
Limit on audit firm fees according to EU Regulation No. 537/2014 and the Act on statutory auditors

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1. Introduction and purpose of the regulation

One of the key legal mechanisms to protect statutory auditor independence is the introduction of limits on fees received for providing services to public interest entities (PIEs). These regulations derive in particular from Regulation (EU) No 537/2014 of the European Parliament and of the Council which lays down specific requirements regarding statutory audit of PIE financial statements.

Under the said regulations, total fees and the structure of fees received for permitted non-audit services provided by a statutory auditor or an audit firm to a given PIE, its parent undertaking or its subsidiaries must not exceed a certain limit of fees payable for the audit of the last three financial years. The limit is absolute and applies beyond the three-year service period.

The purpose of introducing this limit is to reduce the risk of the statutory auditor or audit firm becoming economically dependent on the audited entity, which could compromise the maintenance of independence in the performance of the statutory audit. This mechanism is directly underpinned by Regulation (EU) No 537/2014 of the European Parliament and of the Council, in particular Article 4, setting a limit on fees for permitted non-audit services, and Article 5, providing for the prohibition of the provision of certain services to public interest entities. These limits are intended to prevent the economic relationship between the statutory auditor and the audited entity from undermining the objectivity and impartiality of the audit.

A general requirement for statutory auditor independence is established at the level of European Union law in Directive 2006/43/EC of the European Parliament and of the Council, according to which statutory audits should be carried out in an independent manner and neither the statutory auditor nor the audit firm should be influenced by any interest, including financial interests, business relationships or other links that could compromise their impartiality and objectivity. The directive establishes a horizontal independence framework applicable to all statutory audits, including audits of public interest entities.

This requirement is reflected in national law, in particular in Articles 69-71 of the Act of 11 May 2017 on statutory auditors, audit firms and public oversight, which

require statutory auditors and audit firms to perform audit activities independently, with impartiality and without being influenced by financial, personal or organisational interests. These provisions also require that threats to independence are identified and appropriate safeguards are applied, and where such threats cannot be mitigated, that the audit activity is waived.

In this respect, the provisions of Directive 2006/43/EC, Regulation 537/2014 and the national law create a coherent and multi-level system for the protection of statutory auditor independence, in which the Directive establishes the general principle of independence, the Regulation introduces specific substantive mechanisms relating to public interest entities, while the national law provides the framework for the practice of the profession and the enforcement of these requirements in the national legal order.

It should also be pointed out that the fee limits operate alongside a catalogue of prohibited services, the provision of which to PIEs is not permitted regardless of their value. Both of these mechanisms, i.e. the fee limit and the prohibition of certain services, form a coherent system of safeguards designed to protect the auditor's independence in its relationship with the audited entity.

2. Fee limit in Regulation (EU) No. 537/2014

According to Article 4(2) of Regulation (EU) No. 537/2014 of the European Parliament and of the Council, where the statutory auditor or the audit firm provides non-audit services to a public interest entity, its parent undertaking or its controlled undertakings, for a period of three or more consecutive financial years, the total fees for such services shall be limited to no more than 70% of the average of the fees paid for the statutory audit in the last three consecutive financial years.

This provision is a substantive standard with direct effect, which means that it is binding on audit market entities without the need for implementation into national law. The fee limit of 70 % of the average fee paid for the statutory audit in the last three financial years applies only to permitted services, as in parallel Article 5(1) of Regulation 537/2014 establishes a catalogue of services which are prohibited vis-à-vis PIEs, regardless of their value (non-audit services).

The Polish Act of 11 May 2017 on statutory auditors, audit firms and public oversight does not replicate the 70% limit, which is a consequence of the direct applicability of the EU regulations. The national legislator adopted a complementary model aimed at ensuring the effective application of EU standards by regulating the rules of the profession, public oversight and administrative liability.

Of key importance in this context is Article 69 of the Act, which sets out the fundamental rules of the statutory auditor profession, including the duty to be independent, objective, fair and to act in the public interest. This provision does not set quantitative limits on remuneration, but creates a normative framework for assessing the financial relationship between the auditor and the audited entity.

