

## The Legal Framework of the Court of Accounts: A Comparative Study Between Algerian and French Legislation

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### Abstract

Supreme Audit Institutions (SAIs) play a pivotal role in ensuring the transparency, accountability, and legality of public financial management. This academic article provides a comprehensive comparative analysis of the legal frameworks governing the Court of Accounts (*Cour des Comptes* / □□□□ □□□□□□□□) in the French Republic and the People's Democratic Republic of Algeria. By examining the constitutional foundations, organizational structures, and jurisdictional competencies of both institutions, the study highlights the divergent evolutionary paths of public audit systems. The French *Cour des Comptes*, established as an independent administrative court with quasi-judicial powers, represents a mature model characterized by extensive jurisdictional reach, including the certification of state accounts and a recent emphasis on citizen participation. Conversely, the Algerian Court of Accounts, while historically influenced by the French model, has developed a distinct legal identity tailored to its national context, focusing on strengthening its independence and expanding its role in evaluating public policies within an emerging economy. The article explores the legal mechanisms ensuring institutional autonomy, the scope of financial and performance audits, and the integration of international audit standards (INTOSAI). Ultimately, this comparative study identifies best practices and proposes recommendations for enhancing the efficacy and independence of SAIs in both developed and developing legal systems.

**Keywords:** Court of Accounts, Supreme Audit Institution (SAI), Comparative Law, Algerian Law, French Law, Public Finance, Audit, Accountability, Administrative Court, INTOSAI.

### Introduction

The prudent management of public funds is a fundamental pillar of democratic governance and state sovereignty. To ensure that public resources are collected legally and expended efficiently, modern states rely on Supreme Audit Institutions (SAIs). These institutions, often designated as the "Court of Accounts" or "Court of Auditors," serve as the ultimate guardians of public financial integrity. They operate at the intersection of constitutional law, administrative law, and public finance, wielding the authority to scrutinize the financial operations of the executive branch and hold public officials accountable. The efficacy of an

SAI is inextricably linked to its legal framework, which dictates its independence, organizational structure, and jurisdictional scope.

This article undertakes a rigorous comparative legal analysis of the Court of Accounts in two distinct jurisdictions: France and Algeria. The selection of these two nations provides a rich comparative paradigm. The French *Cour des Comptes* is one of the oldest and most prestigious SAIs globally, serving as a foundational model for the "judicial" or "Napoleonic" system of public audit [1]. It operates as an independent administrative court with extensive powers, including the ability to impose sanctions on public accountants. In contrast, the Algerian Court of Accounts (القضاء الإداري الجزائري), established post-independence, initially drew heavily upon the French model but has since evolved through successive constitutional and legislative reforms to address the specific challenges of a developing, hydrocarbon-reliant economy transitioning toward greater transparency [2].

The central problematic addressed in this research is how the legal frameworks of France and Algeria conceptualize, structure, and empower their respective Courts of Accounts to fulfill their mandate of public financial oversight. While both institutions share the fundamental objective of ensuring accountability, their legal statuses, operational methodologies, and degrees of independence exhibit significant variations. France has continuously modernized its institution, recently expanding its mandate to include the certification of state accounts and introducing innovative mechanisms for citizen participation [3]. Algeria, meanwhile, is engaged in an ongoing process of aligning its legal framework with international standards (such as those promulgated by INTOSAI) to bolster the Court's autonomy and enhance its capacity to evaluate public policies effectively [4].

To systematically explore this problematic, the article is structured into three primary chapters (Mabahith). Chapter 1 examines the constitutional foundations and the legal status of the Court of Accounts in both jurisdictions, analyzing the guarantees of institutional and functional independence. Chapter 2 delves into the organizational architecture, comparing the internal structures, the status of the magistrates, and the relationship between the central court and regional chambers. Chapter 3 analyzes the jurisdictional competencies and audit methodologies, focusing on the evolution from traditional compliance auditing to modern performance evaluation and the certification of public accounts. Through this comparative lens, the article aims to elucidate the strengths and limitations of each system, contributing to the broader academic discourse on public financial law and institutional design.

