

Republic of Lebanon
Office of the Minister of State for Administrative Reform
Center for Public Sector Projects and Studies
(C.P.S.P.S.)

Fact Finding Survey

\Court of Audit

OMSAR / PMC / COA

November 2000

A. The Existing Situation

1. Mandate and Mission:

According to its law of establishment (Decree Law 82/1983 and amendments), the Court of Audit is an administrative court in charge of financial judiciary. It supervises public financial resources and the treasury funds by controlling the use of these resources and its compliance with the valid laws and regulations; decides the appropriateness and legality of transactions and accounts; and puts violating employees on trial.

The Court of Audit is administratively connected to the Prime Minister. Public administrations; municipalities identified by a ministerial decree; public agencies, controlling agencies; institutions, organizations and companies with which the State, or municipalities, or public agencies have financial relationship are subject to the control of the Court of Audit.

The Court of Account exercises administrative and judicial control.

1.1 Administrative Control

This kind of control is divided into pre and post audit control.

1.1.1 Pre-audit: The main objective of the pre-audit control is to verify the correctness of transactions and their conformity with the budget and regulations. Pre-audit is exercised on expenditures and revenues transactions that exceed a certain financial ceiling.

The following revenues' transactions are subject to pre-audit control:

- contracting revenues transactions that exceed LL5,000,000.
- Real-estate sales transactions that exceed LL5,000,000

The following expenditures transactions are subject to pre-audit control:

- Supplies and works that exceed LL75,000,000
- Services that exceed L.L25,000,000
- Agreements by consensus, including rental contracts that exceed LL50,000,000
- Real-estate purchases that exceed L.L100,000,000
- Grants and assistance that exceed L.L15,000,000
- Conciliations that exceed LL15,000,000

1.1.2 Post-audit control: This control aims at assessing the financial transactions from the time expenditures were reserved to the time they were executed and recorded in the accounting books. The final product of post-control is the annual report and the special reports issued by the COA.

1.1.2.1 The Annual Report of the COA:

At the end of every year, the Court of Account produces a report about the results of its audit and the reforms that the COA regards as necessary to be introduced to the various laws and regulations that have financial consequences.

1.1.2.2 The Special Reports:

When necessary, the Court of Account submits special reports about certain topics with the suitable recommendations to the President of the Republic, or to the House Speaker, or to the Prime Minister, or to the administrations and agencies concerned.

1.1.2.3 Compliance Statements:

In addition to the annual and special reports, post-audit control is also represented by the *compliance statements* that are issued by the COA upon the examination of the end results of the administrative accounting books prepared by the ministries (including reserved, settled, disbursed credits) and the statement of gross amounts that were paid from the funds of the Ministry of Finance according to disbursement orders. Within this framework, the COA has to check that statements issued by the administrations concerned are in compliance with the general statement of the Ministry of Finance. If compliance is ensured, a compliance statement is issued by the COA, otherwise, contacts will be made with the Ministry of Finance and the administrations concerned to correct the errors that have been discovered due to audit.

It is worth mentioning that the compliance statements are annual statements that represent the end result of the execution of the budget in the spheres of expenditures and revenues. These statements are submitted to Parliament. The issuance of compliance statements facilitates parliamentary control.

1.2 Judicial Control

In addition to the administrative post-audit control, there is a post-audit judicial control exercised by the Court of Audit. This control is of two kinds: control on accounts and control on employees.

1.2.1 Control on accounts:

This control aims at ensuring the correctness of the accounts prepared by the accountants, whether those related to revenues or expenditures. Control on accounts includes the following transactions:

a. Revenues:

- correctness of the documents according to which collection took place.
- correctness of collection and their compliance with the collection laws.
- provision of the public funds with collected money.

b. Expenditures:

- correctness of transactions according to which payment took place,
- compliance of the transaction with the laws and regulations as well as with the budget and opened credits.
- availability of papers that prove the expenditure according to the law.

c. The treasury's collections and payments:

- correctness of the transactions related to collection and payment and their compliance with the orders issued by the competent authority.

d. Materials:

- appropriateness of the receiving and delivery of materials and correctness of inventories.

e. Accounts:

- correctness of the accounts and their compliance with the laws and regulations.
- compliance of entries with the papers that prove them.

