

THE IMPACT OF THE COMMUNITY ACQUIS ON FINANCIAL CONTROL IN ROMANIA

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ABSTRACT: *When we refer to financial control, we talk, in fact, about the possibility to analyse a set of objectives and guide marks established by entities in order prevent, correct, and subsequently eliminate irregularities, errors, deviations, etc. The main objective is to highlight them in the future with the purpose of obtaining maximum performance with minimum effort. This activity was deemed representative as object of a separate chapter within the community acquis (we are talking about chapter 28 “Financial control”. The problems concern specialised bodies, the control procedure, the reports resulted following the control, and their legal and economic effects.*

KEY WORDS: *acquis, financial control, control bodies, reports, legislative harmonization.*

JEL CLASSIFICATIONS: *G02, L21, M42.*

1. CONTROL FORMS AND OBJECT

Under the Financial Regulation applicable to the general budget of the European Communities, it is determined that all actions performed by the European Institutions, or the institutions receiving funds from the European Union can be subjected to the internal control or to an external audit (Commission Regulation 1605/2002).

In this respect the forms of control are synthesized according to the figure below (figure 1).

The internal control represents the main element of the financial control system, and includes the financial control exercised by control structures inside the controlled entity, within which the difference is made between the internal public financial control and the internal audit.

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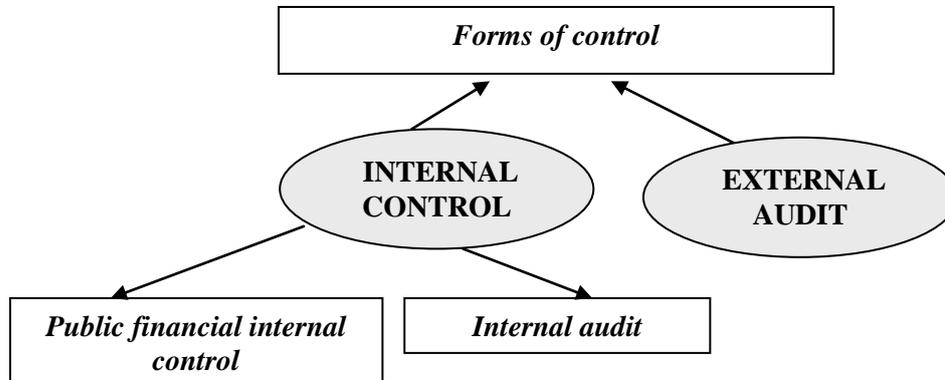


Figure 1. Forms of control

The internal public financial control verifies the fulfilment of the formal and legal condition required for the appropriate use of the funds of public institutions, which action helps the activity of financial management performed at the level of any public institution. For this type of control, an internal structure of the public institution in question is necessary, which will perform the actual authorization of the commitment of the allocated funds.

The internal audit is an activity carried out within a public institution, through which verifications, inspections and analyses of the own internal control system are performed, with the purpose of assessing the degree of ensuring the accomplishment of its objectives, the judicious use of its financial resources, the irregularities found, and finally, with the purpose of proposing actions for the corrections of the latter, or with the purpose of obtaining better results.

The external audit for the community institutions (the Parliament, the Council, and the Commission) is performed by the European Court of Auditors. It analyses the income and expense accounts of the Community, the institutions established by the Community, and it will subsequently present to the European Parliament and to the Council a declaration of assurance regarding the legality and regularity of the transactions (the incomes and expenses were performed lawfully and in compliance with the provisions of the Treaties, the budget approved for the year in question and the other acts adopted in compliance with the founding Treaties) (Commission Regulation 1605/2002).

After performing this activity, the Court of Auditors prepares a general annual report (this report is sent to the Commission and the audited institutions), and also special reports, respectively (these reports are prepared for certain types of activities or for certain institutions).

The object of the financial control is related to three main directions:

- the resources of the European Union (Council Regulation 1150/2000);
- finance granted by the European Union (Commission Regulation 1605/2002);
- prevention of fraud (Commission Decision 94/140/EC).

In relation to the finance granted by the Union, it is provided that the national responsible officer for the authorisation of a payment may require the beneficiary to conclude an insurance in advance in order to hedge possible risks concerning the pre-financing payments. After granting the finance, the amount in question will not be considered finalised until the acceptance of the final reports by the institution. If the beneficiary fails to fulfil its contractual obligations, the finance shall be suspended, reduced or cancelled, upon the presentation of the beneficiary's point of view.

