



SIGMA

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TURKEY

EXTERNAL AUDIT

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1. Introduction

The Turkish Court of Accounts (TCA) was created by an imperial edict on 29 May 1862. In 1876 it became a constitutional institution when the first Ottoman Constitution was enacted. After foundation of the Turkish Republic in 1923, the TCA was re-established and maintained its status in the republican Constitution.

The TCA is a collegiate Supreme Audit Institution (SAI) equipped with judicial power and not subject to administrative or political supervision. The Turkish SAI is independent of the classic three branches of government, namely, the executive, legislature and judiciary. The TCA has complete discretion in deciding what accounts and subjects to examine and how and when to examine them; it also decides whether it is necessary to report the matter in question to the Turkish Grand National Assembly (TGNA). The TCA plans its work in accordance with the proposals of the auditors. In the performance of its work the TCA can communicate directly with ministries, boards, governmental offices, accountants and other responsible officials. The TCA is also entitled to have access to and examine any ledgers, records and supporting documents that are needed for its work. Operating costs are financed by a budget that is specific to the TCA. The institution's financial independence goes further than this, however, as the TCA prepares its own budget and submits it to the TGNA without intervention from the executive. The President of TCA authorises expenditure from its approved budget.

The TCA has two types of staff – professional staff, which include the President, members and auditors (currently, numbering 747, of whom 47 are judicial staff and 700 are auditors, organised in 19 audit groups), and support staff, currently numbering 559. The TCA President and members are elected by the TGNA (general plenary), while auditors are appointed by the TCA President after passing a competitive examination. The TCA is structured as a collegiate SAI, comprised of individual officials and collegiums (boards). In addition to the above-mentioned support staff and auditors, TCA officials include:

- *President of TCA*, who is the highest officer responsible for its overall functioning. He chairs the meetings of the General Assembly and may also, when necessary, preside over the Board of Appeal and the Board of Chambers;
- *Secretary General*, who is the President's administrative assistant, in turn assisted by three principal or senior auditors;
- *Members of the Court of Accounts*, who are essentially members of the General Assembly; each member is affiliated to one of the eight chambers and also either to the Board of Appeal or Board of Chambers;
- *Prosecutor*, who acts, together with his deputies, in the name of the Treasury and gives his written opinion to relevant chambers on the audit findings stated in audit reports. The Prosecutor and assistant prosecutors are appointed by a joint decree, upon the proposal of the Ministry of Finance;

The TCA's collegiums/boards, with responsibilities in the core audit process, comprise four bodies:

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- *Chambers*: the eight chambers are at the heart of the TCA judicial system. Each chamber consists of a chairman and six members, and operates as a court, examining the actions and accounts of responsible officials based on auditor reports. The chamber decides whether these officials are to be acquitted or held liable;
- *General Assembly*, consisting of the President, chamber chairmen and members;
- *Board of Appeal*, which offers a right of appeal to responsible officials against the decisions of the chambers;
- *Board of Chambers*, which determines the advisory opinion of the TCA on the financial regulations of governmental departments.

In the 1924 Constitution, it was explicitly stated that the TCA was affiliated to the TGNA and assigned the task of auditing all public revenues and expenditures. Under the 1961 Constitution and the Law on the Turkish Court of Accounts, the TCA is responsible for auditing on behalf of the TGNA the revenues, expenditure and property of government offices operated under the general and annexed budgets. The statutory mandate is to perform annual compliance audit on the basis of examining 100% of all transactions, i.e. vouchers, supporting documents, journals, ledgers and financial statements.

TCA Law 832 (the current audit law), enacted in 1967, increased the number of chambers to eight and established a separate appeal authority, the Board of Appeals. In 1996 an amendment to Audit Law 832 gave TCA the authorisation to conduct *performance audit*, which meant to evaluate to what extent the public administration have used their resources efficiently, effectively and economically. Likewise, the mandate was introduced to conduct “*partial examinations*” on the basis of sector, programme, project, topic and sub-units without adhering to account periods of auditees.

In 2003 the TCA was authorised to carry out *audit upon the demand of parliament* in various areas, regardless of whether these areas were subject to audit or not.

With the *Public Financial Management and Control (PFMC) Law 5018¹* (PFMC Law), which was adopted in 2003 and put into full effect in 2006, public financial management and control has been rearranged considerably. This law extended the audit area of the TCA, increased the liability of the TCA to submit reports to the TGNA and made it compulsory for the TCA to conduct and report audits on the basis of up-to-date guides that are compatible with international standards and cover modern audit approaches. According to the same law, the TCA is to issue an opinion on the information included in the accountability reports of each institution and in the summary *General Accountability Report*. The accountability reports should include general information of the administration, information on activities and performance information as per the strategic plans and the performance programme, resources used, and reasons for deviations from appropriations compared to the realisation of the approved budget. The TCA should also prepare an *External Audit General Evaluation Report*, taking into account audit reports and replies of auditees to these reports for presentation to the TGNA. The TCA should continue to issue the *General Conformity Statement* – on the draft Consolidated Financial Statements by the Ministry of Finance – however, the PFMC Law extends the scope by requiring that this opinion also reflect the results of the TCA audit reports, the administration’s accountability reports and the General Accountability Report. In addition, as a consequence of the above-mentioned requirements, the TCA would in principle establish a special chamber to deal with the final opinion on the audit reports.

