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Public interest

Mohamed Ali MRABI

IT has become a ritual. Every year, after the publication of the Court of Auditors' report, one question comes up again and again: What is to be done with the recommendations of this high court? This year, like all the others, the answer is practically the same: not much! According to the latest statistics, out of 389 recommendations, only 16% have been fully implemented, hence the call for «*the entities concerned to redouble their efforts to speed up their execution*». Throughout the world, financial jurisdictions are responsible for two main aspects. In addition to the compliance aspect of decisions and expenditure, the non-jurisdictional aspect, according to some, could be even more important, especially as it involves supporting institutional players in the collection of public finances, in the search for efficiency in public policies, in the improvement of governance... And it is in this role that the machine seems to be jammed, with the organizations concerned not playing ball. And unless the proposed adjustments are introduced as a matter of urgency, the situation is likely to get bogged down, further complicating the identified malfunctions. And yet, when implemented on time, certain recommendations have had a positive impact. Reversing this trend requires a real change of mindset. This is essential if we are ever to put an end to this complacency. As guardian of the temple of good governance, the Court of Auditors is charged with safeguarding the public interest. In the words of Cardinal de Richelieu (in the 17th century), these are the very interests that «*oblige those in charge of States to govern them in such a way that they can not only guarantee them against all the evil that can be avoided, but also against the apprehension they might have of it*».❏

Weekly highlights

Tax fraud: Playtime is over!

THE key entity in the fight against tax fraud will soon become a reality. Although it has been provided for in the General Tax Code (CGI code) for several years, its creation was subject to a decree defining its organization and operating procedures. The decree has just been examined by the government council, which met on Monday December 25, a clear sign of the current Tax Directorate's (DGI's) determination to fight effectively against all forms of fraud and irregularities.

The Tax Offenses Commission is an advisory body, but it is a prerequisite for taking criminal action against tax fraud, except in the case of fictitious invoices (article 231 of the CGI code). In this specific case, and since the adoption of the Finance Act 2021, the Director General of Taxes no longer needs to go through the commission process. He can refer the matter directly to the public prosecutor, and has in fact done so in several cases.

This body is chaired by a magistrate and comprises two representatives of the tax authorities and two representatives of taxpayers chosen from the most representative professional organizations. Members are appointed by order of the Head of Government.

Thus, in the event of a complaint being lodged against an infringement by the tax authorities, the Minister of Finance or any person delegated for this purpose must first seek the opinion of the Commission for the implementation of the sanctions provided for in Article 192 of the CGI.

The recently introduced draft decree gives the commission a headquarters in Rabat, under the direct responsibility of the Head of Government. The General Secretariat will be entrusted to the Ministry of Finance. Commission members will be appointed by the Head of Government for a three-year term. In the operation of the commission, the General Secretariat will be responsible for receiving complaints relating to infringements, preparing meetings, drafting minutes, and transmitting the commission's opinion to the Minister of Finance or the person delegated for this purpose, who could be the Director General of Taxes.

The Tax Offenses Commission will hold its meetings at the initiative of the Ministry of Finance in its capacity as Secretary General. The creation of this latest piece in the anti-fraud jigsaw puzzle will mark a major milestone in the DGI's war against several forms of tax offense under article 192 of the CGI. The taxman's hands were tied because he had to work through an entity that did not yet exist. In a few weeks' time, this will no longer be the case.❑

Hassan EL ARIF

Tax revenues

Those billions lost to nature

IT is one of the Government's main financial resources. Yet a lot of it is still lost in the wild. At the end of 2022, the Government's outstanding debts amounted to around 100 billion Dirhams (USD 10 billion). Indeed, tax revenues reached 252 billion Dirhams (USD 25 billion) in 2022, or 83% of the State's general budget ordinary revenues. However, net revenues collected by the General Tax Directorate amounted to just 148.8 billion Dirhams (USD 14 billion). These are the findings of the latest report by the Court of Auditors, which emphasized the urgent need to reinforce tax fairness and civic-mindedness, in view of the Government's need for resources to finance transformational reforms. The high financial court also pointed to «*the high level of receivables owed by the Government*».

In concrete terms, the efforts of the DGI (General Directorate of Taxes) have not made it possible to clear outstanding debts. Its 2017-2021 strategic plan called for them to be reduced by at least 10% a year.

However, «*the stock of outstanding debts increased by an annual average of 8% over the same period*». For the Court of Auditors, this reflects «*shortcomings in terms of collections and write-offs, combined with other factors limiting actions to collect tax debts*».

