

## ACCOUNTING EXPERTISE IN THE NATIONAL AND EUROPEAN CONTEXT

Anca Alexandra PANTAZI<sup>6</sup>  
“Valahia” University of Targoviste

**ABSTRACT:** *The trends in the evolution of the accounting profession in the European space has a limited and precisely delimited scope of action and is conditioned by strict specialization and high level of qualification in many countries. The accountancy profession in the narrow sense is approached as a liberal profession which, in its work, addresses harmonised professional standards in accounting, financial reporting, auditing, education and ethics. It is necessary to resolve the problems of recognition of professional qualifications between countries, to achieve a global accountancy profession by removing different levels of professional competence and quality of professional services from one country to another.*

**Keywords:** *chartered accountant, accounting expertise, accounting standards, professional ethics, accounting profession*

**JEL Classification:** *M41*

### 1. INTRODUCTION

In the practice of public accounting, as well as in other activities carried out by accounting professionals, harmonised standards in the field of public accounting, accounting and financial reporting are needed. They need to be adapted to make them compatible with different sets of national accounting standards, in order to bring them into line with the requirements of stock exchanges in other countries. This conversion is the task of the international accounting profession through the harmonisation of accounting standards, i.e. the definitive removal of the differences that separate the accounting profession from one country to another.

The International Accounting Standards Committee (IASC) has prepared and published accounting standards with global applicability. The use of accounting standards in international classifications is also supported by the International Organisation of Securities Commissions (IOSCO).

According to the accounting practice and doctrine, in different countries, under market economy conditions, the accounting profession is in close correlation with legal doctrine and practice and other related fields, accounting expertise manifesting itself in a variety of specialisations as set out in the Ministry of Justice Order No 1190/C/2023.

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<sup>6</sup> PhD., pantazi.anca@gmail.com

## 2. ACCOUNTING EXPERTISE IN THE NATIONAL AND EUROPEAN CONTEXT

In March 2001, the International Accounting Standards Board (IASB) became a Foundation, organised along the lines of the American Accounting Standards Board (FASB). The Foundation consists of four elements:

- the trustees;
- the standard-setting body itself, the IASB, which takes over harmonisation activities from the former international body (International Accounting Standards Committee: IASC);
- an interpretation committee, the International Financial Reporting Interpretations Committee (IFRIC);
- an International Accounting Standards Advisory Council (IASAC)

Nowadays, the general term International Financial Reporting Standards (IFRS) is accepted, which includes:

- International Financial Reporting Standards (IFRS x), developed as such by the IASB;
- international accounting standards (IAS x) which have undergone and will undergo a revision process by eliminating alternatives, redundancies and conflicts in their content, as well as those which have not required such an improvement or have not been required, at least for the time being, to be eliminated;
- new interpretations: developed by the IFRIC Committee or its predecessor, the Standing Interpretations Committee (SIC), they (especially the latter) are subject to deletions and revisions when reality dictates.

Given the European Union's ambitions in relation to the adoption of the international accounting framework, let us not lose sight of the major implications of such a choice. Such an adoption has brought and is bringing fundamental changes to the thinking of accounting professionals in the old continent.

The challenges bring with them the upheaval of those stuck in their sophisticated traditions. It is all the greater because some European countries (in fact, most of them) have been and still are the bearers of an accounting model far removed from the Anglo-Saxon philosophy, a model which also inspires the work of the international standard-setting body.

The core element of these developments is in line with the objective attached to accounting, even by the international conceptual framework: to provide information on meeting the needs of investors in informing their decisions to buy, hold or sell the financial securities they hold. It is from this objective that the balance sheet takes precedence over other financial statements. It is in this balance of power that the principle of substance over form and the use of a valuation system based on fair value are increasingly being applied.

Forensic expertise is used in various fields to clarify strictly specialised factual issues or to interpret information with a view to resolving controversial or contentious issues, often being decisive in the adoption of a decision. However, the activity of forensic expertise does not have a regulation that provides a uniform legal framework for its development, which ensures its integrity.

The disparate normative acts regulating for example forensic technical expertise, evaluation expertise, forensic expertise, the relationship of forensic technical experts with professional associations are incompetent and in some respects contradictory. For this reason, in practice it is not possible to resolve issues such as: the legal status of the forensic expert, his rights and obligations, his certification, control and limits, the evidential value of the information presented in the forensic expert's report, the expert's liability for errors in the expert's report.

