

Requirements for the independence of the external auditor under Algerian legislation

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Received: 20/03/2026

Accepted: 16/08/2026

Published: 10/10/2026

Abstract:

The objective of the external auditor's independence is to advance and elevate the auditing profession since it plays a significant part in boosting confidence in the data found in financial statements, which is essential for decision-makers to make well-informed choices. In light of Algerian law, this research article attempts to logically define the conditions for the external auditor's independence. The study came to the conclusion that the effectiveness of the external auditor's (statutory auditor's) independence rests on the human qualities that must be present in the auditing sector and the avoidance of threats, pressures, and influences that compromise their independence. A comprehensive set of legislative and regulatory frameworks for the auditing profession in Algeria, such as Law 10-01, which is regarded as an important source for the external auditor because it clarifies in many of its articles how to achieve the requirements of independence, is another way that Algerian legislation has given considerable attention to the element of independence requirements.

Keywords: provisions, Algerian law, external auditor, independence of the external auditor.

1. Introduction

In addition to adopting a comprehensive system in terms of the legislative and professional framework, organizing the professional practice, defining the tasks, responsibilities, and duties of the external auditor, and supporting their independence, advancing the practice of external auditing necessitates strengthening the theoretical foundation of auditing through principles, assumptions, procedures, and standards.

The external auditor's independence is seen as essential to the auditing process. As a result, professional associations in the majority of nations have concentrated on the external auditor's independence. The authorities in charge of overseeing and supervising the profession lay particular focus on creating laws and rules that would preserve the external auditor's independence because of the latter's significance in raising the caliber of auditing services. Despite this, the auditor aims to attain the maximum levels of independence in their job, but this is challenging because independence is connected to several needs. Therefore, comprehending the

standards and researching the variables influencing the auditor's independence are the only ways to attain independence in auditing.

1.1. Study Problem:

In light of the aforementioned, we will try to respond to the following query in this study: What are the standards for the external auditor's independence under Algerian law?

The primary topic gives rise to the following sub-questions:

- What does external auditing include, and what are its forms, goals, and significance?
- What does the term "external auditor's independence" mean, and what are its dimensions, elements, contributing factors, and threats?
- What conditions must be met for an external auditor to be independent?

1.2. Study Objectives: The study aims to:

- Stressing the significance of the requirements for the external auditor's independence as well as the guidelines and directives pertaining to this independence as outlined in the State of Algeria's legislative legislation;
- The study seeks to identify the risks and variables influencing the external auditor's independence;
- Offering a list of proposals and ideas intended to enhance the profession's practice and guaranty auditors' independence.

1.3. The study's significance:

The study's significance arises from the requirement that external auditors be independent in every area for those keeping an eye on the economic unit's finances. The auditor's independence is regarded as the cornerstone of the auditing profession, and the external auditor's independence is necessary for the auditor to carry out their responsibilities to the best of their abilities.

1.4. Study Methodology:

The descriptive technique was used to finish this research by gathering data and information from primary and secondary sources and presenting and evaluating it in a way that was relevant to the topic.

1.5. Prior research:

- **The study by Abdel Rahman Ben Issa and Hicham Ben Hamida (2019), titled: Limitations of the independence of an external auditor while offering non-audit services in Algeria- an analysis of the viewpoints of a group of experts and scholars.** Given that providing non-audit services to the same client or a different client might divert the auditor's attention and efforts and jeopardize their independence, this study sought to emphasize the effect of audit companies offering non-audit services on the independence of the auditor. The study came to the conclusion that non-audit services have no long-term effects on Algeria's service quality and the independence of the external auditor's job.
- **Study by Eid Khairani, (2020), titled: Factors endangering auditors' independence.** The goal of the study was to pinpoint the elements endangering auditors' independence. The most significant of the study's conclusions are that personal interest, self-evaluation, familiarity, intimidation, and lobbying have no effect on Algerian auditors' independence.