### **Chapter 1: Constitutional Foundations and Legal Status**

The efficacy of a Supreme Audit Institution is fundamentally dependent on its legal status and the constitutional guarantees that secure its independence from the executive and legislative branches. This chapter compares the constitutional anchoring and the legal conceptualization of the Court of Accounts in French and Algerian law.

#### **Section 1.1: Constitutional Anchoring and Independence**

The principle of independence is the sine qua non of effective public auditing, as articulated in the Lima Declaration of Guidelines on Auditing Precepts adopted by INTOSAI. Both France

and Algeria have enshrined this principle in their respective constitutions, albeit with different historical trajectories and legal nuances.

**The French Constitutional Framework:** The French *Cour des Comptes* enjoys a robust constitutional status. Article 47-2 of the French Constitution of 1958 explicitly mandates that the Court of Accounts assists Parliament in monitoring government action and assists the Government in evaluating public policies [5]. This constitutional provision establishes the Court as an independent arbiter situated equidistant from the executive and legislative powers. Furthermore, the independence of the Court is reinforced by its classification as an administrative jurisdiction. The Constitutional Council (*Conseil Constitutionnel*) has consistently upheld the independence of administrative jurisdictions as a fundamental principle recognized by the laws of the Republic (*Principe fondamental reconnu par les lois de la République*), thereby providing the Court with an impenetrable constitutional shield against political interference.

**The Algerian Constitutional Framework:** The Algerian constitutional approach to the Court of Accounts has evolved significantly since independence. The current Algerian Constitution explicitly recognizes the Court of Accounts (القضاء الإداري) as the supreme institution for the ex post control of the finances of the State, territorial collectivities, and public services [6]. The Constitution guarantees the independence of the Court, stipulating that it enjoys administrative and financial autonomy. This constitutional elevation reflects a deliberate legislative intent to strengthen the institution's authority in combating corruption and ensuring the transparent management of public funds. However, unlike the French model, the Algerian Court is not formally classified as a traditional court within the judicial hierarchy, but rather as an independent constitutional oversight body with specific jurisdictional powers.

## Section 1.2: The Legal Nature of the Institution

The legal nature of the Court of Accounts determines its operational modalities and its relationship with the entities it audits.

**The French Model: An Administrative Court:** The defining characteristic of the French *Cour des Comptes* is its status as a specialized administrative court (*juridiction administrative spécialisée*). This judicial nature means that the Court does not merely issue reports or recommendations; it renders binding judgments (*arrêts*). The Court has the authority to judge the accounts presented by public accountants (*comptables publics*) and can hold them personally and financially liable for any deficits or irregularities discovered during the audit process [7]. This quasi-judicial power provides the French Court with significant "muscle," ensuring that its findings have direct and enforceable legal consequences.

**The Algerian Model: An Independent Oversight Authority:** The Algerian Court of Accounts possesses a hybrid legal nature. While it is endowed with jurisdictional powers to sanction management faults and irregularities committed by public officials, its primary identity is that of an independent administrative oversight authority rather than a traditional court of law [8]. The Algerian legal framework emphasizes the Court's role in evaluating the quality of financial management and providing recommendations to the executive and legislative branches. While it can impose fines for specific infractions, its jurisdictional power

is generally narrower in scope compared to the French model, focusing more heavily on systemic audits and the publication of annual reports to foster transparency.

**Section 1.3: Comparative Analysis of Institutional Autonomy**

A comparative analysis reveals that while both systems legally guarantee independence, the mechanisms for operationalizing this autonomy differ.

In France, the judicial status of the Court provides a profound layer of protection. The magistrates of the *Cour des Comptes* enjoy irremovability (*inamovibilité*), meaning they cannot be transferred, suspended, or dismissed by the executive branch, ensuring their absolute freedom in conducting audits [9]. Furthermore, the Court has significant autonomy in determining its audit program and managing its internal budget.