The vagueness of the rules in this respect is directly reflected in the quality and impact of the information that the forensic expert provides, in the context of its use as evidence in court.

The creation of a new image and a new position of the forensic expert in the judicial activity cannot be achieved individually, but through a professional organisation, a thematic professional training and a careful check of the expert's development, his approved results of practice, his professional reputation.

The fact that there is no known evidence of corruption in the profession of forensic expert does not mean that this activity is not exposed to corruption; exaggerated fees for biased forensic expertise, for example, can sometimes be a form of veiled bribery. If in the activity of magistrates one can speak of corruption offences (bribery, influence peddling), the examples of recent years being significant, the liberal profession status of legal experts makes this special category justify the fee on the basis of the fact that it is based on a work, namely the legal expertise report.

Guy Verhofstadt, former Prime Minister of Belgium from 1999 to 2008 and current leader of the Alliance of Liberals and Democrats for Europe in the European Parliament, believes that the Romanian judiciary remains vulnerable and that it is therefore necessary to put an end to "the internal culture of corruption and political favouritism that dominates the country like a cancerous tumour and prevents it from consolidating its progress".

Or the role of judicial expertise in finding the truth in the case must be understood in the sense that the expert is part of the judicial system.

Knowing that vulnerability refers to the subject/subjects exposure to the manifestation of threats, the phenomenon involves the forensic expert by: incomplete and limiting legislative framework on the transparency of forensic expertise. In addition to the normative acts mentioned in the previous chapter, there are professional standards, regulations and guidelines at the level of professional associations, without a general framework of approach. Since the date of accession, Romania has created a broad institutional and legal framework for the implementation of EU legislation in this field. However, many systematic gaps have not been sufficiently addressed. The gaps are caused by factors such as frequent changes in the legal framework and institutional structure which do not provide sufficient capacity, as well as the lack of effective instruments (European Commission report under the MCV). Non-compliance with regulations is due to a complete lack of control of liability invoices within these associations that have such obligations. One example is the failure to carry out quality audits of forensic accounting expertise.

Thus, according to the Regulation on quality auditing in the field of accounting services: art. 18 Accounting experts, in carrying out forensic accounting expert work, are obliged to submit the expert reports...for quality auditing; art. 19 Quality auditors have the following duties: auditing forensic accounting expert work before submitting it to the bodies that requested it.

Although the forensic expert's report is considered as evidence in court, it leaves room for interpretation in the sense that it is only an expression of the forensic expert's opinion, as found in the Code of Civil Procedure.

There is a lack of definition of the profession of forensic expert, its rights and obligations, especially as there is an incomplete classification of the fields and specialties of forensic experts as provided by Order 1190/C/2024 for the approval of the Nomenclature of Specializations of Forensic Technical Expertise, with reference to the economic field.

At the same time, there is a situation where the chartered accountant for the parties agrees with them by concluding a contract for the performance of the expertise, as provided for in the new Code of Civil Procedure. This novelty in the Code of Civil Procedure may have contradictory consequences. Analysing Article 331 of Law no. 134/2010, regarding the

appointment of the technical expert: "(1) if the parties do not agree on the appointment of experts, they shall be appointed by the court, by drawing lots, from the list drawn up and communicated by the local expert's office, including persons registered in its records and authorised by law to carry out judicial expertise (Law no. 134/2010 on the Code of Civil Procedure)", confusion may arise between court-appointed forensic experts and forensic experts proposed by the parties.

The divergences identified in the forensic accounting assignment are:

- how to assign work to forensic experts;
- how to establish the objectives of forensic expertise without the involvement of the court or the forensic expert; in general, the objectives are submitted by one of the parties, either the plaintiff or the defendant, with the other party subsequently submitting objections to the objectives, with implications for the length of the trial.
- lack of transparency in the system for setting the fee and settlement of the costs of the appointed forensic expert, with fees not in line with the workload and costs of expertise not taken into account. In comparison, the expert's fee may be multiplied, but this amount does not appear in the case file;
- complete lack of forensic experts' relationship with the court. The shortcomings of the expert's relationship with the court lead to unjustified delays in trials, poor quality expert results, and numerous criminal proceedings brought against forensic experts by the parties.