3. Comparison of the scope of EU and national regulation

EU and national regulation differ in their scope, while at the same time remaining in close functional relation to each other. As a directly applicable secondary legislation, Regulation (EU) No. 537/2014 establishes uniform and binding substantive legal standards for the independence of the statutory auditor auditing public interest entities. In particular, the Regulation sets out a mechanism for limiting the fee for permitted non-audit services by introducing a rigid limit of 70% of the average fee paid for the statutory audit in the last three financial years and by providing an enumerative indication of the cases of permitted derogations from this rule, as well as a catalogue of prohibited services.

The national law, including the Act of 11 May 2017 on statutory auditors, audit firms and public oversight, does not establish different or competing substantive standards on the statutory auditor independence, but has a complementary and implementing function to the EU regulation. The scope of national standardisation focuses on three main areas.

Firstly, the national law regulates the organisation of the public oversight system, including the identification of the authorities competent to supervise the performance of auditing activities and compliance with Regulation 537/2014. These provisions establish an institutional framework for monitoring the practical application of EU independence standards.

Secondly, the national law sets out the professional and ethical obligations of statutory auditors and audit firms, including those related to independence and impartiality. These standards have a functional relationship with the EU regulation, as they pursue the same protective objectives without interfering with the content of the substantive restrictions directly laid down in the Regulation.

Thirdly, the Act provides mechanisms for the enforcement of EU law, in particular by:

- defining the competences of the oversight authorities,
- regulating the documentation and control obligations,
- establishing a regime of liability for breaches of Regulation 537/2014.

This division of roles between the Union and national law corresponds to the principle of the effectiveness of European Union law and the construction of the Regulation as a secondary act of law, which is directly applicable and does not require transposition into national law. The national law does not replace or modify the norms of the Regulation, but creates the institutional and procedural conditions necessary for their actual and effective application in the national legal order.

4. Rules for calculating the limit of fees for non-audit services – legal regulation and positions of the Ministry of Finance

The rules for calculating the fee limit for non-audit services are set out in Article 4(2) of Regulation (EU) No 537/2014 of the European Parliament and of the Council. The provision stipulates that When the statutory auditor or the audit firm provides to the audited entity, its parent undertaking or its controlled undertakings, for a period of three or more consecutive financial years, non-audit services other than those referred to in Article 5(1) of the Regulation, the total fees for such services shall be limited to no more than 70% of the average of the fees paid in the last three consecutive financial years for the statutory audit.

As indicated in the position paper of the Ministry of Finance of 29 December 2020, the determination of the average fee for the statutory audit should take into account the fee payable for the statutory audit of a public interest entity, its parent undertaking and its controlled undertakings, regardless of whether these undertakings have the PIE status and regardless of the place of their registered office. Indeed, Regulation 537/2014 does not impose any territorial or subject restrictions in this respect.

In the same position paper, the Ministry of Finance clarified that only the services provided by the audit firm to the audited PIE, its parent undertaking and its controlled undertakings should be taken into account when determining the fee for non-audit services. The limit referred to in Article 4(2) of the Regulation does not include services provided by other audit firms belonging to the same network, and each audit firm is required to calculate the limit separately with respect to its own contractual relationships.

It follows from both the wording of the Regulation and the position paper of the Ministry of Finance of 29 December 2020 that the limit of 70% of the average fee paid for the statutory audit in the last three financial years excludes non-audit services the provision of which is required by European Union or national law. The fee for such services does not affect the calculation of the limit, even though they fall within the category of non-audit services.

The scope of this exclusion was further clarified in the position paper of the Ministry of Finance of 11 October 2023, which indicated that the “neutral” nature for the purposes of the limit can only attributed to the services which audit firms are required to provide directly under law and not in keeping with the entity’s decisions, investors’ expectations or market practice. It is therefore not permissible to automatically consider all services falling within the catalogue of Article 136 of the Act on statutory auditors as services excluded from the limit.

The above position was further developed and elaborated in a letter from the Ministry of Finance dated 5 December 2024, which clearly indicated that only those activities that are necessary for the performance of a legal obligation can be considered as “neutral” services for the purposes of the limit in Article 4 of Regulation 537/2014. In particular, the Ministry of Finance confirmed that the work performed by the audit firm on behalf of the group auditor, related to the audit of the consolidation packages of the group entities, can be neutral insofar as it is necessary for the mandatory audit of the consolidated financial statements.

