

## The Impact of the External Public Audit on the Performance of the Administration In the Field of Environmental Policies

Adriana Alina SPATARIU

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### ABSTRACT

*The article presents the contribution of the supreme audit institution, an independent entity at national level, whose external auditing role is enshrined in the Fundamental Law, in compliance with the implementation of environmental and sustainable development policies, having competences to verify efficiency, economy and effectiveness in the management of public funds in the administration system, pursuing the general public interest.*

*This paper aims to present the efforts of involvement of the supreme audit institution, through specific mechanisms, in compliance with environmental protection regulations by the Romanian public administration, to improve the quality of living and working conditions or reducing pollution in urban areas, rights enshrined in the Charter of Fundamental Rights of the European Union.*

*By using qualitative methods of document analysis, the paper provides an overview of the evolution of performance auditing of public administration entities in Romania in 2011-2020 and analyses the extent to which external public auditing had a relevant impact on the performance of government in the field of environmental protection and sustainable development.*

*The research results highlight the need to improve the performance audit system in public administration in Romania, to increase its impact on environmental policies and to contribute to the achievement of the objectives of the United Nations Agenda 2030, a conclusion supported by audit reports, documents and regulations published by competent public entities and other bodies.*

**KEYWORDS:** *performance audit, environmental protection, sustainable development.*



## 1. Introduction

*The paper analyses the performance verification mechanisms in the field of environmental protection, at the level of public administration entities in Romania, in accordance with international auditing standards, respectively the legal and procedural framework approved at national level. In order to reflect the implementation of the mechanisms for verifying the performance of the implementation of environmental policies, the research strategy used is based on the descriptive case study, applied to the supreme audit institution in Romania, in order to analyse the impact and audit results of public administration entities, during the 2011-2020 period, respectively of the evolution of the public sector performance auditing in the application of environmental policies.*

*The role of external public auditing in complying with environmental protection regulations in the public administration in Romania can be understood by briefly presenting the evolution of external public audit, respectively transformations based on legal norms, regarding types of audits, based on international standards specific to supreme audit institutions, in particular the audit of public sector performance. The case study, which is a retrospective of the results of the audit of public administration entities, focusing on the elements of modernity in the field, from the 2011-2020 period, will provide a theoretical basis for understanding the applicable legal and procedural framework and performance verification mechanisms, at the level of public administration entities in Romania.*

*By using the qualitative method of document analysis, we obtained data and information from available reports, strategies, regulations and official documents in the archives and databases of public institutions and international bodies. Following the analysis, I argue that, although there is an important contribution of external public audit to compliance with the principles of efficiency, economy and effectiveness for the establishment, use and management of financial resources on environmental protection, and improving the quality of living and working conditions, the impact of recommendations in the audit reports was not able to contribute to the*



*reduction of the risk of application of the procedure of ascertainment of the non-fulfilment of the obligations in the field of environment, by the European Commission.*

*The conclusion is outlined as a result of a causal correlation, proven and validated by the results of audit reports conducted by the Court of Auditors of Romania, in 2011-2020, following the audit of compliance of public administration entities with international environmental obligations and commitments, assumed at national level. The research results highlight the need to improve the performance audit system in the public administration in Romania, in order to increase its impact in the field of environmental policies. In line with trends at European level, auditing the performance of public administration entities in Romania must contribute to achieving the objectives of the United Nations Agenda 2030<sup>1</sup>.*

## **2.The Role and Contribution of the Supreme Audit Institution to the Compliance with Environmental Regulations**

### **2.1.General Considerations Regarding the Bodies Empowered to Audit the Performance of Public Administration Entities in The Field of Environmental Protection**

*In line with the European policies, the International Organization of Supreme Audit Institutions (INTOSAI), an “autonomous, independent, and non-political” entity<sup>2</sup>, with “special consultative status with the Economic and Social Council (ECOSOC) of the United Nations”<sup>3</sup>, which supports supreme audit authorities (SAI), cooperation and improving institutional performance, also aims to “promote good national governance”<sup>4</sup>. The important role of INTOSAI*

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<sup>1</sup>Ministry of Foreign Affairs, *The 2030 Agenda for Sustainable Development*, <https://www.mae.ro/node/35919>

<sup>2</sup>INTOSAI, website - Home segment, available at: <https://www.intosai.org/>

<sup>3</sup>INTOSAI, website - Home segment, available at: <https://www.intosai.org/>

<sup>4</sup>INTOSAI, website - Members segment, available at: <https://www.intosai.org/about-us/members>



as a “key participant in governance issues and also as a standardization body for external audit”<sup>5</sup>, is also reflected in the 2017–2022 Strategic Plan<sup>6</sup>.

The INTOSAI Working Group on Environmental Auditing (WGEA), established in 1992<sup>7</sup>, in line with the Rio Earth Summit, which set common goals for limiting climate change<sup>8</sup>, aims to contribute to the improvement of the audit tools used by SAI in the field of environmental policies, focusing on the ongoing audit of cross-border policies and international environmental agreements<sup>9</sup>. Work plans, environmental audit guidelines, and WGEA research are made available to SAI in order to support the audit of the implementation of the Sustainable Development Goals (SDGs) at national level<sup>10</sup>. From the research conducted by WGEA, it is concluded that, “as of 2018, environmental SDGs are a priority for 68% of the SAIs that responded to the survey”<sup>11</sup>, but the evidence shows that, “no country meets the basic needs of its citizens at a sustainable level of resource use”<sup>12</sup>. The first WGEA Seminar 2021 reiterated the importance of the coherence of environmental, economic and social policies, in order to achieve the SDG, respectively the 2030 Agenda of the United Nations<sup>13</sup>.

