption. In this context, Algeria has, since independence, worked to establish an independent body entrusted with the task of overseeing public funds in the country. To this end, the Algerian Constitution, as amended and supplemented in 2020, provides for ²...upon the Court of Accounts under Article 199, which considers it a supreme, independent institution entrusted with overseeing public property and public funds. It is responsible for exercising ex post oversight over the funds of the State, local authorities, and public services.

From a legislative perspective, it is governed by Ordinance No. 95/20³, as amended by Ordinance No. 10/02 relating to the Court of Accounts⁴.

The significance of this study lies in examining the role of this body as the highest oversight authority in the country for the protection of public funds, and in assessing the effectiveness of its mechanisms and powers enshrined in regulations and laws in deterring legal violations. Its importance also resides in uncovering financial transgressions and deviations and in correcting imbalances, through which the Court of Accounts ensures the protection of public funds and guarantees their sound expenditure in a manner that serves the public interest.

In this context, the relevant legal texts have emphasized the dual nature of oversight exercised by the Court of Accounts, manifested in judicial oversight and administrative oversight. The latter constitutes the main focus of this study and will be addressed in detail.

Based on the foregoing, the central research problem can be formulated as follows: What are the means of administrative oversight exercised by the Court of Accounts, and to what extent are they effective in practice in protecting public funds?

Accordingly, this study is divided into two sections. The first section addresses performance (management quality) oversight, while the second section examines the oversight of project and public policy evaluation.

Section One: Performance (Management Quality) Oversight

Performance (management quality) oversight is exercised by the Court and focuses on evaluating the missions, objectives, and means used by public bodies. It was adopted under Ordinance No. 95/20, specifically in Chapter Two of Title Three, entitled Methods of Oversight Exercised by the Court of Accounts and the Sanctions Resulting from Its Investigations. Accordingly, this section is divided into two requirements: the first addresses the concept of performance oversight, while the second examines the procedures of performance oversight.

First Requirement: The Concept of Performance (Management Quality) Oversight

Numerous studies have addressed the substance of this type of oversight, which is considered one of the most important powers of the Court of Accounts in overseeing public funds. This oversight is referred to as performance or efficiency oversight, and is defined as oversight based on economy, efficiency, and effectiveness. Based on the foregoing, we will address the definition of performance oversight in the first subsection, then its procedures in the second subsection, and finally its objectives in the third subsection.

First Subsection: Definition of Performance (Management Quality) Oversight

It is defined as the form of oversight that aims to ensure efficiency, effectiveness, and economy in the performance of public administration. Accordingly, the objective of this oversight is to verify that all procedures are carried out in a planned and defined manner and with a high level of efficiency⁵.

It was defined by the Planning Committee of the French Senate in 2003 as follows:

“Performance (management quality) oversight is an evaluation of public policies aimed at issuing a judgment or expressing an opinion on an ambitious and rigorous process in order to achieve a better understanding of public activity.⁶”

It was defined by the Decree dated 18 November 1998, establishing the French National⁷ Audit Office for Evaluation, as an evaluation of public policy that seeks to enhance the effectiveness of that policy by comparing its results with its predetermined objectives and the means used.

It was also defined by the Committee on Evidence and Terminology of the Arab Organization of Supreme Audit Institutions (ARABOSAI) as: “The preparation of a report on the activities of an entity in order to verify whether its resources have been managed in a manner that ensures efficiency and effectiveness, and whether the required objectives have been met.⁸”

Some have defined it as a method of auditing through which it is possible to judge whether the results achieved by the entity subject to oversight have been attained in light of the application of the principles of economy, efficiency, and effectiveness, and in accordance with the established objectives.

The International Organization of Supreme Audit Institutions (INTOSAI) has defined performance (management quality) oversight as: "An independent examination of the efficiency and effectiveness of government programs, projects, or organizations, taking into account the element of economy."⁹

Article 69, paragraph one, of Ordinance No. 95/20 refers to it as follows: "The Court of Accounts shall oversee the quality of management of the public bodies and services referred to in Articles 7 to 10 of this Ordinance. In this capacity, the conditions governing the use and management of resources, material means, and public funds by these bodies and services shall be evaluated in terms of effectiveness, efficiency, and economy..."