1.2.2 Control on employees:

This control includes all the employees who manage public financial resources, or intervene in their management without having the legal right to intervene. Employees are liable to penalty in case they commit the following violations:

- the reservation of expenditure without compliance with the law.
- the reservation of expenditure without having the endorsement of the expenditure controller.
- ignoring the submission of one of the transactions to the COA for pre-audit control, or implementing a transaction that was not submitted to the COA for pre-audit control.
- wrong-entry of an expenditure in order to cover up an expenditure violation.
- non-observation of the refrain from endorsement of a transaction by the expenditure controller or by the COA.
- execution of an illegal order that an employee receives from another employee who is not the former's direct superior.
- enriching or trying to enrich people who have contracts with the administration in an illegal manner.
- the commitment of a mistake, or negligence that causes loss of public financial resources.

- delay in submission of documents and clarifications needed by the COA within deadlines set in the laws and regulations.
- violating the principles of public finance management.

The Court of Audit examines the above-mentioned violations either spontaneously, or upon a request from the Public Prosecutor at the COA, or from the Minister of Finance or the administration concerned. The employee who is put on trial by the COA has the right to have a lawyer to defend himself.

In addition to control and audit activities exercised by the COA, the administrations and agencies subject to the COA can invite the opinion of the COA with regard to financial matters.

Observations / Problems:

-The COA has a judicial nature as opposed to many Offices of Auditor General worldwide.

-The COA is occupied by pre-audit control at the expense of post-audit. The COA is overburdened with transactions that should be subject to pre-audit control.

-The law of the establishment of the COA hardly mentions post-administrative control.

“The aim of post-administrative control is to evaluate the financial transactions and their consequences from the time the expenditure is reserved until it is executed and recorded in the accounting entries.” (article 45)

“An annual report and special reports will be developed as an outcome of the post administrative control.” (article 46)

-Compliance statements developed by the COA are submitted to Parliament with the draft law of closure of account. The latter demonstrates parliamentary control on the execution of the budget. The draft law is prepared by the Public Accounting Service at the Ministry of Finance, then submitted to the Court of Audit that makes its remarks on the draft law. However, the draft law of closure of account is not well discussed by Members of Parliament as is the case with the draft budget law, knowing that the former is a tangible statement of what has been spent and earned rather than mere estimation, as is the draft budget law.

-The Committee of Annual Control on Public Autonomous Agencies at the COA is not functioning according to Decree 4517. The Committee is in charge of auditing the accounts of autonomous agencies.

-The administrations do not send their accounts to the COA on time. This fact negatively affects the speed of post judicial control on accounts.

-Many public agencies do not have well-established accounting systems.

-Many decisions taken by the COA are overruled by the Council of Ministers.

-The absence of an entry-balance formula for the accounts of 1991 and the subsequent years that is agreed upon between the COA and the Ministry of Finance is complicating control on accounts.

2. Organizational Structure:

The Court of Audit is administratively connected to the Prime Minister.

The COA is composed of various chambers on which the activities of the court are distributed by the Head of the COA upon the approval of the COA Council. The Head of the COA enjoys the administrative and financial prerogatives of the Minister, except the constitutional prerogatives.

The Public Prosecution represents the Government at the Court of Audit.

The COA has a General Board composed of the Judges of the COA. The Board unifies the legal interpretations and endorses the reports.

The COA has many disciplinary boards.

The following is the COA's organizational chart:

Observations / Problems:

-The structure lacks Training and IT Bureaus. The COA has prepared draft decrees to establish such bureaus. According to the studies, they are to be linked to the Administrative Service.

-Work is not divided among the chambers on a sectoral basis. Each chamber studies the transactions of certain ministries, or agencies, or municipalities based on a decision taken by the Head of the COA upon the approval of the COA Council.

-Despite the fact that the COA is linked to the Prime Minister, it is considered to be a parliamentary aide. This is clearly demonstrated in the following reporting relationships:

- *The COA sends the annual and special reports to Parliament. These might include violations made by ministers.**
- *The parliamentary finance committee listens to the Head of the COA or his representative when discussing related issues.**
- *The COA sends the compliance statements to Parliament**
- *The COA puts its remarks on the draft law of closure of account and sends it to Parliament for discussion and endorsement.**

3. Planning, Monitoring and Evaluation Systems:

There are no annual programs prepared ahead of time. Transactions and accounts are sent to the COA by the administrations and parties concerned, and then work is distributed every two years on the chambers by the Head of the COA upon the approval of the COA Council .

