

TRIBUNAL DE CUENTAS



TRIBUNAL DE CUENTAS

Edited by
Court of Audit

Design and production
Estudio de Comunicación

Cover picture by
Belén Cano

Printed by
National Printing Office of the Official State Gazette

Contents



	Introduction	**6**
1.	**The Court of Audit: working towards excellence**	**8**
1.1.	Historical Background	9
1.2.	Supreme audit institution of the economic and financial management of the Public Sector	10
1.3.	The ambition to become an institution of reference	12
2.	**Our raison d'être: to supervise management and good use of public funds**	**14**
2.1.	Control of the economic and financial management of the Public Sector	15
	2.1.1. The annual audit programme	16
	2.1.2. The audits	17
	2.1.3. Control activity at international level	18
2.2.	Jurisdictional proceedings relating to accounting liability in the management of public funds	20
3.	**The axes of our activity: organisation and human and technical resources**	**26**
3.1.	The bodies of the Court of Audit	27
3.2.	The professional team working for the institution	28
3.3.	Gender equality, an institutional commitment	29
3.4.	IT, key to the modernisation process	30
4.	**Institutional relations: national and international collaboration to optimise public control**	**32**
4.1.	Synergies for the best results and the lowest use of resources	33
4.2.	Exchange of knowledge and best practices at international level	34

Introduction



The Court of Audit is constitutionally recognised as the external supervisory body of the economic and financial management of the entire Spanish public sector. It is a key institution for the proper functioning of the democratic system and is answerable to a body that holds one of the powers of the state, representing popular sovereignty: the Parliament.

In the exercise of its supervision of the public economic and financial management (as well as of political parties and their related or dependent entities) and of its jurisdictional function regarding prosecution of accounting liability, where such arises, in respect of persons entrusted with the management, safekeeping or administration of public funds, the Court of Audit ensures the proper functioning of all the bodies, agencies and entities in the public sector, as well as the proper use of public funds. Like other institutions, the Court of Audit is immersed in an intense process of change led by three fundamental principles that guide its work: transparency, good governance and the modernisation of its procedures. To fulfil these premises maximum cooperation is essential, together with the full commitment of all members and public employees who are part of the organisation, acting consistently under a criterion of strict professionalism in defence of the general interest.

Indeed, one of the above guiding principles, transparency, implies the need to offer all citizens relevant public information on its activities and operations as a form of accountability, in the broadest sense of the term (to society), on compliance with the goals that guide its actions.

This book offers an informative summary of the historical background, legal system, organisation and activity of the Court of Audit, with special reference to its two essential functions, auditing and accounting prosecution, as well as other general issues related to its everyday work: human resources management, the use of new information technologies and the institution's commitment to gender equality in all its actions.

We encourage all readers to learn more about the Court of Audit and its work, as this will give them more accurate information about the institution and, to some extent, also contribute to strengthening citizens' confidence in the functioning of our democratic system.

C.1



The Court of Audit: working towards excellence

1.1 Historical Background

As a supervisory body of the economic and financial management of the public sector, the Court of Audit stems from the **Organic Law of the Court of Audit of 1851,** during the reign of Elizabeth II of Spain.

However, the need to establish control mechanisms over the proper use of public funds and accountability concerning those in charge of their management is much older than the date of said law.

The Court's history dates back to the Early Middle Ages, more specifically, it dates back to a series of figures created to supervise public resources, such as the *Mayor in Domus,* the Contador Mayor and the Maestre Racional.

Over the centuries, supervisory institutions adapted to the changing social, political and economic circumstances. As a result, a brief examination of them reveals the following as the most prominent:

- The *Casa de Cuentas de Valladolid* and the *Contaduría Mayor de Cuentas,* both created during the reign of John II of Castile.
- The *Tribunal de Contaduría,* established by order of Philip II of Spain.
- The *Contaduría Mayor de Cuentas,* approved by the Cortes of Cadiz in 1812.
- The *Tribunal Mayor de Cuentas,* established by Ordinance of 1828, which was in force until the aforementioned Law of 1851.
- The *Tribunal de Cuentas del Reino,* regulated by the Organisation Act of 1870, which remained in force until 1924.
- The *Tribunal Supremo de la Hacienda Pública,* which brought together the internal and external supervisory functions of the public administration.
- The *Tribunal de Cuentas de la República,* created by the Constitution of 1931.
- El *Tribunal de Cuentas del Reino,* regulated by the Law on the Organisation, Functions and Procedures of the Institution of 1953, amended in 1961.

1.2
Supreme audit institution of the economic and financial management of the Public Sector

Article 136 of the **Spanish Constitution** provides the following:

1. *The Court of Audit is the supreme body in charge of auditing State accounts and financial management, as well as those of the public sector.*

   It shall be directly answerable to the Parliament and shall exercise its duties by delegation of the latter when examining and verifying the General Accounts of the State.

2. *The State Accounts and those of the State public sector shall be submitted to the Court of Audit and shall be audited by the latter.*

   The Court of Audit, without prejudice to its own jurisdiction, shall remit an annual report to the Parliament in which it shall, when applicable, inform the latter of any infringements that may, in its opinion, have been committed, or any liabilities that may have been incurred.

3. *The members of the Court of Audit shall enjoy the same independence and protection from dismissal and shall be subject to the same incompatibilities as judges.*

4. *An organic law shall regulate the composition, organisation and duties of the Court of Audit".*

Furthermore, Article 153 of the Constitution provides that "supervision of the activity of the bodies of the Autonomous Communities will be exercised: [...] d) By the Court of Audit, the economy and budgets".

The main regulation governing the Court of Audit is completed by **Organic Act 2/1982, of 12 May,** supplemented by **Act 7/1988, of April 5 on the functioning of the Court of Audit.**

Relationship with Parliament

As provided in the Constitution, the Court of Audit is directly answerable to the Parliament, without prejudice to its independence in the exercise of its supervisory and jurisdictional duties.

