



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The role of the courts of accounts in reviewing accounts and their effects on the ineligibility foreseen in item 'G' of article 1 of Law 64/90: an analysis of the review of the lists of ineligible candidates.

The Role of Audit Courts in Reviewing Accounts and Their Effects on Ineligibility as Provided for in Subparagraph 'G' of Article 1 of Supplementary Law 64/90: An Analysis of the Review of the Lists of Ineligible Candidates

Carolline Dourado Barbosa , 10th Semester Law Student at Faculdade Santa Teresa – FST

Tainá Vasconcelos Gaston – 10th Semester Law Student at Faculdade Santa Teresa – FST

Paulo Eduardo Queiroz da Costa – Professor and advisor for Final Course Project II

SUMMARY

When discussing the role of the Courts of Accounts, it is crucial to highlight their hybrid nature, which differentiates them from the Judiciary. This is because, in addition to auditing public accounts, they also have the authority to evaluate the accounts of administrators, exercising internal control over public management. This combination of responsibilities—oversight and judgment—allows the Courts of Accounts to play a fundamental role in financial administration, complementing the Judiciary's task in verifying the legality and morality of administrative actions. Regarding oversight, the Courts of Accounts are responsible for collecting data, evidence, and documents, always aiming to substantiate their judgment. Among the situations that can lead to the declaration of ineligibility of managers, the case of rejected public accounts due to irreparable irregularities stands out, these being characterized as intentional acts of administrative misconduct. Ineligibility arises from an unappealable decision by the Court of Auditors, as established by Article 71, II, of the Federal Constitution, which applies to all those responsible for expenses, without exception for elected officials who acted in that capacity.

Finally, the ineligibility remains in effect until it is suspended or annulled by the Judiciary, which ensures the decision remains valid until a possible judicial review.

Keywords: Court of Auditors. Oversight. Managers. Administrative Impropriety. Spending officers. Ineligibility.

ABSTRACT

When addressing the role of the Courts of Auditors, it is crucial to highlight their hybrid nature, which distinguishes them from the Judiciary. This is due to the fact that, in addition to auditing public accounts, they also have the authority to assess the accounts of administrators, exercising internal control over public management. This combination of responsibilities — auditing and judgment — allows the Courts of Auditors to play a key role in financial administration, complementing the Judiciary's task of verifying the legality and morality of administrative actions. Regarding auditing, the Courts of Auditors are responsible for gathering data, evidence, and documents, always aiming to substantiate their judgment. Among the situations that can lead to the declaration of ineligibility for managers, the case of rejected public accounts due to irreparable irregularities stands out, with these irregularities being characterized as willful acts of administrative misconduct. Ineligibility arises from an unappealable decision of the Court of Auditors, as established by Article 71, II, of the Federal Constitution, which applies to all those responsible for expenses, with no exceptions for those acting in a mandate capacity. Finally, ineligibility remains in effect until suspended or annulled by the Judiciary, ensuring the persistence of the decision until any eventual judicial review.

Keywords: Court of Accounts, Audit, Public Managers, Administrative Misconduct, Disbursement Authorities, Ineligibility.



1. INTRODUCTION

The Court of Auditors currently plays a crucial role in protecting and overseeing... public assets of the country, consolidating itself as one of the fundamental institutions to ensure Legal compliance, ethics, and efficiency in public administration. Its role goes beyond mere auditing. accounting; includes the creation of standards that regulate the use of public resources and the application of Penalties for those who use these resources arbitrarily or in violation of the rules. collective interest. In this context, the Court of Auditors exercises rigorous control over management. of public resources, preventing misuse, waste, and inappropriate conduct in governance.

At the federal level, the Federal Court of Accounts (TCU) emphasizes the importance of an attitude serious and responsible in the execution of public duties. This priority is evident through supervision, analysis and evaluation of administrative decisions made by public officials relating to the use of state resources. The objective of this meticulous monitoring is the protection of public finances, ensuring that resources are used in an ethical, transparent, and efficient manner. The relevance of the TCU (Brazilian Federal Court of Accounts) goes beyond technical and accounting aspects, as it is also based on its... Its function is to promote ethics and its role as an external control body, which has competencies. Oversight and sanctions mechanisms that reinforce republican principles in public administration.

Brazilian legislation, recognizing the importance of this body, has incorporated its role as an objective criterion for defining ineligibilities. Complementary Law No. 64, enacted in May 18, 1990, better known as the Law of Ineligibilities, in article 1, item I, subparagraph "g", It determines that those who have had their accounts from previous positions rejected are ineligible for any elected office. or public functions rejected due to insurmountable irregularities that characterize an act intentional administrative misconduct, provided that the decision has been final in the body. appropriate, unless it has been suspended or annulled by the Judiciary. This rule seeks to prevent individuals with a history of mismanagement of public resources from doing so again. to assume positions of political and administrative power, thus reaffirming the State's commitment. with ethics and responsibility in public administration.