Table 1. Structure of the community acquis in the financial control field

The community acquis for the financial control activity (75 normative acts)	
Various reports (34)	Reports of the Court of Auditors (41) <ul style="list-style-type: none"> - Management of the European Central Bank (ECB) - Public contracts awarded by the Joint Research Centre - trans-European telecommunication networks - Operational efficiency of the management of the European Monetary Institute - expenses of the Court of Justice - Social European Social Fund - European Agricultural Guidance and Guarantee Fund - Research activities in agriculture and fisheries, etc.

At the level of the European Union's institutions, a number of bodies were consulted, which due to their specificity provide the fight against fraud: *Advisory Committee for the Coordination of Fraud Prevention, the European Anti-Fraud Office (OLAF), and the Anti-Fraud Committee of the European Central Bank.*

2. FINANCIAL CONTROL SYSTEM

Under the legal provisions in our country, the financial control system has a number of components, as follows:

- the public internal financial control (public intern audit)

In relation to this direction, several objectives are pursued, more specifically:

- the existence of a consistent and exhaustive legal basis;
- the preparation of consistent internal control and audit procedures and systems;
- the provision of the operational independence of the internal audit;
- the preparation of an adequate system for the prevention of irregularities and the combat against fraud;
- the provision of high professional training of the controllers and auditors, on levels of competence and specialty areas, according to programmes and strategies prepared depending on actual needs.

- preventive financial control

The main objective pursued is the verification of all operation projects with an impact on the commitment and use of public funds, the verification focusing the legality, regularity and compliance with the budgetary provisions. The methods used to

perform this type of control are the own preventive financial control and the delegated preventive financial control.

- the financial management control

This control is exercised at the level of the economic operators and focuses both the management of own goods within the state public and private assets or of the managed, leased, or rented administrating and territorial units. Its main objective is the fulfilment of the fiscal and tax obligations to the public budgets by all economic entities, the honesty of the taxpayers' financial statements, and the accuracy and reality of the accounting and financial records, which records and subsequently synthesized in the taxpayers' tax offence records.

- the economic and financial inspection

This is the control activity that verifies the manner of implementing the measures for increasing incomes, reducing expenses and arrears, observing the economic, financial and accounting regulations, substantiating and justifying the amounts granted from the general consolidated budget for the subvention of products or support of activities, identifying errors or deficiencies in the economic and financial activity in order to remedy and avoid them in the future, as well as to determine the obligations to the general consolidated budget, except the tax ones.

In relation to the community funds, the Fight against Fraud Department (*Romanian* DLAF) has a very important role, this department being a structure with legal personality within the working apparatus of the Government, under the coordination of the Prime Minister, which acts based on functional and decisional autonomy, independent of other public institutions, in compliance with the obligations undertaken by Romania (Law no. 61/2001).

On the other hand, it is the contact institution with OLAF, ensuring, supporting and coordinating, as the case may be, the fulfilment of Romania's obligations concerning the protection of the financial interests of the Union in compliance with the provisions of its Operating Treaty.

The functions accomplished by DLAF include:

- a) *the function of coordinating* the fight against fraud, in order to provide effective and equivalent protection of the financial interests of the Union in Romania;
- b) *the control function*, with the purpose of identifying irregularities, fraud and illicit activities damaging the financial interests of the Union in Romania;
- c) *the regulation function*, for the provision of the elaboration of the normative and institutional framework required to ensure the protection of the financial interests of the Union in Romania;
- d) *the representation function*, providing Romania's participation in consultative committees, work groups and communication networks or information exchange, in terms of protection EU's financial interests.

All above-mentioned components benefit from a supporting law package which insures their smooth operation and application as synthesized in the table below, but the most important thing is that they provide the legislative harmonization in line with the requirements of the legislation of the European Union:

Table 2. Main elements of the financial control supporting law package

Type of act	Number	Preparation year	Topics
Law	672	2002	Public internal audit
Ordinance	67	2002	Amendment and completion of G.O. no. 75/1999 on the financial audit activity
Decision	1086	2013	Approval of the general norms on exercising the public internal audit activity
Decision	235	2003	Approval of the method of appointing the members of the Committee for Public Internal Audit
Law	84	2003	Amendment and completion of G.O. no. 119/1999 regarding the public internal audit and the preventive financial control
Order	923	2014	Approval of the general methodological norms concerning the exercise of the preventive financial control and the specific professional norm code for the persons performing the own preventive financial control activity
Ordinance	75	2001	Organization and operation of the tax offence record
G.E.O.	190	2001	Amendment of G.O. no. 75/2001
Law	273	2006	Local Public Finance
Law	61	2001	Organization and operation of DLAF
Decision	1151	2012	Approval of the methodological norms concerning the organization and exercise of the financial management control
Decision	1183	2012	Approval of the Norms regarding the cooperation system for the insurance of the public internal audit function
Decision	1259	2012	Approval of the Norms regarding the coordination and execution of the processes of national certification and continuous professional training of internal auditors in the public sector and of natural persons

3. SWOT ANALYSIS OF THE FINANCIAL CONTROL SYSTEM

The financial control system in Romania is subjected to the influences of several factors, which are inherent influences given the environment in which our country activates and its level of development. Any activity, any field are subjected to the influence of four main categories of factors: political, economic, social, and technical.