The COA Council exercises the same role of the Higher Judiciary Council as far as judges at the COA are concerned. The Judicial inspection controls the judges.

The COA issues annual reports. The reports are conveyed to the administrations that must send their remarks to the COA in one month. The COA has the right to comment on the remarks. The Head of the COA submits the report to the President of the Republic with the remarks of the administrations and the comments of the COA. Copies are sent to Parliament, CSB and CI.

The Finance and Budget Parliamentary Committee and other parliamentary committees concerned can listen to the Head of the COA or his representative, when necessary, and to the representatives of the administrations when studying the report of the COA.

The annual report lists the number, type and content of decisions taken by the COA during a one-year period, in addition to recommendations related to work improvement, as well as conditions to be met by the administrations in order to complete the legal procedure of transactions.

The COA issues special reports, when necessary. These reports are submitted to the President of the Republic, or to the House Speaker, or to the Prime Minister, or to the administrations concerned.

Observations / Problems:

-The reports of the COA mention the decisions and recommendations without pointing out the impact, or outcome on the administration. There is no follow-up of the recommendations.

-While the decisions of the COA are detailed in the report, the recommendations at the end of the report are not detailed.

Examples of the 2-page recommendations out of the 162-page report on the activities of the COA in 1999:

- Amendment of the Public Accounting Law in light of the new developments;*
- Organizing and setting constraints for contracts concluded by mutual agreement;*
- Determining an approximate price that cannot be exceeded for contracts based on offers given by the bidder;*
- Updating all the laws that are related to financial management, and public properties;*
- Determining the number or value of deals that are contracted out to one contractor.*

4. Human Resources:

A. The Judicial Cadre

	Established Positions	Occupied	Vacant
Head of the COA	1	1	
Public Prosecutor	1	1	
Heads of Chambers	6	5	1
Adviser	25	20	5
Assistants to the Public Prosecutor	3	3	

B. Auditors

Established Positions	Occupied	Vacant
30	27	3

C. Controllers

Established Positions	Occupied	Vacant
50	27	23

D. Administrative Cadre

Established Positions	Occupied	Vacant	Contractual	Laborer	Appointed by Bill
73	43	30	5	3	5

The Head of the COA and the Public Prosecutor are appointed by a decree upon a proposal made by the Prime Minister from among the COA judges in the highest two ranks in grade two, or from among the judges of the Council of State and judges in the judicial corps in the parallel ranks.

Heads of Chambers are appointed by a decree upon a proposal made by the Prime Minister from among the judges in the highest two ranks in grade three in the COA.

Controllers and Auditors are appointed from among the graduates of the National Institute of Administration and Development-the Economic and Finance Section. Controllers should be holders of Law degrees. Auditors should be holders of business or accounting degrees.

First Controllers and First Auditors are appointed from among the Controllers and Auditors who spent five years at the COA and have undertaken a training session at the NIAD.

Observations / Problems:

-The COA has many vacant positions.

-There are no job descriptions for judges, controllers and auditors.

-Performance audit, if it is to be exercised by the COA, requires a new caliber of staff with diversity of specializations.

5. Training and Development:

Currently, judges, controllers and auditors participate in seminars organized by the Arab Group for the Higher Financial and Accounting Control Bodies and the international organizations.

Observations / Problems:

-There is no training unit in the Court of Audit that assesses training needs and follows up on training programs.

-Judges, controllers and auditors need continuous training. Moreover, accountants in the administrations who prepare the accounts and send them to the COA must be trained as well.

-As for pre-entry training, judges do not need to be provided with more of it. They already receive such training at the Judicial Studies Institute. However, judges need continuous post-entry training in order to be up-to-date with the controlling functions and IT.

Auditors and Controllers receive general pre-entry training at the National Institute of Administration and Development. They lack specialized pre-entry training that is relevant to control and audit functions. Moreover, they need to upgrade their skills by undertaking continuous post-entry training.

-The staff needs computer training, especially regarding control on accounts.

6. Budget:

The budget of the COA follows the line-item approach to budgeting. The Head of the COA prepares the draft budget and submits it to the Minister of Finance. In case of different opinions between the two persons, the Council of Ministers settles the issue. Usually, the Council of Ministers adopts the budget proposed by the Head of the COA.

