STUDY ON THE PUBLIC FINANCIAL CONTROL IN ROMANIA

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ABSTRACT
Efficient and effective public spending, especially in terms of transparency, has always been the overall objective of public institutions. The way in which public entities will achieve their objectives and missions depends on how they will be able to manage and control their own income and expenditure budget, regardless of the financing source. It is believed that control is a specifically human activity, consisting in permanent, actual or periodical testing and analysis of the information, processes or phenomena in a given sector, office, service or area, with the declared aim of preventing or correcting any deviations from the plan and that can address the following challenges: Who makes sure that the public entity that has no deviations from the objectives?, What is the significance of these deviations, which are their implications, which are the causes that generated them, what steps must be taken to avoid them?, At what level should we intervene in order to achieve the objectives?, What are the indicators we need to identify in order to properly assess the objectives in accordance with the allocated resources?, What tools do we use to correct deviations? etc.

KEYWORDS: control, public financial control, internal management control system, public internal financial control.

1. Introduction
Efficient and effective public spending, especially in terms of transparency, has always been the overall objective of public institutions. The way in which public entities will achieve their objectives and missions depends on how they will be able to manage and control their own income and expenditure budget, regardless of the financing source.

The legitimate questions that can be addresses are: Who makes sure that the public entity that has no deviations from the objectives?, What is the significance of these deviations, which are their implications, which are the causes that generated them, what steps must be taken to avoid them?, At what level should we intervene in order to achieve the objectives?, What are the indicators we need to identify in order to...
properly assess the objectives in accordance with the allocated resources?, What tools do we use to correct deviations? etc., and the list could continue.

I consider that only control, with everything it entails, can answer to these questions because control is a specifically human activity consisting in permanent, actual or periodical testing and analysis of the information, processes or phenomena in a given sector, office, service or area, with the declared aim of preventing or correcting any deviations from the plan. It is the mechanism that puts us in the honorable situation of making valuable judgments, of advising or ensuring that the things or facts are consistent with the targeted objectives, that the objectives are in line with the level of resources allocated and that we can identify the deviations in order to establish their significance as well as their causes.

Since control encompasses several key aspects of the activities of an entity, the following lines will deal with those regarding control in the financial sector.

2. Key Concepts of the Public Financial Control

In order to identify the meaning of the expression “public financial control” we can deconstruct it into simpler elements, its components, in order to study them and their relations. These terms are: control, financial and public.

The term control can be defined as follows:

1) According to dictionaries:
   a) “Continuous or periodic analysis of an activity, a situation etc. so as to track its progress and take improvement measures” (Academia Romana [AR], 1998);
   b) “Checking an activity in order to track its progress and take improvement measures” (Marcu, 2000);
   c) “Permanent, periodic or unannounced assessment, done in a certain area in order to know the reality and the way in which it operates, in order to prevent or mitigate any gaps and with the aim of improving the activity” (Popa, Stânciulescu, Matei, & Tudor, 1999-2003).

2) According to specialized literature:
   a) “Permanent, periodic or unannounced assessment of processes, phenomena, operations and information in a certain area, in order to prevent or mitigate any deviations or gaps” (Juncan, 1995);
   b) “Process of measurement and monitoring of performance and of taking corrective action necessary to ensure the desired result” (Simionescu, Bușe, Bud, & Purcaru, 2006);
   c) “all the existing forms of control at the level of entities, including internal audit, which are established by management in order to achieve the objectives. Internal controls include organizational structures, methods and procedures implemented to achieve the objectives” (Ghiță, 2004).

According to the mentioned definitions and assessments, it can be concluded that when we refer to the activity of we control must bear in mind that it is an specifically human activity of permanent, periodic or unannounced testing and analysis of processes, events, operations, activities, situations and information resulting from a certain area or sector, with the aim of monitoring the activity, preventing and mitigating any violations and shortcomings, in order to improve the activity, or it can be regarded as a system that includes all existing forms of control at the level of the entities, including the organizational structures, methods and procedures implemented in order to achieve the objectives.

The term financial can be assessed as follows:

1) According to dictionaries:
   a) “Regarding the organization of finances, regarding finances, cash flow, credit etc.” (AR, 1998);
   b) “pecuniary” (Seche, & Seche, 2002);
c) “Related to, concerning finance; p. ext. regarding money and credit” (Popa, Stănciulescu, Matei, & Tudor, 1999-2003).

From the above definitions we can state that the term financial has the meaning of finance, money or anything related to them.

The term public means:

a) “Concerning all the people, belonging to the entire nation. Something that can be used by everyone” (Marcu, & Maneca, 1996);

b) “Civic, general” (Ciorănescu, 1958-1966);

c) “Belonging to the state, of the state” (Petrovici, Macrea & Rosetti, 1955-1957).

From the above definitions it can be appreciated that the term public refers to everything that belongs to the whole nation, to the state or of the state.

