

# **COURT OF AUDIT**

## **Preliminary Work in Setting the Overall Audit Strategy of the Court of Audit**

### **WORKING GROUP**

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## Preamble

With the 20478/14.04.2020 document of the President of the HCA, the questions related to the Overall Audit Strategy of the HCA<sup>1</sup> were raised and the present Working Group was appointed for the processing, indexing and classification of the replies by the judges and judicial employees of the HCA on the questions as mentioned above.

In total, 230 judges and judicial employees submitted responses. In particular, 80 judges and 150 judicial employees of the Court participated. Of these, 189 (49 judges and 140 judicial employees) responded through the I.I.S. application of the Court of Audit and 41 (31 judges and 10 judicial employees) via e-mail to the General Coordinator Mrs. Erietta Zervoudaki.<sup>2</sup>

It should be noted that a significant number of those who participated in the questionnaire via e-mail did not respond to all three sub-questions of each question, in contrast to those who participated through the I.I.S. application, who were obliged to respond to each sub-question. In addition, it was found that the percentage of affirmative answers to one part / sub-question of each question is not identical to the percentage of negative responses to the other part / sub-question of the same question (see the attached tables). In the opinion of the working group, this is due to the fact that not all respondents replied to all three sub-questions of each question, combined with the fact that some of the respondents replied in the affirmative to the mutually exclusive sub-questions of the same question, assuming that they do not run contrary to each other. These discrepancies are not deemed substantial, on the one hand, due to the fact that they are minor, and on the other, as no marginal differences were found between the two views juxtaposed. On the contrary, pertaining to each question the percentage of the majority is particularly high (both in the total number of judges and judicial employees who participated and, in particular, among the judges), as recorded below.

## A. General Observations

1. The majority of both judges and employees, who responded to the questionnaire, as detailed below per question, were in favour of the public nature of the audits (question A), which will delve into public policies highlighting their strengths (question B), in favor of balancing the audit and jurisdictional work with the necessary reorganisation of the Institution (question C), in favour of maintaining all branches of the Institution throughout the State (question D), in favour of an extended pre-contractual audit (question E), in favour of an

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<sup>1</sup>See article 14 par. 1 of the Rules of Procedure of the Administration and Audit Services of the Court of Audit (Government Gazette B' 4220 / 19.11.2019, as amended and supplemented with Government Gazette B '602 / 25.02. 2020).

<sup>2</sup> Initially, the court's IT personnel extracted the results related to those who responded through the I.I.S application. Then, the results pertaining to those who sent their answers via e-mail to the General Coordinator were added to the above. Subsequently, results on the whole were extracted in percentages by the IT Court employees, after prior identification of the status of the I.I.S. users, as judges or employees. It should be clarified that the court judges and employees, who responded to the questions both in the I.I.S. application as well as via e-mail, according to the above, were calculated once.

Institution which will constitute the Guardian of financial legality, which, through continuous monitoring of day-to-day reality, will inspire and direct public action towards compliance with the requirements of fiscal sustainability (question F), in favour of an Institution which will maintain its national identity, incorporating all expedient audit techniques used internationally (question G), and whose “distinguishing feature” will not be limited to the protection of public funds alone, but will also extend to the identification of the social and financial ills that a rule of law wants to avoid or remedy (question H).

2. The questions were followed by repeated observations, which can be summarised as follows:

a) The need to maintain the character of the Court of Audit as a Court of law and, consequently, its non-transformation into an Audit Institution/independent administrative authority. Judges, in particular, emphasised the risk of weakening the Court of Audit’s jurisdiction and expressed reservations about their role and participation in the audit process.

b) The reorganisation of the Institution which presupposes:

i) Recruitment of specialised staff and/or cooperation with experts, as well as continuous training of already serving personnel (e.g. Establishment of a Register of Trainers within the CofA or establishment of an Auditing Academy, in accordance with the standards of the Tax Academy of Independent Authority for Public Revenues (AADE).

ii) The upgrade of the CofA’s information system and its interconnection with the audited bodies, in order to monitor their budget as well as the execution of expenditures.

iii) The use of new data-analysis technologies and of new auditing methods.

iv) Enhancing the openness of the CofA, through the communication of its role and work as an Institution in society, through the publication of the results of its audits and the posting of the audit reports on the website of the Court, the creation of a Communication Office, as well as the creation of an informed and modern site.

v) Make the best of the experience from audit institutions of other European countries (e.g. Spanish and French Courts of Audit), as well as the European Court of Auditors.