The Institution maintains an ongoing relationship with Parliament through the Congress-Senate Joint Committee for relations with the Court of Audit, without prejudice to the other institutional relations the Court of Audit maintains with the legislative power and the various bodies of the State.

The relationship with Parliament is evidenced mainly by two kinds of initiatives: one that comes from the Spanish Parliament; and one that stems from the actions carried out by the Court of Audit itself.

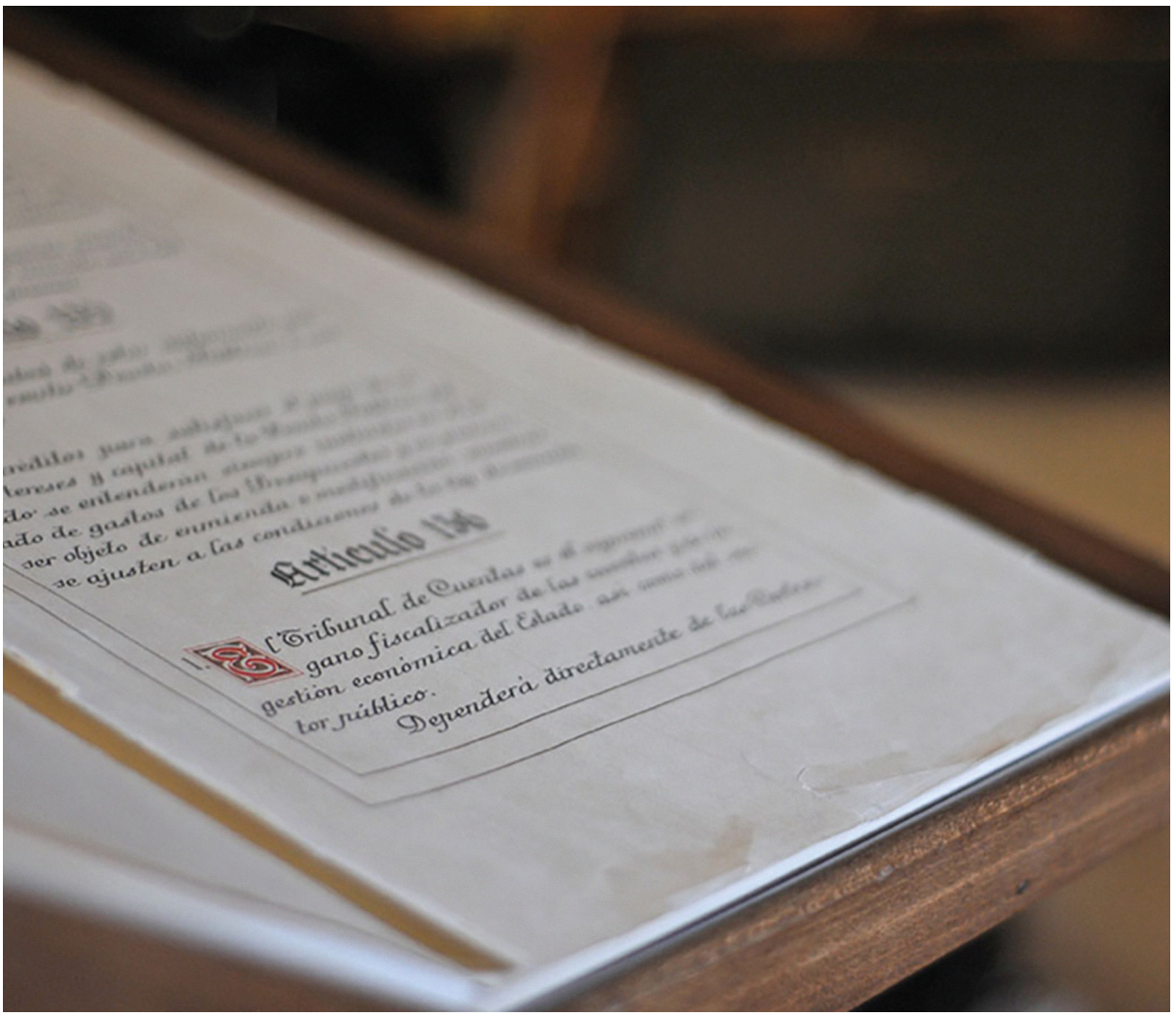
The first occurs when the Joint Committee asks the Court of Audit to carry out a series of specific audit activities by virtue of the initiative awarded to Parliament; and when the President of the Institution is requested to present the audit reports in a hearing in Parliament.

This presentation aims to explain the contents of the reports to the members of the Joint Committee and, during the hearing, the President of the Court responds to the issues raised on the audits by the congressmen and senators in attendance.

The initiative stemming from the Court of Audit takes place when it submits its annual audit programme and its reports,

memorandums, notes and motions on audits to Parliament, among other recipients. This remission occurs after such documents have been approved by the Plenary Session of the Institution and they may not be modified or rejected by bodies that do not form part of the Court.

Reports issued by the Court of Audit contain audit findings (including infractions or irregular practices detected in the audited entity and recommendations on measures to be taken to improve public management) and lead to the approval by the Joint Committee for Relations with the Court of Audit of resolutions containing the appropriate actions to be taken. The resolutions for each report presented are published, along with the text of the corresponding report, in the Official State Gazette.



1.3
The ambition to become an institution of reference

The purpose of the Court of Audit is to supervise the accounts and economic and financial activity of the Public Sector, by exercising its constitutional **auditing** and **accounting prosecution functions.**

The scope of the Institution's work englobes the entire public sector at state, regional and local level. Overall, it directly supervises over **10,700 public entities.** It also audits political parties, foundations and other entities related thereto or dependent thereon.

