

# COMMUNICATION AND PLACING IN THE PUBLIC DOMAIN OF AUDITS BY THE REGIONAL COURT OF ACCOUNTS

## Local authority audit reports

Ladies and gentlemen, esteemed colleagues,

Before presenting to you the content of the audit reports addressed to Commitments Officers by the Regional Courts of Accounts, I would like to say a few words about our procedures.

### I – Procedures

The management audits conducted by the French financial courts give rise to preliminary reports submitted to the chamber by the investigating magistrate.

Examination of the preliminary report may give rise to various proceedings: judicial, transfer to the Budget and Finance Disciplinary Court, transfer to the ordinary courts, and observations on management.

With regard to management audits in particular, this preliminary report results, following deliberation, in one of the following two situations:

- 1) First situation: The chamber considers that the audit does not give rise to any significant remarks.

In these circumstances the chamber forwards a letter of discharge to the executive, and possibly to the former persons in charge, to indicate the absence of observations.

- 2) Second situation: The chamber considers that the Commitments Officer, and possibly former Commitments Officers and persons implicated, must be notified of all or some of the investigating magistrate's findings in his preliminary report.

In these circumstances a contradictory proceeding commences with the involvement of the executive and possibly the former persons in charge:

- The chamber sends them a confidential interim ruling;
- They generally have a period of two months within which to reply;
- In view of this response and following a possible hearing by the chamber, the chamber will debate each observation afresh and may:
  - Either discard an observation that it henceforth considers unfounded or to have little relevance in view of the entirety of the report;
  - Or uphold the initial report, possibly with revisions to take account of submissions by the Commitments Officer.

The proceedings may possibly enlist the other persons concerned who are informed of the observations pertaining to them, for denial.

If, at the end of these proceedings, all the initial observations are discarded, then chamber will address an audit completion letter to the executive and possibly to former persons in charge.

If, on the other hand, all or some of the initial observations are confirmed, the chamber will address a final report, still confidential, to the acting executive and possibly to the former persons in charge concerned. All of them may still provide explanations or comments within one month.

When this new deadline has expired, the chamber advises the local authority's acting executive of its final report, accompanied by the potential final response from the acting executive and those from former persons in charge. The document composed of the final report and these final responses must be communicated to the deliberating council when it next sits and must be discussed.

As soon as the deliberating council has sat, the body of papers – final report and final response from the executive – can then be placed in the public domain.

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## II – Definition of a Management Audit

The observations directed towards the heads of local authorities are naturally in keeping with the framework and limits stipulated by the legislator, codified in article L. 211-3 of our code of financial jurisdiction, recently specified by law 2001-12428 of 21st December 2001, according to which:

*“The chamber examines management of regional authorities and their public bodies. The management audit pertains to the regularity of management activities, the economic effectiveness of the measures implemented and evaluation of the results achieved in relation to the objectives set by the decision-making assembly or decision-making body. It is not permitted to comment upon the timeliness of these objectives.”*

In fact, the management audit plays a prominent part in the audits conducted by the Regional Courts of Accounts.

## III – Content of the audit reports to Commitments Officers

Each of these reports, whether interim reports, confidential reports, reports submitted for a right of reply, or final reports that take account of the directors' arguments in reply, which are generally more synthetic than the interim audit reports, reveal the observations upon which a collegial decision has been reached during deliberations on the basis of a written investigative report, presented orally by the investigating magistrate to his peers.

These observations generally deal with the authority's financial situation, and potentially reveal management anomalies and infringements of the legislative and regulatory provisions discovered during the audit. They may also take the form of recommendations. After a few years of uncertainty, the courts no longer hesitate to include positive comments in the reports, in particular with regard to action taken in the light of previous observations.

Within the scope of the powers stipulated by the legislator, and with respect to the timeliness of the choices made by the decision-making assembly, the courts evaluate the results achieved in relation to the objectives set by the authority with increasing frequency.

#### Are the court's audit reports the result of standardised audits?

This generally depends on the size of the body audited.