From this provision, it can be concluded that the legislator identified the bodies and services subject to performance oversight, as listed in Articles 7 to 10 (state services, local authorities, and public bodies and institutions of various types), and emphasized the evaluation of the effectiveness and efficiency of their use of public resources and funds¹⁰.

Second Subsection: Elements of Performance (Management Quality) Oversight

The elements of performance oversight and the objectives sought by the Court of Accounts are of a highly sensitive nature and of great importance. These will be explained as follows:

First – Effectiveness:

Effectiveness refers to the comparison between the results and objectives actually achieved, on the one hand, and the planned objectives and programs of institutions, on the other. In other words, the Court verifies whether the expenditures allocated for the implementation of a given plan have indeed achieved their intended results¹¹.

Second – Efficiency:

Efficiency is a fundamental element of performance (management quality) oversight. It is defined as the ability to achieve the desired results in the best possible manner. It is measured through the evaluation of the performance of individuals and the institution as a whole, by assessing their skills, behaviors, and knowledge, with the aim of improving performance, correcting deviations, and mobilizing resources effectively to achieve objectives. Efficiency also refers to the extent to which an administrative unit utilizes allocated appropriations, personnel, and available capacities, as well as the optimal and economical use of available resources, in a manner that reflects the effectiveness of administrative management¹².

Third – Economy:

Economy refers to minimizing the cost of the resources used to the lowest possible level while ensuring the appropriate quality or standard¹³. This element also focuses on measuring the efficiency of resource utilization in achieving objectives. It includes the evaluation of costs, revenues, profitability, and estimated budgets, with the aim of improving institutional performance by identifying weaknesses and correcting them, ensuring the achievement of maximum value from available resources and the alignment

of results with financial and administrative plans. This makes it a fundamental pillar for effective management and control of overall institutional performance.

Third Subsection: Objectives of Performance (Management Quality) Oversight

By examining the text of Article 6 of Ordinance No. 95/20, which provides that: "The Court of Accounts is entrusted ... with overseeing the proper use by the bodies subject to its control of resources, funds, assets, and public material means, and with assessing the quality of their management in terms of effectiveness, performance, and economy. At the end of its investigations and inquiries, it shall recommend all measures it deems appropriate in order to improve such management."

From the above provision, two main objectives of this oversight can be identified. The first is to assess the quality of institutional management and the proper use of resources. The second is to provide recommendations deemed appropriate for improving the performance of institutions¹⁴.

These objectives are embodied as follows:

- Examining policies, systems, and the management of operations within the entities subject to oversight.
- Verifying the extent to which effectiveness is achieved in the performance of each activity and the degree of efficiency in the use of available resources to obtain the best results within the shortest possible time.
- Encouraging management to adopt measures aimed at increasing effectiveness and efficiency¹⁵.
- The Court also ensures, through its investigations, the adequacy and effectiveness of the mechanisms and procedures exercised by internal control bodies, which guarantee the regularity of the management and use of resources and the protection of assets¹⁶.

Second Requirement: Procedures of Performance (Management Quality) Oversight and the Resulting Outcomes

Performance (management quality) oversight aims to assess the efficiency and effectiveness of public administration by comparing achieved results with predefined objectives. It involves procedures such as performance analysis, the review of financial operations and public procurement contracts, and verification of compliance with laws and regulations. Its purpose is to achieve key outcomes, foremost among them improving performance. Accordingly, this section addresses the procedures in the first subsection and the resulting outcomes in the second subsection.

First Subsection: Procedures of Performance (Management Quality) Oversight

Follow-up procedures begin when the results of investigations and audits conducted by judges of the Court of Accounts recorded by the legally competent unit reveal that the violation committed by the official falls within the scope of application of Articles 88 and 99 of Ordinance No. 95/20 cited above. On this basis, the procedures of performance oversight are examined in detail through three stages.

