



SUPREME AUDIT COURT IN THE LEGAL SYSTEM OF IRAN

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Abstract:

Due to the increasing demands made by citizens on the right to know the facts on one hand and the growing need of statesmen and elected political officials to gain citizens' trust and opinions, governments have been accountable for the use of public finances. In each government, the monitoring of revenue and expenditure is considered an absolute principle and the basis and monitoring systems are foreseen in the legal systems of different countries. In the legal system of Iran Supreme Audit Court in Iran's Legal System, under the principles of Articles 54 and 55 of the Constitution, under the supervision of the Islamic Consultative Assembly Establishment and audit of all accounts of ministries, institutions, state-owned enterprises and other devices that use some amount of funds from the entire country, and report on the budget interchange of each year, including the expert opinions of the Court to the Islamic Consultative Assembly Surrenders Supreme Audit Court for the purpose of carrying out its mission is to disclose, prosecute and prosecute, issue a judgment and enforce it and, in this respect, has a unique organization, including the prosecuting authority (the prosecutor's office) and the court of reference (advisory boards and appeal courts). The existence of a quasi-judicial jurisdiction of the Court and the existence of review bodies along with the technical and audit sectors will result in closer communication and control over financial performance and the effectiveness of financial discipline and the prevention of diversion into legal standards. At the same time, this structure also has challenges that can be attributed to the multiple scrutinizes of the independent review of the Supreme Audit Court in other jurisdictional and regulatory systems, the issuance of sentences in parallel with other competent authorities, and the challenge with the validity of the closed case. To resolve these challenges, and to resolve the ambiguity of

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the process, it is necessary to amend the law of the Supreme Audit Court this article will be reviewed by the Supreme Audit Court in the legal system of Iran.

Keywords: supreme audit court, supervision, qualification, budget, constitution

1. Introduction

The maintenance and proper use of public finances is one of the main concerns of the people from governments. In other words, changing citizens' expectations of public officials about the need for positive public acceptance by governments requires that the actions and actions of the government are favorable to the citizen, and it should be noted that dissatisfaction leads to the lack of acceptance of the state (Paul, 1992) Considering the role of the government in creating the maximum welfare in supplying goods and services and the needs of the people (ArrowSmith, 2005) on the one hand, and because of the vulnerability of the budget consumption process, in order to properly use the budget, financial monitoring is necessary in various legal systems of the mechanism Different is predicted. In the legal system of Iran, it is one of the supervisory bodies of the Supreme Audit Court in The Legal System of Iran. This article seeks to examine the legal foundations of this supervision, structure, competencies in the legal system of Iran.

2. Supervision

Inspection at the site means the examination and review of the work and the financial section is defined under the terms of examination or audit. In other words, the supervision of a set of standardized measures and actions is carried out in order to minimize the degree of deviations of business activities foreseen in the planned programs. Supervision is a comparison between what is and what should be and doing something in order to attain the desired goal (Izadi, 2012). Supervision also acts as an observer, and the observer in the term means someone who oversees another's work. The meaning of his act is correct (Jafari Langroudi, 2002). Supervision in the legal sense is the inspection and assessment of the actions of the executive and supervisor of the person designated for such an inspection, assessment and assessment. (Amid Zhangani, 2010). Monitoring is a summary of the steps taken to investigate and implement operations with the program and prevent government financial operations deviations from the goals set in the program and correct the possible deviations (Emami, Mohammad, 2005).

3. Budget

The budget word in the French language (Baguette) and in France was also borrowed from the English version (Budget), indicating that the British Finance Minister took the leather bag to the parliament, whose content was spent on the state budget, and made the above It was withdrawn and submitted for parliamentary approval, and the words meant leather bags, and therefore, this financial form has been named by that name (Rostami, 2014). In Iran, by ratifying the constitutional amendment, the term is used in Article 102. Economists and legal scholars have proposed different definitions based on political, economic, financial, planning and management aspects, which can be described as follows:

"The image of the organization tomorrow should be drawn up today with the decision of the managers. This prospect of planning and planning programs in the form of money is called a budget" (Rostami, ibd), *"The budget is one of the means of financial and legislative supervision of the state and it provides financial forms for government intervention in the economic activities of the country"* (Ranbari, Abolfazl and Badamchi, Ali, 2011). According to the definition of the article, a general public accounting law of the state approved in 1987, is the budget of the government's financial program, which provides for the financial year and contains forecasts of revenues and other sources of financing and estimates of costs that are Achieving government goals is essential. In the legal system of Iran, the budget process has four stages, the first or the first stage, the stage of preparation, adjustment and proposal of the budget, which is within the competence of the executive branch. The second phase is called the budget process, which is one of the legislative powers. The third stage is the implementation of the budget, which is applied by the executive branch and executive agencies, and finally, the fourth or final stage is called the implementation budget monitoring stage, which is mainly carried out by the legislature and through its affiliated entities, such as the Supreme Audit Court in The Legal System of Iran. These quadruple stages are called the budget period, or budget phases, or budget cycles. (Rustami, ibd) is the budget, mission, and permission the legislature has given to the executive, and for this reason, the legislature is asking how the mission is to be implemented. The main objectives of budget monitoring can be summarized as follows:

- A. Provision of law-making means the matching of receipts, payments and financial operations of the state with the objectives of the legislature.
- B. Maintaining financial constraints, ie, the amount of definitive payments and commitments from the approved credits, and payments are made in accordance with the regulations and the implementation of the operation is consistent with the plans and objectives envisaged in the budget law (Ali Reza Farziz, 1997)

4. Supreme Audit Court in the Legal System of Iran

4.1 Background

According to Article 49 of the First Law of the Supreme Audit Court, adopted in 1910, "*the Supreme Audit Court is obliged to ensure that the expenses of government agencies do not exceed the approved budget.*" In 1911, the Supreme Audit Court was constituted in accordance with Article 10 of the constitutional amendment of the Constitutional Law, and its members According to Article 12 of the Law of the Supreme Court, calculations were elected by the Minister of Finance outside the Shura Council. Article 49 of the first law of the Supreme Audit Court, adopted in 1910, and is also repeated in Article 13 of the Second Law of the Supreme Court of Justice in 1923. On the other hand, Articles 33 and 38 of the first general accounting law of 1910 also stipulate that no expenditure shall be paid unless it has already been signed by the Supreme Audit Court. In the Second Law of Public Procurement, adopted in 1923, the responsibility for the implementation of expenditure with the regulations was the responsibility of the Supreme Audit Court. In 1939, with the adoption of Article 17 of the Supplemental Budget Law `1940 of the entire country, the "*Office for the Compliance of Documents and Commitments*" of the Ministry of Finance replaced the Supreme Audit Court with regard to the control of credit and supervision of compliance with the rules and regulations before it was spent, and in effect the Supreme Audit Court of the Supervisory Circle Before the expense of executive agencies was deleted. Until, according to Article 45 of the Public Procurement Act of 1970, the responsibility for providing credit and control of the budget (non-violation of the approved budget and the use of credits in its place) was explicitly entrusted to the Ministry of Finance's nominee. Thus, prior to the implementation of the Public Accounts Act of 1970, which were appointed by the parties, the Supreme Audit Court carried out about 10 years of pre-commissioned supervision of the executive agencies, and after 1940, this task was entrusted to the Office of Compliance of the Ministry of Finance and then in the year 1970 was entrusted to the Institutions. In general, the changes before the Islamic Revolution in the years 1910, 1933, 1940, 170 and finally 1973 in the duties of the Supreme Audit Court have been based entirely on the status of the Court as an internal auditor of the executive branch and affiliated with the Ministry of Finance. According to the law passed in 1973: "*The court has 5 branches and each branch consisting of three judges, one of them the head of the branch and Head of Branch President of the Court responsible will be to event. Minister of Finance with the king's command will be appointed.*" (Abedban Pour, Alireza, 2007)

One of the main drawbacks of the law of the Supreme Audit Court in the pre-revolutionary period was that the Court of Audit was under the authority of the executive branch (the Ministry of Finance), in fact, it exercised its authority over its

activities. The evolution of the Supreme Audit Court of the beginning of establishment, in 1979 with the adoption of the Constitution of the Islamic Republic came after the 54 constitution of the Ministry of Economic Affairs and Finance Isolated and under the direct supervision of the Islamic Consultative Assembly with principle states that: *"Court The country is directly under the control of the Islamic Consultative Assembly. The organization and administration of affairs in Tehran and the provincial capital will be determined by law"*