Furthermore, the aforementioned equipment directly refers to article 71, item II, of Federal Constitution, expanding the scope of the rule to all those who are responsible for expenses, also encompassing elected officials. This reinforces the Court's supervisory function. The Court of Accounts is a fundamental component of Brazil's democratic structure. Therefore, The role of the Courts of Auditors becomes crucial not only for the proper management of assets. public, but also for the preservation of the authenticity of the democratic process.



The Legislative Branch and its Function of Control and Oversight

The theory of the separation of powers was initially presented by Aristotle, who established the first theoretical foundations on the subject. However, in his view, the three functions of the State were performed by a single figure, that of the sovereign. Later, Montesquieu refined this conception, arguing that the functions of power should be distributed among three entities. Separated, in order to avoid focusing on a single person, which would constitute direct criticism. to absolutism. According to Montesquieu, this division would allow for interdependence and a Reciprocal control between the branches of government, aiming to prevent abuses and ensure the limitation of power. (LENZA, 2012).

According to what is stipulated in the article of the Constitution, it is stated that "the powers of the Union These are the Legislative, Executive, and Judicial branches, which operate independently and harmoniously among themselves. "yes" (BRAZIL, Constitution of the Republic, 1988, art. 2). The autonomy between these Powers refers to freedom of each individual to perform their specific functions and responsibilities, without interference or influence of others, ensuring that there are no conflicts of competence between them.

This mechanism of mutual control between the branches of government is called the theory of checks and balances. counterweights. According to the Minister of the Supreme Federal Court, Alexandre de Moraes, in order for the For the functions of the State to be exercised autonomously, the existence of a system that... is fundamental. enable this reciprocal oversight. To prevent disharmony and instability in the government, Constitutional guarantees and prerogatives have been established, and these are inviolable and mandatory. This need is based on the reality that, when an imbalance occurs and the Executive Branch... Gaining excessive power creates an environment conducive to despotism and tyranny, leading inevitably leads to arbitrariness. The system of checks and balances, by clear provision of article 60, Section 4, III of the federal constitution cannot be the subject of a constitutional amendment (MORAES, p. 427).

It is noteworthy how much emphasis doctrine places on the concept of "separation of powers". In reality, power is not fragmented, since it is unique and indivisible. What occurs is a distribution. of the functions of the State, carried out by various bodies that receive their powers from the constitutional text (LENZA, 2012, p. 483). Thus, all acts of the State emanate from a single source. Power, which is one and indivisible.

When we mention the concepts of Legislative, Executive, or Judicial branches, in In truth, we are addressing the specific functions that each of these organs performs. However, this does not prevent such bodies from carrying out secondary activities in addition to their primary functions. It is important to remember that the theory of the "separation of powers," proposed by Montesquieu, It has been adopted by many modern states in a more flexible way, since the



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

Social and historical circumstances have enabled greater interaction between the branches of government, softening the The idea that advocated for the strict and absolute separation between the branches of the Executive, Legislative, and... Judiciary (LENZA, 2012, p. 483).

Each branch of government plays a primary role, referred to as its typical or specific function. However, this does not imply that they cannot fulfill other responsibilities. In fact, it is possible that They may also operate in atypical or unconventional roles, provided that this is permitted by the Constitution.

The Legislative Branch, which is established in the Constitution between articles 44 and 75, has Prioritizing the creation of laws and the oversight of public finances, including the money of government and public goods. Additionally, it can perform unconventional functions, such as to organize its internal structure (an act of an executive nature) or when the Senate evaluates the President. of the Republic for ethical-legal infractions (a function of a judicial nature). On the other hand, the Power The Executive branch, as described in articles 76 to 91 of the 1988 Federal Constitution, has as its main function... The execution of actions that involve state leadership, government direction, and administration. In extraordinary circumstances, the President of the Republic, for example, can issue provisional measures. (with a legislative character) and analyze administrative defenses and appeals (of a jurisdictional nature) (LENZA, 2012).

Within the scope of inspection activities, these are carried out through a variety of... tools, such as information requests (art. 50, § 2), parliamentary committees of investigation (art. 58, § 3), the evaluation of accounts (art. 49, X; art. 71 and 72; art. 166, § 1), the supervision of the activities of the Executive Branch (art. 49, X), and the rendering of accounts (arts. 51, II; 84, XXIV).

In categorizing these activities, those related to deserve special mention. ethical trials, which involve evaluating authorities for breaches of responsibility, as established in articles 51, I; 52, I and II; and 86 of the Constitution. Finally, there is the group of Second-level constitutive activities, which have the purpose of formally amending the Constitution, through the ceremonial process detailed in article 60.

With regard to the supervisory function, which is the main objective of this study, Alexandre de Moraes suggests a segmentation of this supervision, categorizing it into administrative-political and financial-budgetary.