- **Study by Nasira Qassem, (2020), titled: Factors influencing Algerian auditors' independence-Field research.** The purpose of the study was to determine what influences Algerian auditors' independence and how. The study found that a number of factors affect the independence of auditors, the most significant of which are the renewal of the mandate, which the client uses to exert pressure on the auditor; consulting services that undermine the auditor's independence; fee-related factors, such as fee determination and client pressure through payment delays; and the presence of audit committees in the institution, which supports the auditor's independence.
- **Study by Labaz Al-Amin, Faiza Zargat, and Halima Raqiq, (2021), titled: elements influencing the 10-01 system's level of auditor independence.** In accordance with the 10-01 system for regulating the profession of chartered accountant, certified accountant, and auditor in Algeria, the research sought to determine the most significant elements influencing the independence of the auditor and how to lessen their influence. The research found that the 10-01 system had rules to restrict the majority of obstacles to the auditor's independence and stressed that there should be no financial, family, or legal ties between the auditor and the organization under audit. The system was concerned that no one should profit financially from their labor, whether through employment, contributions, or consulting services. The competition between auditing companies for customers, which has an impact on the impartiality and openness of their findings, was not examined by the Algerian legislature.

2. Fundamentals of external auditing:

In economic life, external auditing is seen as a profession that is crucial to upholding the mutual and essential trust in financial relationships between various members of society. This is because the auditor's unbiased and independent technical opinion regarding the financial figures and data presented by the institution's management meets the needs of those parties.

2.1. Definition of external auditing:

The following are a few fundamental definitions of external auditing that may be quickly discussed: According to the ISO 9000:2005 standard, auditing is a methodical, impartial, and trustworthy procedure for obtaining the audit guide and its objective evaluation to ascertain the degree of adherence to audit criteria. . (Al-Qazzaz, 2010, p. 11)

The term "external auditing" refers to the methodical process of gathering information about elements that are indicative of economic events, objectively assessing it to determine how closely these elements adhere to objective standards, and then informing the relevant parties of the findings. (Jumaa, 2005, p. 07)

It is described as a systematic procedure for gathering and impartially assessing data pertaining to management's assertions regarding the results of events and economic actions in order to ascertain the degree to which these results conform to accepted norms and to inform the appropriate users of the findings. (Shahata & Nasr Ali, 2013, p. 07)

2.2. Objectives of external auditing: (Ben Qara, 2014, pp. 74-76)

As the field of external auditing has developed throughout time, so too have its goals.

2.2.1. The traditional objectives of external auditing:

- Ensuring that the financial data entered into the company's books and records is precise and accurate;
- Offering an objective technical assessment of how well the financial statements match the information in the books;

- Using the auditor's visits to the firm to identify and reduce fraud and inaccuracies in records and ledgers;
- Keeping an eye on and monitoring the company's owners' intentions and their execution;
- Evaluating the business's performance outcomes in relation to the objectives;
- Reaching maximum productivity by getting rid of waste in every facet of the business's operations.

2.2.2. The modern objectives of external auditing:

- Keeping an eye on plans and monitoring their execution;
- Assessing performance and increasing the audited firms' efficacy and efficiency;
- Reaching the highest level of well-being for the community in which the business works;
- Generally speaking, making the most profit feasible;
- Promoting the well-being of the community where the business works.

2.3. The importance of external auditing:

Many parties both inside and outside the company who are interested in learning how equitable the organization's financial situation is might benefit from external audits. Among these parties, we list: (Tamar, 2017, p. 46)

2.3.1. Institutional management - financial and commercial institutions - government entities

- **Institution Management:** Because management depends on the planning process, present and future decision-making, and planning control, external auditing is crucial for project management. The auditor's job is motivated to carry out these responsibilities. Investment in these institutions is also directed by auditing financial accounts.

- **Financial and commercial institutions:** Since these organizations base their lending choices on audited financial accounts, external auditing is very crucial to them. This guarantees that their money is allocated appropriately and that those loans will be repaid in the future.

