

ADMINISTRATIVE ACTS ISSUED BY THE COURT OF AUDITORS. EXERCISE OF THE ADMINISTRATIVE COURT CONTROL OF LEGALITY

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ABSTRACT: *The Court of Auditors acts as a financial control institution, designed to verify finally and in the most demanding way the management accounts drawn up in the context of the annual implementation of the State budget and gives a discharge, or the legal responsibility of those responsible for committing violations of the law and the rule of law in the use of public funds.*

As regards the question under discussion, namely whether, following the audit review under Law No 94/1992, the Romanian Court of Auditors has the power to calculate damages and determine liability for the loss calculated, the case-law study reveals different interpretations as to the question of law under discussion.

The administrative court is vested with a control over the legality of the administrative act concerning the refusal by the public authority to return by administrative means to the administrative act issued, in which the conformity of the administrative decision based on law must be checked, including compliance with the limits of the margin of discretion available to the issuing authority.

Without making an exhaustive assessment of the follow-up activity specific to checking the necessity and appropriateness of budgetary expenditure, the work aims to take advantage of the question of law under discussion by reference to the case-law examination which reveals different interpretations, of the legal nature of the control acts drawn up by the financial controllers and of the legal effects which they produce, the minutes and the control report drawn up by the competent supervisory body.

In the practice of the courts, an administrative case has been registered for the purpose of cancelling the control report on the checks carried out by the supervisory bodies of the court of Auditors on the grounds that, the measures ordered by the control acts issued and the findings of the control report and the conclusions of the check referred to by the financial controllers are illegal and non-meetic.

KEYWORDS: *court of administrative litigation; legality check; administrative acts; court of auditors; relevant case-law: Court of Auditors; financial audit control; control report; control report; legality check; legal nature of control acts; relevant case law;*

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In accordance with the provisions of Law No 94/1992 on the organization and functioning of the Court of Auditors, republished, the specific work of the Court of Auditors shall be governed by the Regulation on the organization and pursuit of the activities of the Court of Auditors and the recovery of the documents resulting from those activities, Approved by judgment No 130 of 4 February 2009 by the Court of Auditors.¹

The provisions of Article L of Law No 94/1992 on the organization and functioning of the republished Court of Auditors provide that the institution exercises control over the way in which the State and the public sector financial resources are trained, managed and used.²

Pursuant to Article 21 of Law No 94/1992 on the organization and functioning of the Court of Auditors, republished, the Court of Auditors shall exercise its control over the way in which the State and the public sector financial resources are trained, administered and used, and shall provide Parliament and the territorial administrative units with reports on their use and administration, respectively, in accordance with the principles of legality, regularity, cost-effectiveness, efficiency and effectiveness.

The Court of Auditors may audit performance over the management of the general consolidated budget and any public funds.

The external audit work carried out by the Court of Auditors shall be carried out in accordance with its own rules adopted on the basis of generally accepted international auditing standards.

Through its findings and recommendations, the performance audit aims to reduce costs, increase resource efficiency and achieve the proposed objectives.

The fields within the competence of the Audit Office are included in the Article 22 of the same normative act, provisions referring to information and use of the resources of the state budget, of the state social insurance budget and of the budgets of the administrative-territorial units, as well as the movement of funds between these budgets; the establishment and use of other public funds component of the general consolidated budget; the training and management of public debt and the state of government guarantees for internal and external loans; the use of budgetary investment allocations, grants and transfers and other forms of financial support from the state or territorial administrative units; the establishment, administration and use of public funds by autonomous administrative authorities and public institutions established by law, as well as autonomous social security bodies of the state; the situation, evolution and manner in which the public and private assets of the state and of the territorial-administrative units are managed by public institutions, autonomous regies, national companies and companies, as well as the leasing or rental of public-property; The constitution, use and management of financial resources for environmental protection, improvement of the quality of living and working conditions; other areas in which the jurisdiction of the Court has been established by law.

(1) Regulation on the organization and functioning of the Court of Auditors, approved by judgment No 130 of 4 November 2010, published in the Official Gazette. Part I, NO 832 of 13 December, 2010;

(2) Regulation on the organization and functioning of the Court of Auditors, approved by judgment No 130 of 4 November 2010, published in the Official Gazette. Part I, NO 832 of 13 December, 2010;

Under these legal provisions, the territorial chambers of accounts shall carry out, in accordance with the annual control plan approved by the Court of Auditors' plenary, financial controls/audits of the public entities referred to in Article 23 as follows: The State and the territorial administrative units, as legal persons governed by public law, with their public services and institutions, whether autonomous or not; the national Bank of Romania; autonomous regies; the commercial companies in which the State, territorial administrative units, public institutions or autonomous regies own, alone or jointly, autonomous social and other security bodies, which manage goods, values or funds, under a legally binding regime, under the conditions provided for by law or by their statutes.