## **B. Specific observations on the questions**<sup>3 4 5</sup>

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<sup>3</sup> The observations were elaborated by Counsellor B. Skevi (questions B', C', D' and E') and the Probationary Junior Judge K. Konomis (questions A', F', G' and H').

<sup>4</sup> Recorded are the observations of those who articulated a proposal or expressed an opinion and not those observations who repeated the questions.

<sup>5</sup> The opinion of the majority is displayed in bold.

## QUESTION A'

We want a Court of Audit to carry out audits similar to those conducted by large private audit firms (view a')  
**or a Court of Audit which will emphasise the public nature of its audits by highlighting findings that are specific to what the audited public body should, due to the special principles that govern it, respect and protect (view b')**

**98.26%** of the total voted in favour of the second view (this percentage for the participating judges was **98.75%**). **0.43%** of the total did not respond to this part of the question (this percentage for the participating judges was **0.00%**).

To the clarification “this means that in the audits of accounts we conduct our attention will be focused on the public accounts (budget execution), while in the others (balance sheet etc.), on the observance by the auditee of what makes sense in the public sphere of interest” **80, 87%** of the total responded YES (this percentage for the judges who participated was **72.50%**), **8.70%** of the total answered NO (this percentage for the judges who participated was **5.00%**), while **10.43%** of the total did not respond (this percentage for the participating judges was **22.50%**).

## QUESTION A' OBSERVATIONS <sup>65</sup>

Six respondents pointed out that the questions are not contradictory, in the sense that almost all financial data pertinent to public bodies make sense in the public sphere of interest, so long as they manage public funds.

One judicial employee expressed the view that although the CofA should focus on public accounts, it could also target financial statement accounts within a performance audit framework. He mentioned, for example, that the “macroeconomic liabilities” account of institutions, i.e. the loans, in correspondence with the projects for which these loans have been received, or the “fixed assets” account, in correspondence with the title deeds and their probable management and utilization, could constitute separate audits of the accounts at the level of financial accounting.

Summarizing the views of thirteen respondents (three judges and thirteen judicial employees), the need, is pointed out, to perform audits on compliance with the principle of sound financial management, taking into account all the benefits that the state should provide. In particular, a judge mentioned that audits were needed on the existence and effectiveness of systems designed to prevent and combat corruption and waste.

Two judges expressed the view that individual malleable elements could be adopted from the audits conducted by private auditing firms, without having identical objectives. In particular, one of them pointed out that the constitutionally guaranteed competence of the CofA to audit public accounts is inextricably linked to the imposition of sanctions in case of budgetary infringements, which is not specific to the nature of the audits carried out by private auditing firms.

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<sup>6</sup> Comments on this question were submitted by 97 Judges and judicial employees

Finally, two employees stated that it would be useful for the Court's auditors to take into account the findings of audits by private audit firms as well as those of public authorities.

## QUESTION B'

We want audits, oriented towards discovering only negative findings, built on the idea of ills (view a')  
**or audits that will delve deeply in public policies, highlighting their positive points (view b')**.

**86.96%** of the total was in favour of the second view (the percentage for the participating judges was **83.75%**). **1.74%** of the total did not respond to this part of the question (the percentage for the participating judges was **3.75%**).

To the clarification "this means that the Court of Audit will be able to schedule audits without necessarily having as starting point a preliminary negative finding or suspicion, but programme audits under a broader theme" **80.87%** of the total answered YES (the percentage for the judges who participated was **68.75%**), **8.26%** of the total responded NO (the percentage for the judges who participated was **7.50%**), while **10.87%** of the total did not respond (the percentage for the judges participating was **23.75%**).

## QUESTION B' OBSERVATIONS<sup>6</sup>

**1.** Judges and especially judicial employees, who were in favour of conducting audits pertaining to a broader theme as well, expressed the view that:

i) These audits will contribute to the improvement of the Public sector, the sound financial management, the timely detection of financial risks and will assist the audited entities in their target-setting as well as in their medium-term strategic planning.

ii) The selected themes should be topical, practical in nature and of interest to both the society and the public bodies (e.g. quality control and adequacy of the public health system in terms not only of expenditure but also of performance). In this regard, it is proposed to conduct audits by sector (e.g. health, education) to identify recurrent social and financial ills and then submit proposals to the relevant Ministries regarding new methodologies and adoption of new policies and techniques for dealing with these ills.

iii) Audits should be carried out on the basis of specific methodology and documentation and in accordance with international audit standards so as not to be challenged by the bodies to which they are addressed and so that they are not misinterpreted as an intervention in administrative or political performance or as an exercise of social policy by the Court.