- **Government entities:** In addition to unions and syndicates that rely on audited financial statements in the event of a dispute between the institution and any other party, government entities use audited financial statements for a variety of purposes, including oversight and planning, tax imposition, loan granting, and support for specific activities. The International Federation Committee has stated that "the importance of auditing lies in that independent auditors help maintain the integrity and efficiency of financial data, as well as assist tax experts in building trust and efficiency in the fair application of the tax system, and it also helps in making sound administrative decisions".

2.3.2. The importance of auditing for the national economy

Given the services it offers in the area of investment protection, external auditing contributes significantly and effectively to community development, which benefits the national economy as a whole. The state views the auditor as a valuable resource for carrying out its goals, identifying any financial aberrations, and promptly addressing and correcting them in order to boost the economy.

2.4. Types of external auditing: Actually, it makes the following distinctions between three categories of external auditing: (Lakhdhari, 2019, p. 09)

2.4.1. Legal audit (auditor): any audit required by law that includes the auditor's yearly monitoring tasks.

2.4.2. Contractual or voluntary audit (accounting expert): this can be renewed yearly and is performed by the auditor at the request of one of the people (internal or external) interacting with the organization.

2.4.3. Judicial expertise: carried out at the court's request by an outside auditor.

3. An introduction to the independence of the external auditor:

One issue that has received a lot of attention is external auditor independence. One of the most significant recognized auditing criteria is the external auditor's independence, which highlights the need for the auditor to be independent in all aspects of the auditing process, including their personality and way of thinking.

3.1. Definition of external auditor independence:

The definition of an external auditor is "the person who conducts the audit process to test the fundamental transactions that form the basis for the preparation of financial statements." This term occurs before we discuss the independence of the external auditor. (Laguira, 2019, p. 25)

Different phrases have been used to describe independence; some refer to it as neutrality, while others use the term independence. The degree of impact from the two schools' interpretations of the term "independence" is the cause of the discrepancy. The English school views it as a set of legal guaranties or what is known as the objective perspective, but the American school stresses the individual (subjective) perspective and regards it as independence in thought. At the moment, the definition of independence takes both schools into consideration. (Qassem, 2020, p. 32)

When an auditor is independent, they are free from the power and influence of the client whose work they are evaluating, whether they are carrying out the audit tasks or presenting the findings in a report. An independent auditor is one who views the issues they are evaluating objectively and impartially. (Shariq & Laqliti, 2017, p. 106)

Additionally, the external auditor's independence encompasses or is symbolized by two elements: (Sardok, 2015, p. 106)

3.1.1. Apparent independence (in appearance): This refers to the auditor avoiding any situations that cast doubt on their independence with regard to all parties gaining from the auditing services. Examples of such situations include not having any material interests with the company whose accounts they audit, as well as not being a shareholder, partner, or employee of the company.

3.1.2. Self-independence: This is the absence of pressure or interference from a higher authority or a particular entity on the auditor's role in confirming the accuracy of the books and the precise representation of the financial statements of the entity's financial position and operational results. This refers to the auditor's mental and professional independence.

The external auditor must attain total independence in both of its domains—the first and the second—without separating them, as the loss of one compromises or even eliminates the second domain and, consequently, the independence overall.

3.2. The importance of the external auditor's independence:

It is normal for the auditor's independence to be impacted by the many and often competing ties and interests that exist in the auditing environment. As an agent of the owners, acting in their best interests and defending their rights, the researcher emphasizes the significance of the auditor's independence. The legitimacy of the auditor's report and the degree of faith that readers of financial reports can have in it are both impacted by this relationship, which is one of the most

important in the auditing profession. In order to be qualified and capable of carrying out their supervisory function to the fullest extent, the auditor must be independent. They must be able to voice their opinions with confidence, impartiality, and a clear conscience without fear of repercussions. (Qassem, 2020, p. 32)

