QUALITY AUDITING OF JUDICIAL ACCOUNTING EXPERTISE REPORTS

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Abstract: *The motivation for researching this topic concerns aspects such as: the wide and individualized spectrum of accounting expertise reports makes it almost impossible to meet two identical papers in practice, and the approach of each issue is subjective, each accounting expert leaving his / her own personal imprint on the report, in the same way that the author of a book has his own literary style. The judicial practice has shown so far that there are different opinions coming from directions regarding the final result, materialized in an accounting expertise report. Aspects such as the elaboration of an accounting expertise report cross the border of the economic field and intermingle with the legal field, it is necessary that, in practice, the accounting experts need to acquire legal knowledge, in addition to the financial-accounting knowledges and to reach the elaboration of a useful work to all interested parties: justice, parties in process, interested third parties. The study purpose is to present the necessity of improvement of accounting expertise reports considering the role in the Romanian judicial system.*

Keywords: quality auditing, accounting expertise report, accounting experts, judicial practice

JEL Codes: K15, K41, M41, M42

Introduction

Expertise in general is performed by a professional accountant who is also an accounting expert and a member of the Body of Accounting Experts and Authorized Accountants of Romania (C.E.C.C.A.R.). His or her job is to answer the beneficiary's questions in regard to a particular case, issue or dispute.

The accounting expertise is a mission of the accounting profession, which can be performed only by the persons who have acquired the quality of accounting expert according to the law (GEO 65/1994), registered with a certificate to currently exercise the profession through the Body of Accounting Experts and Authorized Accountants of Romania (CECCAR), a Board updated every year by CECCAR.

The accounting expertise covers only the economic-financial side of the facts and circumstances subject to the expertise, any other side (legal, technical, etc.) not falling within the competence of the accounting expert.

The beneficiaries of the accounting expertise works are all of a jurisdiction's laws that dispose of the judicial accounting expertise works (in the case of judicial accounting expertise) or companies and persons who have requested them (in the case of the extrajudicial accounting expertise works).

Who is the judicial accounting expert?

The judicial accounting expert is a person, member of the Body of Accounting Experts and Authorized Accountants of Romania (abbreviated C.E.C.C.A.R.) who performs his activity based on the annual certificate to exercise the profession and who is part of the Judicial Expert Group, an

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annual list communicated by CECCAR to the Ministry of Justice. Based on continuous professional training and practical experience, the forensic accounting expert provides services in support of the Justice bodies that have ordered these works, for which he or she receives a fee.

Obligations of the judicial accounting expert in relation to the justice bodies

The judicial accounting expert is obliged to receive the judicial accounting expertise, to submit it on time, to respond to any objections, to carry out the supplement if this aspect is requested and to be present in the council chamber when it is cited.

Obligations of the judicial accounting expert in the professional organization of which he or she is a member

The judicial accounting expert is obliged to comply with obligations towards CECCAR, to carry out continuous professional training, to respect the rules issued by CECCAR and to submit to the quality audit, the judicial accounting expert report, before submitting it to the Court, with compliance with the legal terms.

Quality audit of judicial accounting expertise reports

The accounting experts, in carrying out the work of judicial accounting expertise, have the obligation to respect and apply the provisions of the professional organization to which they belong (CECCAR), norms provided by the Professional Standard no. 35 - "Accounting expertise" and regulations stipulated in the "Book of the quality auditing in the field of accounting services", to present the expert report, which also includes the separate opinions of the party experts, as the case may be, to be subject to the quality audit.

Auditing the judicial accounting expertise before submitting it to the jurisdiction's law that requested it involves the verification of the following elements:

- studying the expert report presented at the quality audit and the separate opinions of the accounting experts of the parties, as the case may be, if:
    - in the elaboration of the paper, the authors accounting experts respected the provisions of the Professional Standard no. 35 "Accounting expertise";
    - the objectives set have been treated properly, and the answers given have been supported by documents and documents related to the cause;
    - the authors of the paper did not depart from the science of accounting, proceeding to legal assignments of the facts or to carrying out works and operations which involve knowledge other than accounting;
    - answers to questions / conclusions are supported by legal provisions or regulations in the field;
    - the authors of the paper complied with the provisions of the "National Code of Professional Ethics of Accountants" elaborated by CECCAR;
- verification of the independence of the accounting expert in relation to the cause and the mandate received on the basis of the statement given on his own responsibility and signed by the accounting expert.