Political and administrative oversight enables the Legislative Branch to examine the actions of The Executive Branch, aiming to evaluate the administration of public affairs. This type of oversight is illustrated by the creation of parliamentary commissions of inquiry (CPIs). On the other hand, supervision Financial and budgetary matters refer to those set forth in articles 70 to 75 of the Federal Constitution. encompassing the accounting, financial, budgetary, operational, and asset control of the Union, thus as well as entities of the Direct and Indirect Administration, with regard to legality, legitimacy,



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

cost-effectiveness, use of subsidies and loss of revenue, as detailed in article 70 of Constitution (MORAES, 2014).

According to Article 70 of the Constitution, oversight shall be exercised by Congress. Nationally, through external control, as well as through the internal control system of each of the Powers, encompassing the evaluation of financial and budgetary matters of public administration. (BRAZIL, Constitution of the Republic, 1988, art. 70).

There are, therefore, two types of supervision: one that is external and one that is internal. carried out by each of the branches of government. Article 74 of the Federal Constitution addresses the system of Internal oversight and monitoring, also known as self-control, is practiced within the... The specific area of each branch of government, which is why it is recognized as *interna corporis*. This form of Supervision has an administrative characteristic, being carried out on employees by their supervisors. hierarchical superiors, as established in article 74 of the Federal Constitution of 1988.

The oversight exercised by the Judiciary over its staff, the supervision of the Judiciary. The Executive Branch is investigating its expenses, and the investigation into functional anomalies carried out by the Executive Branch. Legislative oversight in relation to its employees are examples of this supervision (BULOS, 2015, p. 954).

It is important to emphasize that both internal and external control mechanisms need to function. in a coordinated and integrated manner, in accordance with the provisions of Article 74, IV, of the Constitution. Federal (BULOS, 2015). External control, on the other hand, is carried out by the Legislative Branch, with the support of the Court of Auditors, whose duties are described in article 71 of the Federal Constitution. (LENZA, 2012).

This external control is exercised by the National Congress and the Legislative Assemblies. of the States and the Federal District, in addition to the Municipal Chambers, with the appropriate support from respective Courts of Auditors, as established in article 71 of the Constitution. The essence of External control is a technique carried out outside of institutions, with the main purpose of... supervision. (BULOS, 2015, p. 954).

Paragraph 1 of Article 74 emphasizes collaboration between internal control mechanisms. and external, establishing that those in charge of internal control have an obligation to notify the The Federal Court of Accounts will notify the Court of Accounts as soon as it notices any abnormality. Failure to comply with this... The provision may result in joint liability (LENZA, 2012).

ON THE COMPOSITION AND FUNCTIONING OF THE COURTS OF ACCOUNTS

The initiative to create a Court of Auditors in Brazil was first suggested in 2003. June 1826, promoted by the senators of the Empire, Felisberto Caldeira Brandt, Viscount of Barbacena, and José Inácio Borges, who presented a bill with that purpose. This The proposal arose from the need for an autonomous body capable of overseeing finances. public accounts. However, there was resistance to this idea, based on the belief that the management of public accounts... public assets should remain with those who administered them (COURT OF ACCOUNTS OF UNION, 2025).

However, it is crucial to emphasize that the Legislative Branch has a political essence, which This made evident the pressing need for a technical body that was independent of the government. Executive, thus ensuring impartiality in the supervision of budget execution (Bulos, 2015). Despite the efforts made, the proposal was not implemented, and Imperial Brazil did not see the creation of the Courts of Accounts (Bulos, 2015).

With the disintegration of the Empire and the political and administrative changes of the Republic, the The Minister of Finance at the time, Rui Barbosa, through Decree No. 966-A dated November 7th. The Constitution of 1890 established the Federal Court of Accounts. The Constitution of 1891, the first in the new era... The Republic definitively consolidated the Court in its article 89 (Brazil, Constitution of the Republic). Republic, 1891).

Although its creation was foreseen in the Constitution, the actual establishment of the Court only It happened on January 17, 1893. The constitutions that came after maintained some of its... functions, but it was the 1988 Constitution that significantly expanded its powers (Court). (of the Union Accounts, 2015).

According to the current Constitution, the Federal Court of Accounts acts as a body It provides support and is fundamental for guiding the Legislative Branch, even if it is not directly involved. subordinate to him. His duties are primarily administrative, with a special focus on oversight, and the Court has guarantees of autonomy and self-governance (Moraes, 2014).

Regarding external control, the actions taken by the Court have an essence administrative, since the choice of the Legislative Branch in accepting or rejecting the opinions of The court's power is discretionary. Regarding other administrative responsibilities, there are no rulings. definitive or conflict resolution, which differentiates them from institutions that perform functions jurisdictional (Lenza, 2012).