Where irregularities in legality and regularity have been found to have caused damage, the Court of Auditors shall communicate this fact to the management of the controlled entity (paragraph 86 (b.L)).

Point 87-88 of the Regulation States that, for the implementation of the recovery measures provided for in Article 86(b) of Law No 94/1992 on the organization and functioning of the Court of Auditors, a republished decision shall be issued setting out in particular the measures that the entity or other entities involved must take to remove the deviations found and the extent of the damage and the measures to recover it.

The entity being checked may lodge an appeal against measures ordered by decision of the Chamber of Auditors within 15 days of its receipt (see point 92). The appeal procedure is governed by points 99 to 105 of the Regulation;

The entity being checked may also bring proceedings before the court with jurisdiction (see paragraph 106) against judgments given in its final decision.

Where damage is found, the Chamber of Auditors shall draw up a statement of findings on the basis of which it shall issue a decision setting out the measures ordered for irregularities and the regularity entered in the record of the finding.

Pursuant to Article 33 (3) of Law No 94/1992 on the organization and functioning of the Court of Auditors, republished, and Article 86 (bl of the Regulation on the organization and pursuit of the activities of the Court of Auditors, and the recovery of the documents resulting from these activities, Approved by judgment No 1 of 4 February 2009 by the Court of Auditors' plenary session 'where irregularities in legality and regularity have been found which have caused damage, The management of the audited entity shall be informed of this state of affairs and the determination of the extent of the damage and the provision of measures for its recovery shall become an obligation of the management of the audited entity`.

It is also clear from the analysis of the said legal provisions that the supervisory body finds irregularities in the legality and regularity which have caused damage to the administrative unit or audited public entity, in the case in point, as a result of an act or inaction contrary to the law of a person responsible for the management of the assets, This fully demonstrates that only as a result of the public authority's coverage of the damage in the assets of which irregularities were found by the effective transfer of the amounts due to the State budget, unrealized gains in the form of the refinancing interest calculated by the central bank are added, only then can actual damage be caused by the assets of the government.

This is demonstrated in particular by the fact that the payment of legal interest by paying it to the State budget is a matter for the public authority, not for natural persons

who are not in the fiscal legal relationship binding on the State budget, the budget of the public authority can be completed by action for liability, but only after the public authority has provided proof that interest has actually been paid to the state budget.

From a different point of view, However, in the same line of thought, it is also relevant to give the effectiveness of the provisions of Article 171(B)(1) which expressly provides that the Court of Auditors shall take advantage of the findings of the control papers " to communicate to the management of the controlled entity any errors/deviations of in the case of legal and regular damage which caused damage to be caused and to order it to determine its extent and to take measures to recover such damage'.

This legal provision is also laid down in Article 174 of the Regulation which provides that for the application of the recovery measures referred to in Article 171(b), the 'decision` shall be issued within which they are mentioned and the time limits within which the entity being checked must communicate to the head of the specialized structure which issued the decision, the method of carrying out the measures ordered.

Examining the legal nature of this administrative act issued by the supervisory body, without challenging the obligation incumbent on the head of the public authority to carry out the measures ordered, an act of recovery issued by the supervisory authority shall concern only the measures which the head of the public authority must take with regard to determining the extent of the damage and its recovery, this clearly demonstrates that this administrative act does not contain the quantification of the damage but merely an estimate of the errors and irregularities found by the court of auditors' audit bodies.

This is also the result of Article 175 of that Regulation in the context in which it is stated that 'the decision shall also be given where the facts for which there are indications that they have been committed in breach of criminal law have caused damage, whereas the management of the audited entity is required to establish the extent of the damage and the arrangements for its recovery in that event too` and article 176, according to which a decision shall also be given where, during the review, the management of the audited entity has taken steps to establish the extent of the injury and its recovery, as it is not certain that the extension of the verifications to the whole category of economic operations in which it was found was carried out , a decision is also given if, during the check, the management of the audited entity has taken measures to determine the extent of the damage and to recover it, whereas it is not certain that the examination has been extended to the whole category of economic operations in which the causing injury was found or that the injury amount has been established in full', legal provisions which are consistent with the said legal provisions and which clearly show that the legislator expressly provided that, even if the head of the entity checked had taken measures to spread the damage and recover it, since it is not certain that the examination has been extended to the whole category of economic operations where the causing injury was found or the injury has been recovered in full, a decision will be issued by the control body.