At the same time, the Ministry of Finance made a clear distinction between such activities and services of a voluntary nature in its position paper of 5 December 2024. It pointed out that interim reviews of consolidated financial statements can only be considered neutral if the obligation to carry them out arises from the national law of the Member State concerned. Otherwise, these services are not excluded from the limit.

An similar approach was applied by the Ministry of Finance to services relating to information contained in prospectuses and other offering documents. The position paper of 5 December 2024 indicated that these services can only be neutral if the audit firm’s obligation to provide them arises directly from EU or national law. If, on the other hand, their provision is the result of an individual’s decision or market expectations, there are no grounds for excluding them from the limit.

When calculating the average fee for the statutory audit – pursuant to Article 2(1) of the Act on statutory auditors – only the fee for activities that constitute the statutory audit within the meaning of the Act is to be taken into account. The position papers of the Ministry of Finance consistently confirmed that fees for services that do not fall within this definition, including voluntary reviews or audits not required by law, should not be included in the calculation of the average audit fee.

In all the aforementioned position papers, the Ministry of Finance also emphasised that the assessment of the qualification of individual services for the purposes of the limit of 70% of the average fee paid for the statutory audit in the last three financial years should be made in each case taking into account the specific factual situation and the relevant provisions of EU and national law, and the explanations presented do not have the character of a universally binding interpretation.

5. Exception to the fee limit

5.1 Exception to the fee limit in Regulation 537/2014: a review by the audit committee and interpretation of objective grounds

In Article 4(3) of the Regulation, the EU legislator introduces a specific regulation relating to the excessive concentration of fees from a single public interest entity, while at the same time establishing a strictly regulated exception to the standard mechanisms for the protection of statutory auditor independence.

According to the provision, When the total fees received from a public-interest entity exceed 15% of the of the total fees received the statutory auditor or the audit firm in each of the last three consecutive financial years, a special regulatory situation arises requiring additional action. In such a case, the statutory auditor, the audit firm or, where applicable, the group auditor, shall disclose that fact to the audit committee and discuss with the audit committee the threats to their independence and the safeguards applied to mitigate those threats.

At this stage, the rule provides for an enhanced role for the audit committee which shall consider whether the audit engagement should be subject to an engagement quality control review by another statutory auditor or audit firm prior to the issuance of the audit report. This mechanism does not remove restrictions on independence, but tightens them by introducing an additional level of scrutiny.

Of key normative importance, however, is the remaining part of the rule, which establishes an explicitly limited exception. Namely, where the fees continue to exceed the threshold of 15% of the total fees received by such a statutory auditor or audit firm in each of the last three consecutive financial years, the decision as to whether to continue with statutory audits is transferred to the audit committee. The audit committee shall decide on the basis of objective grounds whether the statutory auditor, the audit firm or the group auditor may continue to carry out the statutory audit for an additional period.

At the same time, the rule unambiguously stipulates that this period is exceptional and time-limited, as it cannot in any case exceed two years. Thus, the rule does not establish a permanent derogation from the principles of independence, but only allows for a temporary derogation of an exceptional nature, subject to the decision of the audit committee and subject to additional procedural conditions.

Consequently, the rule in question must be interpreted as a strictly regulated exception to the permissible level of economic dependence of the auditor on the public interest entity, which does not abolish the applicable limits but temporarily mitigates their effects only within the limits expressly set by EU law.

The phrase “on the basis of objective grounds”, as used in Regulation (EU) No 537/2014 in the context of the audit committee’s decision to allow the continuation of statutory audits despite the threshold of 15% of total fees being exceeded, should be interpreted as a clause limiting the audit committee’s decision-making discretion and not as a blanket term.

Firstly, a linguistic analysis shows that the EU legislator used the concept of “objective grounds” in opposition to considerations of a subjective nature, such as management preference, organisational convenience or the economic relationship between the entity and the audit firm. This means that the audit committee’s decision cannot be based on an arbitrary assessment, but must be rooted in externally verifiable factors.