The Courts of Auditors maintain their independence because they are not under the authority of the Executive Branch. Legislative (possessing institutional autonomy). The characteristic of self-governance is related to



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

given that the Courts of Auditors, in general, have the exclusive prerogative to initiate the legislative process relevant to its organization and functioning, as interpreted in the articles 73, 75 and 96 of the Federal Constitution (LENZA, 2012).

Regarding the structure and functioning of the Courts of Accounts, the Federal Court of Accounts... It is located in the Federal District and is composed of nine ministers, whose activities cover the entire... national territory. These ministers enjoy the same guarantees, prerogatives, and impediments. remuneration and benefits that the Ministers of the Superior Court of Justice receive, as provided for in § Article 73, paragraph 3 of the Federal Constitution” (MORAES, 2014, p. 450).

Thus, as stipulated in article 95, items I, II and III of the Federal Constitution, the Members of the Court of Auditors hold lifetime appointments and cannot be removed from their positions. They perform their duties and enjoy the guarantee that their salaries cannot be reduced.

Regarding the functioning of the Federal Court of Accounts, it is important to highlight the... The contribution of the Public Prosecutor's Office within the Court, which will be present during all plenary or chamber meetings (FEDERAL COURT OF ACCOUNTS, 2015). “However, the Prosecutors from the Courts of Accounts maintain only an administrative link with it, not having any relation with the common Public Prosecutor's Office” (LENZA, 2012). The Public Prosecutor's Office Those who perform duties in the Courts of Auditors focus on defending the interests of public funds, differing from... from the Public Prosecutor's Office, both at the federal and state levels.

If the Court of Auditors identifies irregularities in the accountability processes, you must send the relevant documents to the Federal Public Prosecutor's Office, which is the body responsible for to promote appropriate civil and criminal actions, as provided for in article 16, §3 of Law 8.443/1992. - which is the organic legislation of the Federal Court of Accounts (NOVELINO, 2013).

In addition, the Court has three auditors, selected after passing a competitive examination. public officials who assume the responsibilities of Ministers when there are absences, impediments or vacancies in the position (NOVELINO, 2013).

The federal system, in terms of structure, training, and supervisory responsibilities, should be... followed, where applicable, by the States of the Federation, the Federal District and the Municipalities, proportionally, respecting the provisions of Article 75 of the Federal Constitution. (BULOS, 2015).

According to the principle of constitutional symmetry, the other Courts of Accounts do not They are permitted to include functions in their duties that are not outlined in the Constitution. Federal (CARVALHO FILHO, 2013).



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The sole paragraph of Article 75 of the Federal Constitution stipulates that constitutions state governments must address their audit courts, which will be composed of seven councilors.

Unlike the federal model, which has nine Ministers.

Thus, Precedent 653 of the STF (Supreme Federal Court) interpreted the aforementioned article, establishing that it is up to The Legislative Assembly has the responsibility of electing four councilors, while the Head of the Executive Branch... The state executive must appoint three advisors, one chosen from among the auditors and another among the members of the special Public Prosecutor's Office, in addition to a third who may be selected at their discretion. criterion (LENZA, 2012).

With regard to municipalities, it is essential to understand article 31 in an integrated manner. Section 4 of the Federal Constitution, which prohibits the creation of courts, councils, or audit bodies at the federal level. municipal. On the other hand, article 31, §1, establishes that the external supervision of the Municipal Chamber This should be done in collaboration with the state or municipal Courts of Auditors, or even the... Municipal councils or courts of accounts, when they are in operation.

With the promulgation of the Federal Constitution in 1988, the establishment of Courts was prohibited. of Municipal Accounts; however, those that already existed should continue their operation. The Supreme Court The Federal Court also authorizes the installation of a Court of Auditors at the municipal level. which, although it acts as a local support, is considered a state-level competent body (ADI). 687) (LENZA, 2012).

According to article 31, §2 of the Federal Constitution, the Court of Auditors issues annually a preliminary technical opinion on the accounts presented by the Mayor. There is a presumption of The validity of this opinion, which can only be challenged with the support of two-thirds of the members of City Council (LENZA, 2012). This rule is different from the one that applies to the inspection of Accounts of the Governors and the President of the Republic, where the opinions are merely advisory.

The task of analyzing the annual reports submitted by the President of the Republic is one of various responsibilities of the Federal Court of Accounts, as determined by the Federal Constitution.

Institutional Functions and Competencies of the Courts of Auditors in Brazilian Legal System

As described, Article 70 of the 1988 Federal Constitution stipulates that supervision accounting, financial, budgetary, operational and asset management of the Union, as well as of the institutions of Direct and indirect administration will be exercised by the National Congress through external control. in addition to the internal control system of each branch of government (BRAZIL. Constitution of the Republic, 1988).