The fact that the measures which the supervisory authority may take in its decision are specifically set out in Article 81 of the same Regulation as an example and in a restrictive manner shows that the measure is not intended to quantify the damage.

Last but not least, in support of the factual and legal arguments shown, are also the legal provisions of Article 234 (i) which expressly provide that *'if it is found that the measures contained in the decision have been ordered and pursued by the management*

of the entity, The damage has not been properly established as extent and/or has not been recovered, the procedure for using the control report to be made shall be that set out in points 163-167 to 229 and a new decision shall be issued by the head of the department/director of the Chamber of Auditors containing the necessary measures.`

In order to further streamline this procedure and to provide for Article 235 of the Regulation, "where the head of the authority of the entity being checked submits in writing, within the time limit laid down by decision, substantiated arguments justifying non-compliance with the measures, It may request an extension of the time limit fixed in the decision`, in which case, in accordance with Article 236, 'if these arguments are confirmed, the Director of the Board may grant another time limit for carrying out the measures ordered, which shall be communicated to the entity by separate address at the end of the new period by taking the verification procedure`.

Moreover, according to Article 230 of the Regulation, 'verification of the conduct of the measures ordered by decision shall be carried out by the external public auditors within the specialized structures of the Court of Auditors who participated in the verification, as a rule within 30 calendar days of the most remote period in the decision`

Therefore, following a presentation of the chronological sequence of the legal provisions governing the way in which the audit body makes use of its control, it follows from all the rules invoked that, in so far as the supervisory authority itself is able to recover and grant a period other than that originally provided for in the decision issued, and that verification of compliance with the measures is at the earliest opportunity in the decision,, let us conclude that there are sufficient legal arguments to substantiate the view that the decision issued by the supervisory body of the Court of Auditors under the terms of Article 174 of the Regulation does not constitute the act of establishing the damage, so that, consequently, the provisions of article 85 (1) of law no 188/1999 under which compensation for damage to the public authority or establishment is ordered by the head of the public authority to issue an order or imputation within 30 days of the determination the damage, that is, from the date when the head of the public authority has actually established the amount of the damage caused by the public institution's assets, as well as the extent of the damage and liability of the persons responsible for it.

Whereas the Court of Auditors' decision does not establish actual direct, actual, actual, current legal conditions for the acquisition of civil liability, but only concerns the measures which the head of the public authority must take, to attract civil liability to the civil law of a civil servant who is guilty of causing damage to the property of the public authority or establishment audited by the supervisory bodies of the court of auditors, measures to be taken by the issuing of the imputation provision, Under the conditions laid down in Article 500 of the Administrative Code, which provides for the provision of a 'Compensation for damage caused to the public authority or establishment in the situations referred to in Article 499 (a) and (b) shall be ordered by the head of the public authority or establishment to issue an order or an imputation provision within 30 days of the finding of the damage or, where appropriate, By giving a commitment to pay, and in the case referred to in subparagraph (c) of the same Article, on the basis of a final judgment.(4) the right of the head of the public authority or institution to issue the order or imputation order or order shall be prescribed within three years of the date on which the damage occurred.';As regards the measures ordered by the same decision, the same conclusion is without doubt that there is no harm to the party since no evidence is shown

to justify the overturning of the presumption of legality of the administrative act, all the more so since the measures were established on the basis of legal provisions of the normative acts, in such a way that it was fully justified by the issuing public authority that the administrative act enjoyed a presumption of legality and verality, the applicant shall bear the burden of proving the contrary to what has been established by the financial auditor, or he does not prove to be contrary to the statement of fact adopted by the financial controllers.

Relevant case law.

As regards the question under discussion, namely whether, following the audit review under Law No 94/1992, the Romanian Court of Auditors has the power to calculate damages and determine liability for the loss calculated, the case-law study reveals different interpretations as to the question of law under discussion.

The administrative court is vested with a control over the legality of the administrative act concerning the refusal by the public authority to return by administrative means to the administrative act issued, in which the conformity of the administrative decision based on law must be checked, including compliance with the limits of the margin of discretion available to the issuing authority.