4.2 Organization of the Supreme Audit Court

The General Assembly's attachment to the General Assembly is so great that its chairman is elected after the opening of each legislative period on the proposal of the Court's Compensation and Budget Committee and approved by the representatives of the people. Dismissed the head of the Court with the Commission's proposal Court and with the approval of a majority of delegates takes place (Articles 11 and 14 of the Law Supreme Audit Court) Court in addition to a court and at least three and a maximum of seven board of judges, a panel composed of three judges One of them will be the chairman of the board. The Prosecutor of the Supreme Audit Court shall be elected after the opening of both legislatures on the proposal of the Planning and Budget Committee and the Assembly of Auditors and the approval of the members of the Assembly. (Article 11) In order to maintain the full independence of the Tribunal from possible influence, the Recruitment and Finance Act has been approved by the Islamic Consultative Assembly, notwithstanding general rules and regulations of the Government.

Based on a structured approach, judicial review should mainly be carried out by the authorities affiliated with the judiciary, since, according to various principles of the constitution of the Islamic Republic, the judicial duty is specifically the responsibility of the judiciary, based on this approach and control It is not affiliated with other forces, including the executive and not the judicial body, but may have a quasi-judicial aspect. (Amid Zanjani, Musazadeh, 2010) Based on the content oriented approach, the examination and guarantee of the performances of an institution should be investigated and on the basis of which the nature of the proceedings was determined. On this basis, although the Court of Auditors is structurally related to The judiciary is not the judiciary, but because the institution itself deals with financial documents and detects financial misconduct, and in determining the amount of losses incurred by Beit Elmal, the court will issue compensation for the losses and the authorities and The defendants condemn the perpetrators to the administrative punishment prescribed by the law of the Tribunal. There should be no doubt as to the nature of the proceedings. In addition, in order to comply with the principle of separation of powers, an appeal can be made

only by the appeal authority of this institution to the appeal of the institution (Amid Zanjani and the other, *ibid*)

4.3 Objectives of the Supreme Audit Court

According to the principles of the Constitution of the Islamic Republic of Iran, the purpose of the Supreme Court of the Islamic Republic of Iran is to use the control and supervision of the State for the purpose of protection of Public resource by:

- A. Control the financial activities of all ministries, institutions, state-owned enterprises and other organizations that are used in some way from the budget of the whole country.
- B. Control and Audit of the funds used and the revenues and other sources of funding for the relationship with the financial policies determined in the approved budget, based on the operational and computational reports of the relevant authorities. (Article one of the law Supreme Audit Court.)
- C. Preparation and publication of a budget report, including comments and submission to the Islamic Consultative Assembly.

4.4 Compensation Supreme Audit Court

Principles 54 and 55 of the Constitution of the Islamic Republic of Iran provide the independence of the Supreme Audit Court as an independent statutory auditor (Babajani , 2007) and the Court of Auditors, in line with its statutory duties and responsibilities, observance of audit mechanisms, financial auditing, Audit of management performance, comprehensive auditing, preparation of a draft budget report, management and waiver regulations, submission of violations reports to the State Court of the Compensation Supreme Audit Court , the issuance of votes by the Board of Governors for violations of the implementation of the country's laws and regulations, financial and accounting, measures Preventive, interaction with executive devices, implicit auditing as well as oral and written notes. One of the duties of the Court is to prepare a budget report. Recreation means getting the government to go to the parliament on budget implementation and the state budget. According to Article 104 of the Law Supreme Audit Court, the Court is required to review the accounts and documents, and to comply with the annual budget statement of the entire country, for the provision of annual budget funds, and to report annually on the yearly report, including its comments to The Islamic Consultative Assembly submits and addresses any violation of the provisions of this law and refers to contingent panels.