3.3. Dimensions of external auditor independence: (Al-Rashidi, 2012, pp. 15-17)

Financial demands, social obligations, and personal relationships are the most significant elements that may impact the auditor's relationship with the audited company. These elements may have an independent or combined impact on the auditor's independence. Therefore, the auditor's total independence must be attained throughout the audit process, which involves multiple stages, in order for the profession to continue playing a role in society. Consequently, it is possible to identify three aspects of the auditor's independence:

3.3.1. Independence in preparing the audit program:

This implies that, within the broad parameters of the necessary duties, the auditor has total discretion when creating the audit program to choose the procedures and quantity of work that must be completed. This suggests that management should not influence the auditor to look into areas not covered by the program or interfere with any component of the audit program's exclusion, specification, or modification.

3.3.2. Independence in the field of inspection:

This means that while choosing the regions, actions, policies, and phrases that will be examined, the auditor is free from any pressure or intervention. This involves a number of factors, the most crucial of which are:

- The auditor's complete authority to collect data from any source and to examine and examine all documents kept in the company's offices and branches;
- The productive and successful collaboration between the auditor and the staff of the business throughout the testing and inspection procedures;
- Management's refusal to interfere with efforts to identify the regions, terminology, and documents that need to be examined or to force the auditor to accept specific papers without conducting an audit and inspection;
- Steering clear of interpersonal connections and developing shared interests that influence the assessment procedures and voice of ideas.

3.3.3. Independence in the field of report preparation:

This indicates that neither the final opinion on the audited financial accounts nor the presentation of the facts found during the audit process are subject to intervention or pressure. This could involve a number of elements, the most crucial of which are:

- No outside intervention or oversight to change any of the report's facts;
- Don't omit any crucial components from the report;
- When expressing thoughts or highlighting concerns and recommendations in the report, refrain from employing unclear language and concepts that have several meanings;
- No party may influence the report's contents, including how the facts are presented or how the technical opinion on the audited financial statements is provided.

3.4. Components of the external auditor's independence: (Boudraba, 2014, p. 183)

"When conducting an audit, neutrality or independence is the fundamental factor in the auditor's behavior and in presenting the results of their work," stated Churchill, demonstrating his independence. Two essential elements are necessary for the imposition of auditor independence:

3.4.1. Subjective elements: These include the auditor's character traits, training in science and ethics, and work experiences.

3.4.2. Objective components: These are reflected in the laws as well as the decisions, guidelines, and assurances provided by professional associations.

Many authors endorse this second strategy, content to present the legal texts in order to accomplish the objective components without making reference to the character components' personal aspects. On January 1, 1964, the American Institute of Certified Public Accountants (AICPA) abandoned its commitment to the subjective (personal) criterion for auditor independence and endorsed the objective criteria in addition to the personal criteria.

3.5. Factors affecting the independence of the external auditor: The following are the key elements influencing the external auditor's independence: (Labaz, Zargat, & Raqiq, 2021, pp. 47-48)

3.5.1. Competition to draw in clients: Strong competition has an impact on an auditor's independence because it makes them reluctant to be cautious in their financial statement reports out of concern about losing clients.

3.5.2. Size of the audit office: It's critical to distinguish between small and large audit offices because the latter are frequently less likely to lose their independence than tiny offices run by a single auditor. Because audit fees from a one customer make up a smaller portion of the office's overall revenue, large audit offices are less reliant on a particular client. Additionally, there are certain traits of small audit firms and their clients, especially in the client-auditor relationship, where the primary component of the relationship is the auditor's personal relationship with the client, which increases the risk of losing independence.

3.5.3. Threats to familiarity: The length of time spent with the client strengthens the bond between the auditor and the client, which compromises the auditor's independence and lowers the audit's quality. It also happens when an auditor's objectivity is compromised by deepening their relationship with the client—for example, by taking gifts and hospitality—or when an auditor's family member occupies a sensitive position in the client's business.

3.5.4. Offering the client consultation services: The subject of auditors offering management consulting services is a crucial one that has generated a lot of discussion and argument about how it affects the external auditor's independence. Some people think that an auditor can continue to be independent while advising management.