As for the evidentiary effect of the written statement of findings which is required of the court in the logical-legal operation of selecting evidence and assessing their importance for disconnecting the facts, it is inessible that this is left to the judge's free judgment.

That said, it is not without any interest to remind, vis-à-vis the present legal action, that the action, in principle, covers all the procedural means for the recognition or enforcement of an undisputed, contested or infringed right/interest by the affirmation of pre-existing subjective law or the creation of a new legal situation, by stopping the obstacles to the exercise of the right or by paying/or paying compensation; therefore, civil action is the legal virtuality of bringing the matter before and obliging the court to rule on the legal situation arising from judgments; without identifying itself with the subjective right, as a sanction, a practical means of protection of the right, the action, concept – the synthesis is the impasse of subjective law.

In other words, it is clear that, without identifying itself the subjective right, as a sanction or as a practical means of guarding it, the action is an imanence of subjective law, a summary concept which is uniform in structure but varied in concrete forms of expression, For this reason, the legislator has also regulated the role of the judge in finding out the truth (Article 22 of the new Code of Civil procedure) in which sense the court shall settle the dispute in accordance with the rules of law applicable to it (paragraph 1), has the duty to seek to seek legal action, to prevent any mistake for the stated purpose, based on the establishment of facts and the correct application of the law(b) in the case of a court of law (paragraph 2), yes/no/re-establish the legal qualification of the acts/facts inferred from the judgment (paragraph 4), and, last but not least, must rule on everything required, but not exceeding the limits of the investment (paragraph 6), and in the process of transaction of the business, The judge who has been granted an authorization is obliged to rule on applications made to the courts (Article 397(1) of the same new code), but within the limits stated; of course the active role of the judge can never mean bias or interference in the area of the rights/interests of the parties, but is, on the contrary, a guarantee of those rights/interests.

That said, and without imprecise in any way on the case of the applicant's legal action (referring exclusively to the "cause for action", i.e. the "applicant case", which designated the purpose for which the civil action is set up and guaranteed, namely the protection and exploitation of legitimate rights or interests, it is clear that the applicant's approach is based on the assumption of the process in relation to the grounds of law relied on in the application and subsequent procedural documents, which must be defined by the different procedural means in which the action is taken, i.e. the debtor case verification of the legality of the defendant's appeal by the Court of Auditors of Romania in relation to the arguments of the audited entity concerning the contracts underlying the finding of damage and in relation to the measures adopted by the decision, Further to the findings of the Arad Chamber of Auditors following the examination of the deficiencies recorded in the financial audit report and the record of findings made following the mission 'Financial audit on the annual budget implementation accounts of the public authority defendant' and, as a corollary, Verification and the legality of the measures ordered with the intended aim of eliminating irregularities in the financial and accounting activity, decided upon in accordance with the provisions of Article 43 of Law No 94/1992, republished and paragraph 174 of the Regulation on the organization and pursuit of the activities of the Court of Auditors and on the use of the acts resulting from those activities, approved by the Court of Auditors' plenary judgment No 130/2010, which is now repealed but applicable to the legal relationships arising from its empire.

In particular, it should be noted that during the period 15.05.2013 to 05.07.2013, "financial audit on the balance sheet and the annual budget implementation account completed at 31.12.2012" has been carried out; Irregularities in legality and regularity have been found as a result of the check and entered in the record of findings drawn up by the inspection body; In order to take advantage of the statement of findings, the Chamber of Auditors issued Decision No 1.511 of 01.08.2013, in which in item 2.1.2. (II) (a) and (d) have established measures to remedy the deficiencies, which are contested by the applicant in this action, as follows: In accordance with the provisions of Article 33(3) of Law No 94/1992, republished and paragraph 174 of the above Regulation, the management of the establishment shall take measures to determine the extent of the damage and to recover it as follows: the damages estimated at 172.852,5 lei caused by the unjustified payment of some maintenance works on county roads under warranty and the estimated damages of 1.550.392,81 lei caused by the unjustified payment of snow removal expenses, plus unrealized benefits of 96.306,3 lei; Against the measures provided for in point (a) of paragraph 1 (II) (a) and (d) of the abovementioned Decision, the entity reviewed has lodged an appeal pursuant to Article 92 of the Regulation on the organization and performance of the activities of the Court of Auditors and the recovery of the documents resulting from those activities; The Board of Appeal of the Court of Auditors also questioned the appeal made by the Court of Auditors' Board of Appeal in Romania by concluding 174/ 17.12.2013, rejected the appeal and maintained the measures ordered by the Arad Chamber of Auditors.