First – Investigation and Preparation of the Oversight Report:

Article 36 of Presidential Decree No. 95/377 relating to the internal regulations of the Court of Accounts sets out the procedures for investigation and report preparation. A group of judges from the competent chamber is appointed by an order of the President of the Court of Accounts, and a rapporteur is designated from among them to supervise the work of the group. Upon completion of the assignment, the rapporteur submits the report to a joint panel between chambers, established by order of the President of the Court for this purpose. This panel is composed of two judges from each concerned chamber¹⁷.

Subsequently, the prepared report is submitted to the President of the inter-chamber panel. After finalization, the report is presented to the competent panel for approval, in accordance with paragraph two of Article 54 of the same decree¹⁸.

Second – Approval of the Report and Its Notification to the Concerned Bodies:

After the report is approved by the deliberative panel, it is transmitted to the officials of the concerned departments and bodies, and, where necessary, to the supervisory or tutelary authorities, for the purpose of submitting responses within a time limit determined by the Court. This period shall not be less than one month¹⁹.

Third – Deliberation and Final Evaluation:

The rapporteur prepares the evaluation memorandum after examining the responses or upon the expiry of the prescribed time limit, and submits it to the President of the deliberative panel, who may organize a discussion either on his own initiative, upon the rapporteur's proposal, or at the request of the concerned officials or the competent authority. Thereafter, the deliberative panel establishes the Court's final evaluations and attaches all appropriate recommendations and proposals, as provided for in Articles 56 and 57 of the same decree²⁰.

Second Subsection: Outcomes Resulting from Performance (Management Quality) Oversight

The Court of Accounts issues judicial decisions when exercising its judicial powers, whereas when exercising its administrative powers, it issues an evaluation memorandum or recommendations. The evaluation memorandum is issued in cases involving the assessment of management effectiveness and includes recommendations addressed to the concerned entity²¹.

This will be examined in detail as follows:

First – Letter of the Chamber President:

It is a letter through which the President of the competent chamber informs the bodies and services subject to his oversight, as well as the hierarchical authorities, of shortcomings or violations related to aspects of organization and internal management

that cause harm to the public treasury or to the assets of those bodies, for the purpose of rectifying the situation, in accordance with Article 24 of Ordinance No. 95/20²².

Second – Memoranda:

There are two types of memoranda: urgent memoranda and preliminary memoranda, as provided for in Articles 47 and 48 of Presidential Decree No. 95/377. Where it is necessary to inform the competent supervisory authority of the findings referred to in Articles 24 and 25 of Ordinance No. 95/20 relating to the Court of Accounts, this is done through an urgent memorandum issued by the President of the Court, as regards the urgent memorandum²³.

As for the preliminary memorandum, through it the President of the Court of Accounts informs the competent authority of shortcomings affecting the conditions governing the use of financial resources and means of the bodies referred to in Article 26 of the same decree²⁴.

Third – Detailed Report:

The Court prepares a detailed report on all facts that may entail criminal characterization and that are observed by the Court of Accounts during the exercise of its oversight, in accordance with Article 27 of Ordinance No. 95/20²⁵. If violations of the rules of discipline in budgetary and financial management are detected, as provided for in Articles 88 and 91 of the same ordinance, the report is approved by the clerk, the rapporteur, and the deliberative panel, and is then transmitted to the President of the Court, who refers it to the Public Prosecutor²⁶.

Second Section: Oversight of the Evaluation of Projects and Public Policies

Oversight of the evaluation of projects and public policies proposed by the State and all its departments constitutes a highly important stage, as the outcome of such evaluation reflects the extent of the effectiveness of these projects and public policies at all levels. The Court of Accounts participates in assessing the effectiveness of activities and plans adopted by public authorities²⁷. This is reflected in Article 72 of Ordinance No. 95/20 relating to the Court of Accounts. Accordingly, this section will address oversight of project evaluation in the first requirement, followed by oversight of the evaluation of public policies in the second requirement.

First Requirement: Oversight of Project Evaluation

Within this framework, the Court exercises oversight over preliminary budget projects and over the effectiveness of actions and plans carried out by the State or other public bodies.

As clarified by Article 18 of Ordinance No. 95/20, as amended by Article 6 of Ordinance No. 10/02 relating to the Court of Accounts: "The Court of Accounts shall be consulted on the preliminary projects of laws relating to the settlement of the budget. The Government shall transmit to the legislative body the evaluation reports prepared by the Court for this purpose for the relevant financial year, accompanied by the draft special law."

