

# **CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR THE STAFF OF COURT OF ACCOUNTS**

## **General provisions**

**Art. 1** This Code of Ethics and Professional Conduct for the staff of Court of Accounts, herein named the Code, has been drawn up and approved by the plenum of the Court of Accounts, based on the provisions of art. 111, paragraph (1), art. 121 and art. 122 letter j) of Law no. 94/1992, republished, with the subsequent modifications and completions, and shall be enforced on the following categories of staff:

- external public auditors
- civil servants
- contracted staff

**Art. 2** The members of the Court of Accounts shall not fall under the provisions of this Code.

**Art. 3** The provisions of this Code can only be modified and completed by the plenum of the Court of Accounts.

**Art. 4** Any person may fill in a position provided in this Code who cumulatively meets the following requirements:

- a) has a Romanian citizenship and is a resident of Romania;
- b) can speak and write in Romanian;
- c) is at least 18 years of age;
- d) has full ability as required for the appointment to that position;
- e) is in good health and medically suited for the considered position, as certified based on a specialized medical examination;
- f) meets the requirements on professional studies and years of service provided by the law or by the decisions of the plenum of the Court of Accounts for the considered position or specialty;
- g) has not been convicted for an offence that makes the person incompatible with the carrying out of the respective position or activity;
- h) has passed the competitive examination or the examination organized to fill in the considered position.

**Art. 5.** The Court of Accounts shall employ and appoint the staff in keeping with the competence criterion, under the provisions of the law.

## **SECTION ONE**

### **THE CODE OF ETHICS FOR THE EXTERNAL PUBLIC AUDITOR PROFESSION**

**Art. 6.** The Code of ethics shall establish standards of professional conduct for the external public auditors who carry out their activity within the Court of Accounts and sets the basic principles to observe in order to increase the trust in the authority and prestige of the institution.

The ethics and professional conduct standards set by the Code are based upon the role and functions of the activities conducted by the Court of Accounts, as well as upon the individualization of the external public auditor position through characteristics including professional and intellectual skills, acquired following professional training, but also upon the acceptance of a common code of ethical values.

External public auditors shall act according to the provisions of the Romanian Constitution, of the Law on the operation and organization of the Court of Accounts, with its subsequent modifications and completions, of the Regulations on the organization and operation of the institution they are members of and of the other legal provisions regulating the control/external public audit activity.

The Code of ethics for the external public auditor profession shall apply to all hierarchical levels provided in the organization chart of the Court of Accounts.

The ethical and professional conduct that external public auditors shall have mainly involves fulfilling the objectives below:

- a) Credibility of information and of the Court of Accounts as an institution;
- b) Professionalism of external public auditors;
- c) Quality of control/external public audit activity;
- d) Gaining the trust of the controlled/audited entities;
- e) Strengthening the legality of the activities carried out by the examined institutions.

## **Fundamental principles**

**Art. 7.** The following fundamental principles shall be observed to attain the objectives of the external public auditor profession:

**a) Observance of the rule of the Constitution and of the law**, a principle which states that external public auditors shall observe the Constitution and the state laws;

**b) Independence**

The external public auditors of the Court of Accounts shall act free of any interest and shall not be influenced by any personal or external issues which might impact on the activities they conduct.

External public auditors shall not, directly or indirectly, get involved in the activities of the controlled/audited entity, shall not accept any form of salary within the respective entity, shall not borrow any goods or money from them and shall not benefit from services or other kinds of advantages offered by the parties controlled/audited by the Court of Accounts. Furthermore, external public auditors shall not carry out commercial activities, either directly or through intermediaries, and shall not participate in the administration and management of trading companies, enterprises, autonomous administrations, or of public institutions of any kind, of non-governmental organizations or of other entities controlled/audited by the Court of Accounts.

External public auditors shall not be in any situation of conflict of interests or under the influence of parties that might affect their professional judgment or endanger the compliance with this principle.

The following situations are potential risks to the independence of external public auditors:

- An existing situation within the entity which favors a personal interest (employees who are family members and relatives);
- Involvement in differences concerning the activity of the entity which exceed their control/audit assignments and competences;
- Establishment of an informal, friendly atmosphere among the external public auditors and the controlled/audited entity staff;
- Emergence of acts of intimidation by the management and/or staff of the controlled/audited entity.

