

L'EFFICACITE DES INTERVENTIONS
DES CHAMBRES REGIONALES DES
COMPTES FRANÇAISES

EFFICIENCY OF REGIONAL PUBLIC
FINANCE AUDIT INSTITUTIONS-THE
CASE OF THE FRENCH REGIONAL
ACCOUNTING CHAMBERS

M. Gabriel Mignot

Président de la Chambre régionale des comptes d'Alsace

ON THE EFFICIENCY OF EXTERNAL CONTROL BY PUBLIC BODIES/ENTITIES

The question may be ludicrous, since the existence of external control is something absolutely general. It does not depend on the kind of government or territorial organisation of a country, or on the more or less democratic character of its institutions. Does not the generality of external control remove any possible interest in a reflection on its efficiency? Undoubtedly not, if we refer to a witty remark always in fashion in France and according to which, Mr Cambon, Minister of Finances before the First World War, would have answered to an interlocutor who asked him -for reasons that the History does not reveal- whether it would be advisable to remove the Court of Audit: "of course, my dear friend, but under the condition that nobody knows about it". This witty remark illustrates a truth always of current importance. Many politicians dream of an external control body whose existence would comfort the good conscience of honest people, but whose inactivity or at the very least its unefficiency would leave in peace the government.

Beyond this anecdote, there are at least two reasons to have an interest in the efficiency of external control. Being institutions which handle public monies, their own function requires a self-criticism, in other words, requires a search for a continuous raising of the relationship between their costs and their results. However, there is still a more essential reason: to wonder whether the efficiency of external control bodies requires to make progress in the clarification of the objectives assigned to them. This clarification is, however, not self-evident. To tell the truth, it is the real subject of the talk given to you.

Before analysing and interpreting in detail the term "efficiency", it is necessary to start by defining the concept of external control of public territorial communities which act below the state level.

The term "external" refers to the auditor, to the institution concerned. "External" means that the auditor does not belong to the controlled body. But this "exteriority" can take different forms:

- an independent institution of legal or administrative nature;
- an administrative institution dependent on a "higher" authority with a competence which includes that of the controlled body.
- an institution "commissioned" by a third party or by the law in order to control: by a private qualified accountant entrusted with the task of auditing a public law body (as the case of Hesse and certain Scandinavian countries, as well as Great Britain together with the direct supervision of the Audit Commission).

In the case of France, the first problem to meet is the status to be conferred to the accountant from a control viewpoint. The accountant is not subject to the official with power to authorize expenditure ("*ordonnateur*"), he is obliged to make his own initiatives, but he carries out a concomitant control, an *a priori* control.

To start defining the sense of the word "control", first of all it would be convenient to refer to the objective determining factors of its sphere and its content (nature).

Its sphere of action is defined at the same time by:

- a list of those bodies subject to control (the most recent extension in France concerns the entities which appeal to the public generosity).

- the nature of transactions subject to control independently from the legal or natural person who effects them (the "de facto" management¹ within French public finance law or, for instance, the transactions financed with legally obligatory taxes; and more recently the accounts of transactions implemented by private delegates of public services: water supply and draining).

This term can also be defined by the degree of autonomy and restraint of the auditor. We can distinguish several fields of action:

- a compulsory field of action: the audit of accounts by the public accountants in France;
- an optional field of action: for the French regional accounting chambers ("*chambres régionales des comptes*"), the control of companies in which only part of the share capital is held by territorial communities ("*sociétés d'économie mixte*"), as well as the control of associations or the inclusion in their programme of a control requested by a territorial authority;
- an autonomous or dependent field of action: in the case of a dependent field of action a third authority "activates" the auditor, who has the responsibility to carry out the control and renders an account to the person concerned (the person who has made the request) who assesses supremely the complying with the control, whether it concerns the publicity to be given to the certified report and to the conclusions of the auditor or the administrative, legal, etc... consequences which derive from it. This dependency or autonomy can only be partial. The auditor has complete freedom to elaborate his working programme, but he is subject to certain more or less weighty obligations which concern the performance of the control and the operation of the results.

By now it can already be observed that efficiency does not always go along with independence. The obligation to negotiate the conclusions can be more productive in terms of rectification/correction than the complete independence inserted in a procedure of a legal nature. Furthermore, the obligation to verify certain categories of accounts is in contradiction with the concern for concentrating the control on risky areas.

Two kinds of concern inspire the auditor and define the nature of his control task:

- The "regularity" audit, the legality audit: the conformity in relation to the rule of law:
 - Respect for positive law.
The statutes and regulations in force and connected with each field considered.
 - Respect for the rules and standards characteristic of the accounting and the financial management: coherence, reliability, genuineness, exhaustiveness of the accounts. When this type of control is entrusted to an external institution (which is not always the case), it results in a decision, a quite formal action: to pronounce a judgement on the accounts (France), certification.
 - Respect for the general principles, such as the probity of the administrators.

