

Legal audit: comparison between France, the United States and Algeria

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Keywords

Legal audit, Statutory audit, Regulation, Audit standards, Mandate, Control.

Abstract

The statutory audit or auditorship consists in certifying the accounts of a company to ensure the sincerity, the regularity and the faithful image of the information provided in the financial statements established under the responsibility of the managers of the entity, the objective of this article is to make a comparison between legal audit in France, the United States and Algeria with the aim of situating the Algerian audit model. The comparison was based on the criteria of comparison of regulation, access to the profession, auditing standards and control procedures in each of these three countries.

Introduction

The audit is the examination of control, which is made by a professional in a company to identify the organizational or functional irregularities in order to optimize the management of this entity and make its management method of effective. The work of the auditor is done in-house or externally, in the case of the external audit the discipline is subjected to a set of highly rigorous rules which concern first of all the access to the profession, the modalities of exercise of the profession as well as the working standards related to it but also the methods of assessment and penalties resulting from the involved responsibilities as soon as we become a legal auditor (statutory auditor).

The regulations of the legal audit and the auditors translate the economic traditions, of governance of a company and the commercial law appropriate to every country (Baker and al, 2001). These rules, standards which come to supervise the job of the auditorship emanating from different bodies vary according to the economic characteristics of countries, legal systems and the policies and chosen economic orientations. In Algeria, the legal audit has not stopped evolving through t time according to the economic situations which the country has one through. After the adoption of the SCF which allowed companies installed in the country to produce financial information with a universal language, the control on the sincerity of this information had to meet this major evolution, at present and regarding the opening of its market to attract the foreign investments which requires an alignment with the trend of international harmonization, the country gives more and more importance to the auditorship which remains an indisputable way to guarantee the reliability and the sincerity of the financial information, it is in this sense that the Algerian Standards of audit (NAA) were born..

This research work has been the object of a comparison between the legal audit in three countries which have each economic specificities and very different model of audit namely: France, the United States and Algeria, this to be able to place the model of Algerian audit, that is why we assert the following problem " in what model can we place the legal audit in Algeria? ". To answer our problem, we are going to approach here the aspects connected to the regulations of the audit in every country as well as the modalities of access to the profession, the rules and the standards related to the exercise of the profession and also the methods of assessment and penalty in each of the countries quoted to highlight the common points and the points of differences.

Literature review

Several works have been done to try to shed light on one of the most critical professions and one of the most complex disciplines namely the financial audit and more particularly the legal audit or as called in several countries The Office of the Auditor. By analyzing the relations between the legal auditors their supervisory authority, Hazguet Christine Poucht (May 2009) describe the evolution of the legal audit in France and explore the links between the state and the profession as defined by the sociology of Professions, the results demonstrate that a profound upheaval has taken place on the modalities of regulating the profession of auditing this by the institution of a public body of supervision independent of the profession.

Hervy Stolowy, Eduard Pujol and Mauro Molinari (2003) studied the relationship between financial audit and internal control and the contribution of the Sarbanes-Oxley Act to the auditing profession in the United States of America by recounting the adverse effect them the various financial crises on the economy of the country as well as the contents and consequences of the Sarbanes-Oxley act as well as a broad definition of internal control and its relationship with the legal audit the results of their research show that the law in Issue has paid particular attention to the most striking aspects introduced in US legislation and that on the other hand the daily practices to be implemented in accordance with the Law on internal control have been neglected.

As far as the MAGHREB countries are concerned some research has been carried out in order to make a comparison of the audit with regard to the countries of Europe and the USA, for example the work of Geneviève Causse and Eustache Ebondo (May 2013) which compared the quality of The audit in French-speaking Africa with the quality of the audit in France, after having made an inventory of the institutional frameworks of the legal audit prevailing in the countries that are attached to the French School of Accountancy and after analyzing the texts Regulatory and professional the results state that the profession is regulated in the countries studied but with regard to the text imposing a minimum of training is not respected firmly, the results also say that the framework of The legal audit in the countries of French-speaking Africa (Algeria, Tunisia, Senegal, Burkina-Faso-Madagascar) remains close to the French model.