In detail, the collection rate achieved remains very low. At the end of 2021, the collection rate for the 2017-2021 period did not exceed 45%, and the rate achieved on the stock of outstanding debts at the end of 2016 did not exceed 10%. The Court of Auditors points to the difficulty of recovering these debts in view of the time taken to issue them in relation to the relevant tax year. For example, «*the collection rate fell from 78% for tax assessments issued during the tax year or during the two following years, and to 42% for issues 5 years or more from their taxation year*».

The likelihood of tax collection also depends on the extent to which the current procedure is activated, by respecting deadlines such as the dispatch of the last notice free of charge and the summons. According to the Court of Auditors, «*these initial steps are not always taken on time*». Another constraint pointed out by the Court is the inadequate implementation of the selective collection approach, which prioritizes the most recent receivables with the highest financial stakes. Over the 2017-2021 period, the collection rate for recent receivables did not exceed 43%, for issues during the year in which they were taken over, and 5% from the following year onwards.

It is against this backdrop that the Court of Auditors has called for improved management of enforced collection actions. This needs to be coupled with an in-depth analysis of outstanding debts to determine, on the basis of convincing evidence, which debts are uncollectible, and to draw up a plan for their settlement.❑

M.A.M.

Weekly highlights

Water deficit: Alarm bells ringing

Morocco has entered a precise phase with five successive years of drought. The alarm has been sounded about the alarming levels of water held back in dams (Ph. Archives)

THE current hydrological situation and its impact on the supply of drinking water and irrigation is so alarming that Nizar Baraka made a presentation to his ministerial colleagues after the end of the government council meeting. He was therefore present at the government spokesman's press conference to share as much of the data as possible. Indeed, this is a dangerous situation, which calls for general mobilization in order to draw attention to water management, which certainly concerns the Government but also all stakeholders, stressed Mustapha Baitass, Minister Delegate to the Head of Government in charge of Relations with the Parliament, and Government Spokesman.

For Nizar Baraka, Minister of Equipment and Water, Morocco has entered a precise phase with five successive years of drought. The country has never experienced this level of drought since 2019. These first three months show that we are heading for another dry year. The Minister provided data to grasp the extent of the current situation. First, the average rainfall is just 21 millimeters. As a result, the average rainfall is down on an ordinary year with 67% rainfall, noted Nizar Baraka, who also cited the increase in heat which exceeded the average temperatures by 1.3 degrees Celsius during the first months of this agricultural season. This has had a knock-on effect in terms of evaporation and filling of dams. In addition, during this period, water inflows to dams did not exceed 519 million cubic meters, whereas in 2022 water inflows had reached 1.5 billion cubic meters, a drop of two-thirds. Compared with the last five years, the drop was more than 50%, as the average was 1.2 billion cubic meters, said the Minister. However, Nizar Baraka was keen to point out that rainfall on December 20, 2023 recorded 22 millimeters in the city of Tangiers… except that the water went out to sea. The rain must therefore fall in the areas where the dams are located in order to have data on water inflows. This situation has had an impact on dam levels, which currently stand at just 23.5%, or 3.75 billion cubic meters. Last year, which was also dry, and the filling rate was 31%. This represents a drop of 7 points. The filling rate for Souss-Massa is 11%, Oum Rabiaa 4.75%, Moulouya 25%, Loukkos 39%, Ziz Ghriss 27%, Daraâ Oued Noun 20%, and Tensift 46%, which led the Minister to say that Morocco is in a difficult situation, particularly the Al Massira dam system for the Settat-Berrechid area, with serious fears for the future. This dam is in a deplorable situation, with less than 30 million cubic meters available at a time when the capacity of its reservoirs is 2.7 billion cubic meters. Today, its filling rate is less than 1%. Difficulties are also being experienced in the Tangier-Assilah-Hoceima system and in certain areas of the Moulouya. The hope is that the rain will return. The next three months are the rainiest for our country. The snow is also helping to fill the dams.❑

Mohamed CHAOUI

Water and irrigation, the arbitration dilemma

IN terms of stock management, priority is given to drinking water. Irrigation comes next. The Minister admits that sometimes there are arbitration difficulties, but priority is given to drinking water and whenever possible, «*we provide contributions to irrigation to save what can be saved, since it is also a question of food security, supplying markets with necessary agricultural products, and (of preserving) the capital of small farmers. Despite the difficulty of managing this stage, we are working in transparency with citizens, with a responsibility to be assumed collectively*», said the Minister.❑

Water cuts are not out of the question

REGIONAL commissions, chaired by the walis and governors, are monitoring the water situation on a daily basis. They will take all necessary steps to rationalize demand. The idea is as follows: instead of using available capacity for 3 or 4 months, it is necessary to extend it to 6 or 7 months, the time it takes for the rains to return and help overcome the problem. Measures to be taken include reducing water pressure, and cutting off water supplies if necessary. This will be decided at the local level, according to developments in the situation in each town or municipality.❑

Weekly highlights

Can the school year still be saved?

