

*Gabriela Idzikowska\**, *Zofia Owczarek\*\**

## IMPLEMENTATION OF THE 8<sup>th</sup> EU DIRECTIVE IN POLAND

**Abstract.** That paper presents stages in the implementation of Polish regulations concerning chartered auditor's profession and chartered auditors' self-government. The authors made reference to the Eighth EU Directive, discussing analogies and differences between Polish and EU regulations.

### 1. Introduction

During the post-Second World War period in Poland, 3 distinct phases may be distinguished in the field of auditing:

- phase I – until 1991,
- phase II – from 1992 to 1994,
- phase III – after 1994.

The first stage began in 1959 with the institution of the office of chartered accountant for auditing financial statements. The regulatory framework was provided by the Decree of the Finance Minister and the implementing regulations. A certain specificity of the chartered accountant's profession was due to the centrally-planned economic system determining the situation in Poland at that time.

After 1990, in the context of the economic transition, attempts were undertaken aimed at forming a separate profession of chartered auditor, consistently with international regulations. As a result, the Act on Auditing and Publication of Financial Statements, Auditors and their Self-Government was passed on the 1<sup>st</sup> January 1992. The Act was supplemented by temporary

\* Department of Accounting, Faculty of Management, University of Łódź, Poland, wzrach@uni.lodz.pl

\*\* Department of Accounting, Faculty of Management, University of Łódź, Poland, wzrach@uni.lodz.pl

provisions for the period of transition, that is provisional standards of practising the profession, professional ethics and disciplinary procedure.

The experience gained during the practical implementation of the Act was taken into consideration in the elaboration of two new legal acts:

- Accounting Act,
- Act on Auditors and their Self-Government.

These acts came into force on January 1995 and are still operative. They mark the beginning of the third stage in the implementation of auditor regulation in Poland. The experience accumulated during a six-year period of operation of these regulations provided a basis for the amendments enacted in 2000.

## 2. Auditing before 1991<sup>1</sup>

The first auditing regulations were passed in 1959 by the Council of Ministers. They introduced the institution and professional title of State-Authorised Expert in Accounting (chartered accountant). The Finance Minister prescribed a qualifying procedure for this title, elaborated the programme of professional training for candidates for chartered accountants, and defined the scope of their duties and responsibility. The State Examination Commission was formed, whose members were replaced every three years.

The professional exam consisted of two parts. The first part comprised written tests in the accounting theory, financial analysis and advanced accounting for industrial commercial and agricultural enterprises and non-profit organisations. The second part comprised oral examinations in the following subjects:

- statistics,
- corporate planning,
- law,
- industrial economics,
- finance,
- auditing techniques.

A chartered accountant could specialize in a specific area of national economy. He or she had the possibility to specialize in such areas as industry, building trade, commerce, agriculture and the public sector. The majority decided on industrial enterprises. Each of them was required to have higher education or equivalent qualifications in the field of economy

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<sup>1</sup> Prepared on the basis of Alicja A. Jaruga *The Accountancy Profession in a Centrally Planned Economy: The Polish Case*, "The Accounting Magazine", October 1979.

or law. In order for a candidate to be granted the title of State Authorised Expert in Accounting, apart from fulfilling the above requirements, he was required to have at least a 3-year accounting practice, one year of which was devoted to specialising in a selected area.

Contemporary law admitted a possibility of granting the title of State Authorised Expert in Accounting to persons without higher education with at least a 10-year record of professional practice. Besides, this title was conferred on the persons who played a significant role in the accounting science.

Chartered accountants did not form independent firms for practising their profession. They were chiefly employed in business entities as accountants, and for about a month in each year they performed additional work for other entities, which consisted in auditing their financial statements. The list of chartered accountants was kept by the Finance Minister. It was published (with changes) in the Gazette of the Finance Ministry.

All financial statements had to be audited. The reason for auditing financial statements by an independent person<sup>2</sup> was the direct involvement of the employees and management in the performance of a given entity, that is in the financial result or, more specifically, the value added. This was due among others to the fact that employees were entitled to participate in the distribution of the wealth which they had a part in generating, as well as the fact that the resources were state property.