3.5.5. Obtaining economic benefits and advantages: Any interest that might be deemed to be in contradiction with the auditor's integrity, honesty, objectivity, and independence must be disregarded.

3.5.6. The academic and practical qualifications of the auditor: The examination is carried out by an individual who possesses the necessary technical expertise, real-world experience, and professional competence to be employed as an auditor, according to the first standard of the general auditing standards. In order to guaranty the auditor's independence while carrying out his

duties, this standard implicitly assumes that there is a fundamental requirement, which is academic qualification. Another requirement is the ongoing updating of his academic and practical qualifications.

3.6. Threats to the independence of the external auditor: (Khirani, 2020, pp. 323-324)

Threats may have an impact on the auditor's independence since Section 29 of the Code of Ethics (IFAC, 2010) provide a conceptual basis for independence. In order to remove or minimize dangers to a manageable level, this framework can be used to identify, evaluate, and implement preventative measures as needed. Threats to independence are divided into five categories by the Code of Ethics: self-interest, self-review, intimidation, familiarity, and advocacy threats.

The following are the risks to independence that are discussed in the suggestions for the European Commission's independence:

3.6.1. Threat to personal interest (self-interest): For instance, the auditor may have financial interests and gains or any other interests that negatively impact the professional accountant's (auditor's) judgment and conduct.

3.6.2. Threat of self-audit: A current opinion must be formed by the auditor based on an assessment of the findings of a prior judgment rendered by the audited company, a partner, or themselves.

3.6.3. Threat of Alliance: This hazard arises when the auditor and the officials of the organization develop a connection and camaraderie that makes the auditor more understanding and receptive to their job.

3.6.4. Threat of support: It happens when the auditor supports or upholds the client's viewpoint to the point where it shows a lack of objectivity.

3.6.5. Threats of harassment: This refers to situations in which the auditor is unable to perform impartially because of real or possible pressures, such as improper influence on the auditor's viewpoint.

4. Requirements for the independence of the external auditor (statutory auditor) under Algerian legislation: A set of legal regulations has been developed to guaranty the needs of the external auditor's independence since Algerian lawmakers have placed a high value on their impartiality and independence.

4.1. Independence and impartiality of the external auditor (statutory auditor): (Ben Issa, 2017, p. 218)

The profession's independence in terms of organization is further supported by the regulation of the profession through the publication of a legislative document the size of Law 10-01. The connection between the nation's administrative power and professional monitoring organizations, however, is the law's weakness (Article 16 of Law 10-01). The external auditor conducts audits and certifies the accuracy of accounts in their own name and under their responsibility, expresses their opinion on the accounts, adheres to accounting rules, and reports any party that hinders them from carrying out their duties to the fullest extent. Independence typically takes the following forms:

- Independence in appointment: in the event of a statutory auditor, the auditor is chosen by the general assembly and is not answerable to the board of directors, management, or any other entity (Article 26 10-01);
- By refusing to approve the company's accounts for two periods in a row, the auditor establishes their independence and notifies the public prosecutor. However, independence may be impacted if another term is not renewed as a result of this announcement (Article 27 10-01);
- According to Article 28 10-01, the appointment of an auditor who serves in lieu of an audit company and carries out his tasks under his direct responsibility is seen as proof of independence in adopting obligations (separation of the auditor's duty from that of the firm);
- One of the ways that the law guarantees independence is the ability to freely and at any moment evaluate evidence (Article 31 of 10-01);
- One of the guarantees that support the auditor's independence is the ability to notify the general assembly in writing of any obstruction to the auditor's responsibilities by the company's management bodies (Article 34 of 10-01);
- Independence and freedom in the external auditor (statutory auditor) retaining the right to intervene in the company's general assembly (Article 36 of 10-01);
- Determining the audit fees in advance contributes to the independence of the external auditor, which is reflected in the positive impact on the audit process without expecting additional fees that have not been agreed upon in advance. (Article 37 of 10-01)