Accordingly, the Court of Accounts may evaluate preliminary budget projects following consultation²⁸, Article 19 of the same ordinance also provides that: "The Court of Accounts may be consulted on draft legal texts relating to public finance."²⁹

In this case, the Court prepares evaluation reports as previously indicated.

This report constitutes a set of information and observations recorded by the Court concerning the conditions under which the budgets of public departments and bodies are executed³⁰.

The Court also evaluates the effectiveness of actions and plans, as clarified by Article 72 of Ordinance No. 95/20, which provides as follows: "The Court of Accounts participates in evaluating the effectiveness of actions, plans, programs, and measures undertaken directly or indirectly by State institutions or public bodies subject to its oversight, and initiated by public authorities at the economic and financial levels, with the aim of achieving objectives of national interest."

From this, it can be concluded that the Court of Accounts assesses the effectiveness of actions carried out by the State and its institutions in order to achieve the public interest³¹.

The important role of the Court of Accounts is evident through its reports, which include the various observations and findings it reaches and every evaluative action it undertakes through monitoring public institutions subject to its oversight. These reports highlight areas of weakness and deficiency and the resulting financial and personal liability, and call upon the concerned entities to improve performance. However, the Court still lacks the binding force of its decisions and the obligation to implement them an authority that the Algerian legislator must confer upon the Court in order to ensure the effectiveness of its work³².

Second Requirement: Evaluation of Public Policies

The first official definition of evaluation was issued by the Planning Committee of the French Senate in January 1990, as follows: "The evaluation of public policy refers to examining whether the available legal, administrative, and financial resources make it possible to achieve the established objectives."³³

According to the provisions of Articles 17, 20, 21, 22, and 23 of Ordinance No. 95/20, the following is stipulated:

The President of the Republic may refer to the Court of Accounts any file or matter of national importance that falls within its jurisdiction. Likewise, the legislative authority, represented by its two presiding officers (the President of the Council of the Nation and the President of the People's National Assembly), as well as the Prime Minister, may submit to the Court of Accounts the examination of files of national importance that fall within its scope of competence.

The Court of Accounts shall inform the President of the Republic, the legislative authority, and the Prime Minister of the necessary details, as well as the concerned authorities, of the responses and the results of its oversight³⁴.

First Subsection: Purpose of Evaluating Public Policies

Undoubtedly, the general purpose of evaluating public policies is to understand and assess the extent to which policies are effective and efficient in achieving their objectives, to improve future decision-making, to enhance accountability, and to identify positive and negative impacts. This is achieved through analyzing their relevance, feasibility, and effectiveness using scientific criteria and reliable indicators, in order to provide transparent results to policymakers and citizens alike, with the aim of continuously improving policies and efficiently allocating resources.

The purpose of evaluating public policies may be of a political nature, manifested in the extent to which such policies respond to the requirements of transparency, strengthen the prevention of fraud in the use of resources, and ensure accountability and the acceptance of democratic debate. In this regard, demand for the evaluation of public policies has increasingly grown among various state actors over time.

The purpose may also be of a purely administrative nature, as the evaluation of these policies constitutes a source of information for program or policy managers. It assists them in the decision-making process and clarifies for the officials responsible for implementation the established objectives, while identifying all possible factors for improving work organization and enhancing its effectiveness³⁵.

Second Subsection: The Effectiveness of the Court of Accounts in Evaluating Public Policies

The primary objective behind the establishment of the Court of Accounts was to encourage the efficient and rigorous use of resources, material means, and public funds, to promote the mandatory submission of accounts, and to enhance transparency in public finances³⁶.

However, when comparing the legal framework governing the Court of Accounts with practical reality, several observations emerge, as follows:

- Based on the foregoing, it can be noted that Algerian decision-makers, through the new status of the Court of Accounts as regulated by Ordinance No. 10/02, sought to establish an independent, effective, and strong national oversight body endowed with supervisory jurisdiction covering all sectors, public bodies, and all public funds. In addition, the Court enjoys independent judicial status and unlimited territorial jurisdiction, extending even to local authorities. In light of the powers granted to the Court of Accounts, it can be said that it is capable of playing an important role in protecting public funds and improving methods and mechanisms for their management. Through its recommendations and proposals, it can also enhance the performance of public bodies responsible for managing and spending public funds, rationalize economic and financial transactions governing public expenditure, and combat fraud and embezzlement.