At European level, through the annual meetings organized by the Contact Committee of the European Union (CC), there is a cooperation between SAI and the European Court of Auditors, established by the Treaty<sup>14</sup>, in order to verify “the totality of the Union's revenue and expenditure

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<sup>5</sup>Dodaro, G. L., *INTOSAI Task Force on Strategic Planning Efforts*, in *International Journal of Government Auditing* 41, nr. 2 (2014): 1.

<sup>6</sup>INTOSAI Strategic Plan 2017–2022, available at: <https://www.eurosai.org/en/databases/products/Strategic-Plan-of-INTOSAI-20172022/>

<sup>7</sup>WGEA - Working group on Environmental Auditing, <https://www.environmental-auditing.org/publications/surveys/>

<sup>8</sup>Panjabi, R. K.L., 1997, *The Earth Summit at Rio: Politics, Economics, and the Environment*, Boston, USA: Northeastern University Press.

<sup>9</sup>INTOSAI, website - Mission & Mandate, available at: <https://www.environmental-auditing.org/about/mission-mandate/>

<sup>10</sup>WGEA - Working Group on Environmental Auditing, available at: <https://www.environmental-auditing.org/publications/studies-guidelines/>

<sup>11</sup>WGEA - Working Group on Environmental Auditing.

<sup>12</sup>O'Neill, D. V., et al., *A good life for all within planetary boundaries*, in *Nature sustainability* 1, no. 2 (2018): 88–95.

<sup>13</sup>*Policy Coherence and Sustainability Transition – Inspiration for Auditors and Evaluators*, available at: [https://wgea.org/media/117193/intosai-wgea-seminar-summary-1\\_2021.pdf](https://wgea.org/media/117193/intosai-wgea-seminar-summary-1_2021.pdf)

<sup>14</sup>Treaty on the Functioning of the European Union (TFEU), available at: [https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0001.02/DOC\\_2&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0001.02/DOC_2&format=PDF)



accounts”<sup>15</sup>, acting as an “independent guardian of the financial interests of the citizens of the Union”<sup>16</sup>.

*The European Organization of Supreme Audit Institutions (EUROSAI), which celebrates its 30th anniversary in 2020, is one of INTOSAI's regional groups and organizes annual WGEA meetings, supporting cooperation and the exchange of knowledge and experience for environmental audit*<sup>17</sup>.

*Globally, the cooperation of bodies responsible for supporting SAI activities is achieved through joint EUROSAI-AFROSAI seminars, and the collaboration of audit institutions in Europe and Africa is encouraged to carry out audits related to the objectives of the UN 2030 Program, namely the Sustainable Development Goals (SDGs). An example in this sense is the meeting in November 2019, with the topic “Audit for sustainable development goals: a vision from different regions”, which reiterates “the elimination of all forms of poverty, combating inequalities and overcoming climate change”*<sup>18</sup>.

*The INTOSAI community tackles the concept of “environmental audit” from the perspective of the external public audit, exercised independently by SAI. There are a wide variety of issues and objectives specific to environmental audit, but in the context of public sector performance audit, it may reflect “compliance with legislation and regulatory frameworks”*<sup>19</sup>.

*The environmental audit may involve “a combination of financial, performance and compliance audits on a particular environmental governance topic”*<sup>20</sup>. At the national level, governments have approved environmental policies, and SAI has the powers, established by the Fundamental Law, to conduct external public auditing, using specific compliance, financial and /

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<sup>15</sup>Supreme Audit Institutions | European Court of Auditors, available at: <https://www.eca.europa.eu/ro/Pages/SupremeAuditInstitutions.aspx>.

<sup>16</sup>Supreme Audit Institutions | European Court of Auditors.

<sup>17</sup>EUROSAI, website segment About, available at: <https://www.eurosai.org/en/about-us/about-eurosai/>

<sup>18</sup>Results of the first EUROSAI-AFROSAI Seminar, <https://www.eurosai.org/en/calendar-and-news/news/Results-of-the-First-EUROSAI-AFROSAI-Seminar-00001/>

<sup>19</sup>Guidance on Conducting Performance Audit with an Environmental Perspective, [https://static1.squarespace.com/static/57019a6db6aa607cbb909ab2/t/5923b39e6a4963e1790aa433/1495511977556/ISSAI\\_5110\\_E\\_Endorsement\\_version\\_2016\\_12\\_14\\_12\\_56\\_24\\_775.pdf](https://static1.squarespace.com/static/57019a6db6aa607cbb909ab2/t/5923b39e6a4963e1790aa433/1495511977556/ISSAI_5110_E_Endorsement_version_2016_12_14_12_56_24_775.pdf)

<sup>20</sup>Trincu-Drăgușin, C. P. and Ștefănescu, A., *Auditul public extern în statele membre ale Uniunii Europene: între tipologia standard și diversitate*, in *Audit Financiar* 18, no. 3 (2020): 468–567.



or performance audit mechanisms. Due to the role of “supervision in the correct use of public resources and in ensuring accountability”<sup>21</sup>, supreme audit institutions have a key contribution to public sector reform, providing “legislative and executive powers with an independent analysis of public finance management as well as public policy implementation”<sup>22</sup>.

Currently, environmental audit is a substantial and regular part of the auditing activity of more than half of SAI, entities that “became aware of their responsibility towards the environment and environmental policy in the late 1980s”<sup>23</sup>.

## 2.2. Compliance at National Level with Environmental Obligations

The European Commission's evaluations of the implementation of environmental policies have brought to the fore the challenges facing Romania, materialized in improving compliance with EU legislation in the field of urban waste and wastewater, as well as improving coordination and increasing the administrative capacity of the authorities in terms of water and waste management and the protection and management of Natura 2000 sites<sup>24</sup>.