PARENTS were disappointed last Wednesday, December 20, 2023, the day after the Government and unions signed an agreement on the new status of national education civil servants. «*They came to drop their children off at school after learning about the agreement. They were surprised to discover the strike. We're finding it harder and harder to reassure them,*» confides the principal of an elementary school in Casablanca. «*Although previously we didn't believe in the scenario of a blank year, today such a scenario is becoming more and more likely*» , he added.

Strikes and sit-ins punctuated virtually the entire first semester, making it impossible for pupils to attend school normally. This is unprecedented. «*Some of them have not even seen all their teachers yet*» , lamented the principal. And the situation is even more problematic for students who have to sit the exams for the sixth year of primary school, the third year of secondary school, and the baccalaureate (end of secondary school exam). Can we still catch up this year?

Marches, sit-ins; and strikes continue. A large proportion of teachers are not about to return to the classroom

«*Teachers have the ability and the tools to organize catch-ups. All it takes is the will to do so. However, if the strikes continue for another week or two, the situation will become very complicated*», says Mohamed Khoufaifi, Deputy Secretary General of the National Federation of Teachers (of the UMT trade union). The national coordination of the education sector is determined to continue its arm wrestling, which does not bode well for students. «*Morocco cannot afford a blank year. That would mean throwing more than 30% of the budget down the drain, not to mention the July competitive examinations for the grandes écoles (prestigious engineering schools)*», stresses a former senior Education Ministry official. To unblock the situation, the education expert calls for royal intervention. «*It is the only solution! After that, we can extend the school year a little and organize catch-up classes*», he said.

Even in the private sector, morale is not high, especially among high school students. «*If the public sector continues its strikes, we won't be able to sit the exams either, and it will be a blank year for everyone*», say people from the private sector..❏

Ahlam NAZIH

Public limited companies

Gender parity – fast, please!

AN important date in company law is fast approaching. Public limited companies must comply with an important provision of Law No. 19-20 (1) amending and supplementing Law No. 17-95, which requires the proportion of board members of each gender to be at least 30%. In addition, technical committees must include at least one representative of each gender (Articles 51, 76 and 106 bis of Law 17-95).

Article 7 of Law No. 19-20 on transitional measures sets the deadline at January 01 of the third year following publication of the law in the Official Gazette (1), which refers to January 01, 2024, the date by which the composition of boards of directors and technical committees must comply with legislative requirements (Article 7). However, lawmakers have provided flexibility for latecomers. The 30% quota for the first year of implementation must be met by

the end of the general meetings held in 2024. This deadline corresponds to March 2024 for companies with a September 2023 year-end, or June at the latest for companies with a December 31 year-end. According to the interpretation of Article 7 of Law No. 19-20, the last deadline for reaching the 30% quota actually expires at the end of June 2024.

As a reminder, Article 9 of Law No. 17-95 on Public Limited Companies defines a company making a public offering as «*any entity whose securities are listed on a stock exchange, or entities which, for the placement of the securities it issues, has recourse either to brokerage firms, banks or other financial institutions, or to canvassing or advertising procedures of any kind*».

By contrast, other categories of entities, including limited companies not making a public offering, are excluded. It should also be noted that this provision also applies to existing companies. The lawmakers' goal in introducing this measure is to encourage, for the time being, only public limited companies to ensure a gender balance in their management and supervisory bodies.

Law No. 19-20 provides for an increase in the proportion of women in the management and supervisory bodies of public limited companies. This means that by January 01, 2027, the proportion of men and women in these bodies must reach 40%, compared with 30% by January 01, 2024, giving a 6-year respite to bring these entities into line with gender equality legislation.

Article 105-5 of Law No. 19-20 provides for sanctions against organizations that fail to comply with its provisions by the deadline.❏

Hassan EL ARIF