¹ De facto management ("*gestion de fait*") means the handling of public funds without having the power to do it.

- The examination, assessment of the effectiveness and efficiency of the performance of the controlled body.

The control of effectiveness, economic efficiency, has a more complex content, as observed in the variety of terms used among countries. For instance, they talk about performance audit, which includes the assessment of the economy of transactions, but they also talk about their efficiency, their effectiveness and even the relationship between costs and benefit. In other words, you do not know what it is being spoken about until these general expressions are completed with the exact content of the processes they cover. Frequently, they do not correspond exactly to the terminology in use in other countries. In France, regional accounting chambers have the power to "examine the management" of the entities they control. There is no legal or statutory text which specifies this vague expression. The Auditor General of Quebec has the power to carry out the "financial auditing, compliance auditing and value-for-money auditing". This latter aims "at getting to the bottom of the means made use of in order to administer the resources in an economic and efficient way, as well as to assess the efficiency and the presence of cases of imputability". One can easily imagine that the activities implemented by French and Quebec auditors will be different. However the straightforward exposition of the legal basis of their intervention is not self-sufficient.

The results of these investigations can only be the exposition of the observation of very flagrant anomalies - expensive and irrational organisation, a personnel policy which can be criticized, projects managed in an unreasonable way or, on the contrary, go into details of the economy which would have allowed a more rigorous management or the non-implementation of the projects contested.

These preliminary definitions allow to "work out roughly" the extent of the tasks assigned to a control body. In a certain way these tasks define the field in which it will be possible to appraise its efficiency.

At first efficiency can only be appraised from the viewpoint of a competence formally recognized. However, afterwards it is possible to try to see if there is -taking into account regularity criteria on the one hand, and efficiency criteria on the other- certain combining of powers or competences more or less effective.

Before going into the next stage, the definition of the matters which allow to measure and compare the "efficiency" of the auditor, it would be advisable to remember the most important reserve which weighs on the practice of this genre: to which extent can a state -which satisfies certain criteria- be imputable to an external control? An external control can be restricted to ascertain a good functioning of the internal controls, embodied controls, which are arrangements knowingly organised or behaviours more or less spontaneous.

With this respect, the significance of "criticism", "rectifications/corrections" arising from the audit can only be a sign of a "state of disorder". But to which extent is this significance an indicator of the efficiency of the auditor who is the one who detects this irregular situation and reports about it?

What takes us to the internal efficiency of auditing.

Therefore, it is within the field of action of the institution where efficiency should be assessed. With regard to this, I would make a distinction between external and internal efficiency.

I. External efficiency

This can be appraised answering the following three questions:

- does the institution have the required means to investigate?
- does the institution have the required means to inform/report?
- does the institution have enough competence to provoke reactions to the reports which it elaborates?

The independence/external character of the institution and its members is, of course, a prerequisite. The analysis of the different situations shows that there are different ways of satisfying this prerequisite: to consider the institution as an element of the jurisdiction, to ensure a state of independence to the head of the institution, to leave it to a professional code of ethics subcontracting the control to recognized experts....

Before this diversity of forms, one wonders whether the assessment of the mentioned independence could be better clarified by seeking situations and cases in which the condition of independence is called in question or threatened, since the experience shows that the state of independence is a result of the human quality of people, as well as a result of the legal or institutional situations which concern them. Can one go so far and pretend that the excess of protection encourages self-censorship and attracts individuals not prone to take risks.

A. Means to investigate

From this viewpoint efficiency depends on:

- the competences/powers (we have previously mentioned the audits dependent on the initiative of a third party)
- the freedom to elaborate the working programme.

The obligation to take a look every year at the totality of the accounts of those entities which have been subject to audit can, for instance, hinder the audit body from implementing detailed investigations. Isn't the right to be selective, with this respect, an evidence of efficiency such as being able to regroup several financial years?

- powers of investigation. In general, auditors are entitled to have access to any document of the audited body. Auditors also have the power to interview any person who works there. Moreover, they have coercion means in relation to those persons who could hold up their requests. However, there are more delicate investigation "areas":
 - do audit institutions have the same prerogatives as fiscal authorities do?
 - do audit institutions have a general power of investigation and communication in relation to the different public administration offices which may have had something to do with the audited bodies?
 - which are their relationships with the jurisdiction, with the police?
 - which is the scope of their right of pursuit?: to turn to third parties in order to get information about the relationships which they may have had with the audited bodies?

In France, a new law has empowered magistrates dealing with financial matters to have access to the accounts of "concessionaries" of public services.² (Water supply and draining for instance).