The PFMC Law thus made it necessary to amend certain arrangements in the Constitution and accordingly, in 2005, several articles of the Constitution, including article 160 on the TCA, were amended. With these constitutional amendments, the audit area of the TCA was extended to include social security institutions. At the same time, the TCA's authority to audit local administration was given constitutional grounds and many institutions that had previously been exempt from audit due to special laws now became subject to TCA audit.

Due to its extended audit area and to the increase and diversification in its functions, it became necessary for the TCA to develop its audit approach within the framework of modern developments and to launch restructuring activities to establish for more effective processes. With this aim, studies on amendments to Audit Law 832 were initiated in 2003, and a law proposal for a new audit law was presented to the TGNA in February 2005. This law proposal has been pending in the TGNA for more than three years now.

¹ The Public Financial Management and Control Law no. 5018 adopted in 2003 is hereafter referred to as the PFMC Law.

2. Baseline Questions

2.1. *Does the SAI have clear authority to satisfactorily audit all public and statutory funds and resources, bodies and entities, including EU resources?*

The TCA has the authority to audit all public and statutory funds and resources, with some of the major exemptions being:

- TRT (Television/Radio);
- Toki Collective Housing;
- Central Bank and other state banks;
- Municipal enterprises;
- State economic enterprises (now performed by the Prime Ministry High Auditing Board).

In addition, the audit of the Ministry of Defence is circumscribed by some restrictions that are not in line with the INTOSAI Lima Declaration.

The total number of accounts to be audited by the TCA is huge. The Ministry of Finance (MoF) has addressed this issue in recent years. At the beginning of 2000 the accounts numbered 8,500; during the past year the number was reduced to 6,900 accounts and further consolidations will probably be made after the local elections next year.

The TCA's audit remit is huge. It would seem to be impossible, and/or in any case not cost-efficient, to cover all of these accounts on an annual basis. Central government institutions and larger accounts are audited annually, and in terms of monetary value approximately 85% of the accounts are audited annually. The Audit Law no. 832 of 1967, as amended (AL 832) has indirectly offered the TCA the possibility of avoiding the problem, as the TCA is not required to publicly show the accounts that have not been covered with annual compliance audit reports or writs. In addition, such reports are not presented to the TGNA as they are within the competence of the judicial branch of TCA, which carries out its tasks independently, i.e. without any involvement from the TGNA.

The current situation is not in line with the INTOSAI Lima Declaration. The audit mandate should be enhanced to include all public financial operations, regardless of whether – and how – they are reflected in the national budget. Excluding parts of financial management from the national budget will not result in these parts being exempt from audit by the SAI. In addition, the regular audit of the audit portfolio should be considered both in an annual work plan and in a more strategic perspective (three to five years).

2.2. *Does the type of audit work carried out cover the full range of regularity and performance audit set out in INTOSAI auditing standards (1.0.38-1.0.44)?*

The audit mandate of the TCA is discharged in a two-phase process: The *first phase is the audit of accounts*, while the *second phase is the trial* of these audited accounts. The end-product of the latter is a legal document called a *writ*, which either acquits officials or holds them responsible for their financial management. The writs are not reported to the TGNA, only to the accountable and to the ministry concerned.

Other products are various *reports to the TGNA*. These reports may be classified as:

Statement of General Conformity: According to the Constitution, the TCA is to prepare the Statement of General Conformity and submit it to the TGNA. With this statement the TCA assures the TGNA that the figures and disclosures shown in the *Draft Final Accounts Law* fairly present the actual financial results of budgetary implementation. This report is provided to the TGNA annually on 13 September at the latest.

Other Reports: AL 832 does not refer to a general purpose report to parliament, but does specify the circumstances in which the TCA is to report to the TGNA. The subjects of such reports are as follows:

- (a) legal and regulatory provisions that jeopardise the interests of the Treasury (article 25);
- (b) financial issues, including accounting methods, practices and systems; and procedures that concern revenue accrual (article 28, IV);
- (c) matters of concern (article 28, V);
- (d) audit findings concerning the property accounts of departments and agencies funded by the general and annexed budgets (article 87);

- (e) verification of the operation of government bodies outside these two budgets in accordance with the "purpose of their foundation" (article 87);
- (f) significant instances of failure to comply with legislation (article 88).

Reporting under points (a), (b), (c) and (f) above is at the discretion of the TCA, whereas reporting under points (d) and (e) is required by the law.

In addition, in 1996 TCA was given the remit to carry out *performance audit*, evaluating to what extent the public administration has used its resources efficiently, effectively and economically, and to undertake *partial examinations* (cf. section 1 above).