Thus small entities, weak economic and financial players, give rise to simplified audits, very often standardised, unless there are special cases such as authorities with a run-down financial situation or management anomalies or embezzlement that have been notified to the court. The authority is thus approached on the basis of the ratio of finance to fixed costs, the self-financing capacity, indebtedness, trends in operating and investment costs, and on the basis of the risks which the authority may run by virtue of its relations with its satellites – semi-public corporations, associations in particular, or in terms of the loan guarantees granted to third parties.

Management audits of large authorities and bodies with a major economic role, on the other hand, give rise to a more in-depth audit by the French financial courts. It is generally conducted by the investigating magistrate or by a team of auditors, for which the courts are responsible, depending on the nature of the courts' annual audit schedule. There are two types of approach:

- An internal approach conducted on the basis of accounts and their supporting documentation, and documents collated by the court in the period between audits, such as letters from citizens, press cuttings, inspection reports, etc;
- And an external approach composed of various consultations, in particular interviews with the Commitments Officer, with his departments, with the body's accountant, and with the State departments in question.

Amongst the stages which may be classed as obligatory, numerous reports, whether it has been necessary to standardise them or not, are nevertheless likely to set out, at least briefly, the background to the authority: geographical location, political, economic, demographic, and social contexts, relations with satellites such as semi-public corporations, associations, inter-communal structures to which the municipality is linked, outsourced public services. – so many characteristics that determine the background against which the authority acts.

The second point, which now constitutes an obligatory stage, relates to the action that the authority takes on the basis of the observations formulated by the court during its previous audit. It is a question of evaluating the steps taken by the authority in response to the remarks addressed previously by the court to the Commitments Officer. Reviews carried out for this purpose are all the more satisfying since, most of the time, officers remedy their mistakes and put in place revised internal audit structures to avoid mistakes being repeated. It is also noticeable that simply discovering a run-down financial situation very often leads the executive to alter its management activities in order to stabilize the entity's finances: improved operating expense control, temporary reduction of investment costs, improved debt and budgetary management traceability, initiatives to renegotiate loans on terms that favour

the authority, more sustained monitoring of outsourced public services, preliminary studies prior to major investments, etc.

The positive results that derive from these audits are noted in the Annual Public Report on the Regional and Territorial Courts of Accounts' activities published by the Court of Accounts.

A third point relates to the authority's financial and accounting situation and evaluation thereof during the reporting period. This is a quasi-obligatory stage because a financial court that fails to cast an eye over the finances of the bodies it audits, having assured itself of the credibility and truthfulness of the accounts submitted, would be viewed askance. Financial analysis is hence carried out using specific software, progressively refined, basically fed with data made available by the competent departments from the French Ministry of Finance, which hold all the financial and accounting data on local authorities. This usually retrospective, more unusually prospective, financial analysis gives rise to a dual approach: an evaluative approach facilitating measurement of the authority's activity and its performance, and a risk identification approach – relations with semi-public corporations, loan guarantees granted to subsidised associations, etc.

This approach is based on a classic model, now well developed, which measures trends in the authority's revenue items and operating costs and its ability to finance new investments agreed or planned by the decision-making assembly. In order to achieve this the analysis relies, quite naturally, on the extent of the authority's mobilisation of tax resources, its level of debt and the structure of operating and investment expenditure. It makes recourse to, *inter alia*, the progressive ratio comparison method, an approach that is, however, considered in context to take account of local peculiarities: outsourcing, to a greater or lesser extent, of certain activities that normally devolve onto the authority, membership or otherwise of one or more inter-communal structures, particularism of the municipalities forming the administrative heart of the canton, central municipalities, etc. In short, factors which clearly influence the ratios to the point of excluding any comparison with regional or national means of reference, so as to confine it to the change in ratios itself over the auditing period.

It is from the authority's ability to cope with its costs by balancing its finances, whether own finances or loans, that the court's conclusions stem.