Romania is in the process of being faced with the procedure for establishing the non-fulfilment of obligations (infringement) in the field of environment, by the European Commission, regarding waste, nature, water and air quality, respectively illegal logging. Romania has 376 records of non-compliance with environmental obligations, from 2007 to September 2021, of which a number of 38 cases are pending, representing decisions to apply the Delay procedure, according to Art. 260 TFEU<sup>25</sup>, respectively Additional Placement in Default, pursuant to Art. 258

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<sup>21</sup>Pitulice, I. C. and Ștefănescu, A., *Harmonisation and Emergence Concerning the Performance Audit of the EU Member States' Public Sector. Romania's Case*, in *Sustainability* 13, no. 7 (2021): 3673.

<sup>22</sup>Pitulice and Ștefănescu.

<sup>23</sup>Van Leeuwen, S., *Developments in Environmental Auditing by Supreme Audit Institutions*, in *Environmental Management* 33, no. 2 (February 1, 2004): 163–72, <https://doi.org/10.1007/s00267-003-0063-9>

<sup>24</sup>European Commission. Directorate General for the Environment, *Assessment of the implementation of EU environmental policies: Main aspects: Romania*. (LU: Publications Office, 2017), <https://data.europa.eu/doi/10.2779/975616>

<sup>25</sup>Treaty on the Functioning of the European Union (TFEU).



TFEU<sup>26</sup>, as well as a number of 10 reasoned opinions, according to Art. 258 TFEU<sup>27</sup>, respectively 2 (two) procedures for notifying the Court, pursuant to Art. 258 TFEU<sup>28</sup>, for “air quality” and “waste storage”<sup>29</sup>.

*The infringement proceedings opened by the European Commission regarding the finding of non-compliance with environmental obligations, with reference to “waste”, refer to the request for the closure, sealing and rehabilitation of illegal landfills, respectively the ecological restoration of a number of 15 illegal landfills, which have benefited from a transitional period in accordance with the Treaty of Accession of Romania*<sup>30</sup>. Page | 184

*With respect to the finding of non-compliance with environmental obligations, with reference to “nature”, the Commission requests Romania to ensure the protection of habitats and species, respectively to fully transpose into national legislation Directive 92/43 / EEC on the conservation of natural habitats and of wildlife and wild flora, contributing to the protection of biodiversity in the European Union*<sup>31</sup>.

*The Commission's requests for a statement of non-compliance with environmental obligations regarding “water” concern compliance with EU rules on urban waste water, in accordance with Council Directive 91/271/EEC under which cities are required to set up the necessary infrastructure in order to collect and treat urban wastewater on “air quality”*<sup>32</sup>.

*The Commission calls on Romania to adopt national air pollution control programs (reasoned opinion), in accordance with Directive (EU) 2016/2284 on the reduction of national*

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<sup>26</sup>Ibidem TFEU.

<sup>27</sup>Ibidem TFEU.

<sup>28</sup>Ibidem TFEU.

<sup>29</sup>Infringement Decisions, [https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=RO&typeOfSearch=false&active\\_only=0&noncom=0&r\\_dossier=&decision\\_date\\_from=01%2F01%2F2007&decision\\_date\\_to=30%2F09%2F2021&EM=RO&DG=ENV&title=&submit=C%2C%83utare](https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=RO&typeOfSearch=false&active_only=0&noncom=0&r_dossier=&decision_date_from=01%2F01%2F2007&decision_date_to=30%2F09%2F2021&EM=RO&DG=ENV&title=&submit=C%2C%83utare)

<sup>30</sup>Romania: environmental infringement proceedings concerning waste, nature, water and air quality, [https://ec.europa.eu/romania/news/20201030\\_infringements\\_mediu\\_ro](https://ec.europa.eu/romania/news/20201030_infringements_mediu_ro)

<sup>31</sup>De Las Comunidades Europeas El Consejo, Directiva 92/43/CEE, del Consejo, de 21 de mayo de 1992, relativa a la conservación de los hábitats naturales y de la fauna y flora silvestres, *Diario Oficial de las Comunidades europeas*, 1992, pp. 7–50.

<sup>32</sup>Council Directive of May 21, 1991 concerning the treatment of water ... - EUR-Lex, <https://eur-lex.europa.eu/legal-content/RO/LSU/?uri=CELEX%3A31991L0271>



*emissions of certain air pollutants*<sup>33</sup>. *The Directive requires Member States to develop, adopt and implement national air pollution control programs in order to achieve air quality levels that do not result in significant adverse effects or risks to human health and the environment*<sup>34</sup>. *The Commission opened the procedure of “Referral to the Court”, pursuant to Art. 258 TFEU*<sup>35</sup>, for “air quality” and “waste storage” and constantly monitors the fulfilment of Member States' obligations under EU law.

### **2.3. Involvement of the Supreme Audit Institution in the Observance of Environmental Protection Regulations by the Romanian Public Administration**

*The environmental audit is assimilated to a managerial tool for evaluating the performance of the entity, the system and the processes for environmental protection, in order to facilitate management control over practices with possible impact on the environment, respectively to “assess compliance with environmental policy, including achieving the environmental objectives and targets of the organization”*<sup>36</sup>.

*Based on constitutional prerogatives*<sup>37</sup>, *as well as on the national regulatory framework*<sup>38</sup>, *The Court of Auditors of Romania has a series of competences regarding the external public auditing of the environment.*

*In order to comply with the international agreements to which Romania is a party, respectively in order to harmonize with good international practice and to facilitate the*

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<sup>33</sup>Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (Text with EEA relevance), Pub. L. No. 32016L2284, OJ L 344 (2016), <http://data.europa.eu/eli/dir/2016/2284/oj/ron>

<sup>34</sup>Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (Text with EEA relevance).