The TCA's current mandate is set out in Audit Law No. 832 of 1967, as amended (AL 832). The design of this audit set-up is not in line with the public financial management and control reform provided in the PFMC Law of 2003 (in effect fully since 1 January 2007), which is now being implemented by all accountable institutions of the central government. The PFMC reform is also applicable to the TCA and has thus a direct impact on the TCA itself as a budget-spender. In addition, the PFMC reform has an indirect impact on TCA activities in view of the fact that the Audit Law 832 is obsolete, as it had been designed for the previous set-up, in accordance with the General Accounting Law dating from 1927 (as amended). Both the basic policy design and many of the detailed paragraphs of the Audit Law 832 are in direct conflict with or contradiction to the new policy design of the PFMC Law. A new draft law of the TCA has been tabled in parliament since 2005, which is not an acceptable situation.

The current TCA audit is comprised of a *compliance audit based on a transactions and balance accounts document*. The accounts are sent to the TCA and stored in their central archives for a period of ten years (whereas normally some auditees' accounts are kept in the regions). This audit constitutes the lion's share of TCA resources, i.e. some 90% of the (direct audit) resources.

The outcome of the audit is subject to a judicial "trial" in a TCA chamber, where the accountable is either discharged from responsibility or penalised in line with AL 832. A special prosecutor, who is not part of the chamber, represents the Treasury and is responsible for protecting the public interest and for arguing a judicial case. It is, however, up to the chamber to make a decision on its own. If penalised, the accountable can appeal to the TCA Board of Appeal as the last resort, apart from a criminal case according to the Penal Code, which is reported to the legal authorities. The same right is given to the prosecutor if the case does not evolve as he/she considers appropriate. The TCA Board of Appeal may decide to invite concerned parties or one of the parties for a hearing or to ask for clarification. The same also applies upon written request to the Board of Appeal.

Pending adoption of a new audit law in line with the PFMC design, the TCA does not perform an annual attestation audit of the State Budget Execution (SBE), Social Security Funds, regulatory and supervisory bodies or other major institutions. Such an audit is nevertheless indicated in the PFMC Law (article 68a), and a natural consequence of that provision should be the adherence of the TCA to internationally recognised auditing standards. It is often said that the TCA's failure to carry out this attestation audit is based on the rationale that the Constitution and the PFMC Law do not provide the necessary legal foundation to set aside the current AL 832. The PFMC Law is seen as an organic budget law, i.e. a type of framework law for the PFMC, but without all of the characteristics of an organic budget law, as it does not have priority over AL 832 from a judicial point of view (cf. IMF ROSC 2006, p.14). If it had been intended to give the PFMC Law this priority, then it should have been enacted on a higher level of the legal structure.

The TCA has nevertheless carried out performance audits since it was empowered with that responsibility in 1996. The first performance audit group was established in 1999. This type of audit was also addressed during the twinning with the UK NAO (2005-2007). In 2008, with a newly established second performance audit group, some 5% of the (direct audit) resources are used for performance audit. On average some two or three performance audit reports have been published annually during the last ten years.

The audit opinion (General Conformity Statement - GCS) on the Consolidated Financial Statements, presented to the TGNA and published by the Ministry of Finance, involves in the TCA some eight staff (1% of the direct audit staff), with the coverage and content indicated above. This is the only mandatory annual report provided to the TGNA. This description reflects the weakness of a very formal exercise performed by the TCA. Given the relevance and importance of the GCS, a more substantial review of the contents of the document would require much more resources.

The TCA group for the General Conformity Statement relies on the same accounting system (say2000i) for the computerised checking of the Ministry of Finance's Consolidated Final Accounts against the accounting

in line ministries (or equivalent first-level budget-spenders). Some other tests on the reliability of the accounts are also performed.

In recent years TCA reporting to the TGNA has thus comprised the following:

- Annual General Conformity Statement;
- Opinion on Treasury Transaction Report;
- Performance audit reports.

The audit work carried out by the TCA covers regularity and performance audit only partially, for the following reasons:

- **Compliance audits have the ambition, in line with Audit Law 832, to annually cover 100% of the auditees and 100% of the transactions; compliance audits cover transactions and final balance accounts, and are mainly based on accounting materials submitted to the TCA; regularity audits embrace compliance audits but not financial audits, as defined and required in the PFMC Law, which would require different audit methods, such as systems audits carried out in a systematic and cost-effective way;**
- **The PFMC Law (para. 68) specifies that external audit is to be performed in line with generally accepted international audit standards; the New Draft Audit Law of 2005 also proposed to include this requirement. In practice, generally accepted international audit standards are not applied by the TCA and the Audit Law 832 does not require the TCA to audit according to those standards.**

It is of utmost importance to pursue the initiated reform process of the TCA, as there will otherwise continue to be a mismatch between the executive's implementation of the PFMC Law and its requirements for external audit compared to the actual external audit carried out by the TCA of the executive.