You have been sent the final audit report pertaining to the municipality of Pau (80,000 inhabitants), located in the region of Aquitaine, in the foothills of the Pyrenees. The corresponding report sets out this town's financial situation.

Amongst the other points regularly audited by the courts, that relating to public purchasing is high on the list even if, at least to all appearances, the public procurement code is observed with increasing scrupulousness and no longer gives rise to criticisms as well-founded as in the past. Furthermore, this is why, henceforth, auditing of public procurement will be very often coupled with auditing of the authority's internal organisation, procedures implemented and circulation of information within the local territorial administration, to the decision-making assembly and that intended for the local populace.

Personnel costs, accounting for 40 to 50% of local authorities' operating costs, do not escape the curiosity of the courts either. Budget trends ascribable to personnel costs, legality of incidental payments, total of jobs and salaries, career progression, equal opportunity employment, contracted agents' conditions of recruitment (i.e. those who are not civil servants), such are the aspects that most frequently receive attention and which sometimes give rise to observations which are at times critical. In turn, absenteeism is among the common areas for scrutiny that are most frequently exploited, even if the comments in reports remain, for the time being, factual. The current handling of social reports of medium and large towns by one of the regional courts of accounts, in Upper

Normandy, should eventually result in preparation of monographs likely, with careful use, to back up comparative observations.

All these special points do not necessarily speed up all the time devoted to auditing the accounts and administration of the bodies audited. The attention of the investigating magistrates and their assistants may thus be drawn to other significant expenditure or expenditure that shows erratic fluctuations. This may be the case for entries such as elected representatives' remuneration, depreciation, reserves, and exceptional items. For example, you will find comments on such areas in the audit report sent to the mayor of Pau.

Apart from the points just mentioned, audits may deal with operating expenses or investments relating to local distinctive features of major economic importance or significant influence. You will find examples in the audit report for Pau, concerning the construction and administration of a major entertainment venue.

Audits of public utility commissions may be included in this series of audits, in which the investigating magistrate, whilst complying with the courts' audit policy, has a great deal of discretion. The latter are progressively taking the form of evaluation of the policies implemented. My colleague Christian BERNINGER will come back to this *à propos* the water and sewerage services in the town of Saint-Étienne, and the Paris conurbation's SIAAP.

There are so many areas and remarks we can choose depending on their economic and financial importance, the seriousness of the errors revealed, or their exemplary nature.

In the event of the audit forming part of national investigations covering several regional courts of accounts, often in conjunction with the Court of Accounts, the investigations to be conducted give rise to audit help sheets prepared by a national steering committee. If so, the audit is more rigid, is subject to greater guidance and is organised collectively, whilst in spite of everything, allowing investigators to take the initiative and tailor investigations. This facilitates national synthesis and increases the demonstrative force of the findings.

Amongst the areas already investigated or where investigations are in progress either locally or nationally, I would like to mention, amongst others, social action in the départements, minimum integration income for unemployed workers, the fire and emergency services, casinos, management of marinas, water policy, inter-communality, hospitals, accommodation for dependent pensioners, administration of the education system.

#### IV – Reporting form

Finally, I would like to add a few words about the form that our reports take and the essential recommendations that govern their production.

Thus, apart from classic report writing techniques, magistrates are recommended:

- To present their findings logically, commencing with general remarks and then going into greater detail;
- To rank their observations;
- To be totally neutral in matters of titles and style;
- To ensure that the message delivered is clear by using habitual vocabulary and not to resort to technical terminology unless it has been explained beforehand.

Finally, with regard to the length of the reports submitted to Commitments Officers, a good number of us agree that a report should not exceed fifteen to twenty pages, unless there are special circumstances. Beyond that, one runs the risk of getting bogged down in details lacking in demonstrable added value, but one also runs the risk of losing the reader, whether he be the immediate addressee or, justifiably, the citizen.

So there you have it, ladies and gentlemen, the broad outlines of an audit report sketched out for you in brief.

Thank you for your kind attention.

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