External public auditors confronted with one of the situations above shall notify their institution management, so that the required steps be taken.

To minimize a potential emergence of risks to independence or of conflicts with the controlled/audited entity, the control/audit team shall, as a rule, consist of at least two external public auditors.

**c) Integrity**

External public auditors shall be correct and honest in the conduct of their professional activity. They shall conduct their assignments and competences in good faith and responsibly and shall not knowingly participate in activities or acts that might bring their position into disrepute.

External public auditors shall comply with the audit standards of the Court of Accounts, in terms of both form and content. They shall also carry out their activity in compliance with the Law on the operation and organization of the Court of Accounts, and with the regulations and procedures governing their activities.

Furthermore, the external public auditors of the Court of Accounts shall have a correct behavior that would rule out any doubt or reproach and shall display a faultless professional conduct.

**d) Objectivity**

The external public auditors of the Court of Accounts shall approach all issues arising in the conduct of their activity in keeping with the situation in fact.

They shall also display fairness and not allow for their activity to fall under external influences or prejudice.

Thus, from the approach of the problems and matters they analyze, the wording of their conclusions included in the control documents/audit reports, to the measures they suggest for the correction of all irregularities or breaches found, external public auditors shall consider the reality, correctness and fairness of the activities carried out by the controlled/audited entity.

**e) Professional competence**

According to this principle, all situations encountered in the conduct of their activity shall be approached based on the professional judgment.

External public auditors shall prove due care, professional competence and diligence, in compliance with the relevant audit standards. Furthermore, they shall keep up their professional knowledge and skills, which would allow them to acquire the latest knowledge on best practices, legislation and techniques. They shall also have the necessary experience for the position, proving their competences and the knowledge of the audit/control methods specific to the Court of Accounts, in order to increase the effectiveness and quality of the activities they conduct.

#### **f) Confidentiality**

The information made available to external public auditors or acquired from other sources during the conduct of their activity is confidential and shall only be disclosed under the terms of the law. The confidentiality of information remains a mandatory requirement subsequent to the cessation of professional relations between external public auditors and the Court of Accounts.

Thus, external public auditors shall exert caution in using and protecting information, which they shall not use unlawfully for personal purposes. Moreover, external public auditors shall not publicly express their opinion regarding ongoing controls/audits.

If, while carrying out an audit/an external public control, external public auditors come across data which constitutes state, commercial or professional secret, they shall observe the secrecy and submit it only to competent authorities.

#### **g) Professional conduct**

External public auditors shall act so as to prevent bringing the work conducted or the institution they represent into disrepute.

Thus, external public auditors shall comply with a series of ethical requirements:

- **morality** in their relations with the persons they come into contact with in the conduct of control/ external public audit;
- **respect and consideration** in all situations, for management, as well as for the other persons they come into contact with;
- **impartiality** in the conduct of their activity. In this respect, after having used the information obtained from the controlled/audited entity, external public auditors shall word their own conclusions in an impartial manner;
- **accuracy and perseverance** in the examination of the controlled/audited issues and in the collection of data. The evidence under examination, the conclusions, the recommendations and the measures proposed shall be complete, clear and truthful. If the controlled/audited entity does not cooperate by providing the information and documents required for conclusions establishment, external public auditors shall be perseverant and consistent in their requests. If they do not manage to obtain the required information and documents, they shall enforce the procedures provided by the law;
- **professional skepticism** in the analysis of the data and information provided by the controlled/audited entity;
- professional and behavioral **responsibility** all along their activity;
- **technical and professional standards**.

External public auditors shall conduct the control/ external audit activity in compliance with the provisions, procedures, techniques and internal regulations in force and at the

same time ensure the connection between attaining the purpose of the control/audit activity and achieving the specific objectives of the Court of Accounts.

**Requirements to fill and conduct the assignments and competences as an external public auditor. Activities incompatible with the external public auditor position**

**Art. 8.** Any person who cumulatively meets the requirements provided under art. 4 of the “General Provisions” in this Code may perform the assignments and competences as an external public auditor.