Chartered accountants performing audits did not assess the efficiency and effectiveness of management decisions, only the reliability of the statements and the degree of the execution of plan targets. The effect of audit was the opinion and information (report). This information was first very extended, but later it became simplified. The opinion of a chartered accountant on the fair determination and presentation of the financial result provided a basis for the distribution of the profit among the employees and management. Every opinion had to be approved by taxation authorities.

Chartered accountant's opinion was subject to verification by the Verification Commission and by the management of the audited entity and the relevant Branch Association. The Verification Commission was composed of representatives of banks, trade unions etc.

If the opinion of a chartered accountant was not approved by the Verification Commission, he could appeal to a higher instance, including the Finance Ministry. In such a case another person was appointed to express an opinion on the report in question, or the Finance Ministry recommended different interpretation of legal regulations.

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<sup>2</sup> Chartered accountants took a vow which obliged them to independence. In practice chartered accountants not always were independent, but nobody controlled it.

When it was found that a chartered accountant performed his work incorrectly, the Finance Ministry could suspend his professional activity or remove his name from the register.

It is important to note that before 1991 there was no separate self-governing body of chartered accountants. They were members of the Accounting Association in Poland, in which they were treated on a par with other accountants; a special department for chartered accountants was appointed within this Association.

In 1991, after precise analysis of the institution of chartered accountant, the Accounting Association in Poland became a member of IFAC.

### **3. Act on auditing and publication of financial statements, auditors and their self-government**

The systemic change in Poland has entailed the need to adapt Polish accounting and auditing legislation to the requirements of a market economy. In preparing new legal acts the legislator was guided by regulations operative in the European Union countries and contained in EU Directives. As a result two laws were enacted:

- Decree of the Finance Minister of 15 January 1991 on the principles of accounting,

- Act of 19 October 1991 on auditing and publication of financial reports, chartered auditors and their self-government.

The Act quoted above deals with the issue in question. This Act came into force on 1 January 1992. It prescribed a specific qualification procedure for granting the title of chartered auditor to persons without prior experience in auditing financial statements, who intend to practice this profession. As financial statements are subject to obligatory audit, the interim provisions of the Act provided for a possibility of applying for the title of chartered auditor by chartered accountants.

The 8<sup>th</sup> EU Directive has taken account of such a situation in art. 12 and 13 by stating that "a member state may consider giving authorisation to those practitioners who have been approved on the strength of individual acts passed by competent authorities of a member state ...".

The following solution has been adopted in Poland. In order for a chartered accountant to qualify as chartered auditor, a candidate had to apply to the National Chamber of Chartered Auditors, not later than the end of 1994, to enter his name on the list. Each of the applicants obtained a new file number. The lists of new numbers were published in the Gazette of the Securities Commission until July 1992, and afterwards – as Resolutions

of the Presidium of the National Board of Chartered Auditors. By the end of 1994 about 10.000 of chartered auditors were entered in the official list. The registered persons could be removed from the list if within 4 years of the coming of the Act into operation they did not fulfil the prescribed requirement of raising their professional qualifications (for example by participation in specially organised training courses).

With regard to candidates for chartered auditors who have no prior experience of auditing financial accounts as chartered accountants the legislator has laid down a set of obligatory requirements. Two groups of the requirements may be distinguished:

- requirements in conformity with the Directive,
- requirements specific to Polish practice.

According to the provisions set out in articles 4 through 19 of the 8<sup>th</sup> EU Directive, a candidate for a chartered auditor is required:

- to have a higher education background,
- to have successfully completed a 4-year internship (training period) in an entity licensed to perform audit, including a 2-year apprenticeship supervised by a chartered auditor; in the case of persons with at least 5<sup>th</sup> years of work experience in independent or managerial positions in economic-financial departments a 2-year apprenticeship supervised by a chartered auditor is required,

- have passed an exam for chartered auditor before the State Examination Commission.

The specific Polish conditions required that a candidate for a chartered auditor should:

- be a Polish citizen<sup>3</sup>,
- have full legal capacity,
- be fully vested with public rights,
- have no past record of convictions for offences against property or documents, economic offences, counterfeiting banknotes, securities and official stamps, and for tax offences,
- have taken the oath,
- have been entered in the list of chartered auditors.

The Finance Minister, in consultation with the National Board of Chartered Auditors, has established for 3-year term of office for the State Examination Commission for Chartered Auditors, checking the theoretical knowledge and practical skills of candidates.