Using only the law, accounting science, professional standards and norms, the quality auditor can request the authors of the judicial accounting expertise to review them according to the observations made.

The presentation of the judicial accounting expertise in order to carry out the quality audit generates two situations:

1. if there are no comments or if the works are rebuilt, the quality auditor will apply on the first page of the analyzed expertise the rectangular auditing stamp regarding the fulfillment of the Professional Standard no. 35, will sign and apply the stamp of the quality auditor;

2. if the works are not rebuilt, the quality auditor will attach to the analyzed paper the report (the original copy) containing his observations for information and submit it to the jurisdiction's law that requested it, for a decision.

After carrying out the quality audit, the report of judicial accounting expertise is submitted to the court that disposed the expertise. The judicial accounting expertise report submitted to the court that ordered the expertise must carry on the first page the rectangular stamp and the signature of the quality auditor, as well as the stamp of the quality auditor and, if applicable, be accompanied by the report of the quality auditor.

At the level of Alba county, the situation of the judicial accounting expertise presented for the quality audit in 2016-2018 was as follows:

Year	Reports		Incompatibility statements		Remaked reports	Reports prepared
	Civil	Penal	Granted	Not granted		
2016	102	14	144	1	7	7
2017	104	12	142	1	11	2
2018	99	13	142	3	4	4

Data interpretation:

- the relevant weight of the judicial accounting expertise reports is in civil cases
- the difference between the number of statements given by the accounting experts and the number of the audited forensic accounting reports verified is due to the fact that there were reports in which, besides the experts appointed by the court, there were also experts recommended by the parties who completed these statements.
- the number of reports remade intervenes as a result of the observations of the quality auditor regarding the form and / or the content of the expert report, the way of writing the conclusions (clear, concise, succinct)
- reports prepared come from the fact that as a result of the deficiencies found, the authors did not proceed to restore the works. These reports have been prepared with responsibility and caution, considering that these reports reach the court, but also to the boards of CECCAR subsidiaries, for making decisions.

Regarding the current case, it should be mentioned that being a punctual county statistics, it should be taken into account that, in general, the law courts call for the appointment of judicial accounting experts from the county in which the court is, except where the parties request and the court agrees with the appointment of experts from other counties. As for the party experts, they may be from the county or from other counties, the choice being of the party they represent as an expert party, based on the contract concluded. The party experts are subject to the same rules and norms elaborated by CECCAR, participating with the appointed expert in the elaboration of the judicial accounting expertise report, in which the part-expert can express a separate opinion, if necessary.

The judicial accounting expert report presented in order to obtain the quality audit visa, must include, in addition to the opinion of the appointed accounting expert(s) the opinion of the party expert(s), opinion included in the report or annexed to it.

The current practice shows that the working method agreed by all the accounting experts involved and materialized in establishing a common work program, often leads to situations in which, in order to maintain the confidentiality of the data, the appointed expert does not agree with making available to the expert part of the whole report, but only of the conclusions, following which the party expert will either proceed with the transmission of a separate opinion or a separate report.

The big drawback is that a large number of authors, most often, is the reason for issuing different opinions, which thus complicates the work of the professional accountants involved. Such

situations often lead to the preparation of non-compliant works, which are either subsequently modified or are accompanied by the report.

In verifying the report of judicial accounting expertise, both the form and the content conditions are followed. If, in terms of the form conditions, things seem to be simpler (structure of the report, insertion of separate opinions of the party experts, quoting the parties if the law expressly stipulates this obligation, etc.), regarding the content conditions follow aspects such as: the expert's answers to the different questions not to be contradicted, the answers to be clear, concise and unequivocal, the accounting expert, through the answers they provide not to proceed with the legal classification of some facts or to decide on the intentions of some people, personal appraisals regarding the quality of documents, accounting records or other persons, etc. By the way they are sometimes expressed some objectives are not correctly formulated, because the accounting expertise has to decide on accounting records, events and accounting transactions. In these situations, it is necessary to clarify the objectives set by the court before carrying out the work of judicial accounting expertise, as it is preferable to avoid the situation of producing reports impossible to make or not providing an answer to such questions.