External public auditors shall not:

- a) be members of political parties or of organizations assimilated to political parties, and shall not carry out any public political activities;
- b) hold any other public or private position, except for academic positions within the educational system. Such functions can only be performed within academic institutions that do not fall under the control/audit competences of the department of the Court of Accounts they work with. Such activities shall only be carried out outside the working hours of the Court of Accounts.
- c) engage in commercial activities, either directly or through intermediaries;
- d) participate in the management or running of other legal persons;
- e) act as experts or arbitrators, appointed by any of the parties, in an arbitration procedure;
- f) publicly and groundlessly make accusations, complaints, slanders or anything similar against colleagues, management or subordinates;
- g) allow that their position be used for commercial advertising, publicity or propaganda of any kind; they shall not accept money, goods or undue gains for themselves or other persons;
- h) get involved in any activity or act which might be detrimental to the image and prestige of the Court of Accounts or to the dignity of their position.

External public auditors shall not be hierarchically subordinated to other external public auditors who are their spouses or their direct kin. Should an external public auditor be in such a situation upon this Code coming into force, he/she shall immediately notify the management of the Court of Accounts, so that the required measures be taken.

**The attitude towards controlled/audited entities**

**Art. 9.** In their relations with controlled/audited entities, external public auditors shall:

- a) demonstrate politeness, respect and availability towards the issues confronting the entity and shall consider the latter an equal partner;

b) give due consideration and time to the discussions with the persons mandated by the entity, in order to correctly ground their findings on all the arguments and evidence submitted by the latter;

c) give the controlled/audited entity a reasonable amount of time to provide the requested information and documents, except in cases where these must be immediately produced;

d) request the representatives of the controlled/audited entity to clarify any issues on which auditors judge additional information is necessary;

e) independently establish and submit their opinion on the issues found, and state their opinion in a sincere and concise manner, expressing, if such is the case, their reserves towards the arguments they have been presented;

f) ensure equality of treatment and not discriminate on account of nationality, sex, origin, race, ethnicity, handicap, age, religion or political beliefs;

g) demonstrate seriousness, professionalism and respect towards the persons they have work relations with;

h) be prompt in carrying out their assignments and avoid extending unnecessarily and subjectively the control/audit timeframe;

i) observe the intimacy, family and private lives of the persons they have work relations with.

### **Conduct within the framework of international relations**

**Art. 10.** External public auditors who represent the Court of Accounts within international organizations, at conferences, seminars and other international events shall promote a favorable image of the country and of the Court of Accounts.

In the context of these relations, external public auditors shall not express personal opinions regarding national issues or international disputes.

When traveling for business, external public auditors shall conduct themselves in keeping with all protocol rules and shall observe the laws of the hosting country.

### **Rights and obligations of external public auditors, professional support and work environment**

**Art. 11.** External public auditors benefit from:

a) the protection of the law in the conduct of their work assignments and competences. Upon grounded request by external public auditors, the Court of Accounts may ask the competent authorities to ensure their protection against threats, violence and insults;

b) the right to their opinions and stability within the institution and within the limits of the law ;

c) support for their continuous professional training and enhancement. Whenever their training exceeds 60 days and during this period external public auditors receive their due salaries, they shall make a formal written commitment stating that they will work with the Court of Accounts for a three year period. In case this formal commitment is not observed, auditors shall bear the expenses incurred in proportion to the amount of time left until expiry of the set deadline. These provisions shall not be enforced in case work relations are terminated for reasons not attributable to external public auditors;

d) support from their line managers in clarifying and settling any differences emerging in the development of professional and work relations;

e) in grounded cases, defense in court for litigations resulting from their professional activity in relation with the controlled/audited entity, provided by the institution;

f) proper work conditions that will protect their health and physical integrity, as well as the necessary workspace, equipment and logistics;

g) respect for their intimacy, family and private life.

**Art. 12.** The external public auditors of the Court of Accounts shall:

a) promote, within the structure they are members of, relations based on responsibility, loyalty, mutual respect, collaboration and professional support;

b) carry out their work assignments within their competences and assigned responsibilities;

c) always act in a manner that will not negatively impact the image of the institution;

d) observe internal regulations concerning the drawing up, circulation and archiving of documents;

e) use all internal, amicable and available ways to settle conflicts with the institution whenever these are about to arise, so as to avoid any litigations;

f) observe and fulfill all the other obligations provided in the Regulations on the operation and organization, the procedures and internal regulations of the Court of Accounts;

g) respect the intimacy, family and private life in their work relations.