At **political level**, there are a number o financial control factors, its architecture and objectives: the type of government, the level of corruption, the partnerships with the international bodies, the objectives of the governing programme, the internal and international political context related to financial control.

In relation to the **economic** component, we are talking about factors that have a direct influence on the financial control activity: the salary level of the specialised personnel, the number of positions with a high responsibility level in financial control, the living standard, the economic and monetary policy.

At **social** level there is also a direct influence of several factors on financial control: the living standard, the overall and area demographic evolution, the number and structure of the population depending on various criteria, the labour migration rate.

The last category of factors brought up for discussion is that of **technical factors** in which the emphasis is laid on their direct influence on the future development of the financial control system: specialised IT programmes and applications, the existence of a national database, highly complex communication and information systems, the use of electronic documentation, as well as education and research innovations.

Analysing the factorial influences, the actual situation, as well as the development prospects, we can offer the following coordinates within the SWOT analysis:

a) **STRENGTHS**

- The existence of a legal operating framework;
- The existence and operation of specialised structures;
- The existence of a methodological and procedural framework;
- The existence of rating scales for the compliance of the internal systems with the standard ones, and thus the implementation of control standards;
- The managerial responsibility becomes mandatory in the public system as well, thus also involving the financial control activity;
- The continuous training and refreshment of the specialised personnel;
- The segregation between the financial control bodies and the internal audit bodies;
- The provision of support concerning the ethics in financial control and internal audit;
- The existence of an appropriate assessment, self-assessment and reporting system.

b) **WEAKNESSES**

- Obvious resistance to change;
- The inappropriate integration of the audit and control systems in public institutions, especially the non-adaptation to the actual requirements of the entity;
- The lack of experience of the public entity managers, and implicitly the impossibility to appropriately manage risks in the management of public funds;
- In relation to the previous mention, the insufficient development of the risk management system has been noticed;
- The insufficient monitoring of the reports and also of the current practical guides;
- An insufficiently developed audit system in certain entities, in which the audit standards are not correctly implemented (in certain public entities, such services are outsourced);
- The deficient management of internal audit activities;
- The inappropriate training of the professional auditors;
- Stress laid on inspection actions, instead of actual audit ones, in the internal control activity.

c) OPPORTUNITIES

- Enhancing delegated financial control exercised by the Ministry of Public Finance as support of the general financial control activity;
- Developing and improving financial management control;
- A better implementation of the internal control and audit system for a higher accountability of the decision-making factors, as well as for the practical implementation of the joint internal audit function;
- The increase of the independence level of the internal audit activity, thus strengthening the auditor's position as a factor responsible for the efficient performance of the activity;
- The increase in the professional training level;
- The planning and execution of complex audit missions at intersectoral level.

d) THREATS

- Frequent changes within organizational structures;
- The control personnel is part of the organization structure, being sometimes subjective in their assessments;
- The underdimensionnement of the internal control apparatus;
- The implementation of efficient control systems requires a long time, which is why conflicts may occur under various forms and at various levels;
- Due to the scarce financial resources, there are no audit committees or missions oriented towards performance audit (the problem of the lack of experience in this field is also included in this last case);
- The internal audit system does not have a high level of importance attached in the institution.

4. CONCLUSIONS

The main objective in what the financial control is concerned, is to increase the overall efficiency of the activity for the alignment of the internal standards to the current European Union standards and requirements. Taking into account the aspects presented above, we can draw the following conclusions:

- Providing a better cooperation with the state institution for the improvement of the control and audit system, but also for the increase of its efficiency;
- A better coordination, monitoring and operationalization of the control activities by the responsible institutions and bodies;
- A major improvement will be necessary especially in relation to the legislative framework regulating the structure of the control activities, the performance of this activity and the application of the conclusions drawn;
- The effective exercise of the activity should have a strong technical and methodological support which should not allow for unprofessional interpretations;
- The staff involved in implementing the financial control procedures should receive continuous training, which training should answer the most demanding requirements and reports (they should be certified on specific specialties based on strictly professional criteria);

- The provision of appropriate assessment standards for the related structures and activities;
- Providing a control system (an element closely related to the previous objective) clearly superior in terms of quality and performance to be subsequently achieved by the entity;
- The implementation of standards adequate to the actual practical needs.

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