The jurisdiction of the Court, in accordance with the principles set forth in the Code of Conduct, is to: control the operations and activities of all ministries, institutions, state-owned companies, and other devices that use the funds of the whole

country in a way. Investigating and auditing the funds spent and revenues and other sources of funding in relation to the established fiscal policies and approved budget, taking into account the operational and computational reports of the deputies from the relevant agencies, and the preparation and compilation of a budget report, including its comments and presentations, to the Islamic Consultative Assembly, in order to protect of Public resource.

4.5 The scope of the discretion of the Supreme Audit Court

Under Article 96 of the Act, the institutions are required to submit to the Court the documents relating to income and expense, financial statements and related documents, as determined by the Court of Auditors, to be audited and reviewed by the Tribunal at its discretion those devices are done. According to Article 42 of the Supreme Audit Court, the Court of Accounts of the country for the performance of its duties can investigate all financial affairs in the country and in all cases directly correspondence and all officials of the Islamic Republic of Iran and the three forces and agencies and subsidiaries and All individuals and organizations that use the funds of the entire country in some way are obliged to respond directly, even in cases that are excluded from the general calculation law. In addition to the jurisdiction of the Court in the audit or processing of all accounts of the income and expenses of the entities in terms of compliance with the rules and regulations that it can investigate in all financial affairs of the country, as well as the powers of the Prosecutor of the Court of Justice in the personal recourse to Apparatus for protecting the rights of Public resource, the Board of Governors, insofar as its scope of competence is limited to cases referred to in the General Accounting Law, and outside it, and purely administrative offenses of financial agents, are within the jurisdiction of the boards of review of administrative offenses. And investigating the offenses committed by these agents is also within the jurisdiction

- A. Failure to provide financial statements, income account and expenses, statutory offices and deficit accounts, or documents required to the Court of Audit
- B. Excessive commitment to credit or non-compliance with financial regulations
- C. Non-timely deposit and other sources of financing for order in the general budget, as well as the non-deposit of funds received as deposits and / or funds or bonds, or the like.
- D. Failure to pay promptly the obligations of the state which causes the loss of good faith.
- E. Abuse, neglect, and tolerance in the maintenance of property, documents and public funds, or any expenses or inaccurate decisions that cause the loss or damage to be made.

F. The creation of unjustifiable barriers and uncertainties from the authorities of the relevant authorities towards the auditors or auditors and other experts of the Court of Calculation of the country for the performance of their duties.

G. Payments and receipts that are in violation of the applicable laws by written order of the responsible authorities to confirm or vote against reports of internal and external auditors of companies and institutions and organizations

I. The examination and issuance of a judgment regarding the audit report and the certificate of accounts issued by the Court of Accounts of the country

He is required to initiate proceedings before the Prosecutor's Court of Arbitration. He must first investigate the matter and, if the violation is taken after completion of the investigation, as well as the absence of monthly or annual accounts and financial statements and any type of document required. The due date shall be submitted to the Chief Judge of the State Compensation Court by a suit of petition for submission to the Board of Appeal. (Article 21 and Notes 1 and 2 thereof from the Law of the Court of Calculation of the State), the Chief Judge of the Compensation Court is required to refer the case to one of the Constituent Constituencies within a maximum of ten days (Note 4, Article 21).

In case of an offense, the Board of Directors will sentence the perpetrators to the following punishments, as appropriate:

- A. Written reprimand with the insertion in the employment record
- B. Salaries and allowances for a maximum of one third of one month to one year
- C. Temporary detachment from one month to one year
- D. Dismissal from the place of service
- E. Permanent detachment of government services

Opinions issued by the Board of Directors on paragraph (a), (b) and (c) of this Article, (i.e., written reprimand with the insertion in the case and the deduction of the rights described above, interruptions from one month to one year) are final and binding. In respect of other clauses (d) and (d), within twenty days from the date of notification, a panel of three advisers not included in the record of proceedings shall be appointed by the President of the Court of Calculation. (Note 3 of Article 23 of the Law of Supreme Audit Court).