The forensic expert is put in the situation of studying the file alone, and having no judicial training, cannot see what is wanted. There are situations when he is sent simplistic, formal objectives that do not contain the problem to be solved. Also, the expert does not receive the action and the documents in the file (often very voluminous), but is obliged to copy them himself, for a fee, without any settlement of expenses.

Regarding the legal knowledge of the judicial experts, although Article 8 of the OG 2/2000 states as clearly as possible that the examination of the judicial technical expert is organized by the Ministry of Justice and has the purpose of verifying the level of knowledge of the future experts in the specialty for which they are applying, the degree of knowledge of the normative acts related to the respective specialty, of the provisions of the civil and criminal procedure codes related to expertise and of other normative acts regulating the activity of judicial technical expertise, the rights and obligations of the experts are not verified. For the forensic accounting expert the test is organised at CECCAR level.

- ✓ Lack of specialisation of magistrates in various technical and economic fields.
- ✓ Constraints/limitations exercised by filing criminal complaints against forensic experts, which do not refer to possible criminal acts, but only if one of the parties is not satisfied with the conclusions of the expert. These complaints have had the effect of intimidating the forensic experts, which has led to the conclusions being altered if objections to the objectives are raised.
- ✓ The professional competence of forensic experts, which implies the harmonious combination and use of knowledge, skills and abilities in order to achieve the results expected in the work, is very different from one field and speciality to another, taking into account that their evaluation is not optimal, as they are assessed at the level of a professional association and not as a whole. Training and further training are insufficient or unrelated to judicial activity, as is the case with CECCAR. With reference to legal knowledge, it is almost non-existent due to the lack of seminars on these topics, with serious implications for the preparation of accurate expert reports. The professional competence of forensic experts which affects the quality of forensic expertise is also due to the deficiencies in the organisation of forensic expertise.

In addition, 10% of the amounts collected by each expert are taken by the Ministry of Justice and deposited in a fund to finance the continuous professional training of legal experts, which creates a strong discontent among them.

- ✓ The lack of an audit of the quality of judicial expertise, an activity which is also included in the regulations of some professional associations.
- ✓ Lack of internal regulations on the classification of non-compliances of the activity of the forensic expert as working hypotheses: negligence in service, abuse of service, forgery. Although these offences are included as offences in the Criminal Code, the forensic expert, in drawing up the forensic report, tries to take advantage of his dependence. Integrity, although required by some regulations of professional associations, is considered one of the fundamental values of representatives of public institutions and authorities, who are obliged to declare any personal interests that may conflict with the objective exercise of their duties and not those of a liberal profession or independent profession. It can happen that the expert's conclusion is wrong because he did not have all the necessary evidence at his disposal, and when he reaches his conclusion, one of the parties or even the court may present other evidence that totally changes the conclusion.
- ✓ Lack of experts specialising in economic areas with current issues. Accountants can only partially cover criminal cases such as public procurement, EU funds etc.

In the same European Commission report under the CVM, it is underlined: "...these shortcomings in the resolution of court cases are very significant in comparison with practice in other Member States. Also, the judiciary has had difficulties in resolving complex financial cases definitively in court. This is particularly the case for cases involving public procurement, as this type of case is an exception to the generally positive trend in high-level corruption cases brought to court. Such cases require from prosecutors and judge's special skills, developed through training, specialisation and external expertise. Under the conditions of a market economy and after our country's entry into the European Union, the internationalisation of accounting and the alignment with International Accounting Standards (IAS/IFRS) has been achieved in Romania.

### 3. CONCLUSIONS

Accounting has had to evolve with Romanian society, to be responsive to changes in the economic, political and social environment, shaping itself according to the requirements of the moment.

After 1989, the Romanian accounting system underwent a continuous process of modifications and changes aimed at facilitating understanding and improving the brevity of accounting operations by harmonising national accounting rules and regulations with international ones in general and European ones in particular.

In Romania, the main legal act that created the legal framework for the application of national accounting standards is the Accounting Law no.82/1991, which is constantly amended and supplemented to align national accounting standards with European Union directives and international accounting standards.

Accounting expertise and chartered accountants have been continuously aligned with the requirements of the National Accounting Standards in order to accurately reflect the actual accounting realities.

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