Following this literature review we can say that the financial audit and more particularly the legal audit is at the heart of the axes that revolve around the economy both locally and internationally and that it is one of the most Important in the detection of fraud in the interests of preserving the interest of investors in the first place but especially in the perspective of apprehension of financial crises resulting from falsification of financial information produced by Companies.

Research methodology

The method followed in this research work is the comparative method, since we are comparing the legal audit between three nations namely: France, the United States of America and Algeria, the comparison is made on the basis of several Criteria for comparison (regulation, modalities of access to the profession, mandate, auditing standards, Code of ethics... etc.) in order to be able to situate the Algerian legal audit model vis the other two nations mentioned above.

Findings/results

The regulations: we are going to present here the statutory aspect of the legal audit in each of the countries quoted previously.

4.1.1. In France

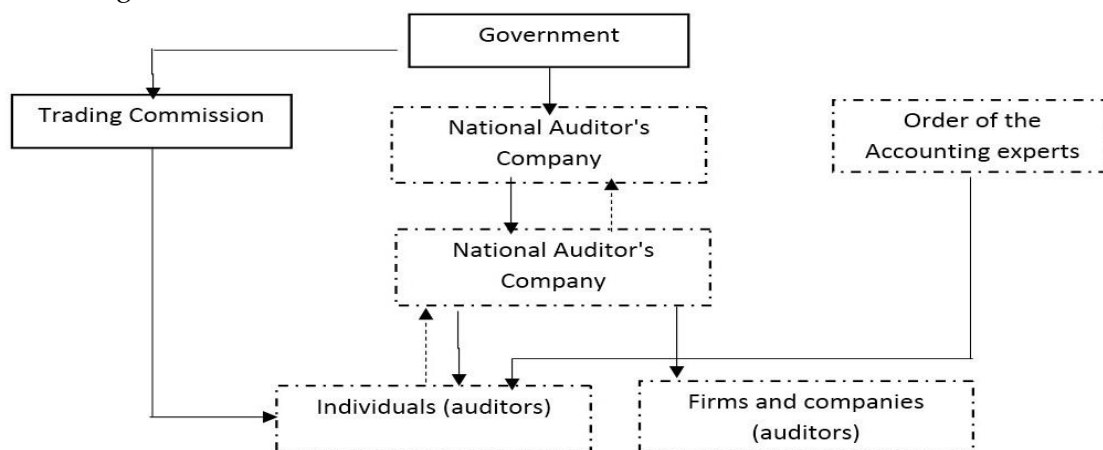
a. Legal laws governing the legal audit in France:

- Law of May 23rd, 1863 on limited liabilities companies: The law obliges all the companies entering the category of limited liabilities companies to appoint by means of their annual assembly one or several statutory auditors, without that the results and the balance sheet presented by the administrators is not validated.

- Law of July 24th, 1966 (legifrance.gouv.fr,(1966): This law came to define the functions of the statutory auditor, the requirements to fill to appear on the list of statutory auditors (Nobody can perform the functions of statutory auditor, if they are not beforehand registered on a list established for that purpose) (law of 24 July 1966).; as well as a binding of the organization of the profession whether it is exercised by a single individual or a group (company) of statutory auditors.
- Financial safety Law August 1st, 2003(legifrance.gouv.fr, (1966): By this law a body of control of the profession called High Council of the Auditorship was created, it has for main mission to set up relevant practices to ensure the control over the profession of audit in France.

b. Bodies governing the legal audit in France:

- The national Company of external auditors (CNCC): authority which regulates the profession of auditorship, it has for mission: the publication of the professional standards of exercise NEP, the in-service training of external auditors, (The CNCC has the right of control over the profession which consists of a declarative data analysis then of controls on the spot).
- The regional Companies of statutory auditors (CRCC): organ which allows the listing of 1400 statutory auditors (natural or legal entity) on the French territory, they establish the relay between the CNCC and statutory auditors, they have for objectives the distribution of the instructions given by the CNCC, the fight against the concentration of the audit market, to watch the respect for ethical rules and to promote the auditorship with companies.
- The Committee of business ethics of the independence of statutory auditors (CDI): created under the aegis of the national company of statutory auditors and commission of the stock exchange operations ,it works to supply rules and recommendations to implement to meet the requirements regarding independence of statutory auditors (the CDI proposed, from its creation en1999, the immediate implementation of a set of incompatibilities recommended in 1997 by a workgroup National Company of statutory auditors (CNCC) /commission of stock-market transactions (COB) (Yves le Portz ,1992).
- The French Securities and Exchange Commission (COB): it is the body which holds the power to check the information emitted by the issuers of the shares and the bonds on the market of movable values as well as other privileges. It has a statutory power: proposals of regulations susceptible to perfect the functioning of markets, to protect the savings invested in stock exchange



Legend:

- Government/Governmental body
- Professional Association/auditeurs
- Oversee the activities

----- Participate in the management

Figure 1. Statutory structure of the audit in France (Bédard, J., Baker, C. R., Prat, C., 2002).

4.1.2. In the United States

a. Legal laws governing the legal audit in the USA:

In the United States, the various laws we were promulgated to give to the accounting profession and of auditorship a strictly structured legal frame, it is difficult to enumerate them all here, but we are going to be interested in the most important of the most recent laws that is to say the Sarbanes Oxley Law.

This law is the resultant of the various financial scandals that happened in the United States in particular the Enron case and WorldCom. The law carried by Senator Paul Sarbanes and Deputy Mike Oxley and signed by President Bush in July 2002 introduced a drastic upheaval into the environment of the accounting profession in the country, we can quote here three relevant axes contained in this law:

The direct responsibility of the managers: the penal responsibility of the company directors sees itself committed, they will have to appear in front of a court in the case of inaccuracies or irregularities in the establishment of the accounting accounts of the company in case of irregularities the managers risk 20 years of prison.

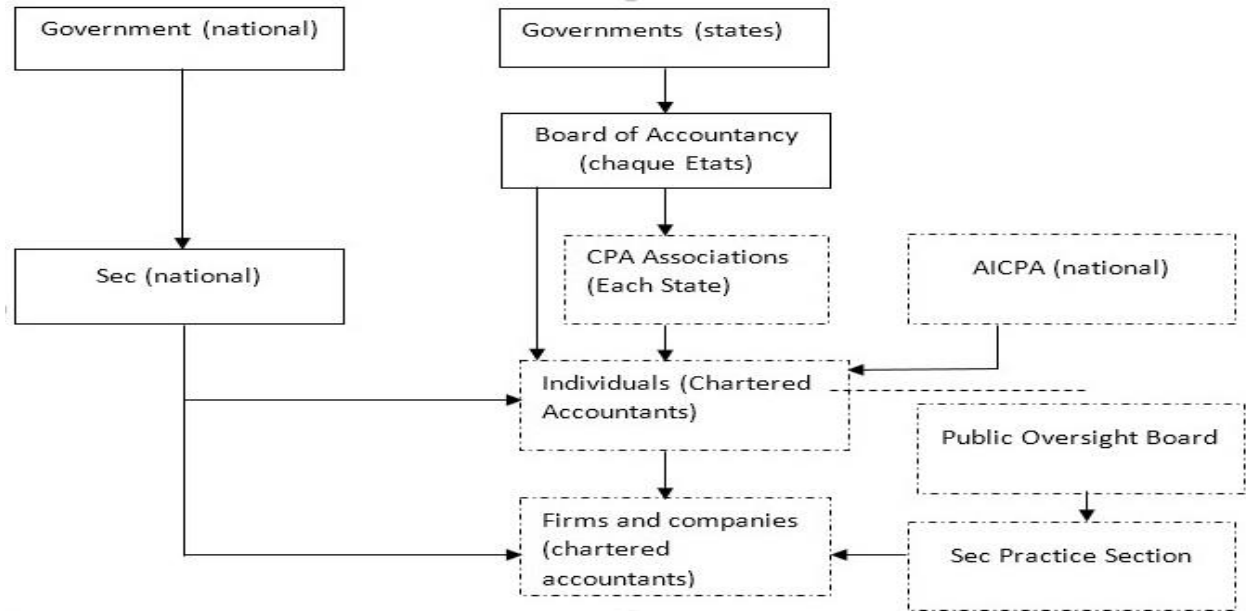
Accuracy and accessibility of the information: the law obliges companies to hand to the Securities and Exchange Commission (SEC) the reports containing the methods and accounting techniques used as well as the possible changes of methods during the exercise.