7. Work Processes and Procedures:

Work processes differ according to the type of the transaction. The following is an example of the stages through which control on accounts' transactions pass:

- Registration (General Registry)
- Registration (Basic Registry)
- Head of the COA
- Head of the Chamber, or Adviser-then to the Controller, or Auditor
- Controller, or Auditor audits the transaction and prepares a report
- Back to the Adviser, or Head of Chamber who writes a report
- Examination and decision taking by the Board
- Registration of the decision in the Decisions Registry. The decision is given a new number and date
- The Head of the COA sends the decision to the authority concerned
- Informing the decision through the informers at the COA.

As for pre-audit, which constitutes the bulk of work of the COA, the process takes place as follows:

- The transaction with its attached documents are sent to the COA and a copy of the deposition book is submitted to the Public Prosecutor by: the authority that is entitled to decide on the transaction with regard to revenues; and by the expenditure controller in the

public administrations and the employee in charge of controlling expenditures in the public agencies and municipalities with regard to expenditures.

-The Head of the COA transfers the transaction to the judge concerned according to the decision of work distribution. He may study the transaction in person, when necessary.

-The judge concerned exercises pre-audit control. He examines the transaction or delegates this function to one of the controllers who work with him. Upon examination, a report is produced. If the judge approves the transaction, he will sign it. If he disapproves the transaction, the latter will be studied by a committee composed of one head and two advisers (the judge concerned is one of these two advisers).

-The Court of Audit decides on the transaction in ten days starting from the day the transaction was submitted to Court. When there is a need for documents or clarifications or for hearing the employee concerned, the COA will be given five additional days starting from the day these documents or clarifications were requested.

If the COA does not decide on the transaction within the set deadlines, the administration concerned is entitled to get the transaction back. In this case, the opinion of the COA will be disregarded.

-If the decision of the COA with regard to revenues is in contradiction with that of the competent authority, the latter has to abide by the decision of the Court *unless the Minister concerned approves to raise the transaction before the Council of Ministers.*

If the decision of the COA with regard to expenditures is in contradiction with that of the expenditure controller, the latter has to abide by the decision of the Court *unless the Minister of Finance approves to raise the transaction before the Council of Ministers* and if the COA does not agree on the whole project, *the administration concerned brings the conflict before the Council of Ministers* to take the final decision.

-The Council of Ministers decides on the transactions. The decisions of the Council has to be justified after hearing the Head of the COA. When the decision of the Council of Ministers is in contradiction with that of the Minister of Finance or of the COA, it is the decision of the Council that replaces the official endorsement of the COA or that of the expenditure controller.

-The COA will be informed about the decision of the Council of Ministers. The COA can raise the issue in its annual report or in a special report to be submitted to Parliament.

-The decisions of the COA that are related to pre-audit control can be reconsidered upon the request of the administration concerned, or the Head of the COA, or Public Prosecution at the COA. The committee that takes the decision is responsible for its reconsideration.

-The approval of the COA upon pre-audit examination of the transaction becomes invalid if it was not observed in the same fiscal year in which the approval was given.

Observations / Problems:

-The work procedure is relatively slow due to judicial aspects. The employee has the right to defend himself.

-Sometimes the Expenditure Controller is late in sending the transactions to be controlled by the COA. This will slow down the procedure.

-The chambers of the COA are responsible for auditing transactions and putting violating employees on trial. There should be a separation between both functions. Recently, an internal measure has been taken to establish chambers that focus on audit functions, and others that put employees on trial.

-Auditors do not have official prerogatives stipulated in the law. They currently work according to the decision of work distribution taken by the Head of the COA.

8. Information Technology:

USAID, through OMSAR, has provided assistance to the COA in the field of IT:

-Transaction Tracking Program (one for the COA and one for Public Prosecution). This program tracks the transaction movement.

-Data Base that includes the legal interpretations in the field of control on employees and pre-audit control.

-Program that includes the laws and decrees published in the Official Gazette.

-Personnel filing

-Web Site.

Observations / Problems:

-The above-mentioned programs require up-dating. They are not in full operation.

-There is no IT unit in the COA. The COA has three contractuals in the field. The COA has prepared a draft decree.

-The current cadre does not recognize IT positions.

-The COA needs to computerize its work methods, especially with regard to control on accounts. The COA wants to be connected to the Ministry of Finance to have access to the files and accounts of the ministry. The MOF suggests to send the documents on CD ROM. The COA considers that it has the full right to have access to the accounts and files of the MOF.

-USAID is ready to offer assistance in the field of IT.