<sup>35</sup>Treaty on the Functioning of the European Union.

<sup>36</sup>Law no. 265 of June 29, 2006 - Legislative Portal, <http://legislatie.just.ro/Public/DetaliuDocument/73220>

<sup>37</sup>The Constitution of Romania, <http://www.cdep.ro/pls/dic/site.page?id=339>

<sup>38</sup>Law no. 94 of September 8, 1992 on the organization and functioning of the Court of Auditors, [http://www.cdep.ro/pls/legis/legis\\_pck.ftp\\_act?ida=2380](http://www.cdep.ro/pls/legis/legis_pck.ftp_act?ida=2380)





implementation of INTOSAI audit standards<sup>39</sup>, as a permanent member of the organization, since its establishment in 1992, the Romanian Court of Auditors has developed the Guide on conducting environmental audits<sup>40</sup>, approved by the Plenum Decision no. 41 of February 20, 2013, in accordance with the guidelines for environmental audit:

- ISSAI 5110 Guidelines for Conducting Environmental Audits;
- ISSAI 5120 Environmental Audit and Regularity Audit;
- ISSAI 5130 Sustainable Development: The Role of Supreme Audit Institutions;
- ISSAI 5140 Methods of Cooperation between SAIs in Auditing International Environmental Agreements;

• ISSAI 3000 Performance Audit Guidelines, Annex no. 6 - Performance Audits in Environmental Audits<sup>41</sup>.

In accordance with INTOSAI standards<sup>42</sup> and on the basis of legal rules, manuals and guidelines developed for specific activities, as well as other internal rules<sup>43</sup>, SAI Romania performs financial audits of budget execution accounts, compliance audits, as well as audits of the performance of projects, processes or operations involving public expenditures carried out at the level of public administration entities<sup>44</sup>.

Financial audits are performed regularly by examining the documents prepared at the level of public administration entities, by evaluating the design and implementation of internal management control systems, accounting and IT systems, to verify whether “the financial statements present a true financial position and the results of financial activities are in accordance with accepted accounting standards and principles”<sup>45</sup>.

According to the Regulation on the organization and development of the specific activities of the Court of Auditors, as well as the capitalization of the documents resulting from these

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<sup>39</sup>Audit Standards - INTOSAI, <https://www.intosai.org/focus-areas/audit-standards>

<sup>40</sup>Guides - Court of Auditors, <https://www.curteadeconturi.ro/ghiduri>

<sup>41</sup>Audit Standards - INTOSAI.

<sup>42</sup>Audit Standards - INTOSAI.

<sup>43</sup>Regulations - Court of Auditors, <https://www.curteadeconturi.ro/regulamente>

<sup>44</sup>Public audit in the European Union, <https://www.eca.europa.eu/ro/Pages/DocItem.aspx?did=48906>

<sup>45</sup>Public audit in the European Union.



activities<sup>46</sup>, financial audits also pursue objectives related to the implementation of environmental policies, namely:

- establishment, use and management of financial resources on environmental protection, improving the quality of living and working conditions<sup>47</sup>;
- objectives regarding the reduction of pollution in urban agglomerations and the promotion of new technologies in passenger transport, based on the provisions of the applicable legal framework<sup>48</sup>.

In financial audits, the verification of audit objectives regarding environmental protection leads to the formulation of recommendations for improving the legal, procedural, systemic and operational framework, at the level of public administration entities, for the processes and activities specific to the field. The audits are responsible for the decision-makers in the efficient, effective and economic management of public resources for environmental protection.

The expected impact of the recommendations formulated by the administrative acts issued by the Court of Auditors and implemented at the level of public entities, takes into account:

- improving the activity of the audited entity in terms of financial-accounting, tax, information system, human resources, etc.;
- improving management to achieve the entity's objectives;
- obtaining better economic and financial results, reducing public expenditures, increasing efficiency, effectiveness and economy in the use of public funds and wealth management<sup>49</sup>.

The performance audits, carried out during 2011-2020, on the programs, projects, management systems and procedures used by the entities that manage public funds, in order to evaluate the economic, efficient and effective use of these resources, had specific environmental policy audit objectives, including:

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<sup>46</sup>Decision (A) 155 29/05/2014 - Legislative Portal, <http://legislatie.just.ro/Public/DetaliiDocument/163127>

<sup>47</sup>Decision (A) 155 29/05/2014 - Legislative Portal.

<sup>48</sup>Law no. 37 of January 19, 2018 on the promotion of ecological transport”, [http://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act?ida=148885](http://www.cdep.ro/pls/legis/legis_pck.htp_act?ida=148885)

<sup>49</sup>Decision (A) 155 29/05/2014 - Legislative Portal.



- *the performance of the administration and exploitation of living aquatic resources from natural fish habitats and aquaculture;*
- *performance in water quality and management;*
- *administration and marketing of greenhouse gas emission certificates;*
- *analysis and diagnosis in household waste management;*
- *the performance of the administration of the national forest fund, etc.*<sup>50</sup>.