The control body of the Arad Chamber of Auditors as well as the department of coordination of the budget verification of the territorial administrative units of the Romanian Court of Auditors in the settlement of the complaint against the measures ordered following the financial audit action, established on the basis that:

As regards the measure provided for in point II(a) of Decision No 01.08.2013 of the Arad Chamber of Auditors, this is based on deviations from the legality and regularity established as a result of the checks on "engagement, liquidation, order and payment of budgetary expenditure on the execution and payment of works such as gastric, hot-mixed fillings and fillings by successive splashes, on road sections, on which modernization works, reinforcement, light petroleum clothes, rehabilitation and paving carpets have been carried out, in the period 2009 to 2011, within the terms of guarantee of such works'.

As regards the measures provided for in point II(d) of Decision No 01.08.2013 of the Chamber of Auditors of Arad, the damage found and estimated was caused by the undue payment of the snow removal costs, plus the related unrealized benefits.

As a consequence, it was finally decided to establish measures to remedy the deficiencies, namely that, pursuant to the provisions of Article 33(3) of Law No 94/1992, republished and paragraph 174 of the said Regulation, the management of the unit will take measures to determine the extent of the damage and to recover it, the damages estimated at 172.852,5 lei caused by the unjustified payment of some maintenance works on county roads under warranty, the estimated damages of 1.550.392,81 lei caused by the unjustified payment of snow removal expenses, plus the unrealized benefits of 96.306,3 lei.

It should be recalled that, pursuant to Articles 1 (1) to (3) of Law No 94/1992 on the organization and functioning of the Court of Auditors, as republished, that institution exercises control over the way in which the State and the public sector are trained, administered and used, The audit function of the Court of Auditors shall be carried out by means of external public audit procedures laid down in its own audit standards, drawn up in accordance with generally accepted international audit standards, the Court of Auditors shall carry out its work autonomously, in accordance with the provisions laid down in the Constitution and in this Law, and represent Romania in its capacity as the supreme audit institution in the international organizations of these institutions; in accordance with Articles 21 (1) to (4) of the same law, the Court of Auditors shall exercise the function of control over the mode of training, For the administration and use of the financial resources of the State and the public sector, by providing Parliament and the territorial administrative units respectively with reports on their use and administration, in accordance with the principles of legality, regularity, cost-effectiveness, efficiency and effectiveness, the Court of Auditors may carry out performance audits on the management of the consolidated general budget, as well as any public funds, The external audit work carried out by the Court of Auditors shall be carried out in accordance with its own rules, adopted on the basis of generally accepted international audit standards, through its findings and recommendations, and the performance audit shall aim at reducing costs, increasing resource efficiency and achieving the proposed objectives; In accordance with Article 22 (a) of the Law, within the limits of the powers laid down in Article 21, the Court of Auditors shall carry out its specific tasks in the following areas: the training and use of the resources of the state budget, of the state social security budget and of the budgets of territorial administrative units, as well as the movement of funds between these budgets; Under Article 23 (a) of the Law, within the limits of the powers laid down in Article 21, the Court of Auditors shall carry out its specific activities on the following categories of public entities: The

State and territorial administrative units, as legal persons governed by public law, with their public services and institutions, whether autonomous or not autonomous; Last but not least, according to Article 32(2) of the Act, the external public auditors appointed to audit the accounts and the other activities for which the Court of Auditors is competent shall draw up reports setting out the findings and conclusions, shall formulate recommendations on the measures to be taken and shall, in accordance with its own procedures, express its opinion on the measures to be taken, as laid down in the regulation approved in accordance with the provisions of article 11 (2).

In a case-law opinion, it was noted that the statement of findings drawn up by the Court of Auditors which estimated irregularities in the audited public authority's assets from regularity and legality, it is not an administrative act which produces legal effects in its own right, so that civil liability for the alleged damage found, i.e. the actual recovery thereof, is made by imputing sums illegally received by persons who have unduly benefited from the amounts collected as remuneration.