The independence of the verifying organs: the law forbids the external auditors to supply services to the companies the accounts of which they check (In the objective of reducing conflicts of interests, the external auditors cannot supply the companies the accounts of which they certify).

b. Bodies governing the legal audit in the United States

- Board of accountancy: in the United States each of the states created a Board of accountancy, which is a body which is authorized to deliver the approval which allows the exercise of the accounting profession, and which has also the responsibility to produce the laws which have to govern the profession.
- Securities and Exchanges Commission (SEC): created in 1934 further to the period of recession known in the USA after the economic crisis of 1929, SEC is the regulating body of the financial market in the USA, its main objective is the guarantee to every investor desiring to enter the securities market (the stock exchange) to benefit from an easy access to the financial information and that it is established with the biggest reliability.
- American Institute of Certified Public Accountants (AICPA): the AICPA was founded in 1887 and represents the certified public accountants as regards the establishment of rules and the standardization of the profession. In this sense the AICPA is also a body which sees to the promulgation of the laws and accounting rules and the respect and the good application of these by the professionals of the accounting and the audit.
- State Society of CPAs: the CPAs are independent associations existing in each of 50 states, the professionals are free to adhere or not to the State Society of CPA of their state, its objective is to defend the interests of the professionals of the accounting and the audit as well as to supply them with orientations for the good management of their mission.
- Sec Practice Section SECPS: see to it that all the professionals of the company living in the United States, including the CPA and non - CPA, attend at least 20 hours of in-service training leading to a qualification (ECP) every year and at least 120 hours every three years. The objective is to make sure that all the professionals of the accounting and the audit benefit from continuous trainings on all of the accounting rules and any new published standards of audit.
- Public Oversight Board (POB): created in 1977 by the AICPA. The board of directors is an independent private governing body which reports and watches the various programs of the

accounting profession. Its main vocation is the advice besides the studies and the reports which have for objective to organize the profession of accounting and of the audit.



Legend

- Government/Governmental Body
- Professional Association/auditeurs
- Oversee the activities
- Participate in the management

Figure 2. Regulatory structure of the audit in the United States (Bédard, J., Baker, C. R., Prat, C., 2002).

4.1.3. In Algeria

a. Legal laws governing the legal audit in Algeria:

It should be noted that until 1975 year of promulgation of the Algerian commercial law, the French laws regarding auditorship were renewed, without preventing the legislator since 1970 and by means of the decree n°69-107 of 31/12/1969 from proceeding to the control of the accounts of national companies via statutory auditors appointed by the Ministry of Finance.

- commercial law 1975: having defined the social structures which can exist in Algeria, the legislator specified that the accounts of these said companies must be checked by one or several statutory auditors appointed by the ordinary general assembly, should the opposite happen, it is the court of the head office of the company that appoints statutory auditors for a three-year term, this law also mentioned the incompatibilities and responsibility of the statutory auditor as well as the end purpose of their controls. The auditors establish a report in which they give an account to the general assembly, of the execution of the mandate which it entrusted them with and have to indicate the irregularities and the inaccuracies that they would have noted.

- Law N ° 10-01 of the 29/06/2010: this law has for objective to fix rules and conditions of exercise of the accounting profession generally and the auditorship in particular, this law also introduced with the national council for accounting different commissions in charge of various missions in particular the commission of discipline and arbitration which it constitutes the supervisory body of the works realized by statutory auditors. This law also clarified the end purpose of the mission of the statutory auditor. The mission of the statutory auditor leads to the establishment of a report of certification with or without reserve of the regularity, the sincerity and the accurate image of the annual documents, or

possibly in the duly motivated refusal of certification. It should be noted that after this law the legislator promulgated a set of decree and ministerial decrees fixing the standards of the statutory auditor's report.