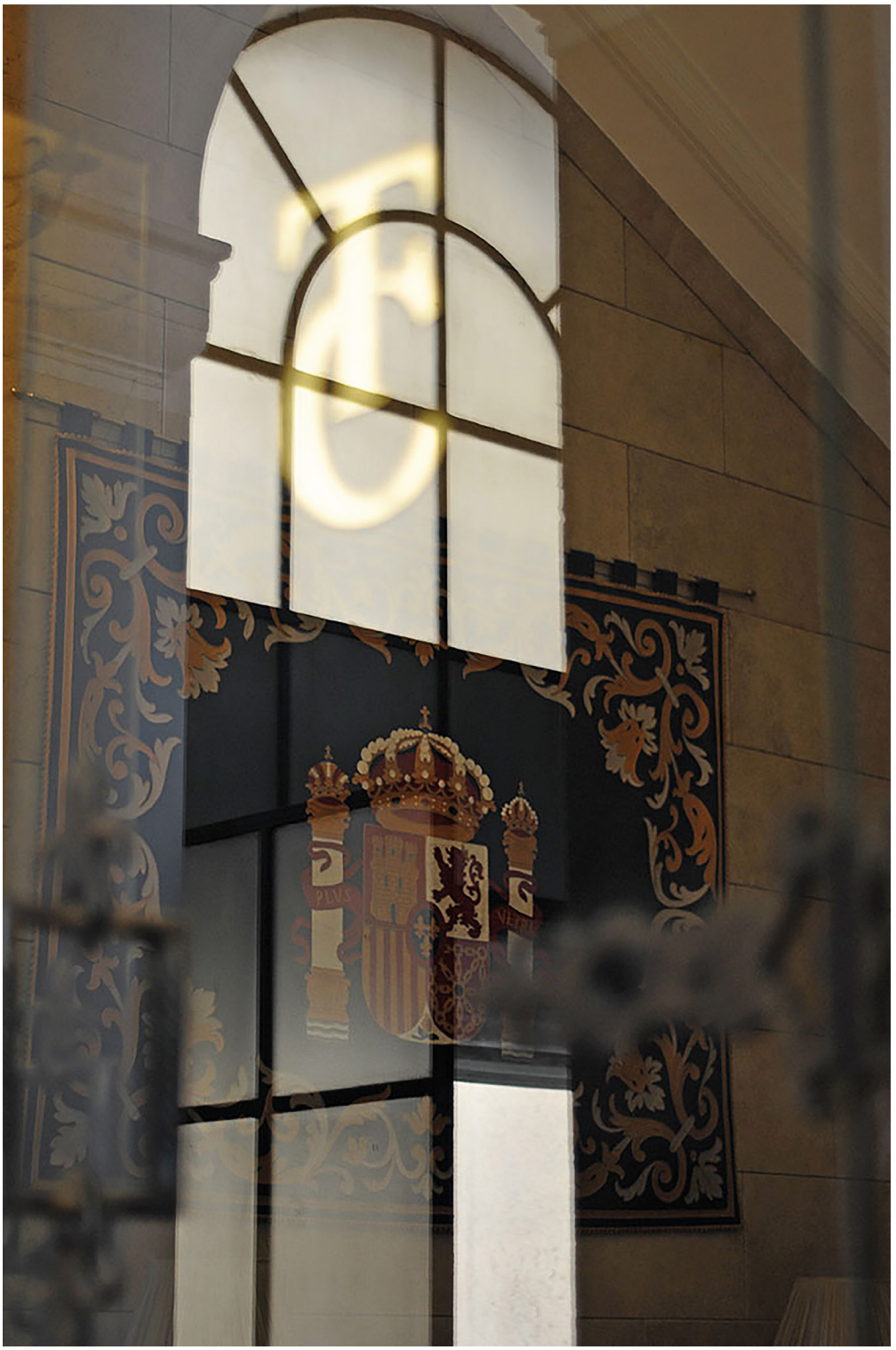
Owing to the importance of its function of supervising the economic and financial activity of the public sector, and the public funds in general, the Court of Audit has the ambition to become a reference institution at both national and international level through an intense process of **administrative modernisation, transparency and good governance.**

Administrative modernisation is an opportunity for improving the Court of Audit' supervisory function for the benefit of the general interest. The constant updating and improvement of the Court of Audit' procedures promotes the qualitative and quantitative progress of the results of its audit and prosecution work and provides citizens with access to information, enabling their interaction using electronic means.

As far as transparency is concerned, the Court of Audit intends to make it a guiding principle for its work, since one of the rights of every citizen is to know how public institutions exercise their powers and use public resources. In this regard, through its various sub-offices (the Platform and the Portal for the accountability of local authorities, the electronic office and the Transparency Portal), the Court of Audit has turned its website (www.tcu.es) into the main channel for accessing information about its activities. It also guarantees citizens' right to access public information held by the Court, within the limits provided by law, facilitating said right through the electronic office.

As for good governance (a concept that encompasses a set of performance parameters, such as independence, coordination, collaboration and cooperation with other external and internal supervisory institutions, and transparency, among other aspects), the Court of Audit has taken it on-board as a permanent objective in its pursuit of excellence. In fact, it is the basis for many of its actions, including those arising from its national and international institutional relations, with which it seeks to continuously improve the results of its supervisory and prosecution functions through the exchange of knowledge and experience.

The Court of Audit exercises its supervisory functions on 10,700 public entities, as well as on political parties and their foundations and related entities



C.2



Our raison d'être: to supervise management and the proper use of public funds

2.1 Control of the economic and financial management of the Public Sector

The **control role** of the Court of Audit covers a series of actions whose aim is to check that the economic and financial activity of the public sector is governed by the principles of legality, efficiency, effectiveness and economy, and, where appropriate, good management. Its audit work may also be guided by principles such as transparency, environmental sustainability and gender equality.

This activity is permanent, subsequent (a posteriori) and external to the audited entity and is applied to the economic and financial management of the Public Sector and to subsidies, loans, guarantees or other public aid received by natural or legal persons.

The public sector comprises mainly the State Administration, the autonomous communities, local authorities, administrative and common services entities of the Social Security, public bodies, state companies and other public enterprises, public foundations and similar.