In Algeria, the legal framework has made substantial strides in securing the Court's autonomy, particularly through recent organic laws. The magistrates of the Algerian Court also benefit from legal protections designed to shield them from external pressure. However, the practical realization of this independence—particularly regarding financial autonomy and the unhindered publication of all audit findings—has historically been subject to the broader political context [10]. The ongoing alignment of the Algerian legal framework with INTOSAI standards represents a continuous effort to solidify the functional and financial independence of the institution.

<b>Feature</b>	<b>French <i>Cour des Comptes</i></b>	<b>Algerian Court of Accounts</b>
<b>Constitutional Status</b>	Explicitly defined (Art. 47-2)	Explicitly defined as supreme control institution
<b>Legal Nature</b>	Specialized Administrative Court	Independent Oversight Authority with jurisdictional powers
<b>Primary Output</b>	Binding Judgments ( <i>Arrêts</i> ) & Reports	Annual Reports & Sanction Decisions
<b>Magistrate Status</b>	Irremovable judicial officers	Protected statutory magistrates
<b>Relationship to Parliament</b>	Assists Parliament (Constitutional mandate)	Reports to the President and Parliament

**Chapter 2: Organizational Architecture and Human Resources**

The ability of a Court of Accounts to effectively execute its mandate is intrinsically linked to its organizational structure and the caliber of its human resources. This chapter compares the internal architecture, the decentralization of audit functions, and the legal status of the audit personnel in France and Algeria.

### Section 2.1: Internal Structure and Collegiality

Both the French and Algerian Courts of Accounts operate on the fundamental legal principle of collegiality (*collégialité*), ensuring that audit findings and judgments are the result of collective deliberation rather than individual discretion.

**The French Organizational Structure:** The French *Cour des Comptes* is characterized by a highly structured, hierarchical, yet collegial organization. It is headed by a First President (*Premier Président*), who is appointed by decree of the President of the Republic but enjoys significant independence once in office. The Court is divided into several specialized chambers (*chambres*), each responsible for auditing specific sectors of the state apparatus (e.g., defense, health, education) [11]. The audit process involves a rigorous internal contradiction procedure (*procédure contradictoire*), where the audited entity has the legal right to respond to the auditor's initial findings before a final, collegial decision is rendered by the chamber.

**The Algerian Organizational Structure:** The Algerian Court of Accounts mirrors the French structure in several respects, reflecting its historical legal lineage. It is led by a President appointed by presidential decree. The internal architecture comprises several national chambers based in Algiers, which are divided by sector of state activity [12]. Similar to the French system, the Algerian legal framework mandates a contradictory procedure, ensuring the rights of the defense for the audited entities. The collegial nature of the Algerian Court is designed to guarantee objectivity and impartiality in its assessments and jurisdictional decisions.

### Section 2.2: Decentralization: Regional Chambers of Accounts

The audit of local and regional government finances requires a decentralized approach. Both jurisdictions have established regional entities, but their legal integration with the central court differs.

**The French Regional Chambers (*Chambres Régionales des Comptes* - CRCs):** France possesses a robust system of decentralized audit through its 26 Regional and Territorial Chambers of Accounts (CRCs), established during the decentralization reforms of the 1980s [13]. Legally, the CRCs are distinct administrative jurisdictions from the central *Cour des Comptes*, although they operate under its general supervision and appellate jurisdiction. The CRCs are responsible for auditing the accounts and management of local authorities (regions, departments, municipalities) and local public establishments. This decentralized structure allows for specialized, localized oversight while maintaining a unified national audit methodology.