**Art. 13.** External public auditors can organize themselves into professional associations aiming at the promotion and development of external public audit, the improvement of their professional training, the increase of the prestige of their profession and the insurance of the cooperation with similar institutions in Romania and abroad.

## **Sanctions and liabilities**

**Art. 14.** The conduct of the external public auditors of the Court of Accounts shall comply with the requirements of the Law no. 94/1992 on the organization and operation of the Court of Accounts, republished, with the subsequent modifications and of this Code. Failure to observe these provisions is a breach and shall result in the enforcement of disciplinary measures and the bearing of legal consequences.

Any guilty act perpetrated in relation to the activity performed and consisting in an act or omission which infringes law or any other regulations or internal rules issued by the management of the Court of Accounts is an act of misbehavior.

**Art. 15.** The following are acts of misbehavior:

- a) systematical delaying or repeated negligence in the submission of timely and quality work;
- b) absences without leave from work;
- c) conduct of assignments and competences outside the legal framework or failure to carry out the assignments and competences provided by law;
- d) non-observance of professional secrecy and confidentiality of the information obtained during the conduct of assignments and competences and disclosure of such to persons other than the legally entitled ones, or use of such secrets and information in an unlawful manner;
- e) publicizing (in newspapers, on television or radio etc.) their controls/audits findings or those they are aware of;
- f) acts detrimental to the prestige and authority of the institution or to the professional honor and integrity;
- g) interference or insistence that certain issues be settled outside the legal framework;
- h) unjustified refusal to carry out assignments and competences;
- i) superficiality in the conduct of assignments and competences;
- j) non-compliance with order and discipline requirements;
- k) breach of the principles grounding the conduct of external public auditors assignments and competences;
- l) expression of political opinions and beliefs, as well as participation in activities or political public events;
- m) breach of other professional obligations set out by this Code.

**Art. 16.** Enforceable disciplinary sanctions for the above breaches can be as follows, depending on their respective severity:

- a) written warning;
- b) suspension of the individual employment contract for a period of ten days at most;
- c) demotion and payment of the salary corresponding to the position which the auditor has been demoted to, for a period of 60 days at most;

- d) a 5 - 10 % cut of the monthly salary for a period of one to three months;
- e) termination of the individual employment contract on disciplinary grounds.

**Art. 17.** A single sanction shall be enforced for the same act of misbehavior. Disciplinary sanctions shall be enforced in proportion to the seriousness of the act of misbehavior by the external public auditor, considering the following:

- a) the circumstances in which the act has been done;
- b) the extent of guilt of the concerned party;
- c) the consequences of the act of misbehavior;
- d) the general conduct of the guilty party within his/her department;
- e) whether the concerned party has previously been sanctioned on disciplinary grounds.

**Art. 18.** The disciplinary sanctions above shall be enforced by the president of the Court of Accounts following a notification made by:

- a) the director of the Chamber of Accounts of Bucharest Municipality, in the case of external public auditors subordinated to the former;
- b) the counselors of accounts, in the case of external public auditors working with the department coordinated by the former, as well as in that of directors of territorial units coordinated by them.

**Art. 19.** Disciplinary sanctions may only be enforced subsequent to a disciplinary investigation, except for the one provided under art. 16 letter a) of this Code.

The president of the Court of Accounts shall order the setting up of a special committee of three to five members for the purpose of a disciplinary investigation. This committee shall notify the concerned party in writing on the reason, date and hour of the interview.

Should the party convened under the terms provided above fail to appear, the commission has grounded reasons to launch the disciplinary proceedings in the absence of the guilty party.

During the prior disciplinary investigation, external public auditors are entitled to legal assistance/representation by a lawyer, to formulate and plead their defenses and to provide the special committee with all the evidence and motivations deemed necessary.

Disciplinary sanctions shall be enforced by the president of the Court of the Accounts for the breaches previously mentioned in this Code, upon proposal by the special committee having conducted the prior disciplinary proceedings.

The president of the Court of Accounts shall rule the enforcement of the disciplinary sanction by a written order, within 30 days as of conclusions submission by the special committee, but no longer than six months as of the breach date.

Under the sanction of absolute nullity, the order shall mandatorily include:

- a) the description of the act of misbehavior;
- b) the listing of the legal provisions or internal regulations which have been infringed;
- c) the reasons why the defense formulated by the external public auditor has been rejected during the prior disciplinary investigation or the reasons why an investigation has not been carried out;
- d) the legal grounds on which the disciplinary sanction shall be enforced;
- e) the timeframe to appeal the sanction;
- f) the competent appeal instance.