The Court of Audit is also entrusted with the external control of the financing, accounting and economic and financial activity of political parties. In this case, the audits include verification of the regularity of the accounts of political parties and the legality of the public and private resources they manage, as well as contributions received by the foundations or entities related to or dependent on political parties. The Court of Audit is also responsible for inspecting the accounts of the political parties that take part in certain electoral processes, verifying the regularity of the resources used and compliance with the legal limits and requirements of electoral expenditure.

Each audit seeks to meet a number of objectives approved by the Plenary Session of the Court of Audit through the corresponding technical guidelines, which define the type of audit as follows:

Audit types

- **Compliance.** *Objective:* To verify compliance with the laws and regulations governing the economic and financial activity of the entity, activity or programme that is being audited.

- **Financiera.** *Objective:* To give an opinion on the reliability of the information contained in the financial statements of the entity being audited, based on its compliance with applicable principles, criteria and accounting standards.

- **Operativa o de Gestión.** *Objective:* To provide a total or partial valuation of the operations and management systems and procedures of the organisation, programme or activity under audit, regarding their economic and financial rationality and their compliance with the principles of good management.
- **De Regularidad.** This type refers to the audits that combine the objectives of the compliance and financial audit.

- **Integral.** This refers to all types of audit.

There is a special case called **horizontal** audit, which is performed on several entities in the same public subsector or in different public subsectors but with features in common, including the same objectives and the same time horizon.

2.1.1. The annual audit programme

The audits carried out by the Court of Audit each year is set out in its annual audits programme, which is approved by the Plenary Session of the Court and raised to Parliament. Said programme can be modified during its term of validity to include new audits proposed by the Court, to make changes to those already programmed or to remove those that are finally not to take place.

In its development, the Plenary Session of the Court of Audit takes into account the selection of the most relevant areas in the economic and financial activity of the Public Sector.

The annual programme includes the audits proposed by the Court of Audit on its own initiative and others that derive from a legal obligation and are requested by Parliament and, in its area, by the legislatures of the Autonomous Communities.

The audits are performed using audit techniques, defined as a systematic activity for the review, verification and evaluation of accounting records and control and management procedures

2.1.2. The audits

The audits are performed using audit techniques, defined as a systematic activity for the review, verification and evaluation of accounting records and control and management procedures performed according to the technical standards established for said purpose. As provided by law, in the results of the audits, the Court of Audit must state how many infractions, abuses or practices it has observed; also indicating the liability which, in its opinion, has arisen and the steps to be taken to require said liability. In its audit reports, the Court must also include recommendations on the measures to be taken to improve the economic and financial management of the audited entity in particular and the public sector in general.

Audit Departments

Each audit (as a whole, they are set out in the annual audits programme of the Court of Audit) is usually performed by one of the Departments of the Audit Section, depending on the area to which the audit refers.

The Court of Audit has **seven Audit Departments** (five sectorial and two territorial) that are managed by seven Counsellors of the Court.

Thus, the **competence of the sectorial Departments** includes the following:

- **Economic Administration of the State:**
  - The Ministries (and their dependent public bodies) of Finance and Public Administrations; Public Works; Industry, Energy and Tourism; Agriculture, Food and Environment; Economy and Competitiveness; Employment and Social Security; and Health, Social Services and Equality.
  - Budgetary sections corresponding to the constitutional bodies or bodies of constitutional significance.
  - Coordination of the examination and verification work on the General Accounts of the Administrative Public Sector.

- **Political-Administrative Area of the State:**
  - The Ministries (and their dependent public agencies) of Foreign Affairs and Cooperation; Justice; Defence; Home Affairs; Education, Culture and Sports; and the Presidency.

- **Area of Socio-Labour Administration and the Social Security:**
  - Management and Common Services Entities of the Social Security.
  - Occupational accidents and disease insurance companies and the MUGEJU, ISFAS, MUFACE, SEPE and FOGASA agencies.
  - Review and verification of the General Social Security Accounts.

- **State enterprises and other public entities:**
  - Public business entities.
  - State trading companies.
  - Other public bodies and state consortiums subject to the private chart of accounts, including: SEPI, ADIF, Renfe-Operadora, Puertos del Estado, Autoridades Portuarias, AENA, Loterías y Apuestas del Estado and Paradores de Turismo.
  - Coordination of the review and verification of the General Accounts of the Public Business Sector.

- **Finance and Foundations and other State Bodies:**
  - Financial Public Sector.
  - State Foundations.
  - Entities subject to additional provisions nine and ten of the LOFAGE.
  - Other public bodies and entities, such as EFE or RTVE Corporation.
  - Coordination of the review and verification of the General Accounts of the Public Foundation Sector.

The **jurisdiction of the territorial Departments** includes:

- **Autonomous Communities and Cities:**
  - Autonomous public sector.
  - Public universities.

- **Local Entities:**
  - Provincial Councils, Town Councils, Island Councils, Municipalities, Associations, Metropolitan areas, Entities below municipal level and Consortiums.

There is also a **Political Parties Unit,** which corresponds to auditing political parties and their related or dependent foundations and entities.

Audit procedure

Following the completion of the audit by the relevant Department, the text with the results of the verifications is sent to the audited entities and to public management officials, as well as those who held responsibility during the audited period so they may submit their arguments and justifications as they consider appropriate.

The draft report with the allegations is sent to the Public Prosecutor's office and the State Legal Service at the Court of Audit to assess possible liability or evidence of a crime, as well as to all Members of the Plenary Session of the Court of Audit so they may make any comments they deem appropriate.

Then, after discussion by the Audit Section, the draft report is submitted for approval by the Plenary Session of the Court of Audit. Once approved, the document is sent to Parliament and, where appropriate, to the Legislatures of the Autonomous Communities or the Plenary Sessions of local Entities, the Government of the Nation and, where appropriate, the Governing Councils of the Autonomous Communities. After they have been approved and sent to the recipients, all the reports are immediately published on the Court's website.