2.3. Does the SAI have the necessary operational and functional independence required to fulfil its tasks?

The relevant benchmark today is the INTOSAI Mexico Declaration (ISSAI 10). It assesses an SAI's independence in the following principles: (1) Legal Framework and its de facto Application; (2) Independence of SAI Heads and Members; (3) Broad Mandate – Discretion in Discharge; (4) Access to Information; (5) Right and Obligation to Report; (6) SAI to Decide on Content, Timing and Publishing; (7) Effective Follow-up on SAI recommendations; and (8) Financial, Managerial and Administrative Autonomy and appropriate Human Resources as well as Financial Resources.

The TCA set-up (in accordance with AL 832) matches the baselines for the above principles fairly well.

- Principle (1): The present interpretation of the audit law (832) demonstrates the independence that the TCA de facto enjoys.
- Principle (2): TCA members are elected by the TGNA and are guaranteed the maintenance of their appointment up to retirement age (65 years). They have the same status as judges in the judicial courts and can only be dismissed in accordance with very strict procedures in the TGNA. The TCA President's term of office is seven years, with the possibility of re-election by the TGNA; if not re-elected, the President is guaranteed a post as a TCA member. The members of the TCA play an important role in the appointment process of the President as well as that of new members. Personnel of the TCA are not allowed to have any other employment, with or without payment, than that in the TCA.
- Principle (3): The TCA has a broad mandate and almost full discretion in its discharge.
- Principle (4): The TCA has the necessary access to information, with a smaller restriction concerning access to information on the national defence. The consequences for the responsible auditees if they fail to present the required information are drastic.
- Principle (5): The TCA has the right and obligation to report. The whole reporting of the audit and the writs (final discharge document) are not sent to the TGNA as they are part of the judicial rights delegated by the TGNA to the TCA. According to an amendment to the Audit Law (annex 10, 1996), the TCA President is to submit performance audit (evaluation) reports to the TGNA. "The

evaluation reports and other reports stipulated by this law shall be debated in the Planning and Budget Committee (PBC) of the TGNA, and the committee shall submit the reports, together with its opinion, to the TGNA to be debated at a plenary session.” There are other clear legal requirements in amendments to the Audit Law (annex 2, 1985) and in section 108, where it is stated that “the TCA Assembly and the TGNA shall execute the provisions of this law”. The law requirements referred to above have thus not been met by the TGNA so far.

- Principle (6): The TCA decides independently on the content, timing and publishing, with the mandatory exemption for the TCA General Conformity Statement on the draft final accounts law consolidated by the executive.
- Principle (7): The TCA has a follow-up instrument for actions on audit findings and recommendations. However, the TGNA has no follow-up routine regarding the executive's action on TCA audit findings and recommendations.
- Principle (8): The TCA has a reasonable level of administrative autonomy (independence) on financial, managerial and administrative issues guaranteed by the present Audit Law, e.g. the TCA President and members are not regarded as civil servants; the audit staff is also granted the tenure of their positions up to 65 years and with competitive remuneration in comparison with other public servants, as reflected in the low staff turnover; the TCA human resources as well as financial resources are well taken care of; and the TCA appropriation request is to be dealt with by the TGNA without interference from the executive.

The TCA currently has the independence required to fulfil its tasks. It meets most of the requirements –of the Mexico Declaration of INTOSAI, which represents the highest standards today. However, finally it is always up to the SAI itself to safeguard and defend its legally guaranteed independence.

2.4. Are the SAI’s annual and other reports prepared in a fair, factual and timely manner?

The TCA’s performance audit reports are subject to a thorough contradiction by the auditees. The President of the TCA then refers the revised draft to the appropriate Chamber and finally to the General Assembly of the TCA before making his final decision, tabling it in the Planning and Budget Committee (PBC) of the TGNA and publishing it.

The TCA compliance audit provides reasonable guarantees of a fair, factual and timely audit examination: court model with investigating staff – the auditors; contradiction of the draft audit report; judicial examination, “trial” (independent members in chambers), and possibility to appeal (an appeals board with new members. All procedural steps have strict short deadlines, as provided in the legal framework.

This design requires, however, a large proportion of the present TCA resources. Some of the key outputs for the audit year 2006 were as follows:

- The General Assembly took 95 decisions.
- The Chambers submitted in total 2,495 reports of which 1,334 (53%) were processed by the judicial function and concluded with *writs*. They covered 8,843 different subjects. Auditees had recovered 39.9 million YTL before the final decisions were made. The final decisions requested the auditees to recover in total 16.9 million YTL. A total of 43 cases were deemed to be possible criminal cases and were forwarded to the General Prosecutor for legal action.
- The Board of Appeal treated 730 files.

According to the TCA General Conformity Statement 2006, the total amount of budget expenditures of the administrations within the scope of the central government in 2006 was 186,639 million YTL.

The audits mentioned above are not commensurable to the government’s budget and the amounts audited do not provide for a reasonable coverage of the government’s budget.