### **3. Research Methodology**

*The methodology applied to achieve the research objective was based on the descriptive case study, through which we made a presentation of how the specific aspects of the study unit are related to advanced theory, trying to identify the functioning of cause-effect relationships. The method was chosen to confirm the theory using data that support the evolution over time of the study unit, respectively to identify transformation opportunities for performance auditing in the Romanian public sector. The methodology took into account the logical reasoning and the arguments based on common sense, for the realization of the descriptive case study, simultaneously with the method of document analysis.*

*Using qualitative data collection methods, we analysed reports available in archives and databases of international institutions and bodies. The scientific approach took into account the selection of audit reports made by the Court of Auditors of Romania, in the period 2011-2020, for the analysis of the main findings, conclusions and recommendations of the audits performed:*

- *annual public reports on the audit of the management accounts of the general consolidated budget for the previous financial year;*
- *annual activity reports with information on the strategy, mandate, responsibilities, mission and relations of SAI with different actors, international activity and allocated human and financial resources;*

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<sup>50</sup>Reports - Court of Auditors, <https://www.curteadeconturi.ro/publicatii>

- reports on local public finances of local public administration authorities;
- ex officio audit reports of SAI in key areas of public interest<sup>51</sup>.

The analysis took into account the main findings, conclusions and recommendations, following the audit actions performed, which had as objectives: the establishment, use and management of financial resources on environmental protection, as well as improving the quality of living and working conditions, reducing pollution in large urban agglomerations, air and water quality, etc.

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Also, for the analysis of the efforts of involvement of the Romanian Court of Auditors in the observance of the regulations on environmental protection, we selected a sample, including the following performance audit report:

✓ Performance audit report on water quality and management, performed at the Ministry of Waters and Forests, for the period 2015-2017, prepared on June 15, 2019, following the mission performed by the supreme audit institution on its own motion<sup>52</sup>;

✓ Audit report on the performance of management and exploitation of living aquatic resources in natural fish habitats and aquaculture, during 2016-2019, conducted between February 19, 2019 - March 31, 2020, the audited entities being the Ministry of Agriculture and Rural Development (MADR), National Agency for Fisheries and Aquaculture (ANPA), Danube Delta Biosphere Reservation Administration (DDBRA), ROMSILVA National Forests Authority and State Domains Agency (ADS)<sup>53</sup>;

✓ Audit report of the performance of the administration of the national forest fund in 2010 - 2013<sup>54</sup>.

By using the descriptive technique, we briefly presented the application of the infringement procedure for Romania, in the field of environment regarding waste, nature, water and air quality.

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<sup>51</sup>Reports - Court of Auditors.

<sup>52</sup>Court of Auditors of Romania, Court of Auditors of Romania,  
<http://www.curteadeconturi.ro/Publicatii.aspx?categ=5/6/2014%2010:27:30%20AM>

<sup>53</sup>Court of Auditors of Romania.

<sup>54</sup>Court of Auditors of Romania.



#### **4.Two-Dimensional Analysis of Public External Audit Reports with Reference to Environmental Protection**

*In line with the commitments made at national level and taking into account the European Commission's assessments of the implementation of environmental policies, the performance in water quality and management was audited at the initiative of SAI Romania. The performance audit mission was carried out in 2019, at the Ministry of Waters and Forests, with reference to the period 2015-2017. The specific objectives of the audit were: analysis of institutional capacity regarding water quality and management, analysis of aspects related to water management in Romania, identification of strategies and policies of the entity regarding the audited field, respectively analysis of water quality programs, conducted at central level.*

*The conclusions on water quality and management performance were structured according to the audit objectives and highlight the shortcomings related to institutional capacity, with reference to obsolete technical equipment that does not allow monitoring water quality, significant shortage of human resources in laboratories, and the trend of diminuation of the financial resources allocated to the activity of water quality monitoring activity. The report mentions that Romania has failed to meet the targets set out in the National Implementation Plan, in accordance with Directive no. 91/271/EEC<sup>55</sup>, most of the difficulties being encountered by the institutions to which responsibilities have been assigned regarding the realization and / or construction of the sewerage and wastewater treatment systems.*

*Following the audit, the formulated recommendations took into account the implementation of the provisions of Directive no. 91/271/EEC on urban waste water treatment and taking measures to stimulate the population to connect to sewerage networks and treatment plants. At the level of the administrative-territorial units, it is recommended to monitor the obligations assumed by the collaboration agreements regarding the maintenance and operation of the investments*

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<sup>55</sup>Council Directive of 21 May 1991 on the treatment of water ... - EUR-Lex.



made within the project “Integrated control of nutrient pollution”, respectively to ensure the financing of eligible projects<sup>56</sup>.

The main challenges identified for Romania, since 2017, by the European Commission, refer to improving compliance with EU policies on urban waste and wastewater, respectively improving the coordination and administrative capacity of the authorities and agencies involved in implementing the EU legislation<sup>57</sup>.

In the 2019 Country Report on the Implementation of Environmental Policies, with reference to water quality and management, it is mentioned that Romania's priority actions must consider strengthening the monitoring of surface waters by covering all relevant quality elements in all water categories , including hydromorphological quality elements and the improvement of groundwater, quantitative and chemical monitoring, improved implementation of requirements under the Urban Wastewater Treatment Directive, and intensified efforts to ensure its implementation and measures to improve the successive stages of the management cycle of risks in the Flood Risk Management Plan<sup>58</sup>.

The performance of management and exploitation of living aquatic resources in natural fish habitats and aquaculture was audited from the perspective of effectiveness, specific objectives considering the evaluation of the national strategy for the development of the fisheries sector, interinstitutional collaboration of entities with responsibilities in the management of aquatic resources, allocation of recreational fishing rights, to commercial inland fishing, marine fishing, respectively evaluation of aquaculture<sup>59</sup>. The audit was carried out February 19, 2019 - March 31, 2020, the audited entities being the Ministry of Agriculture and Rural Development (MADR), the National Agency for Fisheries and Aquaculture (ANPA), the Danube Delta Biosphere

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<sup>56</sup>The Court of Auditors of Romania.