The procedure ends once the Joint Congress-Senate Committee for relations with the Court of Audit is informed of the result of said audit proceedings, after the appearance made by the President of the Institution. The Joint Committee examines the reports and approves the relevant resolutions it considers appropriate to resolve the deficiencies or follow the recommendations made by the Court of Audit in its reports. Together with the text of the reports, the resolutions are published in the Official State Gazette.

2.1.3. Control activity at international level

Parallel to its supervisory function, the Court of Audit carries out other activities as an external auditor or member of the audit committee of international organisations and institutions. The Court performs this activity individually and in collaboration with other national and international supervisory institutions on a wide range of organisations, including the Pan-American Health Organisation.

Processing of the audit activity. Main phases:

Annual audit programme

- Preparation of contents, coordinated by the Audit Section.
- Approval of the annual programme by the Plenary Session of the Court of Audit.

Planning and preliminary audit work

- Approval by the Plenary Session of the Court of Audit:
  - Resolution on the commencement of the audit.
  - Technical Guidelines of the audit, which provide: the area being audited (objective, subjective and temporal), the type of audit, objectives, team members and schedule as planned.
- Preliminary work on the audit.

Field work

- Request for information and documentation from the entity being audited.
- The necessary checks and verifications.

Drafting of the report

- Drafting of the draft report containing the following:
  - The results of the audit.
  - Conclusions.
  - Recommendations and proposals for improving public management procedures.

Contradictory Process

- Referral of the draft report to the following so they may submit allegations:
  - Audited entities.
  - Party responsible for the audited public management.
  - Parties responsible for the entity during the audited period.

Resolutions and comments

- The draft report, together with the allegations, is sent to the following for resolution if any type of liability is suspected:
  - Public Prosecutor's Office.
  - State Legal Service at the Court of Audit.
- The project is also sent to Members of the Plenary Session of the Court of Audit for their comments.

Approval of the report

- Discussion by the Audit Section.
- It is submitted for approval by the Plenary Session of the Court of Audit.

Dissemination and Publication

- The approved report is sent to Parliament and, where appropriate, to the Legislatures of the Autonomous Communities or the Plenary Sessions of local authorities. It is also sent to the Government and, where appropriate, the Regional Executives.
- The report is published on the website of the Court of Audit.

Appearance and adoption of resolutions by Parliament

- The President of the Court of Audit appears before the Joint Committee for relations with the Court of Audit to present the report and answer questions from the parliamentarians.
- TheJoint Congress-Senate Committee for relations with the Court of Audit adopts parliamentary resolutions based on the report.

Official publication

- Together with the audit report, the resolutions adopted by the Joint Committee are published in the Official State Gazette and, where appropriate, in the Official Gazette of the corresponding Autonomous Community.

2.2 Jurisdictional proceedings relating to accounting liability in the management of public funds

Accounting prosecution is the other core function of the Court of Audit. Here, the Institution requires the accounting liability that may arise from damages caused to public funds and assets by managers or users thereof. The purpose of this function is to restore public funds from the impairments that have occurred, where appropriate.

This jurisdictional function is developed by the Members of the Prosecution Section and is exercised on accounts to be rendered by those who collect, audit, manage, keep or use public assets, funds or bills. It is also exercised on individuals or entities that receive subsidies, credits, guarantees or other aid from the Public Sector.

For accounting liability, in accordance with legislation and the legal doctrine of the Chamber of Justice of the Court of Audit, the following qualifying elements are necessary:

- Losses or damages caused to public funds must stem from accounts to be rendered by those in charge of their management, administration or safekeeping.
- Infraction of rules governing budgets, accounts or public subsidies with at least gross negligence.
- The cause-effect relation that must exist between the act or omission by the alleged responsible and the damages caused to public funds.

The **accounting jurisdiction is compatible with actions taken by the criminal jurisdiction** in respect of the same facts and responsible parties, since the former is neither punitive nor disciplinary in nature. Furthermore, when the facts constitute a criminal offence, civil liability will be determined by the accounting jurisdiction in the area of its competence.

However, the competence of the accounting jurisdiction of the Court of Audit does not include prosecuting the following:

- Cases attributed to the competence of the Constitutional Court.
- Cases subject to contentious-administrative jurisdiction.
- Facts that are constitutive of a crime or misdemeanour.
- Cases of civil, labour or other jurisdictions entrusted to the bodies of the Judiciary.

The jurisdictional activity of the Court allows public funds used improperly (as long as there have been losses or damages) to be reinstated to the Treasury by those responsible for the damages, who will respond with their own assets



Chamber of Justice

Structure of the Prosecution Section

This body is composed of the **President of the Prosecution Section** and the **Members of Departments One, Two and Three** thereof. The latter are responsible for hearing accounting liability processes at first instance.

There is also a **Chamber of Justice,** which is mainly responsible for resolving on the appeals lodged against decisions handed down at first instance. The Chamber is composed of the President of the Prosecution Section and the Members of the Prosecution Departments that have not participated in the proceedings at first instance.

Moreover, dependent on the Presidency of the Prosecution Section, there is a **Preliminary Proceedings Unit,** which processes most of the investigation work for deficit-recovery procedures.

Procedure

Procedures for accounting responsibility are opened by the bodies of the Prosecution Section of the Court of Audit mainly along four channels:

- **Audit reports by the Court of Audit**
  If, based on the results of audits, the Public Prosecutor' Office or the State Attorney appreciate evidence of accounting liability, both have the power to ask for the records to be sent to the Prosecution Section of the Court of Audit for the opening, where appropriate, of the corresponding procedure to define whether or not the liability in question exists.

- **External Control Bodies of the Autonomous Communities (OCEX)**
  In its inspection reports, which they have the duty to send to the Court of Audit, the OCEX can state the existence of evidence of accounting liability. In said case, they can notify the institution in question of the opening of legal proceedings.



Processing of jurisdictional activity. Main phases:

Preliminary investigations

- The issues that reach the Prosecution Section are distributed, according to turn, to the first-instance departments, which are overseen by a Counsellor of the Court of Audit.
- The Counsellor can resolve:
  - The stay of proceedings if the alleged facts do not constitute deficit (existence of an unjustified debit balance) or if the damages do not correspond to the specific acts of management of public funds. The cases of deficit include the so-called embezzlement of public funds or bills.
  - To go ahead with the jurisdictional procedure.