The necessity of auditing the quality of the judicial accounting expertise consists in performing quality work by all the members of the Body of Accounting Experts and Authorized Accountants in Romania, being a problem of professional prestige, both of each accounting expert and of the liberal accounting profession as a whole.

Some deficiencies, especially in the line of judicial accounting expertise, were noticed both by the beneficiaries of the judicial accounting expert report's, but also by the accounting experts providing such works.

In summary, the judicial courts benefiting from the judicial accounting expertise reports claim:

- The accounting experts do not respond in some cases completely and clearly to the objectives set, do not make clear conclusions.
- In other cases, they exceed their competence, formulating legal answers to some questions.
- Experts respond to requests or submit delayed accounting reports, for different reasons, more or less well founded.

To counterweight, accounting experts claim:

- The courts, in many cases, do not set the clear objectives of the expertise, but send the expert the questions asked by the parties involved, and these are biased and unclear.
- Too short deadlines are set in relation to the volume of work required to solve the questions asked in some cases.
- The provisional fee is not established in relation to the period of expertise and the volume of documents to be examined to answer the questions asked, and the accounting expert is not consulted in this regard.
- The appointment of the accounting experts is made preferential and does not take into account the professional competence of the expert on the branches of activity in which it was formed, respectively the specializations for which it has opted as a judicial accounting expert.

In order to remove such shortcomings, CECCAR has taken the following initiatives:

- elaborated the Professional Standard no. 35: Accounting expertise, as well as the application guide of this standard.
- organized the auditing activity of the quality of the judicial accounting expertise works, through quality auditors, employed within each CECCAR subsidiary.
- elaborated the Regulation on the quality audit in the field of accounting services and its application guide, which also includes the methodology of verifying the judicial accounting expertise reports.

In carrying out the judicial accounting expertise, the accounting expert is a third party in the process, bringing in this capacity a contribution to the establishment of the truth by the law bodies (courts, criminal investigation bodies).

From the point of view of the quality of the work carried out, in terms of the way of documenting and scientific basis of the report, the law enforcement courts can and often sanction these deficiencies, leading to the replacement of the accounting expert and the carrying out of a new judicial accounting expert work by another expert. In this situation, if the new expertise reaches different conclusions from the first one, the legal court who requested the work has the possibility to consider the report one that considers the most scientifically based, respectively of better quality.

Judgments regarding the poor quality of the judicial accounting work can lead to the objections of the report being made, objections that are usually, to the extent possible, requested to the author (s) of the report. These objections agreed by the court refer to the clarification of the answers given by the expert in the report submitted. As a result, the answer to the objections is not subject to the CECCAR quality audit and does not respect the form of a judicial accounting expert report. When a supplement to the judicial accounting expertise report is approved, it is subject to the same rules as the initial report, being subject to the CECCAR quality audit, since the supplement contains the answer to new objectives, which were not found in the initial report.

Even if the judicial accounting expert report is verified from the point of view of the CECCAR norms and receives the quality audit visa, before being submitted to the beneficiary court, this quality assistance certification does not give the conclusions of the judicial accounting expertise an absolute probative force. Capitalization of the judicial accounting expertise has its purpose to the appropriation of its conclusions by the beneficiary court. In order to fulfill its role, the report of accounting expertise aims to recognize the contribution to the solution of the case and to consider by the law court the conclusions of this work.

Conclusion

Assessing the audit activity carried out in recent years, it is worth noting that the regulations in the field, professional and legal, cannot cover all aspects encountered in current practice and a unitary approach at the country level is difficult to achieve.

Legislative changes are currently required in support of the judicial accounting expert, as well as in the case of other experts, regardless of their specialty (technical, economic, fiscal, topographic, etc.), corroborated with the updated professional rules, based on the practical situations encountered.

A first step was taken by facilitating access to the court's electronic files, which allows the forensic accounting expert to study the files in front of the computer without having to move to the court's archives during the program where it is functional, but issues such as: number limited scanned documents, duplicate scanned documents or lack of scanned documents, etc. thus, it makes a service that, in fact, has been expected with great interest, to be too little or not at all useful in the activity carried out by the judicial accounting experts.

The role of the quality audit is to ensure the submission to the courts reports with a high quality level, well-founded and respecting the professional norms.

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