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<sup>6</sup> To this question 92 judges and judicial employees submitted observations

iv) The audits should be restricted to areas that are of audit interest in the context of the role of the CofA and not of other bodies e.g. Independent Authorities. In this regard, it is pointed out that the above audits should pertain to the use of public funds in the context of policy implementation and not the policies themselves due to the difficulty of determining the means and restrictions of such audits.

2. Judges, who opposed the audits pertaining to wider themes, made the following observations:

i) These audits involve the evaluation of government policies and may lead to the Court being involved in political disputes. They neither harmonise with the nature of the CofA as a jurisdictional body nor with its jurisdictional independence. It is preferable and safer to conduct audits on smaller-scale issues for which it is easier to formulate recommendations and find audit tools and resources.

ii) The survival of the CofA is tied to the negative findings of its audits, which are linked to the imposition of sanctions and feed into its jurisdiction. In view of the economic / financial / social conditions as well as the available time and resources it is of paramount importance that, in the present phase, to identify financial ills with the expressed aim of addressing them, to clear pending issues and to improve the existing internal control system.

3. Judicial employees, who opposed the audits pertaining to wider themes, made the following (individual) observations:

i) The exclusive focus on public policy evaluation removes audit subject-matter, which can be appropriated by other auditing bodies (e.g. National Transparency Authority). There is a risk that the audit will slip into a public-body “reward” mechanism.

ii) These audits have a limited application at local level, resulting in the weakening of the Regional Units.

iii) The main goal must remain the chastising of the illegal actions of public administration and if there are sufficient personnel, other kinds of audits, of limited extent, may be conducted.

### QUESTION C'

We want to retain the structure of the Court of Audit as it is with some improvements (view a')  
**or to balance the image of the Court of Audit by highlighting its audit work as well as the judicial, with the necessary reorganisation of the Institution (view b')**

**83.91%** were in favour of the second view (the percentage for the participating judges was **72.50%**). **2.61%** of the total did not respond to this part of the question (the percentage for the participating judges was **5.00%**).

To the clarification "this means that in addition to the seven Jurisdictional Chambers, there will be, not one, but at least three Audit Chambers, with a corresponding increase in the number of judges, that the General Advocate of the State will emerge an intermediary body between Commissioners and Court in exercising the jurisdiction of imputation, aided by judges and judicial employees, and that the Commissioners of the Court of Audit will be formally imbued with the independence of the public servant, in order to elevate the audit and prestige of all employees", **72.61%** of the total responded YES (the percentage for the judges who participated was **50.00%**), **16.52%** of the total answered NO (the percentage for the judges who participated was **28.75%**), while **10.87%** of the total did not respond (the percentage for the participating judges was **21.25%**).

### **QUESTION C' OBSERVATIONS<sup>7</sup>**

**1.** Regarding the reorganisation of the Institution, the following are proposed:

i) The operational connection of the regional services with the Central services and conducting audits under the supervision of the competent formations of the CofA (approval of the audit report by the competent Audit Chambers before its notification to the audited body).

ii) The operation of one of the proposed three Audit Chambers outside the Capital.

iii) The establishment of a group per Region consisting of 1 judge, 1 economist and 1 lawyer to support the Commissioners.

iv) The codification of the relevant legislation.

v) The drafting of a Charter of Ethics and Conduct.

vi) The collaboration with other audit mechanisms (Transparency Authority, Financial Inspectors) and courts of other jurisdictions (e.g. the Commissioner to send directly to the prosecutor cases of criminal offenses that come to their notice during the audit).

vii) The staffing of new Audit Chambers not exclusively by graduates of the National School of Judges (NSJ). Alternatively, the foundation of a special department of the School for the staffing of the CofA.

**2.** Regarding the role of the Office of the General Advocate, it is proposed:

i) To act as an intermediary body not only for the Commissioners but also for other bodies that have the imputation competence, by providing instructions, directions and target-setting.

ii) To propose to the court, based on the audit findings, the imputation of public accounting officers and other public finance officers.