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The constituent legislator expanded the powers of the Federal Court of Accounts. Influenced by previous legislation, supervision was limited to compliance with the law. Currently, the TCU also conducts audits on operational and asset-related matters, encompassing aspects of legitimacy and efficiency (NOVELINO, 2013). The main functions of the Court of Federal Accounts include: auditing, consulting, providing information, judging, applying sanctions, correcting, standardizing, and ombudsman services (Federal Court of Accounts). 2015).

Regarding supervisory activities, it is important to highlight the performance of audits and Inspections of bodies and entities of the Public Administration, both in the direct and indirect spheres. These activities can be carried out on one's own initiative, at the request of the National Congress, or In response to complaints, the oversight also extends to private entities that receive state funds. It is important to note that, upon detecting irregularities, the Court of Auditors must... to report to the competent authority. The supervisory function encompasses acts related to contracting. personnel matters, granting of retirements and pensions, as well as bidding processes, for example. (NOVELINO, 2013).

The oversight carried out by the Courts of Auditors is guided by principles such as legality, impartiality, morality, transparency, efficiency, objectivity and good faith (BULOS, 2015).

The advisory function, for many, is based primarily on the activity of the Court which issues an opinion on the approval or disapproval of the President of the Republic's annual accounts. The responsibility for evaluating these accounts rests with the National Congress (TRIBUNAL DE CONTAS DA UNIÃO, 2015).

The informative function is highlighted by offering data that the National Congress, its Chambers or Commissions make demands related to the audits that the Court conducts and its corresponding results. This also includes communications forwarded to the competent authority. upon detecting any anomaly, as well as sending the Court's activity report to National Congress, both quarterly and annually (FEDERAL COURT OF ACCOUNTS, 2015).

The judicial function consists of analyzing the annual accounts that are presented by managers and other people responsible for public financial resources, assets and securities, also including those linked to the indirect administration, which includes foundations and entities that are created and maintained by the Federal Public Authority. Furthermore, it includes individuals who caused the loss, the disappearance or any other irregularity that results in damage to public funds, of in accordance with what is established in article 71, II of the Federal Constitution (BRAZIL, Constitution of Republic, 1988).

Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The sanctions function allows penalties to be imposed on those who are responsible. due to irregular expenses or inconsistencies in accounts. This function may lead to the implementation of the following sanctions: a) conviction to pay the amount due; b) imposition of fines; c) removal from office of the manager who obstructs the audit; d) declaration of asset unavailability. for a maximum period of one year; and e) a declaration of ineligibility to hold public office; f) declaration of ineligibility to enter into contracts with the public administration for a period of up to five years; g) order to Google the Attorney General's Office to carry out actions relating to the seizure of assets. (NOVELINO, 2013).

It is important to emphasize that, according to paragraph 3 of article 71 of the Federal Constitution, the decisions Court decisions that result in the imposition of debts or sanctions have the weight of an enforceable title. However, since these courts do not have the capacity to enforce their own decisions, the Collection should only be made by the public entity that benefits from the determined conviction. by the Court (NOVELINO, 2013).

Corrective competence is defined for two distinct circumstances: the first occurs when an irregularity is found and the Court sets a deadline for it to be corrected. The necessary measures have been adopted to ensure full compliance with the legislation. The second The situation refers to the suspension of the contested act when the actions stipulated by the Court of Auditors are taken. If these actions are not carried out, then notification must be made to the Chamber of Deputies or to... Federal Senate (NOVELINO, 2013).

The normative responsibility is conferred upon the Court through its Organic Law (article Article 1, §1, Law 8.443/1992), which "authorizes the preparation of instructions and normative acts, which must to be followed in a mandatory manner under penalty of liability for the offender, in relation to matters within its competence and to the organization of the processes that must be submitted to it" (BRAZIL. (Federal Court of Accounts, 2015).

The control of accounts exercised by the Courts of Auditors

The annual review of the accountability reports of municipal managers must be subject to scrutiny. of the guidelines established by the Supreme Federal Court, especially in the judgment of Extraordinary Appeal (RE) 848.826, a reference that also solidified in topic 835 of General Repercussion, and complemented by the understanding established in RE 729.744. Through RE In case 848.826, the Supreme Federal Court (STF) consolidated the thesis that it is the responsibility of the Municipal Chamber to judge the accounts. from the head of the local Executive branch, considering the opinion of the Courts of Auditors as a document



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

technical assessment, the prevalence of which depends on a qualified decision by the members of the Legislature.

municipal:

Summary: EXTRAORDINARY APPEAL. ACCOUNTING OF THE HEAD OF THE MUNICIPAL EXECUTIVE BRANCH. PRIOR OPINION OF THE COURT OF ACCOUNTS. EFFECTIVENESS

SUBJECT TO PARLIAMENTARY REVIEW. COMPETENCE OF THE MUNICIPAL COUNCIL FOR THE

Judgment of Government and Management Accounts. Supplementary Law.