Preliminary proceedings

Appointment of a delegate examining magistrate

- The Presidency of the Prosecution Section proposes to the Government Commission the appointment of a delegate examining magistrate (who usually belongs to the Preliminary Proceedings Unit of said Presidency).

Investigation actions

- The examining magistrate carries out all the actions that are necessary to determine the facts and the parties who are allegedly responsible, including:
  - The corresponding provisional settlement.
  - The assurance of potential liabilities of which they may be convicted. This is fulfilled by submitting a deposit or ordering seizure of the assets of those allegedly responsible.

Stages of the jurisdictional process

First-instance proceedings

- The Counsellor responsible for the first-instance Department receives the case, orders the publication of the corresponding edicts and summons (notifies) the parties (plaintiff, respondent and prosecutor). If the plaintiffs fail to file a claim, it may be filed by the Prosecutor. If the Prosecutor fails to file a claim, the Counsellor must necessarily order the stay of proceedings.
- If any party or the Prosecutor files a claim, it is sent to the respondent (party allegedly responsible) so he/she may submit his/her reply. The procedure continues until termination, usually by virtue of a judgment.

Appeals

- Appeals may be lodged against the resolutions delivered at first instance before the Chamber of Justice of the Court of Audit. The Chamber of Justice is formed by the President of the Prosecution Section and the other two Counsellors of the Section not involved in the case at first instance.
- The Chamber of Justice resolves on the appeal, which is usually terminated by virtue of a judgment.

Appeals to the Supreme Court and special appeals for review

- The judgements delivered by the Chamber of Justice are subject to appeal before the Contentious Administrative Chamber of the Supreme Court, either by appeal to the Supreme Court or special appeal for review, exclusively within the limits and on the grounds provided in Court legislation.

Execution of the judgment

- Once the judgment becomes final, at any instance, it will be fitting for it to be executed. If the judgement is one of conviction, a term is awarded for the proven amount of liability to be deposited. If it is not, the guarantees provided or assets seized are executed and, where appropriate, the location of the debtor's other assets is ordered.

- **Other public institutions**
  In this case, the claim of liability can be exercised directly by any public Institution affected by the public funds or, where appropriate, by the Public Prosecutor's Office.

- **Complaints**
  Based on the complaints received and after opening preliminary proceedings and conducting the corresponding investigations, the Court of Audit may open legal proceedings.

Moreover, to comply with the requirement of accounting liability, the Court of Audit sets in motion one of the following jurisdictional proceedings:

- **The deficit-recovery procedure**
  This procedure is used for cases where the accounting liability constitutes a 'deficit', a concept which implies the existence of an unwarranted debit balance of an account or a lack of funds unaccounted for in the accounts to be rendered by managers of public assets or funds.

The cases of deficit include the embezzlement of public funds or bills, consisting of their theft or consent for such theft.

- **Accounts proceedings**
  This procedure is for cases of accounting liability that do not constitute a deficit. For accounts proceedings to be opened, the accounting liability must have derived from the result of an audit or an administrative penalty for the requirement of accounting responsibilities.

- **The cancellation of bonds**
  Under this procedure, the managers of public funds required to provide a security or guarantee for the use of certain public resources must apply to the Court of Audit for authorisation to cancel the guarantees they had deposited owing to the disappearance of the circumstance that gave rise to the provision of said guarantee.

In any case, regardless of the procedure used, the Court of Audit opens a preliminary stage in which: the amount of the damages is specified; the identity of those allegedly responsible is determined; the evidence of the various elements that make up the accounting liability are collected; and, where appropriate, a resolution is handed down on the obligation to provide a bond or, failing that, the preventive seizure of the assets and rights of the party allegedly responsible to ensure that he/she can assume his/her responsibility if convicted.

The proceedings of this stage differ depending on the type of process. Thus, in the accounts proceedings, the procedure is the responsibility of the Member of the Court of Audit who conducted the audit that revealed evidence of the accounting liability, by virtue of separate proceedings; whereas in deficit-recovery proceedings, a delegate examiner (appointed by the Government Committee, as proposed by the Prosecution Section) takes charge of this stage.

The judgments delivered by the jurisdictional bodies of the Court of Audit can take the form of: judgments, orders or rulings.

The judgments delivered by the Chamber of Justice may be challenged by appeal to the Supreme Court and, in certain cases, by special appeal for review lodged before the Contentious- Administrative Chamber of the Supreme Court.

National jurisdiction

The jurisdiction of the Court of Audit is national and is implemented by the Counsellors of the Prosecution Section and the Chamber of Justice of the Institution.

This function is also unique in terms of order; in other words, the external supervisory bodies of the Autonomous



Writing case. Chamber of Justice

Communities (OCEX) cannot take jurisdictional actions.

What the OCEX can carry out is the preliminary investigation of the proceedings if so delegated by the Court of Audit, when it considers this would be more effective for the investigation proceedings.

Furthermore, the laws governing the obligation of the OCEX provide that if one of the audits detects facts that may constitute alleged accounting liability, the OCEX must bring it to the attention of the Court of Audit so that it may proceed with the corresponding requirement through its prosecution bodies as appropriate.

C.3



Plenary Session Hall

The axes of our activity: organisation and human and technical resources

3.1 The bodies of the Court of Audit

As provided in Article 19 of the Organic Act of the Court of Audit, the bodies of the Institution are as follows:

President

The President is appointed by HM the King from among the Counsellors of the Plenary Session of the Court of Audit, at the proposal of the Counsellors themselves. The day after his/her election a Plenary Session is held, attended by the Prosecutor, to examine the legality of the choice made. The President has a term of office of three years.

Counsellors

They are appointed for a term of nine years by Parliament, six by the Congress of Deputies and six by the Senate, by a majority vote of three-fifths of each House.