The concerned auditors shall be personally notified of the sanctioning order within five days as of issuance. The sanctioning order shall be effective as of notification date.

Notifications shall be handed to external public auditors, who shall sign for receipt or, in case the latter would not receive it, they shall be sent by registered letter to the domicile or residence provided.

External public auditors can appeal the enforced disciplinary sanction with the plenum of the Court of Accounts, within 15 days as of notification.

Based on the documentation drawn up following the analysis by the specially appointed commission and on the proposals it formulated, the plenum of the Court of Accounts shall maintain or annul the enforced sanction.

A sanctioning order maintained by the plenum of the Court may be appealed with the competent instances within 30 calendar days as of notification of the plenum decision.

**Art. 20.** As of criminal proceedings launching date, external public auditors shall be suspended by law from their positions. In the case of a final sentence, external public auditors shall be removed from office by law and in case of an acquittal, the suspension shall cease.

## SECTION TWO

### THE CODE ETHICS AND PROFESSIONAL CONDUCT FOR THE CIVIL SERVANTS AND THE CONTRACTED STAFF OF THE COURT OF ACCOUNTS

**Art. 21.** The ethics and professional conduct standards provided by this Code are mandatory for the civil servants and contracted staff of the Court of Accounts.

The purpose of an ethical and professional conduct is to further the work quality, to ensure a sound management of work assignments and competences and entails the attainment of the following objectives:

- a) credibility of information and of the Court of Accounts, as an institution;
- b) professionalism in the conduct of work assignments and competences;
- c) quality of the work performed.

#### General principles

**Art. 22.** The principles governing the professional conduct of the civil servants and of the contracted staff of the Court of Accounts are the following:

**a) observance of the rule of the Constitution and of the law**, a principle which states that civil servants and contracted staff shall observe the Constitution and the state laws;

**b) professionalism**, according to which civil servants and contracted staff shall conduct their work assignments and competences in a responsible, competent, efficient, correct and conscientious manner;

**c) impartiality and non-discrimination**, according to which civil servants and contracted staff shall have a neuter and objective attitude towards any political, economic, religious or other interest in the conduct of their work assignments and competences;

**d) moral integrity**, according to which civil servants and contracted staff shall neither request nor accept, directly or indirectly, in their own interest or in the interest of other parties, any advantage or benefit based on their position, or take undue advantage their position in any way;

**e) freedom of thought and freedom of speech**, according to which civil servants and contracted staff may express and ground their opinions in keeping with the rule of law and with the principles of morality;

**f) honesty and correctness**, according to which civil servants and contracted staff shall prove good faith and act so as to fulfill work assignments and competences.

## **General standards of professional conduct for civil servants and contracted staff**

### **Art. 23. Conduct of quality professional work**

In the conduct of their function, civil servants and contracted staff shall have a professional conduct and ensure administrative transparency, according to the law.

### **Art. 24. Observance of the rule of the Constitution and of the law**

Civil servants and contracted staff, by means of their acts and deeds, shall observe the Constitution, the Romanian laws and shall act to enforce the legal provisions, in line with their assignments and competences and with professional ethics.

### **Art. 25. Loyalty to the Court of Accounts**

Civil servants and contracted staff shall loyally defend the prestige of the Court of Accounts and shall abstain from any act or deed which may be detrimental to the image or legal interests of the Court.

Civil servants and contracted staff shall not:

- a) disclose information which is not public in conditions other than those provided by law;
- b) make unauthorized remarks regarding litigations in the process of settlement and in which the Court of Accounts is a party;
- c) disclose information which they come across in the conduct of their assignments and competences;
- d) provide assistance and consultancy to natural or legal persons to launch legal proceedings or other type of actions against the Court of Accounts or regarding its activity.

The provisions of letters a) to c) shall also apply after the termination of work relations, for a period of two years.

Disclosure of non public information or submission of documents containing such information upon request by any natural or legal person shall only be allowed upon approval by the president of the Court of Accounts.

The provisions of this Code shall not be interpreted as a derogation from the legal obligation that civil servants and contracted staff have to provide information of public interest to concerned parties, under the terms of law.