Secondly, a systemic interpretation leads to the conclusion that “objective grounds” must be considered in close conjunction with the Regulation’s primary objective of protecting the statutory auditor’s independence. Since the rule allows the continuation of the audit only for a limited period of time and subject to prior disclosure of threats to independence and the application of safeguards, the “objective grounds” must refer to such circumstances that do not nullify the effectiveness of these safeguards.

Thirdly, the normative significance of the term concerned is revealed in its time-limiting function of the exception. The rule clearly indicates that the audit can only be continued for an additional period not exceeding two years, which prejudices the exceptional and transitional nature of the audit committee’s decision. Consequently, the “objective grounds” must not be of a permanent or structural nature, but must relate to circumstances of a temporary nature that justify a deviation from the standard rotation rule or a change of the statutory auditor.

Fourthly, in the light of the principle of the effectiveness of European Union law, this term must be interpreted in a way that does not lead to the circumvention of the established threshold of 15 % of the total fees received by the statutory auditor or the audit firm in each of the last three consecutive financial years, nor to perpetuate the statutory auditor’s economic dependence on the public interest entity. This means that the “objective grounds” must be independent of the will of the parties to the audit relationship and must not be based solely on the economic interest of the statutory auditor or the entity.

As a result, it must be assumed that the term “objective grounds” acts as a narrowing clause in the regulation, the purpose of which is to allow the audit committee to take decisions of an exceptional nature, while preserving the overriding regulatory objective of protecting the independence of the statutory audit. Such a decision should be verifiable, reasoned and time-limited in nature, and its basis

must be based on circumstances that can be assessed from the perspective of external public oversight.

5.2 Exceptional exemption from the statutory auditor's fee limit in Polish law – analysis of Article 137 of the Act on statutory auditors in the context of Regulation 537/2014

The Polish legislator, implementing in the national legal order the provisions of Regulation (EU) No. 537/2014, included in Article 137 of the Act of 11 May 2017 on statutory auditors, audit firms and public oversight the mechanism of an exceptional exemption from the limit of fees received by the audit firm for non-audit services provided to a public interest entity (PIE), its parent undertaking or its controlled undertakings. This solution was permitted by the EU regulator, which provided for this institution as an exception to the fee cap rule.

Under Article 137 of the Act:

- the competent authority, i.e. the public oversight authority (the Polish Agency for Audit Oversight), may, at the request of the audit firm, exempt it from the obligation to apply the fee limit under Article 4(2) of Regulation No. 537/2014 for permitted services. The wording of the Polish rule makes it clear that this is a time-limited exemption and is given an exceptional character;
- the period of exemption cannot exceed two financial years, which underlines the temporary nature of the exception established in EU law and implemented in national law.

When considering requests for exemption, the authority shall only take into account the grounds enumerated in Article 137 of the Act, i.e.

- 1) threats to the independence of the audit firm;
- 2) additional safeguards applied by the audit firm to mitigate these risks;
- 3) important interests of the audit firm or of the audited public interest entity.

A discussion of each of these three premises will follow below.

Ad 1) Threats to the audit firm's independence that arise from possible economic or other influence with the entity of the audited PIE. This rationale is intended to ensure that, even if the exception is applied, the fundamental objectives of the EU regulations on the statutory auditor's independence are still taken into account.

With regard to the issue of independence, it should be pointed out that it needs to be considered from the point of view of meeting the independence requirements as well as the presence of a threat. As it is accepted in the doctrine, the presence of a threat does not automatically imply a lack of independence and therefore, in the event of a threat, the audit firm should take appropriate safeguards. Conversely,

failure to meet the independence requirements leads to a lack of independence or, if the failure to meet a particular independence condition occurred in the course of the audit, to a loss of independence. The key independence requirements are regulated in Articles 69-73 of the Act.