**3.** Judges pointed out the need to preserve the character of the CofA as a Supreme Court and expressed the view that the audit work should not overshadow the jurisdictional work. They expressed reservations about their participation in

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<sup>7</sup> To this question 100 judges and employees submitted observations

primary audits. It was noted that the audit work includes weightings (in terms of the selection of the audited topic, audit tools, methods), which are combined with expediency estimations. Their involvement in the audit process may result in criminal or disciplinary liability for audits that they have neither performed nor have been trained to perform. They emphasised that their role should be limited to supervising, targeting and controlling the legal framework. They suggested that they not be cut off from the exercise of jurisdictional work by being employed exclusively or for a period of time that exceeds their desire in Audit Departments.

#### QUESTION D'

We want a Court of Audit organised, like many other European, in a central office in the Capital, with auditor missions conducting audits across the country (view a')

**or we want to keep intact and reinforce all the branches of the Institution across the State, so that it is in accordance with the tradition of being close to the auditee (view b')**

**90.00%** of the total were in favour of the second viewpoint (the percentage for the participating judges was **82.50%**). **3.04%** of the total did not respond to this part of the question (the percentage for the participating judges was **8.75%**).

To the clarification “this means that now that the ex-ante audit has ceased to be exercised, it will be replaced by another type of audit, equally effective, which will substantially, not ostensibly, justify maintaining our services where they are today”, **81.74%** of the total responded YES (the percentage for the judges who participated was **65.00%**), **5.65%** of the total answered NO (this percentage for the judges who participated was **7.50%**), whereas **12.61%** of the total did not respond (the percentage for the participating judges was **27.50%**).

#### QUESTION D' OBSERVATIONS<sup>8</sup>

**1.** The majority of the respondents stated that retaining the Regional Units ensures the immediate and effective exercise of the audit work due to the knowledge of the environment where the audited bodies operate in as well as its problems, that the decentralized / on-site audits are facilitated -after complaints- to bodies located near the headquarters of the Service. It should be emphasised, however, that the proper functioning of the Regional Services requires training of employees, logistics infrastructure, staffing with auditors, redeployment of staff and rational organisation.

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<sup>8</sup> To this question 106 judges and employees submitted observations



**2.** The following suggestions were made:

i) Organisation of the Regional Services in structures with relative autonomy and self-governance (in the model of the French CRTC) in close cooperation with the Central Service.

ii) Creation of a group of auditors in order to assist Regional Services and interconnection of the audited entities' I.I.S with the auditor.

iii) As for the exercised audit it is proposed that:

- Regional Services monitor the audited bodies' internal control systems (no. 169 par. 2 of law 4270/2014, 39 par. 2 g of the Code of Laws for the CofA) and then to extend the audit to their management.

- priority audits be established which will enable those financially responsible to address the CofA in case they disagree with the regularity and legality of the management procedures they participate in.

- targeted, concise audits be conducted by Regional Services during the year in thematic categories of expenditures after informing the Central Service.

- the budgets of the audited bodies of the General Government be reviewed during their execution.

- the advisory role of the CofA be strengthened by providing guidance and clarifications to audited entities.

- the pre-contractual audit threshold be reduced.

- ex ante audits be conducted where no financial contribution is provided for (e.g. grants).

**3.** It is pointed out that locality may create conflict of interest and obstacles to the audit work. For this reason, it is proposed that the complaints be checked by another prefecture's or region's Commissioner Service and that a maximum length of stay in the same Service (5 years) be established.

**4.** Those who adopted viewpoint a' argued that audits, other than ex ante ones, do not require local proximity. The CofA must operate as an external independent auditor maintaining distance from the auditee. There is pressure from local players and Commissioners, it is established, find it difficult to impute because of personal relationships. There is less flexibility in the choice of audit topics. Moreover, thanks to technological progress, a variety of audit procedures can be carried out remotely with significant savings. The exercise of pre-contractual audit, is proposed, through the National Electronic Public Procurement System (ESHDHS) platform. Finally, the costing of the Regional Services' operation is considered necessary.

**5.** Some of the respondents supported the intermediate solution of merging Services at Regional Level and sending local auditors. This solution is preferred as the most efficient, sound and in line with the modern auditing standards,

provided that the employees of the merged services will have the ability to move to other services.