4.2. The regulatory provisions for the independence of the external auditor (statutory auditor): (Ben Hamida & Ben Issa, 2019, pp. 81-82)

In order to regulate the issue of the independence of the auditor in Algeria while carrying out the tasks assigned to him, the Algerian legislator has defined a set of provisions that take into consideration the impossibility of carrying out conflicting tasks at the same time or having traits that prohibit him from practicing the auditing profession altogether. These clauses focus on both short-term conflicts of interest and long-term bans that restrict the auditor from doing anything other than auditing concurrently. The following is one way to convey these provisions:

4.2.1. Prohibitions: When conducting an external audit of an Algerian company or organization, the external auditor is required to abstain from the following:

- Keeping an eye on a business in which he has direct or indirect interests;
- Contributing to or acting on behalf of the managers, or carrying out management duties directly or indirectly;
- Taking up organizational responsibilities in the institution's or the monitored body's accounting or managing it;
- Taking up organizational responsibilities for the institution's or the monitored entity's accounting or supervision;
- Acting as a court expert or tax advisor for a business or organization whose accounts you audit;
- Less than three (03) years after his tenure ended, he continued to work for the firm he audited.

4.2.2. Conflicts of interest: circumstances that are incompatible with the external auditor's profession must be avoided in order to maintain an independent and moral practice. These circumstances include:

- Any commercial activity, particularly when it involves acting as a middleman or agent in business and professional transactions;
- any paid employment that necessitates a relationship of legal subordination;
- Any administrative role or participation in a business enterprise's supervisory board as specified by commercial law;
- Integrating the roles of certified accountant, auditor, and chartered accountant within the same organization;
- Each term of parliament;
- The external auditor's responsibilities do not interfere with accounting education and research on a contractual or supplemental basis during each election term in the executive body of elected local councils.

5. Conclusion:

The external auditor's capacity to be impartial and independent increases confidence in the viewpoint they provide in their report on the financial accounts that have been made public. As a result, the external auditor's independence is regarded as the foundation of the auditing profession and one of its driving forces. It was noted that the Algerian legislator has defined somewhat deterrent provisions for both the prohibitions and conflicts of interest regarding the independence of the external auditor within the framework of Law 10-01 concerning the regulation of the profession of chartered accountant, certified accountant, and auditor in order to improve the requirements for the independence of the external auditor. The following is a summary of the study's primary conclusions and suggestions:

5.1. Study Results:

- One of the most important qualities an external auditor has to have in order to carry out their work with impartiality and honesty and for their judgment to be valuable to the parties using their final report is independence;
- In addition to academic credentials and real-world auditing experience, the external auditor's independence depends on a number of subjective and objective characteristics that must be present in them, such as honesty and integrity, which in turn influences the reinforcement of their independence;
- When evaluating the degree of the external auditor's independence, consumers of the financial statements must consider a number of pressures, influences, and dangers that compromise the external auditor's independence;
- By creating a thorough set of legislative and regulatory frameworks for the auditing profession in Algeria, Algerian legislation has paid considerable attention to the element of independence. It has attempted to achieve the independence of the external auditor by designating the majority of independence prohibitions to deter them;
- Law 10-01 is regarded as a crucial resource for Algerian external auditors since it provides explicit guidance on the independence of external auditors and describes how to do so in several of its paragraphs;

5.2. Recommendations:

- Professional organizations that are accredited and have expertise in professional conduct ought to review the codes of professional conduct in light of current advancements in the field and create rules regarding audit fees that protect the independence of the auditor and keep them from caving in to client demands;
- Ongoing education and expanding scientific and professional endeavors that can improve professional proficiency and stay current with industry advancements;
- strengthening Algeria's external auditors' independence by requiring them to rotate in order to keep them from losing their independence;
- completing the publication of Algerian auditing standards, which may help provide the external auditor greater autonomy.

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