Particularly noteworthy is Article 69(6) of the Act, which regulates the obligation not to conduct an audit in the cases expressly referred to in this rule. The provision represents implementation of Article 22(1) of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ J L 2006, No. 157, p. 87, as amended), hereinafter referred to as "Directive 2006/43/EC". According to the said Union regulation, Member States are required to ensure that a statutory auditor or an audit firm shall not carry out a statutory audit if there is any risk of review of self-review, self-interest, advocacy, familiarity or intimidation, whether caused by a financial, personal, business or other relationship, between the statutory auditor, the audit firm or its network or any natural person who is likely to influence the outcome of the statutory audit and the audited entity, employment or otherwise between the statutory auditor, audit firm, its network or any natural person who is in a position to influence the outcome of the statutory audit and the audited entity, as a result of which an objective, reasonable and informed third party, taking into account the safeguards applied, would conclude that the statutory auditor's or audit firm's independence is compromised. If the statutory auditor's or audit firm's independence is affected by threats, such as self-review, self-interest, advocacy, familiarity or trust or intimidation, the auditor or the audit firm must apply safeguards to mitigate those threats. If the significance of the threats compared to the safeguards applied is such that his, her or its independence is compromised, the statutory auditor or audit firm shall not carry out the statutory audit. Member States shall in addition ensure that, where statutory audits of public-interest entities are concerned and where appropriate to safeguard the statutory auditor's or audit firm's independence, a statutory auditor or an audit firm shall not carry out a statutory audit in cases of self-review or self-interest. An analysis of Article 69(6) of the Act in conjunction with Section 120.6 A3 of the International Code of Ethics for Professional Accountants (including the International Independence Standards), attached as Annex 1 to Resolution No. 3431/52a/2019 of the National Council of Statutory Auditors of 25 March 2019 on the Rules of Professional Ethics for Statutory Auditors (as amended), leads to the conclusion that the prohibition of an audit applies to situations where:

- 1) there is a risk of self-review (i.e. the risk that the statutory auditor will misjudge the results of a previously made judgement, or of an activity performed by the statutory auditor or another person in the audit firm on whom the statutory auditor will rely in forming a judgement in the performance of the current activity);

- 2) there is a threat of self-interest (i.e. a threat that the audit firm will benefit from the audited entity other than the audit fee);
- 3) there is a risk of advocacy of the audited entity (i.e. a risk that other services or activities other than the audit will be provided or undertaken that would seek to promote the interests of the audited entity);
- 4) there is a threat of familiarity (i.e. the threat that, because of a long or close association with the client or the organisation employing them, the auditor will be too sympathetic to their interests or will also condone their actions);
- 5) there is a threat of intimidation (i.e. a threat that the statutory auditor will be prevented from acting objectively due to real or perceived pressure, including attempts to exert undue influence on the statutory auditor);

where

- 6) the above situations are caused by a financial, personal, business, employment or other relationship between the audited entity and the key auditor, the audit firm, a member of a network to which the audit firm belongs or an individual who may influence the outcome of the audit;

as a result of which

- 7) an objective, reasonable and informed third party would conclude that the key auditor's or audit firm's independence is compromised, despite safeguards in place to eliminate or reduce the risk to an acceptable level.

This issue was also addressed by the Court of Justice of the European Union, which in Point 42 of its judgement of 24 March 2021 in case C-950/19 in proceedings brought by A., indicated that “the requirement of independence has not only an internal aspect, in so far as it seeks to guarantee to the audited entity the credibility of the audit carried out by the statutory auditor responsible for that audit, but also an external aspect, in so far as it seeks to protect the confidence of third parties, such as creditors and investors, in the credibility of that audit. This external aspect is all the more important as this trust is crucial to ensure that the value of shareholders' shares is protected and thus to ensure the proper functioning of the markets as a whole for investors. Statutory audits should therefore not only be reliable, but also perceived as such by third parties”.

Ad 2) Additional safeguards applied by the audit firm to mitigate these risks. In accordance with law, the assessment of these safeguards is of factual-legal nature and aims to determine whether the measures taken minimise the risk of a breach of independence despite the application of the exemption.

Ad 3) The important interest of the audit firm or the audited entity. This premise is explicitly mentioned in the Act as an element to be taken into account by the authority when assessing an application for exemption. With reference to the aforementioned premise, it would be reasonable to consider that the “important interest” must be seen as extraordinary circumstances or fortuitous events and not as a normal consequence of the conduct of the economic operator's business

activity, in accordance with the scope of that activity. The existence of an important interest of the audit firm or the audited public interest entity cannot be determined by the subjective beliefs of the subjects, and the assessment of this premise should be made according to objectivised criteria. Not every difficulty may justify the application of the exemption, but only those that which, in the specific circumstances, would involve a threat to the material interest of the audit firm or the audited entity of interest.