- From a practical and realistic perspective, it is observed that despite the successive reforms introduced at the legal, structural, and even functional levels, the role of the Court of Accounts has not yet reached the desired level, nor has it fully achieved the objectives for which it was established. These objectives often remain theoretical, while actual practices on the ground contradict them and deprive them of their substance. This situation raises the question of whether this form of oversight is justified by real and effective purposes, or whether it merely represents an imitation and replication of a ready-made external model.

Conclusion:

In conclusion, although the Constitution has established the Court of Accounts as a supreme and independent institution, reality reveals that this independence has not yet reached the required level. The Court does not possess the authority to impose sanctions; moreover, it is primarily entrusted with ex post financial oversight. The maximum power it holds is the imposition of financial fines as the most severe sanction, despite the legal status it occupies within the constitutional institutional framework.

Among the most significant obstacles hindering the work of the Court of Accounts are the following:

-The limited effectiveness of annual reports, which constitute one of the most important oversight tools available to the Court, given their essential role in promoting transparency in the management of public funds. Although these reports are required to be published in the Official Gazette to enable the public to access them and understand the mechanisms through which public funds are managed, it is observed that this procedure, despite being constitutionally stipulated and legally affirmed, has not been effectively implemented. Moreover, the recommendations and opinions issued by the Court of Accounts within the framework of its administrative oversight lack binding force, and their implementation remains dependent on the will of the concerned bodies or supervisory authorities.

-The marginalization of the advisory role of the Court in matters and files of national importance, despite the existence of issues that rise to this level. Even though the legislator has granted the Court the possibility of submitting matters of national importance to the President of the Republic, this mechanism has not been activated, due to the lack of functional and institutional independence of the Court's judges. Accordingly, the activation of performance (management quality) oversight remains contingent upon granting binding force to the opinions and recommendations of the Court when exercising this type of oversight. This can only be achieved through the existence of genuine political will to activate the role of the Court of Accounts. In our view, the existing legal framework is sufficient to translate its effectiveness into practical reality.

Footnotes:

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- ¹⁵ Fekiri Mohamed Cheikh, op. cit, pp. 242–243.
- ¹⁶ Douaâr Afaf; Mohamed Taher Bouaara, “Supreme Financial Oversight of the Court of Accounts over the Execution of Public Funds,” *Numeros Academic Journal*, Maghnia University Center, Vol. 1, Issue 2, 2020, p. 201.
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- ²⁰ Presidential Decree No. 95/377, cited above.
- ²¹ Ali Zaghdoud, *Public Finance*, National Office of University Publications, 5th ed., Ben Aknou, Algeria, 2011, pp. 170–171.
- ²² Ordinance No. 95/20 relating to the Court of Accounts, cited above.
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- ²⁷ Moussaoui Halima, “The Role of the Court of Accounts in Evaluating Public Policies in Algeria,” *Algerian Journal of Political Studies*, Vol. 5, Issue 1 (30 June 2018), p. 15.
- ²⁸ Laâmara Djamel, *Methodology of the State General Budget in Algeria*, Dar Al-Fajr for Publishing and Distribution, Cairo, 2004, p. 56. Article 6 of Ordinance No. 10/02, cited above, provides: “The Court of Accounts shall be consulted on the annual preliminary draft laws relating to the settlement of the budget. The Government shall transmit the evaluation reports prepared by the Court for this purpose for the relevant financial year to the legislative authority, accompanied by the draft special law.”
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⁻³³ Fekiri Mohamed Cheikh, op. cit, p. 240.

⁻³⁴ Ordinance No. 95/20, cited above.

⁻³⁵ Ben Daoud Ibrahim, Financial Oversight of Public Expenditure, Dar Al-Kitab Al-Hadith, Algeria, 2010, p. 67.

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