Therefore, from the above mentioned conclusions, we may state that the meaning of “public financial control” refers to the specifically human activity of permanent, periodic or unannounced testing and analysis of processes, events, operations, activities, situations, information derived from the field of state or people’s finance i.e. from public finances (author’s note), with the purpose of monitoring their activity, preventing and mitigating any violations and shortcomings, improving the financial activity, i.e. the administration and management of public funds (author’s note) or the system at the entity level that includes all forms of controls, meaning the existing organizational structures, the methods and procedures implemented in order to achieve the objectives in the field of public finances.

The same approach to public financial control is found in chapter 28 entitled “Financial control of the communitarian acquis” where it is defined as “examining the way in which the objectives and programs undertaken by various public entities are achieved, in order to prevent or uncover any irregularities, errors, shortcomings, with the aim of fixing them and avoiding them in the future” (Mare & Oașa, 2007).

3. The Organization of the Public Financial Control in Romania

After joining the European Union (U.E.), Romania adopted the community acquis. From this perspective, according to Chapter 28, entitled “Financial Control” of the acquis and best practices in the EU, Romania is committed to improving the conceptual and strategic framework of public financial control and implement a viable system of public financial control to include all public entities and authorities with control and evaluation responsibilities, and establish the architecture of the forms of control that are regulated and exercised at the entity level in order to determine deviations from set objectives, on the one hand, and to analyze the causes that determined them and take preventive or corrective measures, on the other. This approach is found in the strategies developed by governments, where the Ministry of Finance assumes the main role, as the specialized central public administration authority, responsible for policy development and implementation in terms of financial control and financial management.

According to the “Public Internal Financial Control Strategy in Romania for the period 2014-2016”, the architecture of public financial control in Romania might look like this:
I will further analyze and briefly characterize each component of the public financial control through the prism of the valid legislation in this area.

### 3.1. Internal Financial Control

Under the International Organization of Supreme Audit Institutions (INTOSAI), public internal financial control is considered “an integrated process conducted by the entity management and staff, designed to address risks and to provide reasonable assurance in exercising the missions of the entity by performing the following objectives: carrying out operations in an orderly, ethical, economical and efficient manner; fulfilling responsibilities; compliance with laws and regulations; protecting resources against loss, misuse and damage”. This issue was also adopted by the Romanian legislation and adapted, so public financial control is defined as “the whole system of internal control in the public sector, consisting of the public entities control systems, of other structures authorized by the Government and central organisms responsible for harmonizing and implementing the principles and standards of control and audit” (Parlamentul Romaniei [PR], 2002).

In other words, public internal financial control encompasses all forms of control that can occur in public entities, in compliance with the control principles and standards of existing in the legislation, namely public internal audit, preventive financial control, financial management control, internal management control system and the economic and financial inspection.

#### a) Public internal audit

Public audit is a “functionally independent and objective activity of insurance and counselling, designed to add value and improve the activities of the public entity; it helps the public entity to achieve its objectives, through a systematic and methodical approach, evaluates and improves the efficiency and effectiveness of risk management, of control and of governance processes” (PR, 2002).

From this definition it is noted that the overall objective of public internal audit is a part of the insurance business which refers to the analysis of all the elements of evidence provided by the public entity for the purpose of assessing the processes of risk management, of control and governance (the entirety of the processes and structures implemented by management so as to inform, target, manage and monitor the
activities of the public entity towards achieving its objectives) and, on the other hand, counselling activity, which aims to improve the processes and structures implemented by the management of the public entity, while who are performing the audit (the auditors) do not assume management responsibilities.

Public internal audit is considered to:
- have thorough procedures, methods and tools for the assessment of management systems in order to establish an economical, effective and efficient functioning thereof;
- accurately assess the results in terms of their compliance with the targets set, based on the criteria previously imposed in implementing the objectives of the public entity;
- check compliance in terms of the sum of assembly principles, procedural and methodological rules, and the manner in which the actions of the public entity produces financial effects on public funds or assets.

Public internal audit in Romania is organized as follows:
- The Committee for Public Internal Audit (CPIA): a consultative body acting in defining the strategy and improving the work of internal audit in the public sector;
- Central Harmonisation Unit for Public Internal Audit (UCAAPI): distinct structure in the Ministry of Public Finance developing a legal framework on internal audit and implementing uniform procedures and methodologies based on international standards;
- Internal Audit committees: advisory bodies constituted under central public institutions which carry annual budgets of more than 2 billion RON, meant to increase the efficiency of the public internal audit;
- public internal audit compartments: public entities intern ensuring the internal audit activity.

b) Preventive inspection

Preventive inspection is “the activity of verifying the legality and regularity of transactions on public funds or public property, prior to their approval” (Guvernul Romaniei [GR], 1999).

On the one hand, preventive financial control identifies and analyses the lawfulness of actions with financial effect on public funds and public property and, on the other hand, identifies and analyses the extent to which these actions comply in all respects with the set of procedural and methodological principles and rules applicable to the category of operations they belong to. Specific actions in terms of financial control are carried out before these operations are approved.