<sup>57</sup>European Commission, *Environmental Implementation Review (EIR) 2019*, [https://ec.europa.eu/environment/eir/pdf/factsheet\\_ro\\_en.pdf](https://ec.europa.eu/environment/eir/pdf/factsheet_ro_en.pdf)

<sup>58</sup>Environmental Implementation Review (EIR) 2019.

<sup>59</sup>Court of Auditors of Romania.



*Reservation Administration (ARBDD), ROMSILVA National Forests Authority and the State Domains Agency (ADS)<sup>60</sup>.*

*The main findings of the audit report refer to the imperative to grant the necessary legal force to implementing the National Strategy for the development of the fisheries sector, for the period 2014-2020, the need for interinstitutional cooperation of entities with responsibilities for monitoring compliance with common fisheries policy, the issuance of permits for recreational/sports fishing, without knowing what the impact is on the exploitable stocks of the living aquatic resource, respectively the lack of measures in order to reduce / eliminate the risk of unrealistically declaring the catch of fish from inland fishing.*

*The audit report on the performance of the management and exploitation of living aquatic resources in natural fish habitats and aquaculture shows that, although in accordance with the provisions of Regulation (EC) No 1380/2013 on the common fisheries policy<sup>61</sup>, Romania has the lowest limit in Europe in terms of fishing level, the sea fishing capacity of the Romanian fleet has decreased substantially, as a result of the implementation of the fishing effort adjustment plan, there are no specialized ports for commercial fishing, and those used lack the necessary infrastructure for fishing ports. Also, the audit evaluations reveal the lack of funding for population programs, to support fish species in protected natural areas, according to the provisions of GEO no. 57/2007 on the regime of protected natural areas, conservation of natural habitats, wild flora and fauna<sup>62</sup>, respectively of conducting scientific studies on the need to implement programs. At the time of the audit, the real situation of the existing fisheries facilities in the public and private domain of the state was not known, in terms of their exploitation, their degradation stage and their viability.*

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<sup>60</sup>*Ibidem.*

<sup>61</sup>Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, Pub. L. No. 32013R1380, 354 OJ L (2013), <http://data.europa.eu/eli/reg/2013/1380/oj/ron>

<sup>62</sup>GEO 57 20/06/2007 - Legislative Portal, 57, <http://legislatie.just.ro/Public/DetaliiDocument/83289>



*The marine aquaculture activity is influenced by the lack of legal regulations regarding the concession of the seawater surface, the access to it, as well as the authorization of this activity, and Romania has not reached its intermediate targets set to meet the strategic objective of supporting the aquaculture sector, in order to achieve a fish production of 36,000 tons in 2023. The national fish production, obtained from fishing and aquaculture, in the period 2016-2018, was 19,787.83 tons (2016), 22,718.26 tons (2017), 20,472.75 tons (2018) and is low compared to the existing production and market potential<sup>63</sup>.*

*The general conclusion of the audit is the failure to achieve effective management to ensure the performance of management activities, exploitation of existing aquatic resources in natural fish habitats and aquaculture. The recommendations formulated regarding each specific objective of the audit have the role to eliminate the deficiencies found and to diminish the identified risks and weaknesses of the audit.*

*In 2014, the Romanian Court of Auditors evaluated the performance of the administration of the national forest fund in the period 2010 - 2013, the following entities being audited: Ministry of Environment and Climate Change, Department for Water, Forests and Fisheries, National Directorate of Forests ROMSILVA, Institute of Forestry Research and Management, Administration of the Environmental Fund, National Environmental Guard, Forestry and Hunting Commissariats<sup>64</sup>.*

*The general objective of the audit was to evaluate the indicators and parameters of results in the field of national forest fund management, respectively the economy, efficiency and effectiveness of activities carried out by entities with responsibilities in ensuring the administration of the National Forest Fund and controlling the application / compliance with the forest regime. The specific objectives of the performance audit of the national forest fund administration were: evaluation of the institutional capacity of the entities with attributions in the administration of the national forest fund, analysis of the evolution of the national forest fund structure and of the forest vegetation outside it, development and extension of the national forest fund, forest management,*

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<sup>63</sup>Romanian Court of Auditors, Publications, <http://www.curteadeconturi.ro/Publicatiit.aspx>

<sup>64</sup>Court of Auditors of Romania.





*arrangement and management, evaluation of the manner of exercise by the audited entities of the attributions regarding the control of illegal logging, timber movement, cutting facilities and warehouses, as well as evaluation of the way of ensuring the integrity of the national forest fund.*

*Forests, through their functions, are considered a national asset, in accordance with the principles adopted at the 1992 United Nations Conference in Rio de Janeiro, which imposed the concept of sustainable development, and forests were considered an asset of the humanity, states being invited to assume the obligation of sustainable management for the benefit of present and future generations<sup>65</sup>.*

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*Following the performance audit of the national forest fund's administration in the period 2010 - 2013, shortcomings were found regarding forest management, illegal tree cutting, legal sanctioning framework, fragmentation of forest property, administrative capacity of the forestry authority, information system integrated with regard to forest vegetation and timber circulation, reduction of areas occupied by forest vegetation, regeneration of forests and increase of forested areas, financing of the forestry sector, scientific research in the field of forestry, etc.*

*The assessments revealed a number of non-compliances causing damage with regard to illegal logging, which was introduced into the economic circuit, as having legal origin. With regard to the legal sanctioning framework, forests, especially the privately owned ones, were not only not managed, but there was no effective sanctioning system, as far as forest crimes that have massively increased; only since 2005 have measures been put in place in this regard.*