### QUESTION E'

We want a pre-contractual audit that will use as an auditing technique something similar to what the jurisdictional review (annulment) technique is in administrative justice, i.e. leaving unchecked the technical and the substantive judgements of the administration (view a')

**or a pre-contractual audit which will send the message that nothing is out of the audit scope, least of all the price setting of the tender's object, the tenderer-specific or the indefinite nature of the tender, the technical evaluation of tenders, the pre-consultation among candidates (view b')**

**89.57%** of the total was in favour of the second viewpoint (the percentage for the participating judges was **78.75%**). **0.43%** of the total did not respond to this part of the question (the percentage for the participating judges was **1.25%**). To the clarification "if we answer positively to the second part of the question this means that we must develop special auditing techniques and regularly resort to technical assistance", **79.57%** of the total answered YES (the percentage for judges was **57.50%**), **9.57%** of the total answered NO (the percentage for the judges who participated was **18.75%**), while **10.87%** of the total did not respond (the percentage for the judges who participated was **23.75%**).

### QUESTION E' OBSERVATIONS<sup>9</sup>

1. Those who were in favour of the second view pointed out that there should be:

i) Support for auditors by technical staff with specialised knowledge. In this direction, corresponding statutory positions could be established in the CofA, as was the case with the Single Independent Public Procurement Authority (art. 9 of law 4013/2011 and 53 of law 4605/2019) and to be filled through a competition or through cooperation with other public services, provided that the confidentiality of the information is ensured.

ii) Use of new methodologies, specific auditing techniques (e.g. historical statistics of prices and suppliers-contractors, introduction of competition law criteria, market data on price) and cooperation with other Authorities (e.g. Competition Commission).

iii) Update of the pre-contractual audit guide and the creation of a new manual for conducting pre-contractual audit and questionnaires depending on the type of contract (art. 4 par. 2 and 20 par. 1 of the Rules of Procedure of the Administration and Audit Commissioner Services of the Court of Audit).

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<sup>9</sup> To this question 113 judges and employees submitted observations.

iv) Exclusive employment of those serving in the Audit Sections in order to consolidate the audit techniques, to have sufficient time to be informed on case law and to test audit techniques.

They also suggested:

i) the mandatory use of the electronic tendering platform, as one of the auditing techniques, to avoid paper consumption and the falsification of documents.

ii) the creation of a price Observatory platform in public works as well.

iii) the extension of the audit throughout the course of the contract, i.e. during the execution.

iv) the distinct audit of each stage of the tendering procedure leading to the approval of the next stage. Thus, a reduction of 30 days will be achieved.

v) the inclusion in the audit of public procurement the audit of efficiency, effectiveness and the provision of advice for the improvement of financial management.

vi) the audit, which based on the amount falls under the responsibility of the Commissioners, be carried out by the Commissioners of the Regional Units.

It was pointed out that article 49 of law 4412/2016 (budget adequacy and other elements of maturity of the contract to be awarded) provides a basis for more intensive audit by the CofA of the object's setting and of the contract's value. It is advisable to amend l. 4412/2016 or the Code of Laws for the CofA in this direction.

The view was also expressed that the Court should move within the framework of its constitutional role, as it is not the natural judge of public procurements.

**2.** Concerns is expressed (a) as to the length of the audit process and the increase in the workload of the Commissioners' Services, (b) whether technical assistance ensures the auditor's impartiality and objectivity; and (c) the risk of the pre-contractual audit slipping into an audit of expediency.

**3.** Judges, who were against the second viewpoint, made the following observations:

i) The audit will become more difficult and time consuming (communication with the body, the experts, formulation of findings).

ii) Extending the scope of the audit also extends the responsibility of the auditor. If the choice to conduct wider audits is finally approved, it should not be universal but left to the discretion of the auditor.

iii) It is preferable, based on the general observations of the auditing bodies (e.g. how the budget prices are formulated on projects or supplies, capacity for technical services to execute the projects under self-supervision) to carry out special ex post audits on all bodies or projects.

iv) The technique of judicial review (annulment) allows for the audit of the underlying choices and technical judgements of the administration through justification. In addition, the documentation of the estimated cost of the contract, which constitutes an obligation of the contracting authority, is already audited in the current form of pre-contractual audit.

v) It is incompatible with the Court's role as external auditor.

## QUESTION F'

We want a Court of Audit which will communicate with the active financial management only through the declaration of "correctness" of the accounts, the imputation acts, the negative or positive findings in the pre-contractual audit or even via providing recommendations in the targeted audits (view a')

**or an institution, guardian of financial legality, which through constant monitoring of reality, will inspire and guide public action towards compliance with the requirements of financial sustainability (view b').**

**95.65%** of the total was in favour of the second viewpoint (the percentage for the participating judges was **93.75%**).