The Counsellors are elected from among: lawyers and auditors of the Court; chartered accountants, senior judges and prosecutors; University professors and civil servants belonging to corps in which a higher academic qualification (lawyers, economists and business lecturers) is a required in order to enter, where they must all be persons of recognised standing and have more than 15 years in professional practice.

Plenary Session of the Court of Audit

It consists of twelve Counsellors (one of whom is the President of the institution) and the Chief Prosecutor.

Government Commission

It consists of the President of the Court and the Presidents of the Audit and Prosecution Sections. The latter are elected, also for a term of three years, at the same meeting and by the same procedure as that used to elect the President of the Court and after the President has been elected.

Audit Section

It consists of its President and the Counsellors responsible for the various sectorial and territorial audit departments of the Court.

Prosecution Section

It comprises its President and those Counsellors whose function, as the bodies of first instance or attached to the Chamber of Justice of the Court, is to hear the jurisdictional proceedings.

Prosecutor's Office

Functionally dependent on the Public Prosecutor of the State, the Prosecutor's Office consists of the Chief Prosecutor, who is a Member of the Plenary Session, the Deputy Prosecutor and the Prosecution Counsels.

General Secretariat

The person elected by the Plenary Session to direct this body carries out the functions that are necessary for the proper exercise of the governmental powers of the President, the Plenary Session and the Government Committee on all matters relating to the internal management of the Court of Audit (staff, procurement, etc.).

3.2 The professional team working for the institution

The Institution has a team of professionals, mostly civil servants, who carry out the auditing functions of the accounts and economic management of the Public Sector, the accounting liability prosecution functions and the technical and administrative support necessary for its proper operation.

Besides civil servants, the Court of Audit has employees and temporary staff, as provided in general legislation on the Civil Service.

The teams are organised into departments and units, according to the organisational structure of the Court.

The classification of human resources is defined in the List of Job Posts, which contains the characteristics and requirements of each post, its group and secondment subgroup. This information is available to all citizens on the Institution's website.

Access to the Court of Audit is made according to the principles of equal merit and ability under the Spanish Constitution and the relevant selection processes ensure compliance with said principles. The call for access to posts in the Court of Audit is made publicly and in all transparency, according to each year's offer of public employment, which is approved by the Plenary Session of the Institution.

Moreover, the Court of Audit fosters the professional development of its staff through an annual training programme that includes various training activities related to the most relevant aspects of its work.

There is also a firm commitment to ensure respect for gender equality in all areas related to the functioning of the Institution and the 1st Plan of Equality for Women and Men of the Court of Audit was approved in 2014.

3.3
Gender equality, an institutional commitment

Making gender equality a guiding principle of all the Institution's activity, and not just an obligation stemming from compliance with current legislation, is an institutional commitment on which the Court of Audit has been working in recent years.

With the inclusion of a gender perspective in the audit procedures, the Court of Audit started up a line of action that affects both its activities and its internal operation. These lines include: the creation of the Equality Commission in 2012; the programme of training and awareness activities that has been carried out at the Institution's headquarters on a regular basis since 2011; and the 1st Equality Plan for Women and Men of the Court of Audit, approved in 2014.

The gender perspective in the audits

Since 2009, the annual audit programmes of the Court of Audit include the commitment to paying particular attention in the audit procedures to supervising and controlling the development of



One of the most important features of the 1st Plan of Equality for Women and Men of the Court of Audit, is the *Protocol of action against situations of sexual harassment, harassment based on sex and harassment at work*

effective policies of equality between women and men in the audited entities.

In its desire to progress in this area of equality within its audit function, the Court of Audit assesses issues such as parity in collegiate bodies, the existence of equality plans and the monitoring of their fulfilment, as well as equality-related issues in public contracts and subsidies and in the consideration that entities and public institutions give to the gender perspective when drawing up their budgets.

Equality in the internal operation of the Court of Audit

June 2012 saw the creation of the Equality Commission of the Court of Audit as a technical body whose main mission is to provide advice on actively and horizontally implementing the principle of gender equality in the institution.

The main challenge facing this body was the development of what was to become the Institution's first Equality Plan. In September 2014, after approval by the Plenary Session of the Court, the project took shape under the name of the 1st Equality Plan for Women and Men of the Court of Audit.

Divided into eight action areas that are developed by virtue of more than 70 measures, this document provides the basis for real equality in the Institution. It is preventive, participatory, operative, horizontal and measurable. Its objectives include: creating a corporate culture that promotes equal treatment and opportunities; guarantying equal access to public employment, avoiding any kind of discrimination; and ensuring promotion based on equal treatment and opportunities.

One of the most important features included in the Plan is the "Protocol of action against situations of sexual harassment, harassment based on sex and harassment at work", which was approved by the Plenary Session of the Court of Audit in 2013. This was followed in 2014 by the creation of the Body for the Processing of Confidential Affairs, which is responsible for processing the reception, investigation and treatment of complaints regarding any form of harassment that may occur in the Court of Audit.

In addition, the Court of Audit periodically develops, through its Equality Committee, a training and awareness programme aimed at all the Institution's staff.

3.4 IT, key to the modernisation process

The Court of Audit is undergoing a review of its procedures, based on the use of new technologies. Its objectives are to modernise its internal management and improve performance in the exercise of its audit and accounting prosecution functions and to facilitate electronic access for all citizens interested in its services and public information.

One cornerstone of this modernisation process has been the replacement of the old website of the Court of Audit with a new portal that features the latest technology and an advanced search engine to provide citizens with reports, memorandums, judgements and resolutions resulting from the exercise of its audit and accounting prosecution functions;

the creation of the Transparency Portal and the electronic office of the Court of Audit, where, besides electronically publishing the notices and edicts of the Court and providing information on procurement and staff selection processes, a space has been created specifically for the electronic processing of audit procedures, notably speeding up the process.

The second line of action is derived from the implementation of a comprehensive system of electronic management for the administrative, audit and accounting prosecution procedures of the Court of Audit, which is being deployed gradually.