*The conclusions of the performance audit of the national forest fund's administration in the period 2010 - 2013 highlight the lack of consistency and coherence in forestry policies, the forest legislation developing out of phase with the restitution of forest lands. Excessive fragmentation of forest properties has made it difficult to manage and develop them in a sustainable manner, in a profitable manner and in compliance with the forest regime.*

*The recommendations formulated following the performance audit action took into account steps to remove/reduce the effects of forest property fragmentation, increase the administrative*

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<sup>65</sup>Grayson, A. J., 1995, *The World's Forests: International Initiatives Since Rio*, Commonwealth Forestry Association, Oxford Forestry Institute edition.



capacity of the central authority responsible for forestry, economic and financial measures necessary to ensure the operation and development of integrated information timber tracking system inventory of forest roads, respectively increasing the efficiency of control as part of public policies to reduce forest crime, by preventing and combating illegal activities.

*The impact of the implementation of the recommendations on the management of the national forest fund did not limit the risk of initiating the procedure of finding the non-fulfilment of obligations (infringement) in the field of environment, by the European Commission, regarding the illegal forest exploitation.*

*The 2019 Country Report on the Implementation of Environmental Policies mentions that the authorities have reported intensified efforts to combat illegal logging, including improved inspection capacity, the use of new monitoring technologies and a stricter legal framework, but coordination is needed for forestry activities, including illegal logging, as well as coherence between Natura 2000 and forest management plans, to be made available through the care of central government authorities<sup>66</sup>.*

*Between March 2015 and February 2017, Romania performed 40% of the 3,759 planned inspection for operators selling domestic timber and 63% of the 126 planned controls for operators importing timber, reporting a number of 550 checks on traders and issuing the highest number of sanctions for operators, especially with regard to domestic timber<sup>67</sup>.*

*From the analysis of the annual public reports on the audit of the management accounts of the general consolidated budget for the previous financial year, for the audit objectives related to the establishment, use and management of financial resources on environmental protection, respectively improvement of living and working conditions, quantification of nonconformities , irregularities and / or errors found as a result of the verification actions carried out in 2015 - 2019, are presented as follows:*

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<sup>66</sup>Environmental Implementation Review (EIR), 2019.

<sup>67</sup>*Ibidem.*

Year	Report	Source/Budget	No. of cases	Value of deviations			
				Additional income RON thousand	Illegal payments R ON thousand	Financial-accounting RON thousand	
December 2016	2015 PUBLIC REPORT	State budget	1	0	0	0	
		Own budgets of municipalities	3	0	0	246	
		Own budgets of cities	10	0	0	0	
		Own budgets of communes	56	176	36	11	57
		Budgets of public institutions partially financed from local budgets	1	0	0	0	0
		Own revenues of public institutions	2	0	0	0	72
		Income and expenditure of economic operators	8	0	1	0	121
December 2017	2016 PUBLIC REPORT	State budget	5	836	0	0	
		Own budgets of counties	1	0	0	0	
		Own budgets of municipalities	8	0	39	18	183
		Own budgets of cities	2	0	0	0	0
		Own budgets of communes	30	216	68	10	27
		Income and expenditure of economic operators	2	0	0	0	0
February 2019	2017 PUBLIC REPORT	State budget	9	196	0	0	
		Own budgets of cities	1	0	0	0	0
		Own budgets of communes	19	0	1	18	3
December 2019	2018 PUBLIC REPORT	State budget	3	51	0	0	
		Own budgets of municipalities	4	18	68	0	0
		Own budgets of cities	3	88	0	0	3
		Own budgets of communes	12	42	0	16	1



		<i>Income and expenditure of economic operators</i>	1	0	0	298
		<i>State budget</i>	4	84	0	0
December 2020	2019 PUBLIC REPORT	<i>Own budgets of the counties</i>	1	0	0	0
		<i>Own budgets of communes</i>	11	12	57	164
		<i>Income and expenditure of economic operators</i>	1	0	0	0

Fig no. 1

*The 2015 public report mentions that most cases of deviations, irregularities and/or errors with reference to the objective of establishing, using and managing financial resources on environmental protection, improving the quality of living and working conditions were found as a result of actions carried out at the level of the administrative-territorial units, namely a number of 72 cases, with a low share of 0.4% in the total deficiencies found<sup>68</sup>.*

*Following the audit actions performed for the financial year 2016, a number of 47 deviations from legality and regularity were found, in the amount of 4.2 million lei, representing a percentage of 0.3% of the total deficiencies found, financial resources allocated for the protection of the environment, respectively the improvement of the quality of working conditions, being reduced in value<sup>69</sup>. The irregularities mainly concern the collection, transport, processing and storage of waste, respectively the fact that the amounts representing the obligation due for not fulfilling the annual objective of reducing by 15% the quantities of waste disposed of by storage have not been paid to the Environmental Fund<sup>70</sup>. The 2016 public report mentions that, at the level of the administrative-territorial units, no strategies and programs regarding the environmental protection were elaborated respectively no persons with attributions regarding the environment (waste management, reporting, etc.) were designated<sup>71</sup>.*

<sup>68</sup>Court of Auditors, 2015 Public Report, December 2016, available at: [www.curteadeconturi.ro](http://www.curteadeconturi.ro)

<sup>69</sup>Court of Auditors, 2016 Public Report, December 2017, [www.curteadeconturi.ro](http://www.curteadeconturi.ro)

<sup>70</sup>Court of Auditors, 2016 Public Report.

<sup>71</sup>Court of Auditors, 2016 Public Report.