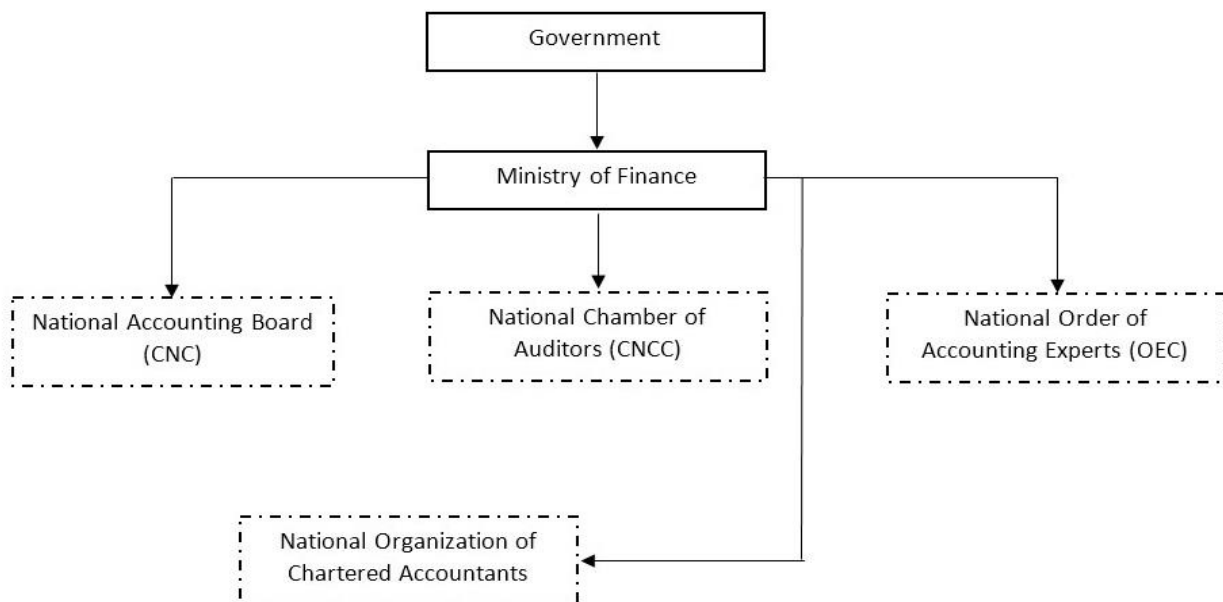
b. Bodies governing the legal audit in Algeria:

National Council of the accounting (CNC): created in 1998, this body has for mission the accounting standardization in Algeria, under the supervision of the Ministry of Finance the CNC is in charge of the improvement of the frame of the exercise of the accounting functions to know three professional categories: the chartered accountancy, the auditorship as well as the chartered accountants. The CNC account four joint commissions which are charged of:

the quality control of accounting works,
the arbitration
the delivery of the approvals
the training

National Chamber of statutory auditors (CNCC): this body includes all the statutory auditors on the national territory, it works in close collaboration with the Ministry of Finance which appoints a representative within the council which administers this body, among these essential attributions of the national chamber of statutory auditors. Assure the popularization, the publication and the distribution of the results of the works relative to the domain covered by the profession

National order of the Chartered accountants (OEC): just like the national chamber of statutory auditors, the national order of the chartered accountants is in close collaboration with the Ministry of Finance which also appoints a representative within this body, beyond the fact of making accessible the works concerning the exercise of the profession, one of its other major attributions is to organize seminars of training in connection with the interests of the profession- National organization of the chartered accountants: This body also activates with a big collaboration with the Ministry of Finance, it groups all the accountants registered on the board of the professionals, it is in charge of several missions in particular, the organization of days of trainings and the seminars in connection with the profession.