To the explanation "this entails openness of the Institution, by taking initiatives so that the general principles of sound financial management are implemented", **86.09%** of the total answered YES (the percentage for the judges who participated was **73.75%**), **3.48%** of the total answered NO (the percentage for the participating judges was **3.75%**), while **10.43%** of the total did not answer (the percentage for the participating judges was **22.50%**).

## QUESTION F' OBSERVATIONS <sup>10</sup>

1. Judicial employees suggested:

i) The recording of answers which, many times, Commissioner Services give to the audited bodies, in a database, in order to achieve the uniform approach to the problems of the audited bodies.

ii) The strengthening of the internal control systems of the audited bodies.

iii) The classification of the CofA services' not on the basis of Local Authorities and other legal entities, but based on the audit type, e.g. department of management audit, department of pre-contractual audit, department of imputation, etc., as the excellent knowledge of the subject elevates the work of the Court of Audit.

iv) The return of the Court's auditors, after the initial audit to the audited body, in order to verify its compliance with the previous findings & recommendations of the Court of Audit.

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<sup>10</sup> To this question 84 judges and employees submitted observations.

Emphasis was also placed on the need for the CofA not to be transformed from an organization where the judicial nature is prevalent into another advisory body to the administration, even more so since recommendations, contrary to the imputations of deficits, may not prove to be particularly effective in protecting public funds. It was highlighted that, in the context of this ongoing monitoring of budgetary reality, the powers of the Court of Audit should not be confused with those of other authorities.

2. Six respondents, judges and employees, pointed out that one part of the question does not exclude the other. Two of them also stressed the need to keep the former in focus (that is, the declaration of “correctness” of the accounts, the issuance of imputation acts, etc.).

3. A judicial employee expressed the view that taking steps to implement the principles of sound financial management carries the risk of exceeding the remit of the Court of Audit.

4. Judges pointed out that the establishment of standing working groups is in the direction of continuous monitoring of financial reality. They argued that the Court of Audit needs to monitor the implementation of the results/findings of the audit by the Administration.

5. A judge expressed the view that these initiatives for the continuous monitoring of the financial reality presuppose knowledge and skills that have not been cultivated in judges, who approach audit from another perspective and with legal “tools”, focusing on the audit of legality.

## QUESTION G´

**We want an institution with its own national profile, whose approaches and tools as an audit body will be based on the profound needs of our society, with full integration of all relevant audit techniques used internationally (view a´)**

**or a Court of Audit that will be modernised enough to sever its ties with its historical past and be integrated into the international avant-garde by adopting exclusively those good practices that are internationally accepted (view b´).**

**73.04%** of the total voted in favour of this view (the percentage for the participating judges was **80.00%**). **3.04%** of the total did not respond to this part of the question (the percentage for the participating judges was **6.25%**).

To the point that “if we reject the second alternative, our arguments must be structured in such a way so that they are convincing in the international audit setting”, **67.39%** of the total replied YES (the percentage for the judges who participated was **52.50%**), **19.13%** of the total replied NO (the percentage for the judges who participated was **18.75%**), while **13.48%** of the total did not respond (the percentage for the judges who participated was **28.75%**).

## QUESTION G' OBSERVATIONS<sup>11</sup>

A significant number of observations made by judges and judicial employees could be summarized as follows: From the practices used internationally, the ones that should be selected are those which have been formulated on the basis of needs and data fundamentally similar to those in force in the Greek reality.

Judges highlighted that “the national profile of the Court of Audit has been molded on the basis of the audit’s emerging needs, as these have arisen and addressed in the past. That is the reason why it is recommended that the audit be reinforced with new techniques, without the institution being cut off from its existing identity”. What is more, the view was expressed that the modernisation of the Court of Audit should not alter its judicial nature, which constitutes its historically distinct feature.

Judicial employees pointed out that the Court of Audit operates in a public administration environment with special characteristics, such as lack of staff, low educational background, lack of computerized systems, lack of internal control systems and internal auditors, which differentiate it from foreign audit institutions. Therefore, it is necessary to adapt to the Greek reality and maintain the national identity of the Institution, while, gradually, some innovations could be introduced, which are adopted internationally. The “copying” of the way foreign audit institutions are organised may lead to a poor version and not a living audit institution, that will address modern auditing budgetary and social requirements. In fact, one employee noted in this respect that we address a society that has learned to take into account and respect the legal consequences and sanctions and not the simple recommendations, which do not produce binding effects.