The TCA's reports are prepared in a fair, factual and timely manner. SIGMA is nevertheless of the opinion that even a court model with judicial power would greatly benefit from having an audit quality management system (in line with the EU Member State SAIs’ recommendations of 2005). Such a system would be based on three main pillars: audit quality control (so-called “hot reviews”, as they are performed before the audit decision is taken); audit quality assurance (so-called “cold reviews”, as they are performed after the audit decision is taken); and finally, audit quality management (the processes

supporting the core audit processes). The EU guidelines on Audit Quality were deemed to be applicable to all SAIs, both “court” and “office” models, and to all audits, i.e. both regularity and performance audits.

2.5. Is the work of the SAI effectively considered by parliament, e.g. by a designated committee that also reports on its own findings?

The basic philosophy of a court model with judicial functions is that the court handles independently any “violations” of the PFMC Law, leading to the consequences defined in the Audit Law. Such an SAI has a high degree of independence in relation to the legislature, the executive and the public.

The Planning and Budget Committee (PBC), which is the only constitutional standing committee in the TGNA, is the recipient of the TCA reports. The Committee is responsible for reviewing the following documents: budget draft laws, draft final accounts laws, development plans, draft laws, private bills of members of parliament, decrees, and reports presented to the TGNA by the TCA. The PBC is also responsible for the proposal to the Assembly of the President and members of the TCA. According to several laws, the PBC should also arrange hearings related to the performance of the public administration.

The PBC deals (in the year 0) with the draft Final Accounts Act (year -1) together with the draft Budget Act (year +1). The TCA’s General Conformity Statement (GCS) provides an independent assurance of the Ministry of Finance’s Final Consolidated Financial Accounts. The GCS is submitted to the TGNA every year. The closing of the accounts for each responsible accounting unit is a short procedure that is rapidly completed, but the total amount of time required is about three weeks. The PBC then hands over its proposals on the draft final accounts to the TGNA for debate and approval in plenary session.

There is no formal discharge of the executive by parliament. However, the fact that the PBC approves the draft final accounts and draft budget for the following year is regarded as an informal political discharge. In principle – but this has never happened so far – a definite disapproval of the Consolidated Final Accounts would lead to a motion of no confidence in the TGNA.

As the system (according to AL 832) provides the TCA with judicial powers, the discharge of accountability lies with the responsible individual, i.e. the accountant. In the new PFMC system (PFMC Law), “public loss” resulting from the misuse of resources will be an individual responsibility – but a broader circle is drawn to find the negligent party. The top management of an institution is accountable for weaknesses in the internal control systems.

The TCA’s Performance Audit Reports have not been on the agenda of the PBC since they were introduced some ten years ago. According to information obtained from the PBC, the reason for this has been that there was no legal basis for dealing with these reports. However, this might be debatable considering the clear legal requirements in amendments to the audit law (annex 10, 1996 as well as annex 2, 1985) and in section 108, where it is stated that the TCA Assembly and the TGNA are to execute the provisions of this law – cf. para 2.3.

In a new internal draft parliamentary by-law the PBC will establish (a) one sub-committee on the budget; and (b) another sub-committee on the final accounts. The latter will review the draft Law on the Final Accounts, the reports prepared by the Committees on the Final Accounts, as well as the activity reports of the administration prepared in accordance with article 178 of the Constitution. It will also evaluate the institutions concerned, and the GCS and other TCA reports. This sub-committee is expected to become operational in 2008.

Previously (some ten years ago), a special Public Accounts Committee (PAC) was operational for several years but it was abolished due to poor performance and its responsibilities were transferred to the PBC. There does not seem to be any intention to re-establish this committee. The envisaged sub-committee on the final accounts is generally regarded as a better solution for strengthening accountability and transparency in line with the PFMC Law, as the PBC is the most powerful of all committees.

There is no requirement for the government to formally and publicly respond to the published reports of the TCA.

The TCA follows up the application of its “decisions” contained in the writs (judicial function) by both the accountable (administrative consequences) and the legal authorities (penal code). The TCA has designed a special database for this follow-up. If no actions have been taken, the TCA sends reminders to the responsible authorities, including the Treasury, the Ministry of Finance and legal authorities.

For performance audit reports, there is an unofficial dialogue between the TCA and the auditee for the realisation of the audit recommendations; however, there are no routines for follow-up on audit findings and recommendations by the TCA with the responsible executive institutions.

The amount of information provided by the TCA is not sufficient for parliament to debate on the budget execution and on the work of the TCA; it can therefore not be effectively considered by the TGNA. On the other hand, the TCA's performance audit reports submitted to parliament have not been on the agenda in parliament for the last decade. The new PFMC reform established and operational since 2007 is not addressed in a meaningful and intentional way by the TCA.