Legend:

- Government/Governmental Body
- Professional Association/auditeurs
- Oversees the activities

Figure 3. Regulatory structure of the audit in Algeria (Done by the Authors).

4.2. The Standards of audit:

4.2.1. Standards of audit in France:

Very inspired by the international standards of audit, there are 51 standards of professional exercise (NEP). The NEP are developed by the national company of statutory auditors and are classified as follows:

Audit of the accounts implemented within the framework of the certification of the accounts

Evaluation of the risk of significant anomalies and implemented procedures of audit

Convincing Character of the collected elements

Use of the works of the other professionals

Reports

Audit of the accounts implemented in certain entities

Limited Examination in application of legal and statutory requirements

Diligences directly connected to the mission of statutory auditor

Interventions in application of the other legal or statutory requirements

Other obligations of the statutory auditor in application of legal or statutory requirements

4.2.2. Standards of audit in the United States:

Applicable from December 2001, these standards are produced by the AICPA in the form of guidelines to which the auditor has to conform for completing successfully his mission of control. The generally accepted Standards of audit are grouped in the following categories

Standards of Field Work

Standards of Reporting

4.2.3. Standards of audit in Algeria:

The national council for the accounting (CNC) in charge of the elaboration of the Algerian standards of audit set up the first 12 NAA namely:

NAA 210: Agreement on the terms of the missions of audit

NAA 505: external Confirmations

NAA 560: events later than the closure

NAA 580: written Declarations.

NAA 300: planning of an audit of financial statements

NAA 500: convincing Elements

NAA 510: initial Missions of audit

NAA 700: foundations of the opinion and the audit report on financial statements.

NAA 520: analytical Procedures

NAA 570: continuity of exploitation

NAA 610: use of the works of the internal auditors

NAA 620: use of experts' works indicated by the auditor.

4.3. Modalities of access to the profession:

4.3.1. In France:

The French legislator stated strict conditions to be respected for the exercise of the profession of statutory auditor (legal auditor), the most important is the one connected to the training of the candidate in other words to hold the diploma of chartered accountancy.

4.3.2. In the United States:

Besides holding a diploma in the field of the accounting and the finances, numerous certifications exist and can be required in the various audit firms and are delivered by a number of bodies: (CPA (Certified Public Accountant), CIA (Certified Internal Auditor), the CISA, the CGAP (Certified Government Auditing Professional) and the CFE (Certified Fraud Examiner).

4.3.3. In Algeria:

Since the law 10-01 of June 29th, 2010 the conditions of obtaining of the approval have changed because from now on it is necessary to be a holder of the Algerian diploma of statutory auditor and to be approved by the Ministry of Finance besides carrying out the oath and the registration in the national chamber of statutory auditors who were previously already demanded. (Diplomas are delivered by the institute of special education placed with Minister for Finance or by the institutes approved by this one. To note that up to the date when we write our article the school has not been born yet.

4.4. Mandate and methods of assessment:

4.4.1. In France:

The statutory auditor is appointed by the members of the general assembly for a mandate of 6 years renewable once, in the term of this period the general assembly proceeds either to the renewal of the mandate or to the appointment of another statutory auditor. As for the control over the profession the legislator in France set up a body called the High council of the auditorship (H3C) which has for mission to see to it that rules and standards of audit are respected by the auditors in their various audit works, it also sees to it that audit firms are endowed with a system of successful internal control. The H3C also put in 2007 the guiding principles of the new system of periodic controls of offices (Hazgui, M. and Pochet, C. (2009).

4.4.2. In the United States:

The legislator did not limit the term in office of the auditor for the same company. As regards to the control of the profession it was set up a body PCAOB (public Company Accounting Oversight Board) The program of the PCAOB is called inspection, and occurs once every three years, except for offices with more than 100 declarers, which are inspected every year (Wood, P.2011).

4.4.3. In Algeria:

The legal auditor is appointed by the general assembly on the basis of the terms and conditions and this for a three-year term renewable once (6 years all in all), as for the control of the profession it was created at the level of the national council for the accounting (CNC) joint commissions: The commission of discipline and arbitration which has for essential purpose to cut in the cases of breaches committed by the members registered on the board of the national order of statutory auditors.