The above catalogue is closed, which means that the authority has no power to consider additional or abstract criteria when deciding whether to apply an exception to the limit. Its task is limited to the assessment of the grounds indicated explicitly in Article 137 of the Act.

In addition, the Ministry of Finance, in its previously cited position paper of 29 December 2020, confirmed that the provisions on the limits of fees for non-audit services are clearly intended to limit the statutory auditor's financial dependence on the entity, and that the exception is intended as an exceptional solution and hermetically regulated in both the EU Regulation and the Act on statutory auditors. In response to a question on the limits, the Ministry points out that the provisions of the Regulation and the Act set rigid limits and conditions for their application.

It follows from the above that the rationale set out in Article 137 of the Act is closely linked to the regulatory objectives of Article 4(3) of Regulation No. 537/2014, i.e. to protect the statutory auditor's independence and to limit the impact of excessive fees from a single entity. Under both EU and national law, the exception is temporary and conditional, subject to an assessment of the risks to independence and the establishment of adequate safeguards.

6. Exceptions to the limits of fees received by the statutory auditor – comparison of the roles of audit committees and the Agency

The protection of the statutory auditor's independence in public interest entities (PIEs) is implemented, inter alia, through the limits on non-audit fees. Regulation (EU) No 537/2014 of the European Parliament and of the Council introduces a limit of 70% of the statutory auditor's fees for statutory audits, as well as a limit of 15% of the statutory auditor's total fees for additional services. However, the rules provide for exceptions to these limits, which can be applied by both the public oversight body and the audit committee operating within the audited entity.

The mechanism for the application of the exemption provided for in the Act on statutory auditors allows the audit firm to be exempted by the public oversight authority, upon the former's request, from applying the limit under Article 4(2) of Regulation 537/2014. This exemption relates to permitted services provided to the PIE, its parent undertaking or its controlled undertakings, and may be granted for a period of maximum two financial years. In granting it, the public oversight authority takes into account three considerations:

- 1) potential threats to the statutory auditor's independence arising from economic dependence on the entity,
 - 2) additional safeguards applied by the audit firm to mitigate these risks
- and
- 3) the important interest of the audit firm or the audited entity.

The decision of the public oversight authority is formal, issued through administrative act and becomes binding on the audit firm, thus ensuring its enforceability under public oversight.

In the case of the audit committee, the rules provided for in Article 4(3) of Regulation 537/2014 apply when the statutory auditor's total fees received from the PIE exceed 15% of the total fees received in the last three consecutive financial years. In such a situation, the auditor shall disclose this fact to the audit committee, discuss the potential threats to independence with the committee and outline the safeguards in place. The committee shall assess whether the conduct of the audit should be subjected to additional quality review by another auditor or audit firm before the report is issued. Where the fee continues to exceed the established threshold of 15%, the committee shall decide on the basis of objective grounds whether the statutory auditor or the audit firm may continue to carry out the statutory audit for an additional period which shall not exceed two years. This decision is operational and relates to a specific audit engagement and is intended to ensure the auditor's independence in the context of the engagement, without interfering with formal public oversight mechanisms.

When analysing the two mechanisms, one can note similarities as well as differences. Both solutions are designed to protect the statutory auditor's independence and mitigate the risks arising from economic dependence on the audited entity, and are temporarily limited to a maximum of two years. In both cases, an analysis of the threats to the statutory auditor's independence and the safeguards in place plays a key role. In the case of a public oversight body, the decision has the force of law, and takes into account the important interest of the audit firm or the audited entity, and the assessment concerns the total remuneration for all audits and services provided by the audit firm to the PIE and related entities. The decision of the audit committee, on the other hand, is internal, based on "objective grounds" and concerns a specific audit engagement and the statutory auditor's remuneration in relation to that entity. The limit applied by the committee is lower (15% of the total fees) and applies to situations where the threshold has been exceeded in the last three financial years, not to the total fee of the audit firm in the context of all services provided to the PIE.

In summary, the two mechanisms – the formal, supervisory mechanism of the public oversight body and the operational, internal mechanism of the audit committee – function in a complementary way to reduce the risk of a breach of auditor independence in the relationship with the audited entity of the PIE.