2.6. *Has the SAI adopted internationally and generally recognised auditing standards compatible with EU requirements, and how far have they been implemented?*

During its twinning with the UK NAO from 2005 to 2007, the TCA prepared itself to adopt the INTOSAI Auditing Standards and to upgrade its capacity to implement these standards in the context of the new PFMC Law framework. With regard to performance audit, the situation analysis concluded that the TCA's existing performance audit process largely met the INTOSAI Auditing Standards in the areas of planning, field work (including evidence collection and analysis) and reporting.

With regard to financial audits, a comparison of the current compliance audit performed by the TCA with the INTOSAI Auditing Standards might best be made by looking at the terms of reference of the recent twinning, which provides for an external audit in line with the INTOSAI Auditing Standards. The twinning approach constituted a substantial upgrading compared to the compliance audit performed to date, with regard to the following key aspects of the audit:

- Accountability is a broader concept in the PFMC Law than the one applied by the current Audit Law 832.
- The audit would focus on the accounts produced by the administration as a whole, with the top management of the institution as the main responsible party, compared to the present Audit Law 832, which holds the accountants as being primarily responsible.
- A more systematic strategic audit approach would cover the audit mandate in a three to five-year perspective.
- The audit objective of providing an audit opinion on the "accountability report" produced on the basis of systematic, materiality /risk-based audit work and focusing on system-based rather than transaction-based information, would be implemented.
- There would be a developed, coherent and comprehensive sequence of audit standards, audit manuals and audit guidelines, in line with INTOSAI Auditing Standards, to support the new working methods.
- An explicit quality management policy would be designed and implemented by the TCA to ensure that the Court operates, maintains and improves its quality management system and that it is competently organised to deliver high quality work.
- The judicial assessment would still be the same as in the current AL 832. The criteria would still be the "public loss" assessed by the chambers, and with judicial support by the prosecutors. A broader set-up of responsible persons (other than the accountants) among the auditees is to be applied, i.e. the head of the institution for the design and operation of internal control systems; the authorising officer would have a heavy responsibility while the accountant would just be responsible for accountancy aspects.
- Finally, the new Financial Audit Reports (FAR) would be sent to a new Board of Financial Audits, comprised of eight members (one member from each chamber), which would provide a formal opinion (not a decision) on the FAR. The current chambers would not be involved in this new task, but would handle the judicial part.

Due to the stalemate in the TGNA, the implementation of the INTOSAI Auditing Standards has stalled. Major problems and delays have been encountered with regard, inter alia, to the following issues:

- The various manuals that have been prepared need to be tested, in particular the newly prepared Financial Audit Manual, and further adapted to the TCA working environment, with the exception of the guidelines on performance audit.

- The ACL (CAATs) needs to be further tested in a larger organisation, such as the Social Security Funds. Training on ACL would rapidly become obsolete if it were not applied immediately after the initial training.
- Adjustments to the present organisational structure and job descriptions have not been made. There are no job descriptions for the various auditing cadres.

There is also an urgent need to carry out a comprehensive mapping and to discuss the many possible contradictions between the audit approach of the PFMC Law compared to AL 832.

The stalemate of the past three years has resulted in the polarisation of views among TCA members and auditors for or against the new modern audit approach, as stated in PFMC Law and the draft New Audit Law 2005. As a consequence, no actions have been taken in many areas. This issue must be addressed consciously and firmly to avoid a serious loss of momentum while waiting for adoption of the draft New Audit Law.

A frequently discussed issue is the interpretation of the current Audit Law (AL 832, para. 38). It stipulates that “...all audit objects shall be audited” [by the TCA] and “all accounts related to these transactions, including all records and documents, and finally by trial of all the transactions and accounts”.

On the one hand the law seems to be clear enough and does not permit much more than a literal interpretation. On the other hand, this interpretation is not feasible and the law has therefore not been fully implemented for many years. Most auditors carry out some kind of sampling or stratifying of the accounts. Others claim that they follow the law for those auditees finally chosen to be audited, at the expense of smaller accounts that are not audited on an annual basis. Some claim that this article only has to be applied for the judicial part of the examination. However, all of this does not make the case much clearer, as they actually aim to perform a 100% examination, regardless of the rationale. This provision does not allow for a systematic cost-efficient and materiality / risk-based type of financial audit, which would – if applied – enable the Court to deliver an opinion on the regularity of the accounts pertaining to its remit. This is only one example leading to the conclusion that the Audit Law 832 should be overhauled, as the mandate to audit according to international audit standards is explicitly given to the Court by the PFMC Law.

General Conformity Statement

Currently, the only mandatory TCA opinion, which is equivalent to an audit assessment, is the General Conformity Statement (GCS). In the current set-up in the TCA (AL 832), it is an assessment of all of the final accounts on the State Budget, but with a somewhat limited scope, as the social security institutions and local administrations are not included. This assessment is basically a check on whether the Ministry of Finance Consolidated Financial Statement (CFS) properly represents the underlying accounts in line ministries. There are also some checks made on the reasonableness of the various posts of expenditure, based on other equivalent accounts.