- expert opinions:

Do audit institutions have the required means which both intellectual and technical command of the different areas to be audited require, such as:

- data processing programmes
- medical services
- public works and building
- military equipment
- environment, etc...?

This is a matter of great significance. There are at least two possible answers:

- audit bodies have specialized personnel
- audit bodies are entitled to entrust expert valuation to third parties.

From the explanations about the correct way of proceeding in this sphere a lot could be learned about the real efficiency of auditors.

B. Means to inform/report properly

In this section we are going to classify the devices which regulate the different ways of elaboration and utilization of the reports resulting from the audit activity.

- The different ways of carrying out the instructions and the preparation of conclusions

Does the auditor have the expertness to run his work? If contradiction³ is quite obviously one prerequisite for the relevance of audit findings, since it ensures the respect for the rights of audited bodies, a formalism overbased on legal proceedings can lead to an excessive slowdown of the audit, and particularly can cloud the message arising it.

This risk leads some people to give preference to the audit findings in detriment of the recommendations and the expression of a deviation from the norm concerning judgements and sanction.

- The way of elaborating and expressing decisions

Which influence on the efficiency can the choice between the following options have:

- the classical administrative procedure: it is the person (or the team) who/which performed the audit who reports or, if the case arises, the person responsible for the entity?

² The right of pursuit obviously refers to the power to audit those bodies which are "dependent" on the audited institutions (subsidiaries, companies in which only part of the share capital is held by local authorities, participations/sharings, etc...)

³ Contradiction means a procedure involving both parties, the hearing of both parties.

- or the collective procedure: is the auditor's opinion always the result of a collegiate deliberation?

- Addressees of audit reports. Their degree of publicity

Under which form is the opinion of the audited body expressed? Who are the addressess of the reports? Which is then the degree of publicity of these reports?

Two particular aspects should be considered:

- the nature of the relationships between the auditor and the judicial authorities, in particular, those responsible for the suppression of offences? Is there a mutual obligation to inform? Which form do these exchanges take?
- the nature of the relationships between the auditor and the deliberative authority of the audited body: the regional parliament, the regional, general, municipal council Versus the relations with the executive.

C. The power to provoke a reaction in view of the content of the reports

- Which prerogatives and powers does the audit institution have to provoke reactions to its reports?

This reaction can be:

- the obligation (or faculty) to express an opinion. Technique of the reply given by the audited bodies in the public report in France.
- the obligation to justify its actions at the request of the auditor.

This exists in France in relation to the so-called "*comptable de droit et de fait*" (public accountants which handle public monies). The accountant must answer any question made by the auditor, any petition of justification which the auditor addresses to him. These are called "*injonctions*" ("*orders*").

- the obligation to adopt an attitude.

Does the audit institution have the power to issue a formal order?

In the case of administrative and political consequences,

- * with regard to administrative bodies efficiency depends on the power of the auditor to criticize any norm and request its modification (notes of the public prosecutor's department in France).
- * with regard to political consequences, efficiency depends on the "quality" of the dialogue (if there is any) between the auditor and the persons with a political responsibility within the audited bodies (I notice, for instance, that a parliament of a German *Land* freezes a subsidy until the beneficiary entity fulfils the recommendations made by the audit body).

Which are the relationships between the audit body and the budgetary authority of the audited entity?

In general terms, is there a follow-up and publication in the notice board of the results arising from the audit? In a report, I notice "in the field of value for money, a 75 percent of our recommendations have had positive consequences and have contributed to improve the management".

Has the "*rendez-vous*" technique (technique of meetings between the audit body and the budgetary authority) been used or, on the contrary, has a periodical report of proceedings been effected?

Which position has efficiency "by influence" been given (in particular by the publication)? In France, the final observations made by the regional accounting chambers on the management by the territorial communities are issued promptly.

The answers to questions of this nature vary depending on the field of activity chosen: legality, regularity, efficiency or effectiveness.

II. Internal efficiency

Does the audit body operate efficiently?

How to speak about the efficiency of external control without appraising the efficiency of the same auditor? Since who can control the auditor other than himself?

No opinion can be brought forth on the auditor's activity, if there is no organized follow-up.

And even if such a follow-up exists, a systematic and rational collection of information on the auditor's activity cannot result in an appraisal of efficiency unless the criteria taken into account have been defined in advance.

A. The device to appraise the auditor's activity

1. The "statistical" device

Which information is collected periodically on the functioning and activity of audit bodies?

2. To which extent can it be considered that these data inform about the results?

- quantitative data of the audit action

For instance, in France it is possible to know the frequency with which each regional accounting chamber verifies the accounts of the entities subject to audit.