*In 2017, the most frequent deviations/errors/irregularities found refer to the erroneous calculation of amounts and their non-registration in the accounting records, non-declaration and non-payment of the contribution due by administrative-territorial units to the Environment Fund due to “failure to meet the annual reduction target by 25% in 2017 of the quantities of waste disposed of by municipal waste collected in the current year compared to the previous year”<sup>72</sup>, as well as “non-compliance with the legal provisions regarding the selective collection of waste”<sup>73</sup>.*

*The results of the audit actions carried out at the level of administrative-territorial units with reference to the objectives regarding environmental protection, mentioned in the Public Report for 2018, are materialized in a number of 22 cases of non-compliance with legal provisions, representing a percentage of 0.2% of the total deficiencies found<sup>74</sup>.*

*Non-conformities regarding the establishment, use and management of financial resources on environmental protection, improvement of the quality of living and working conditions, following the audit actions performed in 2019, in a number of 16 cases, represent only a percentage of 0.1% of the total deviations found<sup>75</sup>.*

*The deviations found in 2016-2017, following the financial audits, are also maintained in the subsequent external audit reports, having an insignificant weight in the total deficiencies found, related to other specific audit objectives, for which recommendations were made on the measures to be taken by the public entities for their removal, with reference to the substantiation of the budget, the financial-accounting records, the improvement of the internal managerial control systems, the proper management of the public and private patrimony of the state and of the administrative-territorial units, the improvement of the activity due to public budgets, as well as the observance of the principles of efficiency, economy and effectiveness in the management of public funds.*

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<sup>72</sup>Court of Auditors, 2017 Public Report , December 2018, [www.curteadeconturi.ro](http://www.curteadeconturi.ro)

<sup>73</sup>Court of Auditors, 2017 Public Report.

<sup>74</sup>Court of Auditors, 2018 Public Report, December 2019, [www.curteadeconturi.ro](http://www.curteadeconturi.ro)

<sup>75</sup>Court of Auditors, 2019 Public Report, December 2020, [www.curteadeconturi.ro](http://www.curteadeconturi.ro)



*The low share in the total deficiencies found as a result of financial audits, of non-compliances regarding the establishment, use and management of financial resources on environmental protection, respectively improving the quality of living and working conditions, does not reflect, however, the public administration's compliance with environmental regulations. Romania was motivated by the application of the procedure for finding the non-fulfilment of obligations (infringement) in the field of environment, by the European Commission, regarding waste, nature, water and air quality, respectively illegal logging.*

*Although public external audit actions aim to hold decision-makers accountable in the management of public funds for environmental protection, in order to ensure sound financial management, oriented towards results and performance, the impact of implementing environmental protection recommendations on fulfilling the Commission's obligations European is relatively small. The conclusions mentioned in the audit reports highlighted the fact that the administrative-territorial units “do not give due importance to environmental protection”<sup>76</sup>, respectively they do not have the administrative capacity to manage the activities in the field of environmental protection.*

*The verification of the implementation of the measures ordered by the Court of Auditors “may extend over several years, especially when the measures relate to the recovery of damages”<sup>77</sup>. Also, the measures can be challenged, according to the legal framework, and “the procedure of challenging and resolving in court is, in most cases, long”<sup>78</sup>. The degree of compliance of the entities regarding the implementation of the measures ordered following the external public audit “is quite low in the year in which the audit is performed”<sup>79</sup> and can reach an “acceptable level” in about 4 years, provided that, “taking into account the process of contesting and resolving appeals in court, as well as the obsolescence of some of the measures over time, the implementation percentage it will never be 100%”<sup>80</sup>.*

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<sup>76</sup>Court of Auditors, 2015 Public Report.

<sup>77</sup>*Ibidem.*

<sup>78</sup>*Ibidem.*

<sup>79</sup>*Ibidem.*

<sup>80</sup>*Ibidem.*

## 5. Conclusions

*Following the research conducted, I argue that there is a continuing concern and a relevant contribution of supreme audit institutions to compliance with environmental regulations, but involvement efforts have failed to reduce the risk of initiating infringement proceedings for Romania by the European Commission.*

*The impact of the implementation of the ordered measures/recommendations formulated, following the audit of the compliance of the Romanian public administration entities with the international environmental obligations and commitments, assumed at national level, does not ensure the accountability of the decision makers, so as to contribute to their fulfilment. Thus, it is necessary to improve the performance audit system in the Romanian public administration in the field of environmental policies, in full consensus with the international trends of involvement of supreme audit institutions in achieving the objectives of the United Nations Agenda 2030<sup>81</sup>. The complexity of the legal framework applicable to the field of environmental protection, as well as the conceptual valences of the external public audit, corroborated with the need for a risk-based approach in determining the scope of audits, recommends continuing cooperation of supreme audit institutions, in line with the UN 2030 Program and the commitments made in Paris<sup>82</sup>.*

*The scientific endeavour will be complemented by the analysis of audits in the field of environmental protection, carried out by other supreme audit institutions in EU Member States, to which the infringement procedure was applied by the European Commission regarding the non-fulfilment of environmental obligations.*

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<sup>81</sup>Ministry of Foreign Affairs, *2030 Agenda for Sustainable Development*.

<sup>82</sup>Paris Agreement: The Council forwards the communication of the CSN on behalf of the EU and the Member States, <https://www.consilium.europa.eu/ro/press/press-releases/2020/12/18/paris-agreement-council-transmits-ndc-submission-on-behalf-of-eu-and-member-states/>



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## ABOUT THE AUTHOR:

**Adriana Alina SPĂTARIU**, PhD candidate, National School of Political Studies and Public Administration, Bucharest, Romania.

E-mail: [adriana.spatariu.20@snsa.ro](mailto:adriana.spatariu.20@snsa.ro)