## **Art. 26. Freedom of opinion**

In carrying out their assignments and competences, civil servants and contracted staff shall consider the dignity of their position, correlating the freedom of dialogue with the promotion of the interests of the Court of Accounts.

In the conduct of their activity, civil servants and contracted staff shall observe the freedom of opinion and shall not allow themselves to be influenced by personal or by popularity issues. When expressing their opinions, civil servants and contracted staff shall have a conciliating attitude and shall avoid conflicts which may arise in the exchange of opinions. They shall also show respect for the intimacy, family and private life of all persons they have professional relations with.

## **Art. 27. Public activity**

Relations with media channels shall be ensured by the staff specially appointed by the president of the Court of Accounts, under the terms of the law.

Civil servants and contracted staff officially appointed to participate in public activities or debates shall observe the limits of the representation mandate entrusted to them by the Court of Accounts.

If not especially appointed by the Court of Accounts for such purposes, civil servants and contracted staff may participate in public activities or debates provided they state that the opinions they express do not represent the official viewpoint of the Court of Accounts.

## **Art. 28. Political activity**

In the conduct of their assignments and competences, civil servants and contracted staff shall not:

- a) participate or collaborate in the collection of funds for political parties or for bodies assimilated to political parties;
- b) provide logistic support to candidates running for public offices;
- c) wear within the Court of Accounts insignia or any objects bearing the inscription of political parties or of bodies affiliated to political parties or of their candidates.

## **Art. 29. Use of own image**

Considering their position, civil servants and contracted staff shall not allow the use of their own name or image in advertising contexts or to promote commercial activities or for electoral purposes.

### **Art. 30. The relations framework in the conduct of assignments and competences**

In the relations with the Court of Accounts staff, as well as with legal or natural persons, civil servants and contracted staff shall have a respectful, correct, polite conduct and shall act in good faith.

Civil servants and contracted staff shall not act in a manner detrimental to the honor, reputation and dignity of the staff of the Court of Accounts who they come into contact with, in the conduct of their assignments by:

- a) using offensive language;
- b) disclosing private issues;
- c) making slanderous claims or complaints;
- d) failing to adopt an impartial and justified attitude to clearly and effectively settle the issues devolving from the conduct of their assignments.

### **Art. 31. Conduct in the context of international relations**

Civil servants and contracted staff who represent the Court of Accounts within international organizations, academic institutions, at conferences, seminars and other such international events shall promote a favorable image of their country and of the Court of Accounts.

In such instances, civil servants and contracted staff shall not express personal opinions on state issues or on international disputes.

When traveling abroad, civil servants and contracted staff shall conduct themselves in accordance with all protocol rules and with the laws of the host country.

### **Art. 32. No gifts, services and benefits**

Civil servants and contracted staff shall neither request nor accept gifts, services, favors, invitations or any other kind of benefits related to the conduct of their assignments and competences.

### **Art. 33. Involvement in decision-making**

Civil servants and contracted staff shall act according to law and shall use their judgement in a grounded and impartial manner in the decision-making process.

Civil servants and contracted staff shall not promise that the Court of Accounts, other civil servants or/and contracted staff will make certain decisions or that they will carry out assignments and competences in a privileged manner.

#### **Art. 34. Objective assessment**

In the conduct of managerial assignments, civil servants and contracted staff shall ensure their subordinated staff equality of chances and treatment for career development in the public or contracted positions.

Managing civil servants and contracted staff shall objectively examine and enforce the professional competence assessment criteria relating to subordinated staff, when proposing promotions, transfers, appointments and release from duties or the granting of moral or material incentives, ruling out any form of favoritism or discrimination.

Managing civil servants and contracted staff shall not favor or disfavor the access or promotion to a public or contracted position by discriminating on account of kinship or affinity or according to any other criteria which infringe the principles provided by this Code.

#### **Art. 35. Use of public authority prerogatives**

Civil servants and contracted staff shall not use the prerogatives of their position for purposes other than those provided by the law.

Considering the nature of their position, civil servants and contracted staff shall not pursue personal benefits or advantages and shall not cause financial or moral damage to other persons.

Civil servants and contracted staff shall not use their official position or the relations they have established in the conduct of their activities to interfere with internal or external investigations or to influence the decision-making process.