7. Sanctions for breaching the fee limit – the EU/national mechanism

Regulation (EU) No. 537/2014 does not independently establish a system of sanctions for breaches of its provisions, including Article 4(2). The obligation to provide effective supervisory and sanctioning measures, on the other hand, derives from Directive 2006/43/EC, as amended by Directive 2014/56/EU, which obliges Member States to establish a system of effective, proportionate and dissuasive administrative sanctions for statutory auditors and audit firms in the event of a breach of the provisions of the Directive and, within the scope of its application, Regulation 537/2014.

In the Polish legal order, the implementation of this obligation is carried out through the Act on statutory auditors, which establishes a national system of public oversight and administrative liability of audit firms. The Act provides for imposing administrative sanctions in the event of a breach of the provisions of European Union law governing the performance of statutory audits of public interest entities, including a breach of Article 4(2) of Regulation 537/2014.

Consequently, it should be emphasised that the substantive obligation to comply with the 70% fee limit derives directly from the EU Regulation, while the sanctioning and enforcement instruments have their origin in national law implementing the obligations under Directive 2006/43/EC.

A comparative legal analysis leads to the conclusion that the regulation of the limit for fees for non-audit services vis-à-vis public interest entities has been shaped in a multi-level model. EU law establishes a uniform substantive standard limiting the auditor's economic dependence, while national law ensures its effectiveness through ethical standards, institutional oversight and administrative accountability mechanisms.

Structured in this way, the system reinforces the independence of statutory auditors and confidence in the financial statements of public-interest entities, while pursuing the objectives of protecting the public interest at both European Union and Member State level.

Conclusions

An analysis of EU and national regulations on limits for statutory auditor fees and exceptions to these limits allows some key conclusions to be drawn. Firstly, both Regulation (EU) No. 537/2014 of the European Parliament and of the Council and the Polish Act on statutory auditors, audit firms and public oversight introduce strict mechanisms to protect the statutory auditor's independence by limiting the fees received for non-audit provided to public interest entities (PIEs), their parent undertakings and their controlled undertakings. These regulations explicitly aim to reduce the risk of the statutory auditor becoming overly economically dependent on one entity, which could compromise his or her impartiality and objectivity.

Secondly, both EU and national law provide for exceptional mechanisms – temporary derogations from the fee limits – which are strictly regulated. Regulation 537/2014 establishes an obligation for the audit committee to assess a situation in which the remuneration from one PIE exceeds 15% of the statutory auditor's total fees in three consecutive years, while requiring disclosure of threats to independence and the taking of adequate safeguards. The Polish legislator, implementing these rules in Article 137 of the Act on statutory auditors, specified the prerequisites determining the granting of exemption by the oversight authority, closing the catalogue of criteria to threats to independence, safeguards applied and important interest of the statutory auditor or the audited entity. In both EU and national law, this exception is temporary – it may not exceed two years – which clearly underlines its exceptional and temporary nature.

Thirdly, such terms as “objective grounds” and “threats to independence” play an important role in the said regulations, limiting the discretion of the audit committee or the oversight authority and requiring decisions to be verifiable, justified and consistent with the overriding objective of protecting the statutory auditor's independence. The term “objectivity” ensures that the exceptions cannot be based solely on subjective economic or organisational considerations, but must have a basis in circumstances that can be assessed from an external oversight perspective.

Finally, both the systemic interpretation and the practical interpretation of the Ministry of Finance confirm that the exceptional mechanisms only introduce a temporary and conditional derogation from the standard fee limits. Both limits and exceptions are closely linked to the principles of independence and their application requires compliance with certain procedures, transparency and the establishment of effective safeguards. Thus, EU and national regulations create a coherent system to protect the statutory auditor's independence, where exceptions are allowed only within the strict limits of the law, with the overriding objective of protecting the quality and objectivity of the statutory audit.

In summary, both the institution of the audit committee in Regulation 537/2014 and the public oversight body in the Polish Act on Statutory Auditors pursue the same regulatory objective: to allow a limited, temporary derogation from the fee limits while maintaining the highest standards of the statutory auditor's independence. An analysis of the provisions shows that the exceptions are clearly regulated, limited in time, subordinated to verification procedures and safeguards, ensuring compliance with both the spirit and the letter of EU and national law.

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