Law 64/1990, as amended by Complementary Law 135/2010. Ineligibility. Irrevocable decision. Jurisdiction of the local legislature. Extraordinary appeal.

Known and granted.

I - The Municipal Council is responsible for judging the accounts of the head of the municipal Executive Branch.

with the assistance of the Courts of Auditors, which will issue a prior opinion, whose binding effect

It remains in effect and will only cease to prevail by a decision of two-thirds of the members of the legislative body.

(CF, art. 31, § 2º).

II - The 1988 Constituent Assembly opted to assign, indiscriminately, the judgment of all accounts of

responsibility of municipal mayors to council members, in respect of the balanced relationship that

There must be a system of checks and balances among the branches of government.

III - The Federal Constitution reveals that the competent body to issue the final and unappealable decision is...

The reference to article 1, I, g, of LC 64/1990, as amended by LC 135/2010, refers to the Municipal Chamber, and not the Court of Auditors.

IV - Thesis adopted by the Court's Plenary: "For the purposes of article 1, item I, subparagraph g, of Law

Complementary Law 64, of May 18, 1990, amended by Complementary Law 135, of June 4,

In 2010, the review of the mayor's accounts, both government and management accounts, will be carried out

by the Municipal Chambers, with the assistance of the competent Courts of Auditors, whose prior opinion

It will only cease to prevail by a decision of 2/3 of the council members.

V - Extraordinary appeal acknowledged and granted.

It is observed that the procedure for controlling the accounts of the head of the Executive Branch

The municipal framework is governed by clear and specific constitutional norms, having as its foundation...

The main points are paragraphs 1 and 2 of article 31 of the Federal Constitution. In this system, only the

so-called "acts of government" are submitted, on a preliminary basis, to the technical review of the **Court of**



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

Accounts, which issues a qualified opinion, based on criteria of legality and legitimacy. and cost-effectiveness.

This opinion, however, is advisory and informative in nature, and not decisive, because the The judgment on the merits of the accounts rests exclusively with the City Council, which exercises that function. constitutional court of last resort regarding the approval or rejection of the mayor's accounts, Regardless of whether these are management or government accounts.

The Supreme Court reiterated the delimitation of this exclusive competence of the City Council. The Federal Court and the Superior Electoral Court emphasized that the nature of the accounts was not... management, involving acts of direct expenditure authorization, or government, concerning the whole of the public policies implemented, the decisive factor for defining the judging body is not, but rather the The position held by the person who renders the accounts. In other words, if the person responsible for the accounts is the Mayor, then... The final decision will always be made by the local legislature, thus demonstrating the principle of... Uniqueness of the accounting system for heads of the Executive branch at the municipal level.

The qualified nature of the Court of Auditors' opinion gains prominence in this scenario: its Precedence can only be overturned by a decision requiring a two-thirds quorum of the city council members. The qualified majority requirement serves as a safeguard against arbitrary decisions, conferring Stability and protection of the external control process. Parliamentary action, in this context, It represents the definitive judgment and has the potential to produce significant political effects. especially with regard to the ineligibility of those whose government accounts are rejected by irremediable irregularities, based on a reasoned and public decision by the legislative body.

On the other hand, the collaboration of the Court of Auditors is undeniably important. technical, since it stems from a detailed examination of administrative acts, starting with formal compliance. From financial execution standards to the evaluation of results actually delivered to society, which builds the informational basis for the deliberation of parliamentarians. The issuance of the opinion. Prior notice is therefore a fundamental step to ensure that the City Council's decision is sufficiently informed, transparent, and committed to the constitutional principles of public administration.

Another relevant point to highlight is the control exercised by the Courts of Auditors. It cannot be reduced to a merely formal analysis of administrative acts. On the contrary, the Doctrine and jurisprudence converge on the understanding that it is the responsibility of these Courts to exercise control. of legitimacy, which includes the analysis of all the circumstances and grounds involved Each act of public expenditure. This is a control mechanism that seeks to evaluate the administrative merit. in its broadest sense, without this meaning restricting the manager's discretion, but rather



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

to ensure that administrative choices are properly justified and supported by criteria.

technical, legal and social.

In this context, the understanding expressed by the Supreme Federal Court deserves highlighting.

in Writ of Mandamus No. 33,340, under the reporting of Minister Luiz Fux, which recognized the

Scope of the powers of the Courts of Auditors in controlling all administrative activity.

related to the execution of public expenditure and compliance with budget forecasts. This encompasses

not only respect for legal and accounting procedures, but also the assessment of the quality of

spending and achieving the goals set by public policies, in fundamental sectors such as

education, health, social assistance and infrastructure, among others.

Therefore, the actions of the Courts of Auditors and the Municipal Chambers, each in its own capacity.