Finally, a judicial official underlined the need to be informed about the current situation in the European Court of Auditors and the Audit Institutions of other countries, as well as of the consequences of any choice both for the court and the exercise of the duties by judges and administrative staff alike.

## QUESTION H'

We want an institution whose “distinguishing feature” will be limited to the protection of public funds and to that alone, without an alertness for the protection of other goods of the rule of law (view a')

**or an institution whose senses will be active in identifying other social and economic ills that are identical with those that a rule of law wants to avoid or remedy (view b')**

<sup>11</sup> Στο ερώτημα αυτό υπέβαλαν παρατηρήσεις 108 δικαστικοί λειτουργοί και υπάλληλοι.

**90.87%** of the total was in favour of the second view (the percentage for the participating judges was **87.50%**). **1.74%** of the total did not respond to this part of the question (the percentage for the participating judges was **3.75%**).

To the clarification “this means that when we audit social expenditure we will not restrict ourselves to whether there was an embezzlement or illegality but ascertain whether it made a difference, if it was really effective”, **80.43%** of the total answered YES (the percentage for the judges who participated was **67.50%**), **8.26%** of the total replied NO (the percentage for the judges who participated was **8.75%**), while **11.30%** of the total did not respond (the percentage for the participating judges was **23.75%**).

## **QUESTION H’ OBSERVATIONS<sup>12</sup>**

**1.** Those who adopted the second viewpoint made the following remarks:

i) Twenty-five respondents (judges and judicial employees) indicated that identifying other ills, as questioned, could be achieved through the audits of compliance with the principle of sound financial management (economy, efficiency and effectiveness). The need to strengthen performance audits and compliance audits is emphasised.

ii) Provision should be made for the possibility of on-the-spot audits on public works, supplies and services, in the context of audits on compliance with the principle of sound financial management.

iii) There should be specific indicators/criteria for examining the effectiveness and efficiency of expenditure, which will be adhered to by all.

iv) It is proposed that the I.S.S.A.I.s be translated officially into the Greek language and published in the Government Gazette, following all the relevant procedures and approvals provided for in the Greek legislation, that a concise pocket-size guide of the I.S.S.A.I.s be issued to the personnel, as well as the staffing of the Chamber provided for in article 10 par. 4 b of the Rules of Procedure of the Administration and Audit Services of the Court.<sup>13</sup>

v) The findings of the audits carried out by the Court of Audit be the reason for amending a law or be taken into account in the preparation and adoption of the next budget, in the context of a dynamic interaction between the Court and the Parliament.

**2.** The following reservations were expressed, mainly by judges:

i) The senses of the Court must also be alert to the protection of other goods, only in so far as it is directly linked to and affects the protection of public funds (e.g. the protection of the environment in the context of public procurement).

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<sup>12</sup> 92 judges and judicial employees commented on this question.

<sup>13</sup> It refers, in particular, to the Department for monitoring international developments in the field of audit science and audit techniques of the peer institutions, as well as to the constant updating of the Audit Manual of the Court of Audit in compliance with the latest International Auditing Standards.

ii) Whether social spending “made a difference” pertains to social policy evaluation, an aspect of politics and not of judicial nature.

iii) The actions of the Court of Audit which will lead to advisory conclusions must have a limited scope, so that the Court is not transformed into another advisory body of the Administration, which will be less respected within Public Administration. The adoption of international practices should not be overestimated in terms of its effectiveness and these practices should be adapted to the Greek reality. The Court's concern with other ills, as referred to in the question, through the reporting of non-binding reports undermines its constitutionally enshrined competences and nature of the Court of Audit as a Court of Justice.

**3.** Those who adopted the first view made the following observations:

i) The constitutional jurisdiction of the Court confines it to the protection of public funds. The investigation of other social and economic ills has been assigned to other public audit authorities (ombudsman, public administration inspection, etc.).

ii) The drafting of reports, which aim at contributing to the improvement of a public body's operation, is more in line with the competences of an independent authority. Assigning the role of super-auditor to an organisation is politically impossible, undermines the functioning of many other organisations and independent authorities and presupposes the reorganisation of public administration.

## **THE WORKING GROUP**

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