Civil servants and contracted staff shall not make other civil servants or contracted staff enroll into organizations or associations, regardless of the nature of said organizations and associations, or even suggest it, by promising financial or professional advantages.

#### **Art. 36. Use of public resources**

Civil servants and contracted staff shall ensure the protection of the state public and private property under the management of the Court of Accounts or part of its patrimony and shall avoid causing any damages by permanently acting as a rightful owner.

Civil servants and contracted staff shall use the work hours and the goods belonging to the institution only for the purpose of carrying out the assignments and competences related to the position they hold within the institution.

Civil servants and contracted staff shall propose and ensure, according to their assignments and competences, the appropriate and efficient use of public money, in keeping with law.

Civil servants and contracted staff who perform publishing work or didactic activities on their own behalf shall not make use of the institution working hours or logistics to carry out such activities.

### **Art. 37. Involvement in procurement, grant or lease procedures**

Civil servants or contracted staff may procure goods privately owned by the state and belonging to the patrimony of the Court of Accounts, which are subject to a sale under the terms of law, except when:

- a) informed, be it during or as a result of carrying out their assignments and competences, of the value and quality of the goods to be sold;
- b) during the carrying out of their assignments and competences, they have been involved in the organization of the respective goods sale;
- c) they can influence the sale operations or when they have obtained information which the persons interested in acquiring such goods cannot access.

Civil servants and contracted staff shall not provide, under terms other than those provided by the law, information on the goods publicly or privately owned by the state, which are managed by the Court of Accounts or belong to its patrimony and which are subject to sale, granting or leasing procedures.

## **Sanctions and liabilities**

**Art. 38.** Breach of this Code of conduct shall result in the disciplinary liability of civil servants and contracted staff, under the terms of the law. The following are acts of misbehavior:

- a) systematically being late in carrying out assignments and competences;
- b) repeatedly being negligent in carrying out assignments and competences;
- c) absence without leave from work;
- d) repeatedly failing to observe working hours;
- e) intervening or insisting that certain requests be settled outside the legal framework;
- f) failing to observe professional secrecy or confidentiality of work falling under this category;

- g) acts or attitudes detrimental to the prestige of the Court of Accounts;
- h) carrying out activities of a political nature during working hours;
- i) refusing to carry out assignments and competences;
- j) infringing legal provisions on duties, incompatibilities, conflicts of interest and interdictions, set by law for civil servants;
- k) infringing other obligations provided by Section two of this Code.

**Art. 39.** Civil servants liable of the breaches provided under art. 38 shall be sanctioned as follows:

- a) written reprimand;
- b) a 5 - 20% cut of the monthly salary, for up to three months;
- c) suspension of the right to salary upgrading or, according to case, of the right to be promoted within the public office, for one to three years;
- d) salary downgrading or demotion from public office, for up to a year;
- e) removal from the public office.

**Art. 40.** Contracted staff within the Court of Accounts liable of the breaches provided under art. 38 shall be sanctioned as follows:

- a) written warning;
- b) suspension of the individual employment contract, for ten working days at most;
- c) demotion and payment of the salary corresponding to the position which the member of the contracted staff has been demoted to, for 60 days at most;
- d) a 5 - 10% cut of the basic salary, for one to three months;
- e) a 5 - 10% cut of the basic salary and/or, according to case, of the management emolument, for one to three months;
- f) termination of the individual employment contract on disciplinary grounds.

**Art. 41.** A single sanction shall be enforced for the same act of misbehavior.

Disciplinary sanctions shall be enforced in proportion to the seriousness of the act of misbehavior by the external public auditor, considering the following:

- a) the circumstances in which the act has been done;
- b) the extent of guilt of the concerned party;
- c) the consequences of the act of misbehavior;
- d) the general conduct of the guilty party within his/her department;
- e) whether the concerned party has previously been sanctioned on disciplinary grounds.

**Art. 42.** Disciplinary sanctions may only be enforced subsequent to the conduct of disciplinary proceedings, except for the one provided under art. 40 letter a) of this Code.

The disciplinary sanction shall be enforced by the president of the Court of Accounts, following notification by the secretary general.

The president of the Court of Accounts shall order the setting up of a special committee, of three to five members, for the purpose of a disciplinary proceedings conduct. This committee shall notify the concerned party in writing on the reason, date and hour of the interview.