Within its own sphere of competence, it constitutes an important mechanism of checks and balances in the context

local, ensuring the constant improvement of public management, the effective accountability of

agents and the protection of republican values in the context of Brazilian federalism.

The ineligibility under subparagraph g, of article 1, item I of Complementary Law 64/90: The "List of those ineligible by the TCE/TCU"

The concept of ineligibility represents a temporary limitation on electoral capacity.

The passive right of the citizen, that is, the right to be elected to public office. It is important to highlight that this

The restriction does not extend to other dimensions of political rights; the ineligible citizen remains eligible.

to vote and can actively participate in political parties and other forms of democratic practice.

of citizenship. This delimitation reinforces the selective nature of this impediment, which aims to preserve the

collective interest, administrative morality, and the legitimacy of the electoral process.

Ineligibilities can be classified as absolute or relative, depending on the...

Scope of the impediment. Absolute ineligibility has a general impact: it prevents the citizen from...

to run for any elected office, when imposed for serious and constitutionally defined reasons,

such as illiteracy or loss of political rights due to a court conviction. Ineligibility, on the other hand, is a form of eligibility.

relative applies only to certain situations or positions, for example, restrictions related to

reelection, functional ties, or indirect impediments due to kinship, applying in a manner

Specific and temporary, according to the candidate's role or affiliation at the time of the election.

Thus, the absence of passive electoral competence caused by express ineligibility

the temporary inability to exercise full political rights regarding candidacy, without extinguishing

political and electoral citizenship.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

The enshrining of these legislative and jurisprudential concepts reveals the commitment of Brazilian law protects the legitimacy of the electoral process, with ineligibility being the main issue. used strategically to prevent the abuse of economic, political, or institutional power, In addition to punishing acts of administrative misconduct, Complementary Law No. 64/1990, known as The "Clean Slate Law" became a landmark by detailing the grounds for ineligibility and their... deadlines, seeking to guarantee fair and reliable elections.

In the field of public accounts, the understanding consolidated by the Supreme Court deserves highlighting. Federal Court, especially in the judgments of Extraordinary Appeals 848826 and 729744.

According to the understanding of the Supreme Federal Court (STF), it is the exclusive competence of the Municipal Chamber to judge both the accounts of The government has jurisdiction over the management accounts of the mayors. Thus, only the definitive rejection of the accounts by the legislative body, observing due process and the requirements of the Clean Record Law. and not only the technical opinion of the Courts of Auditors, may result in the incidence of ineligibility foreseen in article 1, item I, subparagraph "g", of Supplementary Law No. 64/1990. This means that, in In the event of omission by the City Council, the opinion of the Court of Auditors does not generate This automatically renders someone ineligible, preserving the federal balance and respecting autonomy. Local legislation and democratic values.

Furthermore, for ineligibility to apply in this situation, the City Council's decision must... being unappealable, evidencing an irreparable irregularity and a deliberate act of administrative misconduct, under the terms of the law. In these cases, the citizen will be prevented from running for elected office in the elections that take place in the eight years following the date of the decision, reinforcing the educational character. and moralizing the political-electoral sanction.

The system, therefore, ensures that only decisions based on sound foundations are made, after broad adversarial proceedings and thorough technical analysis may restrict the right to run for office, preventing Abuses and protecting the democratic principle of popular sovereignty and the legitimacy of the election. A coordinated action between Courts of Auditors, Municipal Chambers and Electoral Courts is indispensable to ensure the effectiveness of this model and the constant improvement of institutions. control.

CONCLUSION

The ineligibility under subparagraph 'G' of item I of article 1 of Complementary Law No. 64/90 does not It requires conviction for misconduct, but only for rejection of accounts, provided that its requirements are met. Within the scope of their constitutional powers to audit accounts, the Courts of Auditors are permitted to apply, where plausible, financial liability, due to disobedience to



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

specific rules that are related to the management of state assets and values (financial law and administrative law, especially, but also encompassing others).

The control of public accounts by the Courts of Auditors (TCs) is configured as one of the pillars of oversight of the use of public resources in democratic states governed by the rule of law, contributing not only for holding managers individually accountable, but also for the overall improvement of Brazilian public administration.

The actions of these Courts assume a multifunctional role: they involve actions of technical analysis, judgment, guidance and promotion of good administrative practices, encompassing all branches of government and spheres of the Federation. This scope is justified because good governance requires accountability. Effective horizontal governance and mechanisms for preventing, correcting, and suppressing deviations.

By demanding transparency and technical rigor, the Courts of Auditors are not merely bodies of reactive controls; they also perform a pedagogical function, improving the institutional apparatus and the cycle of public policies, since their recommendations and warnings often result in adjustments of normative and administrative conduct in the audited bodies. In practice, the preventive action of TCs reduce the risk of wasting resources, increase public trust in institutions and It strengthens integrity practices in relations between the State, the private sector, and the citizen.