The TCA then draws the following conclusion: “By taking into account the (TCA) explanations... it would be appropriate [for parliament] to approve the amounts submitted in the 2006 Central Government Final Account and in the Draft Final Account Law.”

Planning and Organisation

The TCA has semi-centralised planning, with one central unit responsible for both preparing the annual work plans and putting them in a more strategic perspective. This unit has set up a database that includes, inter alia, all of the accounts and audits that have been produced. There is a dialogue between the planning unit and the 19 audit groups. Performance auditors make their separate planning. They work together on a draft annual work plan to be presented to the President. The President sends his final draft to the General Assembly of the TCA for endorsement. This arrangement seems to work sufficiently well in the framework of the current audit mandate (where compliance audits constitute the lion’s share of audit work).

The TCA has prepared itself to adopt internationally and generally recognised auditing standards that are compatible with EU requirements. A major reform giving the TCA a new and more important role in the total accountability system, has been blocked in the TGNA for more than three years. The ambitious reform package – in line with the PFMC Law and its environment and in line with EU requirements – is now at stake.

2.7. Is the SAI appropriately aware of the requirements of the EU accession process?

The TCA is an active member of the European Court of Audit's Network of Candidate and Potential Candidate Country Supreme Audit Institutions (SAIs). It is also an observer in the Contact Committee established among EU Member State SAIs, in application of the EU Treaty. The TCA is also a member of the International Organisation of Supreme Audit Institutions (INTOSAI) and two of its regional groups, the European Organisation of Supreme Audit Institutions (EUROSAI), and the Asian Organisation of Supreme Audit Institutions (ASOSAI). The TCA served as auditor of EUROSAI for nine years (three successive terms).

The TCA is one of the founding members of the Economic Cooperation Organisation Supreme Audit Institutions (ECOSAI). The ECOSAI is a regional forum of the SAIs of the South and Central Asian regions. The TCA President was the first President of ECOSAI's Governing Board.

Specific arrangements were made in 2002 relating to the pre-accession instrument for Turkey. These arrangements consisted of the setting up of the central and financial contracting unit (CFCU) and the National Fund within the Undersecretariat of Treasury, and the designation of specific roles and operating procedures covering procurement, payments, reporting, accounting and audit. The TCA was chosen to be the Certifying Body. However, with the introduction of the new Instrument for Pre accession Assistance (IPA)², the Turkish administration needed to adapt existing arrangements and formalise new requirements. This consisted of the designation of specific roles/responsibilities and the introduction of new structures. This adaptation is not yet complete and the Framework Agreement for IPA has not yet been signed.

Regarding the audit of EU funds, the TCA has not been chosen to be the Audit Authority for the IPA fund. Turkey has chosen the Treasury controllers to perform that audit, as they are deemed to be sufficiently independent functionally in relation to the National Fund and the Implementing Agency. This solution is frequently applied in many EU countries.

The basic set up in Turkey for handling EU-related funds seems to be suitable. The TCA has a full mandate to audit EU-funded projects. It is important, however, that the TCA continue its capacity-building for auditing EU pre-accession funds in its function of auditing the executive, notably the Undersecretariat of the Treasury but also the Ministry of Agriculture for the future IPARD funds.

3. Capacity to Further Develop the System

The TCA audit mandate has been expanded drastically with the new reform established through the PFMC Law. The TCA embarked on an ambitious programme to deal with this challenge, especially through the twinning project, which lasted two years and terminated in early 2007. During this period some 50% of the audit staff were trained in at least some of the various modules, and consequently a platform was created to audit in line with the new requirements of the PFMC Law, which also requires external audit to be performed in line with Internationally Recognised Auditing Standards (*para. 68*).

The TCA has a Strategic Plan for the period 2009-2013, which it has prepared as one of the budget-users implementing the requirements of the PFMC Law. The Strategic Plan has been elaborated on the basis that there will be a new audit law in which TCA responsibilities will be assumed in accordance with the PFMC Law. The Strategic Plan also includes a SWOT analysis, in which mention is made, amongst several strengths, of the deep-rooted history (145 years) of constitutional and legal independence and of the sufficient safeguards granted to professional personnel. On the other hand, amongst several weaknesses are noted the resistance to change, the lack of experience with regard to modern audit approaches, the lack of motivation among the personnel, and the lack of habit of collective study and teamwork.

The TCA has a representative participating in the bilateral project with the Dutch Government, through the MATRA programme, which is providing support to the TGNA in the implementation of the PFMC Law.

4. Summary and Next Steps

It is recognised by the parties concerned that such a major change takes time and that a new audit law is needed. The TCA has started to prepare itself for auditing according to INTOSAI auditing standards, which should contribute to raising awareness of the need for external audit in accordance with modern auditing

² Council Regulation (EC) No1085/2006 dated 17 July 2006. For the implementation of this Regulation, a Commission Regulation (EC) No: 718/2007 is published on 12 June 2007.

standards of the executive and aimed at increasing effectiveness and efficiency in the execution of the budget. However, reforming a budget system is a continuous learning-by-doing process, which needs to be managed and brought forward proactively in order to address any implementation risk, assess results achieved and take corrective measures in a timely manner. There still lies ahead a substantial period for further development, cultural change, training and operational experience.