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<sup>3</sup> Chartered auditors from other countries may be entered in the list of chartered auditors of the Polish Republic if their qualifications, subject to approval by the Chamber, guarantee satisfactory prosecution of the auditing profession, and especially if they have had professional practice in Poland - art. 15, para. 2 of the Act.

The National Board of Chartered Auditors in consultation with the Examination Commission has specified qualification requirements and programmes for candidates for chartered auditors. The pertinent resolution contains a list of obligatory subjects and their scopes, comprising:

- information systems and fundamentals of computer science,
- financial accounting and reporting,
- cost accounting and management accounting,
- economics and management,
- finance,
- civil law and economic law,
- tax liability, tax procedure, indirect taxes and customs tariffs,
- taxes charged to costs and revenues,
- auditing and other services by chartered auditors.

The 8<sup>th</sup> Directive provides in art. 6 for two lists of professional subjects: one comprising subjects relating to auditing, and the other – general subjects relevant to auditing. The first group of subjects comprises:

- analysis and critical assessment of financial statements,
- general accounting,
- consolidated financial statements,
- cost accounting and management accounting,
- internal control systems,
- standards on preparation of single and consolidated statement, methods of balance – sheet items valuation and profit and loss calculation,
- legal and professional standards on obligatory audit of accounting books and persons performing such audit.

General subjects include:

- company law,
- law on bankruptcy and similar procedures,
- tax law,
- civil and commercial code,
- law on social security and labour law,
- information systems and IT systems,
- mathematics and statistics,
- essentials of financial management of enterprises.

An analysis of these two lists of subjects reveals some discrepancies between the provisions of the Directive and legal requirements currently in force in Poland. Since the Directive does not define the thematic scope of the individual subjects, it is not possible to identify these differences in greater detail. It should be noted that discrepancies in lists of subjects and thematic contents of the subjects exist also between the European Union countries.

With regard to practical skills 8<sup>th</sup> Directive provides in art. 80 that “...training includes a minimum 3-year training period concerned mainly

with auditing annual financial statements and consolidated accounts. At least 2/3 of such practical training must be done under the supervision of a person authorised by member state's law ..."

In Poland, practical training is divided into two stages:

- 2-year professional practice,
- 2-year apprenticeship.

The initial two-year professional practice period is aimed at acquiring skills required of independent accountants, but the subsequent 2-year training period (apprenticeship) is aimed at acquiring practical skills connected with auditing.

Successful completion of professional training and the apprenticeship is a prerequisite for appointing the date of the qualifying exam. After passing the exam and taking the professional oath, the newly-qualified chartered auditor is entered in the list of chartered auditors and obtains a licence to carry out audits.

8<sup>th</sup> Directive specifies in art. 2 which entities may be licensed to audit financial statements:

- individuals who meet the requirements of art. 3-19,
- auditing firms which fulfil at least the following requirements:
  - individuals who carry out mandatory audit on behalf of the firm must meet the requirements of art. 3-19,
  - the majority of votes belongs to individuals or auditing firms fulfilling the requirements of art. 3-19,
  - the majority of members of the auditing firm's administrative or managing bodies must consist of individuals or auditing firms fulfilling at least the requirements of art. 3-19; if such a body consists of no more than two members, one of them must meet at least the requirements stated above.

The National Chamber of Chartered Auditors in Poland maintains two lists:

- a list of chartered auditors,
- a list of entities authorised to carry out audit.

Entities authorised to carry out auditing are the following:

- 1) chartered auditors;
- 2) civil corporations associating chartered auditors, which employ chartered auditors to conduct audit, and have been entered in the list;
- 3) legal entities which fulfil the following requirements:
  - a) employ chartered auditors for auditing financial statements,
  - b) chartered auditors or entities included in the list have the majority of votes in governing bodies,
  - c) chartered auditors compose the majority of the managing board members; if the board consists of no more than 2 persons, one of them must have the title of chartered auditor,

d) have been entered in the list.

The 8<sup>th</sup> Directive also addresses the issue of professional reliability and independence of the chartered auditor and auditing firm. Part III of the Directive is devoted to this issue (art. 23–27). The concept of independence is not defined there, so Polish legislation has adopted its own solution of this problem.

According to art. 28 of the Directive, lists of chartered auditors and entities authorised to carry out audit are published.