- qualitative data of the audit action

"Qualitative" does not mean an absence of figures. In fact, it can be considered that the nature and frequency of observations formulated by a regional accounting chamber are representative both of the situation within the audited body and the quality of inquiries carried out by the auditor.

The same goes for the theoretical and/or effective volume of the auditor's work (for instance, the financial volume to be audited per each).

B. The appraisal of the "efficiency" of audit institutions

Are there any norms or references which aim at "leading" the action of auditors and whose fulfilment can easily be ascertained?

- The minimal normal proceedings to be followed while implementing the audit of a particular kind of entity can be expressed under the form of:
 - a relation of the audits to be implemented. Do auditors have standard reference costs in relation to which the transactions of the audited bodies can be classified (this seems to be the case in Great Britain).
 - the time devoted to such entity.
 - a type of expenses, receipts, complex operations: audit of personnel expenditure. Recourse to specific techniques (polls, use of data files, simulation of cases in order to appraise the quality of software, etc...)
- Do auditors have to render an account in a specific way and produce evidence in support of the extent and nature of the audits implemented by them? Do these pieces of information remain within the audit body or, on the contrary, are they brought to the attention of external authorities (such as external audit authorities)?
- Audit bodies can set up an internal control with the aim of ensuring a good implementation of tasks, the required homogeneity of works, etc...
- The existence, the elaboration and implementation conditions of the working programme offer an essential basis to the knowledge -and therefore to the explanation- of the performance of the audit body.

Thus, for French regional accounting chambers, is there a trend towards the following device:

a steady annual programme within the framework of a pluriannual indicative programme which, for instance, can be extended to four years, periodicity corresponding to the normal control pace of a particular community;

translation of this programme of the regional accounting chamber in individual programmes (for audit teams, which are usually made up of two people). General programme and individual programme founded on the basis of standardized appraisals of the amount of time required for implementing the audit (a general scale has been established to that end).

Each audit team follows the carrying out of its own programme, in other words, the allocation of its time of work. This also aims at registering the unavoidable hazards (unexpected audits, need for carrying out unforeseeable investigations, etc....)

The search for efficiency is also the existence of methods, techniques, ways which allow to raise the "productivity" of the audit activity:

- to have recourse to modern research techniques, polls,
- to make the auditee finance the audit activity either in its entirety or in part according to the time passed⁴ or on the basis of a different criterion.

⁴ as the case of the *Gemeindeprüfungsanstalt* of Baden-Württemberg.

- to entrust the totality of the audit or just part of it to experts from the private sector.
- to use standards (for expenditure) of types of organisation, etc ...

REMARKS TAKING THE FORM OF CONCLUSIONS

The independence of auditors is, quite obviously, one of the main conditions for the efficiency of the control activity. However, it would be convenient to define properly something which, within independence, is a guarantee of efficiency: the freedom of investigation and the duty to release the results of these investigations.

Certain interpretations of this independence may, however, damage the efficiency of the control: to be independent of the audited body does not mean to have no interest in the content of the observations addressed to the auditee, or to be indifferent towards the way of making the auditee receive these observations as from this moment on the correction of criticized bad habits is given greater importance; moreover, the notion of independence should not be an excuse to make objection to audit standards, harmonisation of methods, the team work, The independence cannot be restricted to the praise of individualism.

An effective control is a control which fits well into the environment. To a certain extent an effective control should take into account the sociology of organisations, in particular, the sociology of public organisations. Hence the significance of the auditors' background.

Two orientations are possible with this respect:

- to give greater importance to the hiring of experienced experts without giving too much importance to their academic background.
- to make up the body of auditors with people who have just finished their academic studies (this procedure gives the body a certain prestige). Agressiveness of young people is given greater importance to the detriment of the faculty for giving advice on the part of experienced professionals.

Hence the importance also of the position of the body of auditors within the structure of the institution. The audit body may be incorporated to the parliament, the executive, the judiciary (and this incorporation leaves open the question of knowing who carries out the audits *in situ*). The example of the *Gemeindeprüfungsanstalt* of Baden-Wurttemberg is very interesting. This is a public corporation which is originated at the same time in audited municipalities and the *Land*. This device presents the advantage of a psychological and sociological "appropriation" of external control by the audited bodies. From this side of the Rhine the same task is operated by decentralized authorities of the State which have most of the attributes of a jurisdiction.

The *a posteriori* control of a political institution within a democratic system is always like trying to square the circle, trying to reconcile contrary concerns:

- to put the mind of the citizen, the opponent and the official in charge at ease and enlighten them about the matter;
- to attend to the regularity of operations and contribute to raising the level of the management and improve the costs-benefit relationship;
- to appraise methods and operations without judging the persons in circumstances in which the relationships between them are complex, as the example of the relationships between territorial public employees and elected public employees shows.

The variety of methods puts somebody's mind at ease and stimulates. n