Discussion

We acknowledge that on the criterion of the regulations each of the three countries in question adopts numerous laws and legal texts to regulate the profession of auditorship that denotes the importance which is granted to it by the public authorities, hence the existence of a specific status to the professionals of this discipline.

The participation of the public administration to the organization of this profession is very strong in France as in Algeria, because it depends respectively on the Ministry of Justice and on the Ministry of Finance, on the other hand in the United States due to the fact that the country is constituted in several states the public administration contributes proportionally to the management of the profession.

Algeria, the USA and France are all three endowed with bodies specific to the profession, the of the statutory auditor is limited in Algeria as in France but the periodicity differs (3 and 6 years), the possibility of renewal is possible only once in both countries, on the other hand in the United States the mandate of the verifier is not consequently limited it is of indefinite duration and the possibility of renewal is allowed as often as both parties wish it.

Whether in France, in Algeria or in the United States to take an oath is a condition necessary for every person applying for the status of legal auditor and among which prerequisites connected to the training, the competence and the integrity were already satisfied, come then the quoted directives in –the access to the exercise of the profession of auditorship is conditioned by a code of ethics

appropriate to each of the three countries and the requirements connected to the execution of the mission of audit.

In France it is compulsory as a legal auditor to follow at least 40 hours of training a year, in Algeria the in-service training is desirable but there is no legal text making it compulsory, also for the USA.

Each of these three states set up bodies of quality control asked to make the audit of the audit, to which they added disciplinary commissions to sanction any breaches or non-compliances with regard to the standards or towards the ethical code of the profession. We can summarize the common points and the points of difference of the legal audit in Algeria towards the legal audit in France and in the USA in the table below:

Criteria of comparison	Algeria VS France	Algeria VS the United States
Status attributed to the profession only	★	★
Participation of the Public administration in the management of the activities of the profession	★	×
Bodies specific to the profession	★	★
Limitation of the term in office	★	×
Term in office	×	×
Requirement of oath	★	★
Possibility of renewal	★	×
Existence of a code of ethics	★	★
Bodies in charge of the elaboration of the standards	★	★
Requirement of an in-service training	×	×
Body of quality control	★	★
Disciplinary Commissions	★	★

★: similar characteristic

×: different characteristic

Figure 4. Points of convergence and difference of the legal audit in Algeria with the legal audit in France and in the United States

Conclusion

During our research work we proceeded to the presentation of the peculiarities connected to the profession of auditorship in three totally different countries from the point of view of their economic and accounting structure, the comparison was made on various criteria namely the regulations, the access to the profession, the standards of audit and the methods of assessment.

The legal audit has for common points in France, the United States and Algeria the existence of a status dedicated to the professionals of the legal audit, the implementation of bodies specific to the profession, the requirement of the oath before the beginning of the activity, as well as the elaboration of an ethical code for the professionals, the availability of bodies in charge of the elaboration of the standards of audit, the existence of bodies of quality control and the disciplinary commission.

The objective of our research work is to place the Algerian legal audit with regard to the legal audit in France and in the United States, we notice that the Algerian legal audit has more common points (10) with the French model (status, participation of the administration to the organization of the profession, ... etc.) with regard to the American model (7), that answers our problem and allows us then to say that the legal audit in Algeria gets closer to the French model but holds some common points with the American model. The accounting profession and more particularly the auditorship in Algeria does not stop evolving so as to reach a quality upgrade towards the international practices and standards regarding audit, one of the most important levers is no other than the regulations but it remains insufficient because there are barriers stronger than those who are statutory, they are the

cultural barriers. The effort granted must be also directed to a particular objective that is the change of the behaviour of the professionals of the audit in the exercise of their activity of control so that all the statutory auditors and Algerian offices are capable of supplying a quality service with a total integrity, it cannot become a reality without a continuous self-abnegation and a perfect mastery of the Algerian standards of audit NAA and international standards of audit ISA.

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