The Act stipulated for the independence of the entity authorised to perform audit of the orderer (reporting entity), and specified what independence consisted in. According to the Act, the auditing entity is not independent if it<sup>4</sup>:

1) possesses shareholdings, shares or other property titles in the accounting entity or its associate – a dominating company or a subsidiary,

2) is or was during the last three years a legal representative, member of the supervisory bodies or employee of the reporting entity or its associate, dominating or subsidiary,

3) has taken part in keeping the books or preparing the financial statements to be audited,

4) employs for auditing an entity for which any of the above conditions is true,

5) in any one year during the last 5 years derived over 50% of its annual income from rendering services to the reporting entity or to entities in which the reporting entity has a participating interest of more than 20%,

6) is a spouse, relation or kinsman of the first or second degree or is related, on account of guardianship, adoption or tutelage, with a person in a managerial position or in supervisory bodies of the reporting entity, or employs such persons for performing the audit,

7) for other reasons has limited capacity to carry out the audit objectively or to give an independent opinion.

In many of its provisions 8<sup>th</sup> Directive refers to “authorities of member states”, with a stipulation, however, in art. 2 that this term may also denote professional organisations providing they are legally empowered to grant commissions.

The principal law on auditing has been enacted by the Polish Parliament, whereas professional standards and other regulations may be passed by the self-government of chartered auditors.

The Act also lays out the principles of appointing and functioning of self-government bodies. The self-government is formed by the National Chamber of Chartered Auditors<sup>5</sup>, the membership of which is obligatory and begins

<sup>4</sup> Section 12 of the Act *op. cit.*

<sup>5</sup> In 2001 the National Chamber of Chartered Auditors became a member of IFAC.



at the moment of entering the name on the list of chartered auditors and entities authorised to perform audit. The National Chamber of Chartered Auditors (the Chamber) fulfils the following functions<sup>6</sup>:

- 1) represents its members and protects their professional interests,
- 2) sets the auditing standards in consultation with the Finance Minister,
- 3) lays down the principles of professional ethics,
- 4) sets and examines theoretical and practical qualifications of candidates for chartered auditors and grants them the titles of chartered auditor,
- 5) supervises the quality of professional services provided by the members of the Chamber and observance of professional ethics,
- 6) organises professional development of the members of the Chamber,
- 7) imposes disciplinary punishments for breach of professional or ethical norms.

The Chamber performs its functions through the following bodies:

- The National Convention of Chartered Auditors,
- The National Board of Chartered Auditors,
- The National Audit Committee,
- The National Disciplinary Court,
- The National Disciplinary Counsel.

The National Convention of Chartered Auditors<sup>7</sup> appoints the constituent bodies of the Chamber, develops its statute, programme of activity and the principles of professional ethics, examines and approves reports of the Chamber's bodies and grants them branches, defines their organisation, responsibilities and powers. By law, the National Convention of Chartered Auditors is held every four years, although additional, emergency sessions may be convened.

Between the successive conventions the governing body is the National Board of Chartered Auditors, which performs the following functions<sup>8</sup>:

- 1) carries out the resolutions of the National Convention of Chartered Auditors,
- 2) represents the Chamber before central and local government bodies, scientific institutions, business and social organisations and international professional organisations,
- 3) appoints the Examination Commission for chartered auditors,
- 4) makes inscriptions in the list of entities authorised to perform audit,
- 5) sets professional standards in consultation with the Finance Minister,
- 6) in consultation with the Examination Committee lays down rules regulating the qualification criteria and procedure, as well as updating and expanding the knowledge of practising chartered auditors,

<sup>6</sup> Section 21, Item 1 of the Act.

<sup>7</sup> Section 23 of the Act.

<sup>8</sup> Section 24, Item 3 of the Act.

- 7) supervises the financial management of the Chamber,
- 8) adopts other important resolutions.

The National Board consists of 9 members appointed by the National Convention. Its executive body is the Presidium of the National Chamber of Chartered Auditors, whose competencies are defined by the National Board.

The National Convention of Chartered Auditors also appoints the National Audit Committee consisting of 5 members. Its functions include the control of the finances of the Chamber's organs. The Audit Committee is accountable to the National Convention: reports to it on its activity and applies for granting exoneration to the National Board currently terminating its tenure.