Should the party convened under the terms provided above fail to appear, the commission has grounded reasons to launch the disciplinary proceedings in the absence of the guilty party.

During the prior disciplinary proceedings, civil servants and contracted staff shall be entitled to legal assistance/representation by a lawyer, to formulate and plead their defenses and to provide the special committee with all the evidence and motivations deemed necessary.

Disciplinary sanctions shall be enforced by the president of the Court of the Accounts, upon proposal by the special committee having conducted the prior disciplinary proceedings.

The president of the Court of Accounts shall rule the enforcement of the disciplinary sanction by a written order, within 30 days as of conclusions submission by the special committee, but no longer than six months as of the breach date.

Under the sanction of absolute nullity, the order shall mandatorily include:

- a) the description of the act of misbehavior;
- b) the listing of the legal provisions or internal regulations which have been infringed by civil servants or contracted staff;
- c) the reasons why the defense formulated by civil servants or contracted staff has been rejected during the prior disciplinary investigation or the reasons why an investigation has not been carried out;
- d) the legal grounds on which the disciplinary sanction shall be enforced;
- e) the timeframe to appeal the sanction;
- f) the competent appeal instance.

The concerned persons shall be personally notified of the sanctioning order within five days as of issuance. The sanctioning order shall be effective as of notification date.

Notifications shall be handed to civil servants and contracted staff, who shall sign for receipt or, in case the latter would not receive them, they shall be sent by registered letter to the domicile or residence provided.

Civil servants and contracted staff can appeal the enforced disciplinary sanction with the plenum of the Court of Accounts, within 15 days as of notification.

Based on the documentation drawn up following analysis by the specially appointed commission and on the proposals it formulated, the plenum of the Court of Accounts shall maintain or annul the enforced sanction.

A sanctioning order maintained by the plenum of the Court can be appealed with the competent instances within 30 calendar days as of notification of the plenum decision.

**Art. 43. (1)** The disciplinary sanctions provided under art. 39 for civil servants shall be stricken off by law as follows:

- a) the disciplinary sanctions provided under art. 39 letter a) - within six months as of enforcement,
- b) the disciplinary sanctions provided under art. 39 letters b) to d) - within one year as of expiry of the enforcement term;

**(2)** Sanctions striking off shall be ascertained by an order of the president of the Court of Accounts, upon request by the civil servant.

**Art. 44.** If the acts qualify as offences, the competent law enforcement bodies shall be notified, in conformity with the law.

**Art. 45.** As of criminal proceedings launching date, civil servants and contracted staff shall be suspended by law from their positions. In the instance of a final sentence, they shall be removed from office by law and in case of an acquittal, the suspension shall cease.

**Art. 46.** Section two of this Code shall be completed with the provisions of Law no. 188/1999 on the Statute of Civil Servants, of Law no. 7/2004 on the Code of Conduct for Civil Servants, as well as with those of Law no. 477/2004 on the Code of Conduct of the contracted staff within public authorities and institutions.

### **SECTION THREE FINAL PROVISIONS**

**Art. 47.** The provisions of this Code shall be completed with the provisions of the Law no 53/2003 on the Labor Code, with the subsequent modifications and completions and shall come into force within 30 days as of approval by the plenum of the Court of Accounts.

Within 10 days as of approval by the plenum, this Code shall be made known to the interested parties. The Code shall be distributed to all employees of the Court of Accounts, who shall take cognizance of it. All departments of the Court of Accounts and the territorial offices shall be involved in this process.

The heads of the departments within the Court of Accounts, of the territorial offices, as well as those of the General Secretary's Office shall take all necessary measures, so that within 20 days as of receipt of the Code, the General Secretary's Office – Human Resources Department be submitted a list containing all the signatures of the Court of Accounts employees who are governed by the provisions of this Code and who shall confirm they have taken cognizance of its contents.

Failure to timely submit this list or refusal to sign for acknowledgment within the set timeframe shall be an act of misconduct and shall be sanctioned according to this Code.

Upon appointment to a position governed by this Code, the General Secretary's Office shall notify of its provisions all employees concerned, who shall sign for acknowledgement.

**Art. 48.** Upon expiry of the 30 day term provided under art. 47 above, the General Secretary's Office shall inform the plenum of the Court of Accounts on the fulfillment of the obligations involving distribution and cognizance taking of this Code.