**The Algerian Regional Structure:** Algeria, given its vast geographical expanse, also necessitates a decentralized audit mechanism. The Algerian Court of Accounts operates through regional chambers (□□□ □□□□□) distributed across the national territory [14]. However, unlike the French CRCs, which possess a degree of jurisdictional autonomy, the Algerian regional chambers are legally and administratively integrated as decentralized branches of the central Court of Accounts in Algiers. They exercise the Court's competencies at the local level, auditing the *Wilayas* (provinces) and *Communes* (municipalities), but their findings and decisions are subject to the direct hierarchical authority of the central institution.

### Section 2.3: The Legal Status of Magistrates and Auditors

The independence and competence of the Court rely entirely on the legal protections and professional standards applied to its personnel.

**The French Magistracy:** The personnel of the French *Cour des Comptes* are primarily magistrates (*magistrats*). They are recruited through the highly competitive National School of Administration (ENA, now INSP) and form an elite corps within the French civil service. As noted in Chapter 1, their status as irremovable magistrates provides the ultimate legal guarantee of independence [15]. The French legal framework strictly regulates conflicts of interest and incompatibilities, ensuring that magistrates cannot audit entities with which they have prior affiliations. Furthermore, the Court increasingly employs specialized experts and contract staff to address complex audits in areas like IT and environmental policy, diversifying its skill base.

**The Algerian Audit Personnel:** The Algerian Court of Accounts is staffed by magistrates who are governed by a specific statutory framework (*statut particulier*) designed to ensure their independence and professionalism [16]. While they do not possess the exact same constitutional irremovability as French judicial magistrates, their specific statute provides robust protections against arbitrary dismissal or transfer. Recruitment is conducted through rigorous national competitions, followed by specialized training. A significant focus of recent Algerian legal reforms has been the continuous professional development of these magistrates, aligning their skills with international auditing standards (ISSAIs) and expanding their expertise beyond traditional financial compliance to encompass performance auditing and policy evaluation.

## Chapter 3: Jurisdictional Competencies and Audit Methodologies

The core function of a Court of Accounts is defined by its jurisdictional competencies and the methodologies it employs to execute its mandate. This chapter compares the evolution of audit practices, from traditional compliance verification to modern performance evaluation and account certification, in both legal systems.

### Section 3.1: Financial and Compliance Auditing

The traditional and most fundamental role of any SAI is to ensure that public funds are spent in accordance with the law.

**The French Approach:** In France, the *Cour des Comptes* exercises a strict jurisdictional control over public accountants (*contrôle juridictionnel des comptes publics*). The French legal system enforces a rigid separation between the authorizing officer (*ordonnateur*), who decides on the expenditure, and the public accountant (*comptable*), who executes the payment. The Court judges the accounts presented by the accountants, verifying the legality and regularity of every transaction [17]. If an irregularity is found, the Court issues a judgment (*arrêt de débet*) requiring the accountant to personally reimburse the state. This system ensures meticulous compliance but has been criticized for focusing excessively on formal legality rather than the efficiency of the expenditure.

**The Algerian Approach:** The Algerian Court of Accounts similarly conducts rigorous financial and compliance audits (□□□□□□ □□□□□□□□). It verifies that the financial

operations of public entities comply with the prevailing budgetary and accounting laws. The Algerian legal framework empowers the Court to investigate management faults (□□□□□□□□□□) committed by public officials. When such faults are identified, the Court exercises its jurisdictional power to impose financial sanctions (fines) on the responsible individuals [18]. This mechanism serves as a powerful deterrent against the mismanagement of public funds and reinforces the principle of accountability within the Algerian public administration.

### Section 3.2: The Shift Toward Performance Auditing

Modern public financial management demands more than mere legal compliance; it requires an assessment of whether public funds are used efficiently and effectively.

**Performance Evaluation in France:** The French *Cour des Comptes* has undergone a profound legal and cultural shift toward performance auditing (*contrôle de la gestion*). The 2001 Organic Law on Finance Laws (LOLF) revolutionized French public finance by introducing a results-oriented budgeting system. Consequently, the Court's mandate was explicitly expanded to evaluate the economy, efficiency, and effectiveness of public policies [19]. The Court now routinely publishes thematic reports assessing the performance of various government programs, providing actionable recommendations to the executive and legislative branches. This shift has transformed the Court from a purely retrospective judicial body into a proactive advisor on public policy.