The National Disciplinary Court and the National Disciplinary Counsel are instituted to deal with offences committed by chartered auditors. The Disciplinary Counsel acts as prosecutor in the National Disciplinary Court consisting of 11 members appointed by the National Convention of Chartered Auditors. Individual cases are referred to the Court and tried by 3-person groups passing judgements. Disciplinary penalties include admonitions, reproofs and suspensions i.e. temporary debarment from practising the profession. Chartered auditors may appeal from the decisions of the Disciplinary Court to a 5-person body having jurisdiction over this type of offences.

The Chamber is supervised by the Finance Minister. Members of the Chamber's continuant bodies are elected by general, equal direct and secret voting, with an unlimited number of candidates. The Act provides for a 3-year term of office for these bodies.

After the coming into operation of the Act, the National Board of Chartered Auditors elaborated two Provisional Standards of Practising the Profession of Chartered Auditor, aimed at the explanation and expansion of the issues addressed in the Act.

This Act still permitted people to have two professions. A chartered auditor could be hired by any entity, which gave him a vacation for auditing the financial statements of any other entity.

#### **4. Acts effective since 1 January 1995**

In September 1994 two new bills were presented to the Parliament for adoption:

- the Accounting Act (Ustawa o rachunkowości), promulgated on 29 September 1994,
- the Act on Chartered Auditors and their Self-Government (Ustawa o biegłych rewidentach i ich samorządzie), promulgated on 13 October 1994.

Both these acts were to be effective since 1 January 1995. The original act of 1991 was divided into two parts dealing respectively with:

- auditing and publication of financial statements,
- chartered auditors and their self-government.

The first part has been incorporated into the Accounting Act, whereas the second has become a separate legal act.

The split of the 1991 act was not automatic. Certain revisions were made and changes were introduced based on the experience with the application of the former law.

The first change introduced concerns the appointment of the Examination Commission for candidates for chartered auditors. It is appointed by the National Board of Chartered Auditors in consultation with the Finance Minister for a 4-year term of office. These principles were followed in the appointment in 1995 of the new commission after the termination of the tenure of the former State Examination Commission.

The new Act on Chartered Auditors and their Self-Government has introduced two records of chartered auditors: a register and a list.

The National Board of Chartered Auditors enters in the register those auditors who<sup>9</sup>:

- are Polish citizens, legally competent, enjoying full public rights,
- have proved to be reliable and honest; their past conduct guarantees proper practice of the profession,
- have higher education,
- have completed a two-year apprenticeship supervised by a chartered auditor, subject to approval by the Commission,
- have passed the exam for a chartered auditor before the Commission,
- have obtained the professional certificate.

Under the former act, the fulfilment of the above requirements entitled to being inscribed in the list of chartered auditors. Now the National Board includes in the list only those chartered auditors who actually practice the auditing profession. Inscription in the list is made upon applications by auditors, on condition that their names are entered in the register.

Inscription in the list may also be granted to<sup>10</sup>:

- citizens of other states, who possess qualifications recognized by the European Union countries, after passing before the Commission an exam in Polish economic law (in the Polish language),
- Polish citizens with qualifications acquired abroad, recognized by the EU countries, after passing the exam mentioned above.

<sup>9</sup> Section 5 of the Act on Chartered Auditors and their Self-Government, promulgated on 13 October 1994.

<sup>10</sup> Section 15, item 1 of the Act, *ibidem*.

This is consistent with the provisions in art. 11 of 8<sup>th</sup> Directive, stating that "member state authorities may grant concessions to persons who have gained all or part of their qualifications in another country", providing that they meet two requirements:

- competent authorities have accepted their qualifications as equivalent to those required by the legislation of the member state in question,
- must demonstrate sufficient knowledge of the relevant law in the country in question for the purposes of mandatory audit of business accounts.

After inscription in the list, chartered auditors obtain a professional identification certificate entitling them to auditing. The register comprises all chartered auditors meeting the requirements, both professionally active and inactive. Active auditors are those who are currently involved in auditing. The National Board of Chartered Auditors keeps also a list of entities authorised to perform audit.