With regard to ineligibility arising from the audit of accounts, it is worth highlighting its effectiveness as an ethical defense mechanism of the national representative system. By preventing Candidacy of managers who committed intentional acts of administrative misconduct rejected. In order to finalize their accounts, Complementary Law 64/90 (Clean Record Law) reiterates the commitment of Brazilian legal system with probity, morality and efficiency in the performance of duties public.

The alignment between technical oversight and the political decision-making of the City Council, according to The ruling by the Supreme Federal Court preserves the balance of powers and protects due process, while also... This process avoids arbitrary decisions and ensures the right to a fair hearing for the managers involved.

It is essential to emphasize that, in order for ineligibility to produce the effects desired by legislators and society alike need communication between Courts of Auditors, Electoral Courts, and others. Regulatory bodies must be swift, transparent, and based on uniform procedures. Only then will they succeed. This ensures the effective implementation of the constitutional mandate that seeks to curb illegal practices and expand the degree of... ethical requirements for holding elected office.

Furthermore, the increasing adherence to international audit and governance standards, the use intelligent use of technological resources, and the constant updating of judgment parameters. They improve the effectiveness of the Brazilian control system.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

For all these reasons, it can be stated that the institutional strengthening of the Courts of Auditors, coupled with the harmony and independence of the branches of government, it represents an essential guideline for the construction of A public administration that is increasingly efficient, ethical, and inclusive.

The continuous assimilation of experiences and innovations, coupled with rigorous external controls, It enables the improvement of the state apparatus and contributes decisively to development. The country's sustainability. Therefore, controlling public finances should be seen not only as... a sanctioning tool, but above all, an instrument for the constant improvement of the State. Brazilian, in response to the demands and expectations of society in the era of transparency and combating to corruption.

REFERENCES

BRAZIL. *Constitution of the Federative Republic of Brazil of 1988*. Available at: http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm. Accessed on: September 6, 2025.

BRAZIL. *Complementary Law No. 101, of May 4, 2000: establishes public finance standards aimed at responsibility in fiscal management and provides other measures*. Available at: http://www.planalto.gov.br/ccivil_03/leis/lcp/lcp101.htm. Accessed on: September 20, 2025.

BRAZIL. *Supreme Federal Court*. Available at: <http://www.stf.jus.br>. Accessed on: September 10, 2025.

BULOS, Uadi Lammêgo. *Annotated Federal Constitution*. 11th ed. rev. and updated in accordance with Constitutional Amendment No. 83, of August 5, 2014, and the latest rulings of the Supreme Federal Court. São Paulo: Saraiva, 2015.

CARVALHO FILHO, José dos Santos. *Manual of Administrative Law*. 26th ed. rev., enlarged and updated until 31-12-2012. São Paulo: Atlas, 2013.

LENZA, Pedro. *Constitutional Law Outlined*. 16th ed. rev., updated and expanded. São Paulo: Saraiva, 2012.

MORAES, Alexandre de. *Constitutional Law*. 30th ed. São Paulo: Atlas, 2014.

NOVELINO, Marcelo. *Manual of Constitutional Law*. 8th ed. rev. and updated. Rio de Janeiro: Forense; São Paulo: Método, 2013.

SILVA, Fernando Matheus da; PECCININ, Luiz Eduardo. *Courts of Accounts, Impropriety and Ineligibility*. Lecture given by Rodolfo Viana at the V Brazilian Congress of Electoral Law. *Brazilian Journal of Electoral Law – RBDE*, Belo Horizonte, year 9, no. 17, p. 231-251, Jul./Dec. 2017.



Year V, v.2 2025 | Submission: October 27, 2025 | Accepted: October 29, 2025 | Publication: October 31, 2025

Federal Court of Accounts. *Brief history*. Available at: <http://www.tcu.gov.br>.

Accessed on: September 21, 2025.

Federal Court of Accounts. *Competencies*. Available at: <http://www.tcu.gov.br>.

Accessed on: September 17, 2025.

Federal Court of Accounts. *Operation*. Available at: <http://www.tcu.gov.br>.

Accessed on: October 11, 2025.

Superior Electoral Court. *Clean Slate Series: ineligibilities created by law cause candidates to be disqualified*. Brasília, June 12, 2013. Available at: [https://conexaoto.com.br/noticia/anexo/](https://conexaoto.com.br/noticia/anexo/62461d3dcc3fafb50a6bc1c2d1058f74)

[62461d3dcc3fafb50a6bc1c2d1058f74](https://conexaoto.com.br/noticia/anexo/62461d3dcc3fafb50a6bc1c2d1058f74). Accessed on: October 8, 2025.

Superior Electoral Court. *Courts of Accounts*. Available at: <https://alpiofilho.blogspot.com/2011/04/tribunais-de-contas.html>. Accessed on: October 8, 2025.