**Performance Evaluation in Algeria:** The Algerian Court of Accounts is actively integrating performance auditing into its legal and operational framework. Recognizing that compliance alone is insufficient to guarantee good governance, recent legislative reforms have mandated the Court to evaluate the quality of public management (□□□□□□□□□□□□□□□□). The Court assesses whether public entities achieve their assigned objectives using the resources allocated to them efficiently [20]. This transition requires significant capacity building and the adoption of new audit methodologies aligned with INTOSAI standards. The publication of the Court's annual reports, which increasingly feature performance assessments, represents a critical step toward enhancing transparency and public sector efficiency in Algeria.

### Section 3.3: Certification of Accounts and Citizen Engagement

The most advanced functions of modern SAIs involve the certification of state accounts and direct engagement with the public.

**The French Innovations:** A landmark legal development in France was the constitutional mandate (via the LOLF) requiring the *Cour des Comptes* to certify the annual accounts of the State and the Social Security system. This certification process ensures that the state's financial statements present a true and fair view (*image fidèle*) of its financial position, aligning public accounting with private sector standards. Furthermore, in a pioneering move to enhance democratic accountability, the French Court launched a citizen participation platform in 2022 [21]. This legal innovation allows citizens and civil society organizations to propose specific topics for the Court to audit, bridging the gap between the supreme audit institution and the public it serves.

**The Algerian Trajectory:** The certification of state accounts represents a future frontier for the Algerian Court of Accounts. While the current legal framework focuses primarily on compliance and performance, academic and institutional discourse in Algeria increasingly advocates for adopting the certification function, drawing inspiration from the French experience [22]. Implementing this would require substantial reforms to the national accounting system. Regarding public engagement, the Algerian Court has made significant progress by consistently publishing its annual reports, thereby providing the public and the media with vital information regarding the management of state resources. Continued integration with international bodies like ARABOSAI and INTOSAI will further drive the modernization of the Algerian legal framework in these advanced audit domains.

### **Conclusion**

The comparative legal analysis of the Court of Accounts in France and Algeria reveals two institutions that share a common historical lineage but have evolved to address distinct national imperatives. The French *Cour des Comptes* stands as a paradigm of the judicial audit model. Its constitutional independence, its status as an administrative court, and the irremovability of its magistrates provide it with unparalleled authority. The French legal framework has successfully modernized the institution, expanding its mandate from traditional compliance auditing to the sophisticated certification of state accounts and the evaluation of public policies, recently culminating in innovative mechanisms for citizen participation.

The Algerian Court of Accounts, operating within the context of an emerging economy, has developed a legal framework focused on establishing its authority and ensuring the transparent management of public funds. While it retains jurisdictional powers to sanction management faults, its primary legal identity is that of an independent oversight authority. The Algerian legislator has made commendable strides in strengthening the Court's constitutional anchoring and statutory independence. The ongoing transition toward performance auditing and the alignment with INTOSAI standards demonstrate a clear commitment to modernizing public financial oversight.

The comparative study highlights that while the French model offers valuable lessons in institutional independence and advanced audit methodologies (such as account certification), legal frameworks cannot be simply transplanted. The Algerian Court of Accounts must continue to evolve its legal structures in a manner that addresses its specific domestic challenges, particularly the need to transition from a hydrocarbon-dependent economy to a diversified, transparent economic system.

Ultimately, both jurisdictions underscore a universal legal truth: the efficacy of a Supreme Audit Institution is not merely a matter of statutory text, but of the political will to enforce accountability. By continuously refining their legal frameworks to guarantee independence, embrace modern audit methodologies, and foster public transparency, both the French and Algerian Courts of Accounts fulfill their indispensable constitutional role as the ultimate protectors of the public purse.

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