The objectives of this process are to modernise the internal management of the Court, improve performance and provide all citizens with electronic access to the Institution's public services and information

Another important part of this modernisation process is the system for the rendering of the accounts and the other information that has to be communicated regularly to the External Audit Bodies, such as the one relating to public procurement. In this regard, the Court of Audit has pioneered the establishment of a telematic accountability system for the entities that make up the Local Administration, based on the use of new technologies, embodied in the Accountability and Procurement Platform of Local Authorities. These are two transparency instruments that can be used to ensure that local authorities fulfil their obligation to send their General Accounts to the Control Bodies and to enable citizens to access and consult the accounts that are rendered.

Accordingly, this telematic accountability system has brought discipline to an area such as the local public sector, which had a very low level of accountability and thus involved obvious difficulties for its adequate control and supervision. Another platform has also been set up for the rendering of information on procurement by public companies, soon to be extended to procurement in other areas of the Administration.

Moreover, as a basis for the operation of all these e-government services, the Court has set up a new network of high-speed communications through a public tender for unified communications. Not only has the tender made it possible to increase speed, strengthen security measures to protect the institution's landline and mobile communications and furnish audit teams with latest-generation equipment and services for teleworking, but it has also reduced the Court's annual communications bill by forty percent.

The use of external services "in the cloud" has also been promoted to host the Court's information systems that are accessible from the Internet. This form of service provision guarantees continuous availability, processes peaks in demand without increasing waiting times and has the most advanced certified security measures, all at a fraction of the cost of providing the service in-house.

Finally, the internal organisation of the teams responsible for IT development and maintenance has been reshaped to promote the creation of specialised groups. At the same time, the IT Training Plan has been strengthened in terms of the number of hours and the complexity of the subjects taught to cater for new tools and technologies being deployed at the Court.

C.4



Institutional relations: national and international collaboration to optimise public control

4.1 Synergies for the best results and the reduced use of resources

On its annual agenda, the Court of Audit maintains contacts with a number of institutions and periodically holds relations with Parliament[1] and the External Control Bodies of the Autonomous Communities (OCEX).

1 More information on page 10.

For the Court, coordinated action with the various control institutions is a social demand as it enables better fulfilment of its public purposes and the defence of the general interest

Most of the Autonomous Communities have their own external control bodies, which exercise audit functions over the respective autonomous or local authorities. However, this does not mean that the Court of Audit does not audit the entire Public Sector at state, regional and local levels.

The Court of Audit and the OCEX have a statutory duty to work in a coordinated way in order to avoid duplicating audits and to obtain the best results with the least use of resources.

Therefore, the Court of Audit systematically maintains coordination and cooperation relations with the OCEX in which, on the basis of absolute respect for the competence of each institution, audit programmes are exchanged, joint actions are defined and common techniques are approved. In addition, procedures that take advantage of the synergies resulting from their joint actions are also put in place.

The exercise of the other function Law confers on the Court of Audit (accounting prosecution) is, by its

jurisdictional nature, the exclusive competence of the national institution.

However, there are areas where collaboration is possible between the OCEX and the Court of Audit. These areas include those relating to the autonomous bodies notifying the Court of facts that have been detected in their audits that could constitute accountability liability. Such collaboration is also possible when the Court of Audit delegates the OCEX to carry out investigation proceedings for the sake of greater efficiency.

The establishment of regular channels for reporting these facts and the proper documentation of potential liabilities identified by the OCEX are essential to enable the accounting jurisdiction bodies to resolve quickly and effectively on procedures leading to the recovery of possible losses or damages to public funds.

In any event, the Court of Audit considers the coordinated action between the various control institutions to be a social demand insofar as it allows for better fulfilment of its public purposes and the defence of the general interest.

4.2 Exchange of knowledge and best practices at international level

International activity is an action area of interest to the Court of Audit. For the institution, transnational relations involve the exchange of knowledge on techniques, procedures and best practices with other control bodies and the international projection of its image.

The Court of Audit is a member of several international bodies of Supreme Audit Institutions (SAI) (such as EUROSAI, INTOSAI and OLACEFS) and participates in meetings and working groups of the Contact Committee of Presidents of SAIs of the European Union.

It also collaborates with the European Court of Auditors in audit missions involving the management of EU funds carried out by said Institution in Spain and it is involved in the external audit of various international organisations as external auditor or as a member of their audit committees.

Through the so-called twinning projects, the Court of Audit collaborates with and advises institutions in third countries on capacity-building for the institutional strengthening of the SAIs.

The Court of Audit has been the permanent office of the Secretariat for the European Organisation of Supreme Audit Institutions (EUROSAI) since its creation (Madrid, 1990) and the President of the Spanish Institution is its Secretary General.

EUROSAI is composed of 49 SAIs plus the European Court of Auditors and aims to promote professional cooperation among them, encourage the exchange of information and documentation, advance the study of public sector audits and work towards the harmonisation of terminology in the field of public audits.

The Institution has been the permanent office of the Secretariat for the European Organisation of Supreme Audit Institutions (EUROSAI) since it was created in Madrid in 1990



Visiting room

Moreover, given the international consideration the Court of Audit has earned as a reference for quality among external supervisory bodies, the organisation has been awarded various external audits of international organisations, including the Pan-American Health Organisation and the Organisation for Security and Cooperation in Europe (OSCE).

In the same vein, it is noteworthy that the Court of Audit participates as an observer at the meetings of the Technical Group of the United Nations Panel of Auditors and sits on the audit committees of various international organisations, such as EUROCONTROL, the European Defence Agency, the Organisation for Joint Armament Cooperation (OCCAR) or the Mechanism for Financing Military Operations of the European Union (ATHENA). It also carries out other related actions, such as the audit of national participation in European Combat Aircraft (Eurofighter Typhoon programme).

Furthermore, in NATO it has taken part in the study for the reinforcement of its external control system and has participated in the peer review of its Board of Auditors (IBAN).