Reform Implementation Risks

Poorly co-ordinated reform measures diminish their effectiveness. It will be important to ensure good co-ordination between the various actors involved in the reform, in which the TCA with its new mandate, as defined in the PFMC Law, plays a pivotal role, in order to address reform implementation problems in a timely manner. It will be of utmost importance to pursue the initiated reform process, as there will otherwise continue to be a mismatch between the executive's implementation of the PFMC Law and its requirements for external audit compared to the actual external audit carried out by the TCA of the executive.

In addition, there is a risk that the TCA will lose status and position in the political administration landscape. This could also lead to a loss of credibility and reputation, as it would not be able to fulfil its basic mandate, i.e. promoting sound financial management, which constitutes its main *raison d'être*.

It is indispensable to break the current stalemate with parliament's adoption of a new audit act that matches the new situation of public financial management and control and provides an upgrade to good EU practice. The present Audit Law 832 is obsolete as it had been designed for the previous set-up according to the General Accounting Law dating from 1927 (as amended). Both its basic policy design and many of its detailed paragraphs are in direct conflict with or contradiction to the new policy design of the PFMC Law. This state of affairs paralyzes the external audit modus operandi and the necessary reorientation towards external audit that matches the good practice of SAIs in the EU.

Due to the differences in their spirit and basic design (the current Audit Law 832 and the PFMC Law), it will be necessary to undertake a serious analysis at both technical and political levels and to reach a consensus on a new audit law. In addition, it will be necessary to adopt an overhauled TCA Law, as it is not recommended to simply consider amending the current Audit Law.

However, a crucial aspect to safeguard is an article indicating that the TCA audit "should be performed in line with Generally Accepted International Auditing Standards". This provision was included in the draft Audit Law of 2005.

Managing Change

The risks highlighted above can be reduced through clearly defined advice and procedures, training, co-ordination and a clear roadmap. Specific areas where changes in management structures are considered appropriate have been mentioned throughout this assessment and those worth of special note are addressed below. The magnitude of change and the need for new systems to be put in place should not be underestimated. This will take time and will be best carried out by applying a phased approach over a number of years. An internal medium-term action plan is needed to supplement the present Strategic Plan 2009-2013, following by the preparation of annual operational work plans.

Review and Streamlining of Audit Reports and Audit Opinions required by the PFMC Law

The PFMC Law mentions new types of audit reports and audit opinions that the TCA is required to deliver to parliament, the executive and auditees. The preparation of these reports will require considerable attention and resources of the TCA in the coming years.

The TCA should consider obtaining some external support in the coming years, such as the advisory services of one or two senior long-term advisors with experience of this new PFMC and audit paradigm, as the complexity of the task and workload will be considerable.

Phasing Reform Measures

The PFMC Law provides an adequate framework for modernising the budget system, including its implementation, and for establishing internal audit. External audit has been addressed in that reform as an important part given its function as an assessor of the execution of the budget. However, implementing such a comprehensive reform requires continuous efforts over a long period. Reform measures therefore need to

be prioritised and properly phased in, taking into account priorities, inter-linkages among the various measures, training activities, and actions to manage change proactively.

Assessment of the Current Situation

A *Matching Analysis* should be carried out to determine which of the competencies already studied could be applied under the current Audit Law 832 set-up. It is probable that even in the present context a great deal could be applied with only small adjustments, thereby improving the quality of the current modus operandi.

A new *Situation Analysis* is required before the next big step forward represented by the implementation of the PFMC Law. Much of the competencies prepared for have drifted into oblivion due to the lack of practical on-the-job application of the new audit approach and methods. This analysis should be initiated before the enactment of a New Audit Law.

Establishment of a Modern Audit Quality Management System

The present court model with judicial powers of the Turkish Court of Accounts implies a high degree of “rule of law” safeguarding to ensure a fair and impartial trial of the auditee. This is certainly the case in the TCA modus operandi. There are nevertheless many other aspects of modern audit quality that are not well ensured by this approach. The Audit Quality Management model endorsed by the EU SAIs in December 2005 should therefore be considered.

Transition from Compliance Audit to Modern External Audit in line with the PFMC reform

What makes this transition so demanding is that it is to be carried out in a basic set-up, the court model – collective decision-making, with a judicial function. The PFMC concept is derived from the Anglo-Saxon context and an office model for an SAI. The latter is mainly a “standard-driven audit” as opposed to the current “law-driven audit” of the TCA.

The PFMC Law concept has been inspired by a different environment than the one in which the TCA operates, including a standard-driven audit, which makes the transition all the more demanding. Discussions are needed at both technical and political levels in order to reach a consensus on a new TCA Law.