In accordance with paragraph 2 of Article 10 of the Law on Administrative Procedure of the Court of Justice of the Islamic Republic of Iran, approved by the Islamic Consultative Assembly of 2011 and the Council of the Expediency Council of 2011, the examination of objections and complaints from the votes and definitive decisions of the Administrative Conduct Officers And commissions such as tax commissions, labor dispute resolution panel and employer, Article 100 of the Municipality Law Commission are solely in violation of or in violation of laws and

regulations, including the competences and limits of the jurisdiction of the Administrative Justice Court. In the case of such an opinion, It appears that the votes of the delegations of the commissions referred to in paragraph 2 of Article 10 are the same but the unilateral Van Settlement Note 1, Article 28 of the Law of the Court of the Republic of Calculations, adopted in 1986, states: "*The company of two advisers is obligatory and the court does not have a legal status. But the opinion of the advisers is advisory and not effective in the ruling. But they are obliged to make a written statement and the ruler of the Sharia will not rule without the opinion of the adversaries.*" The verdict is in fact the ruling of the judiciary elected by the judiciary and in the number of judgments of the courts and judicial authorities. Unanimity of the Supreme Administrative Court of the Islamic Republic of Iran on February 20, 1986, the General Court of the Court of Justice of the Islamic Republic of Iran, on the same meaning and the withdrawal of the case under Article 13, paragraph 2, of the Code of Administrative Justice of the Islamic Republic of Iran, dated 2006 (similar to paragraph 2 of Article 10 of the Code of Civil Procedure and the Rules of Procedure of the Court Administrative justice approved in 2013 above), this is evidenced by the fact that, therefore, the votes cast are not objectionable and are not subject to review by the Administrative Justice Court.

4.6 Limitation of jurisdiction of the Supreme Audit Court

Since the interpretation of the principles of the Constitution in accordance with Article 98 of the Constitution is the responsibility of the Guardian Council, and it is in the understanding of the limits of the jurisdiction of the Court of Auditors in the consideration of the accounts of some institutions that are part of their budget in the entire country budget, the accounts outside the allocation of funds such as They also have gifts and help from people. There is a difference between the institutions and the Court of Appeals, therefore. Article 55 of the Constitution shall apply to credits allocated to the general budget of the country and the jurisdiction of the Court of Audit in the investigation and audit limited to the same is true. (Vice-Chancellor for Publishing, Publishing and Publishing of Laws and Regulations of the Presidential Legal Assistant, 2012)

4.7 Enforcement of Judgments issued by the Supreme Audit Court

The judge will send the judgment of the Court of Justice to the relevant prosecutor or his representative for execution, and send it to the Ministry of Economic Affairs and Finance to submit it to the practical stage. In case of stay, the Prosecutor of the Supreme Court declares the calculation to the Islamic Consultative Assembly. The execution of votes on damages is subject to the provisions of the enforcement of judgments of the

judicial authorities (Sections 26 and 33 of the Law of the Supreme Court of the Republic of Iran)

Financial losses due to the order of the Minister of the Interior: According to Article 24 of the Law of the Supreme Audit Court, if the offenses are caused by the order of the president and the ministers and have a financial effect, in addition to issuing the order to compensate for losses by the constituencies, the authorities shall, in order to determine and decide on the authorities, The Islamic Consultative Assembly will be announced.

5. Conclusion

In Iran's legal system, monitoring the implementation of the budget during the fiscal year is the responsibility of the Supreme Audit Court Chamber under the authority of the Islamic Consultative Assembly and is not affiliated with the executive branch or the judiciary. The President of the Supreme Audit Court and the Court of Justice by the Legislature and the members of the Board of Directors, with the introduction of the Chief Justice of the Court, The Court of Appeal and the budget are set up. The duration of the mission in Iran is 4 years and they do not have to be elected from among the judges except the chairman of the appeal court that the judiciary chooses. After the end of the fiscal year, the Supreme Audit Court has sent the bill of discharge to the Islamic Consultative Assembly to make it public. The country's Supreme Audit Court can deal with all accounts of the income and expenses of the entities in terms of compliance with the rules and regulations that it can investigate in all the country's financial affairs. In the event of financial violations being obtained through ballot papers, Exports from the limits of the discretion of the Court. Recognition of the limits of the jurisdiction of the Supreme Audit Court in considering the accounts of some institutions that are part of their budget in the total budget of the country. Execution of votes on damages is subject to the provisions of the enforcement orders of the judicial authorities.

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