Only entities fulfilling the following requirements are entitled to perform audit<sup>11</sup>:

- chartered auditors engaged in independent business activity (providing services in their own name and on their own account),
- civil corporations and ordinary or limited partnerships associating only chartered auditors,
- legal person which fulfil all of the following requirements:
  - a) employ chartered auditors for auditing,
  - b) chartered auditors form the majority of the managing board members, and if the board consists of not more than 2 persons, one of them is a chartered auditor,
  - c) chartered auditors have the majority of votes in supervisory bodies (supervisory boards audit committees); when there are no supervisory bodies, the majority of votes belongs to partners or shareholders who are chartered auditors.

The 8<sup>th</sup> Directive does not limit of freedom as to the range of services which chartered auditors and entities authorised can do. It states, however, the ethical requirements concerning independence, good reputation and not doing anything contrary with professional fairness.

The Polish Act<sup>12</sup> states very precisely the range of activities, entities authorised can do besides of financial auditing, namely:

- keeping of accounting and tax records,
- expert appraisal in the field of finance and economy,
- tax consultancy,
- advice on the organisation and computerisation of accounting,

<sup>11</sup> Section 10, item 1, *ibidem*.

<sup>12</sup> Ustawa o biegłych rewidentach i ich samorządzie, art. 10, ust. 3.

- conducting of liquidation and bankruptcy proceedings,
- publishing and educational activity in the field of accounting.

The interim provisions of the above act set the date (31 December 1996) ending the period when chartered auditors were allowed to practice two professions. Later this date was moved forward for 2000.

A chartered auditor must not enter into a hire contract independently - he may practise the profession only as<sup>13</sup>:

- a person conducting business activity in his own name and on his own account,
- a partner in a civil corporation and ordinary or limited partnership,
- an employee of an entity authorised to perform audit.

Besides that, chartered auditors may work in their self-government bodies or as researchers or academic teachers.

The new Accounting Act lays down requirements concerning the objectivity and independence in expressing the opinion on financial statements only in relation to chartered auditors, not entities authorised to perform audit. These requirements are almost identical to those contained in the previous Act, apart from a few minor changes.

Under the new law the tenure of self-government bodies was extended to 4 years. As it was under the 1991 Act, membership of the National Chamber of Chartered Auditors is obligatory and for entities authorised to audit financial statements it begins with the inscription in the list. Chartered auditors become members when they are entered in the register. The National Chamber sets the professional standards in consultation with the Finance Minister or the President of the National Bank of Poland. Disciplinary penalties for offences against law, professional standards and ethics are imposed on the members of the Chamber who are chartered auditors, and not entities authorised to perform audit.

The first new standards of the profession appeared a year after the enforcement of the new regulations. They deal with the following issues:

- standard no 1 contains general principles of auditing annual financial statements,
- standard no 2 contains directions concerning preparation of the auditor's opinion and report for entities other than banks and insurers,
- standards no 3 and 4 give similar directions for banks and insurers,
- standard no 5 deals with auditing consolidated financial statements of groups (business combinations),
- standard no 6 lays out general principles of reviewing interim financial statements,

<sup>13</sup> Section 11, item 1 of the Act, *op. cit.*

– standard no 7 regulates the performance of auditing services in entities exempt from mandatory annual audit.

The contents of the above standards suggests that their aim is to provide support to chartered auditors in the process of auditing.

In August 1996 an Extraordinary National Convention of Chartered Auditors took place, at which the Code of Professional Ethics of Chartered Auditors was passed. It came into effect on 1 January 1997. The Code is binding for all auditors (entered in the register) as well as for entities authorised to perform audit. It begins with general principles addressing such issues as responsibility, professional competence, objectivity, professional independence and confidentiality.

Special attention is attached in the Code to professional independence. Apart from specifying the criteria of independence set out in the Act, the Code addresses the issue of rotation. If an entity enters into long-term contracts (several years) for auditing financial statements, in order to eliminate the possibility of loss of professional independence, the auditors ought to be replaced during the life of the contract. If such a replacement is not possible, the entity ought to establish some controls for ensuring professional independence.

The Code prescribes procedure for the event of conflict between parties (e.g. an auditor and a client). Conflict occurs when someone induces an auditor to act contrary to Code rules. It also prescribes the procedure of taking new orders by authorised entities, especially in the case of change of the auditing entity. The new entity considering the acceptance of the order ought to inquire first into the reason for the replacement of auditing entity, in order to secure against loss of objectivity and independence by the entity and the auditor carrying out the audit.