The analysis of the legal effects of the statement of findings, namely the Regulation on the organization and conduct of the activities of the Court of Auditors and the use of the documents resulting from these activities, which States in point 59 that *the minutes of the findings are drawn up:*

(A) where irregularities in legality and regularity have been found which have caused or have not caused injury (model Annex No 4.1);

(B) where facts are identified for which there are indications that they have been committed in breach of criminal law, separate statement of findings (model Annex No 4.2) shall be drawn up.';

According to point 66 of the Regulation, 'the legal representatives of the controlled legal person may object to the findings contained in the control act.

They must be sent to the structure of the Court of Auditors which carried out the check within 15 working days of the recording of the control act with the audited legal person.

If objections are lodged after the expiry of a period of 15 working days from the date of registration of the act of review at the Registry of the controlled entity, they shall not be taken into account in making use of the findings.';

With regard to the use of the findings in the minutes, according to point 85 of that Regulation, 'minutes of findings, in which irregularities in legality and regularity have been recorded, whether or not they have caused damage or facts for which there are indications that they have been committed in breach of criminal law, Shall be taken together with the control report to which they constitute annexs in accordance with point 84.1(b) of this Regulation."

Article 84(b) of the Regulation itself States that "control reports shall be based on their content, as follows:

(...)

(b) the control reports in which irregularities in legality and regularity have been recorded; which have caused or have not caused damage and/or acts for which there are indications that they have been committed in breach of criminal law (detailed in the minutes of the findings, annexs to the control report), shall be allocated by the head of department to the director of the department, respectively, the director of the board of

accounts to the deputy director for consideration by them and for drawing up the draft recovery documents.

Within a maximum of 20 working days of receipt of the objections or of the expiry of the time limit for lodging them, the department director/Deputy director of the room of accounts shall draw up a note containing his point of view on the content of the control document and the draft recovery documents (draft decision, draft address for referral to prosecution)'.

In addition, according to point 87 of the Regulation, 'for the application of the recovery measures referred to in point 86(a), (b) and (c) of this Regulation, a decision shall be issued (model Annex No 7)' and, in accordance with point 88 of that Regulation, 'the draft decision shall be drawn up by the Director of the department/Deputy Director of the room of accounts.

It shall be noted that the record of the statement of findings is not enforceable and that the findings contained therein, accompanied by any objections from the audited unit, are subject to further scrutiny by the Court of Auditors, respectively, and that they are distributed in accordance with Article 84 (b) of the said Regulation, by the director of the department and the deputy director respectively, for consideration by them and for drawing up the draft recovery documents.

The findings of these minutes shall be taken into account only by the Court of Auditors' decision, which shall be binding and enforceable, even if it is possible to challenge the decision.

It follows, therefore, that the statement in the record of findings of alleged breaches of legality does not mean that the head of the unit is obliged to take measures to recover the damage in question. Therefore, with regard to the legal regime of the record of the finding, we maintain that it cannot have the legal significance of an act establishing the damage, given the provisional nature of these findings, Findings which may subsequently be refuted by the Court of Auditors itself following verification of the legality of this act.

Therefore, it is only by issuing the decision that the bodies of the Court of Auditors have finally expressed their opinion on the existence of the damage to which recovery is required.

CONCLUSIONS

It is well known that the administrative act enjoys a presumption of legality, presumption of presumption of authenticity and truthfulness, which, in its judgment, is based on a presumption of authenticity and veracity, being recalled by the tribunal that the presumption of legality refers to the presumption that the administrative act corresponds to the law in the Latin-sensu meaning of the term, a presumption of authenticity means the assumption that the administrative act emanates from the organ which is expressed in its external form and the presumption of veracity leads to the assumption that the administrative act corresponds to the truth, presumptions which are unarguably relative and can be removed by proof to the contrary.

Consequently, our view is that the date of the finding of damage in such situations is the date on which the head of the controlled entity became aware of the decision by which the Court of Auditors imposed measures to recover an alleged damage, binding and enforceable stand-alone to the audited public authority.

Consequently, *the statement of findings and the control report* drawn up by the financial audit bodies do not give rise to administrative acts within the meaning of Law No 554/2004 of the administrative proceedings, since it does not give rise to, or change to, or present a legal report, As a preliminary point, the Court of Auditors' supervisory bodies responsible for verifying the expenditure account have taken note of a situation in which they conclude that both the minutes and the control report lack the essential component specific to the administrative act, That is, the enforceability, legal acts which can be challenged before the administrative court only in conjunction with the decision issued pursuant to point 87 of the Regulation of the Court of Justice, Approved by judgment No 130 of 4 November 2010 of the Court of Auditors.

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