The Code contains provisions for the transition period. In Section 8 it says<sup>14</sup> that “in the period in which it is allowed to combine professional work with auditing”, in order to maintain objectivity and independence a chartered auditor ought not to undertake audit:

- a) in business entities representing competition for the entity in which the auditor is employed, without prior agreement of both entities,
- b) of related entities in which chartered auditors are employed,
- c) in business entities which during the last 3 years, including the year to be audited, were reviewed by this auditor on behalf of other supervisory bodies.

<sup>14</sup> Professional Ethics Code for Chartered Auditors, section 8, item 8.1.

### 5. Amendments to the 29.09.1994 accounting act and the 13.10.1994 act on chartered auditors and their self-government, in effect since 2000

Several years of experience accumulated in connection with the operation of the accounting and auditing legislation have made it possible to identify both their positive and negative aspects. The negative experience, especially in the light of Europe – wide discussion on the 8<sup>th</sup> EU Directive, has motivated the professional body of chartered auditors and the state government to undertake work on amendments of Poland's legal regulations.

The changes with respect to chartered auditors and their self-government concern the following issue<sup>15</sup>:

- qualification procedure for candidates for chartered auditors,
- chartered auditor status,
- status of the entity authorized to carry out audit,
- self-government of chartered auditors.

Under the new law, a candidate may be entered in the register of chartered auditors if he/she:

- has completed higher education in Poland or relevant studies abroad which are regarded as equivalent in Poland, and has good command of spoken and written Polish,
- has completed three years of practical training in Poland, including a 2-year apprenticeship supervised by a chartered auditor, with this requirement being endorsed by the Examination Commission.

Entered in the register of chartered auditors may be Polish citizens or, on mutual recognition basis, non-Polish citizens who have the necessary qualifications obtained abroad and recognized by the European Union member states, upon passing an exam in Polish business law in front of the Commission. It must be stressed that the requirement of having Polish citizenship has been cancelled.

The changes also concern exemptions from exams in theoretical knowledge and from prescribed practical training. Under the new act, exemption may be granted:

- from theoretical exams, if a candidate passed exams within 3 years of the date of application for exemption<sup>16</sup>,
- from practical training on condition of having completed a two-year apprenticeship supervised by a chartered auditor, if:
  - a candidate was employed by an entity authorized to carry out audit for at least 3 years,

<sup>15</sup> On the basis of the Act of 24 Oct. 2000 on amendment of the Act on chartered auditors and their self-government (Dz. Ustaw nr 89 of 24 Oct. 2000).

<sup>16</sup> Conditions of recognition of exams will be defined by the National Board of Chartered Auditors.

– in case of a lack of such an employment record, was employed in financial – accounting sections in an independent position for at least 3 years or is a licensed revenue inspector.

The aim of these exemptions is to ensure for young people possibly quick access to the title and auditing profession through shortening of practical training from 4 years (required now) to 3 years and recognition of university exams. Exemption from the examination is also aimed at motivating higher education institutions to introduce teaching curricula and exams in the scope corresponding to qualification requirements for candidates for chartered auditors, and, as a result, encourage cooperation between higher schools and chartered auditors self-government.

The changes refer to the status of chartered auditors, who, in the light of the law, are not entrepreneurs. They practise a free profession, like lawyers or doctors. Their professional activity is not business activity, as defined by the act of 19<sup>th</sup> November 1999 – Business Law. (Law Gazette nr 10). A chartered auditor practises his profession as:

- person conducting activity in his own name and on his own account,
- partner in a company,
- person employed by entities authorised to carry out audit,
- person who is not employed and does not practice the profession in his own name and on his own account, but has signed a contract with an authorised entity.

The act prolongs the period of practising the auditing profession for persons employed outside an authorised entity to 31 December 2001 on condition of having a contract with such an entity.

The paragraph on entities authorised to carry out audit (para. 10) now includes an additional provision stating that the opinion and report on the audit (review) is to be signed on behalf of an entity authorised to carry out audit, only by board members who are chartered auditors. This article also broadens the range of activities of authorised entities to include the review of financial statements.

The revised act contains provisions on obligatory charges to be paid by chartered auditors and entities authorised to perform audit, and provisions on obligatory insurance against civil liability to be made by authorised entities.

Entities authorised to carry out audit are not members of the National Chamber of Chartered Auditors.

As regards self-government of chartered auditors, the changes relate mainly to:

- responsibilities and status of the National Convention of Chartered Auditors,
- appointment of a new body – the National Supervision Committee.



The National Convention of Chartered auditors has been given new powers:

- appointment of the Chairman and other members the National Board of Chartered Auditors,
- constitution of the National Supervision Committee,
- definition of the principles of obligatory professional development of chartered auditors,
- definition of the principles of paying due charges by chartered auditors and authorised entities.

Under the former law none of the self-government bodies was authorised explicitly to supervise, on behalf of the National Chamber of Chartered Auditors, professional practice of chartered auditors and their compliance with the rules of professional ethics. That is why the revised Act established the National Supervision Committee consisting of 5 members. Their responsibilities include organisation and exercise of control over:

- proper practice of the auditing profession,
- compliance with prescribed procedures of the review of financial statement by authorised entities.

Such control ought to be carried out every 3 years. In case of finding some irregularities, the Supervision Committee applies for institution of disciplinary proceedings (to the National Disciplinary Counsel) and for exclusion from the list (to the National Board of Chartered Auditors).

All the provisions referring to the Finance Minister have been changed to Minister of Public Finance.

As regards independence of chartered auditors, the Accounting Act extends the definition of objectivity and independence to cover the persons co-working with chartered auditors on the review and members of managing and supervisory boards of entities authorised to carry out audit.

## **6. Evaluation of the operation of auditing legislation in Poland**

The analysis of the current situation carried out up to this point shows that Polish legal rules are consistent with the provisions of the 8<sup>th</sup> EU Directive. This indicates that in this respect the chartered auditor profession is well prepared for joining the European Union.

In 1998 there were over 1600 entities authorised to carry out audit in Poland, including 24 firms with foreign capital. The register listed 7875 chartered auditors, whereas the list comprises 6272 persons, which means that 21% of professionals licensed to perform audit work outside the profession.

The majority of chartered auditors entered in the register are persons who obtained certification before 1991, which was subsequently endorsed by statutory regulations. This has resulted in certain imperfections in the functioning of the profession. One of the main problems involves effecting a change in the awareness and habits of chartered auditors. The National Chamber of Chartered Auditors is attempting to eliminate this weak point by organising, among other things, obligatory annual training, which is also aimed at improvement of the quality of services rendered by chartered auditors.

Compliance with the principles in force before 1991 results in the fact that former certified public accountants (now chartered auditors) conduct audit in person, alone, without any supporting personnel.

It is interesting to note that 60% of entities licensed to perform audit which operate in Poland are one-person firms. This causes some difficulties in creating a modern base for the work of the chartered auditor (professional library, methodology and forms of audit), which in turn entails problems with the education and training of candidates for the auditing profession (in particular with regard to gaining practical experience and serving apprenticeship).

As a result of the existing shortcomings the self-government of chartered auditors is faced with some urgent tasks. The most important include:

- ensuring due compliance on the part of auditors and entities authorised to perform audit with the relevant legal and regulatory requirements (legal acts, standards, ethical code),
- providing for obligatory professional development of chartered auditors (through participation in training courses organised by the National Chamber of Chartered Auditors),
- ensuring due procedures for serving apprenticeship and practical training by candidates for chartered auditors.

Work is currently in progress on changes in the standards on practicing the auditing profession, with the aim to adjust them to amended legislation on accounting, chartered auditors and their self-government.

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*Gabriela Idzikowska, Zofia Owczarek*

## ÓSMA DYREKTYWA UE A POLSKIE PRZEPISY PRAWNE DOTYCZĄCE AUDITINGU

(Streszczenie)

W referacie przedstawiono etapy wprowadzania w Polsce regulacji prawnych dotyczących zawodu biegłego rewidenta oraz samorządu biegłych rewidentów. Odniesiono się przy tym do zapisów w Ósmej Dyrektywie UE, prezentując podobieństwa i różnice między przepisami polskimi a przepisami unijnymi.

*Gabriela Idzikowska, Zofia Owczarek*

## EU AŠTUNTOSIOS DIREKTYVOS ĮGYVENDINIMAS LENKIJOJE

(Santrauka)

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