Preventive inspection is organized and exercised in the following forms (GR, 1999):
- own preventive inspection, in all public entities and on all operations with financial impact on public funds and public property;
- delegated preventive inspection, to main credit release authority of the state budget, the budget of state social insurance, and the budget of any special fund, the National Fund and the agencies for implementing the Community funds, and high risk other public entities, by delegated controllers form the Ministry of Finance.

c) Internal management control system

The need for internal management control resides precisely in its purpose, namely the achieving the objectives set by the public entity and improving the economy (minimizing the cost of resources used to achieve the estimated results of an activity, while maintaining the appropriate quality of these results) and efficiency (maximizing the results of an activity in relation to the resources used) of the public entity management.

According to the law in our country, the internal management control is defined as “all forms of control exercised at the level of the public entity, including internal audit, established by management in accordance with its objectives and legal
regulations, in order to provide economical, efficient and effective fund administration; it also includes organizational structures, methods and procedures” (GR, 1999).

Designing, building, elaborating and/or developing the internal/managerial control, including formalized activity-based procedures is a lengthy process that requires significant efforts from the entire personnel of the entity and in particular from the employees in management positions. (Secretariatul General al Guvernului [SGG], 2015).

The goal is to create a uniform and consistent model of internal/managerial control to allow comparisons between entities of the same kind or of the same entity at different times, and make it possible to highlight the results of the entity in its evolution. To this aim, the internal control management using a set of 16 standards. These standards are grouped in five key elements: the environment of control, performance and risk management, control activities, information and communication, evaluation and audit. They are constituted as a starting or reference point against which to assess system and identify areas and directions of change. The five key elements are specific to the model of internal control implemented by the Committee of Sponsoring Organisations (COSO) since 1992 in the US, which was later improved (Curtea de Conturi a Romaniei [CCR], 2011).

d) Financial controlling

Financial controlling is a form of financial control exercised within the economic operators on the management of their own assets and property of the public and private patrimony of the state or territorial-administrative units under their management, concession or lease, in accordance with GD no. 1151/2012 approving the Methodological Norms on the organization and exercise of controlling (Ministerul Finanțelor Publice [MFP], 2014).

Financial controlling has the following objectives:
• ensuring the integrity of the heritage of the trader, as well as public and private property of the state and of the territorial-administrative units under its management, under concession or lease;
• obeying legal provisions and internal regulations subsequent to the economic and financial activity of the economic operator;
• increasing the efficient use of resources.

Financial controlling is organized at the level of the economic operator in order to control its own management, and at the level of its subunits, and is exercised in the following forms:
- preventive control, which consists of checking the grounding of revenue and expenditure budgets and their annexes;
- operational control, which consists of checking the economic and financial operations carried out during the current financial year.

e) Economic-financial inspection

Economic-financial inspection represents “the control activity that verifies the implementation of measures to increase revenues, reduce costs and reduce arrears, observing the economic-financial and accounting procedures and justification of the amounts awarded from the consolidated budget to subsidize some products or support certain activities, identifying errors and deficiencies in the financial-economic activity in order to fix them and avoid them in the future and establishing obligations to the general consolidated budget, excluding tax” (GR, 2011).

Economic-financial inspection is exercised through the Ministry of Public Finance and operates as a specialized body of ex-ante control, operational control and ex-post control and aims at increasing the accountability of all economic operators (companies where most of the capital belongs to the state or which are organized as autonomous, national companies etc.) in the pursuit of economic and financial activity and in order to strengthen the budget and the economic-financial discipline.
The Ministry of Finance is performing the economic and financial inspection of economic operators on:

• measures to achieve revenues, expense reduction and mitigation and overdue debts;
• economic and financial regulatory compliance and accounting;
• the substantiation and justification of the amounts awarded from the general budget to subsidize products or support activities;
• paying dues to the general consolidated budget, excluding tax.

We can also address public financial control in the light of the level at which this control is carried out and of the organs performing it. Thus, the central administration comprises certain control structures of the government, such as the control body, the Anti-Fraud Department, the Ministry of Public Finance through its subordinate directorates. At the level of the local administration we can identify control by prefects, the prefect or the mayor.

3.2. Public External Financial Control

As shown in (Figure no. 1) external public financial control is exercised by Parliament or by the Court of Auditors.

Parliamentary control is conducted in plenary or separately by each chamber, directly or indirectly, using all forms of control. It is stipulated in the Romanian Constitution and refers to: control exercised by reports, messages, programs, submitted to the Parliament, control exercised by parliamentary committees, control exercised by questions and interpretations, the right of MPs and Senators to request and obtain information and control exercised by the Ombudsman. From this perspective, Parliament control is moving towards approval by law of public budget but also of budget implementation, adoption of no-confidence votes to withdraw the confidence granted to the Government and interpellations of different people holding state offices, where it is considered necessary to clarify the causes and circumstances in which events or actions have occurred, as well as to draw conclusions, establish liabilities and steps to be taken.

In what concerns the Court of Auditors (CA), it exercises control over the formation, administration and usage of the financial resources of the state and of the public sector. The control function of the CA is performed by external public audit procedures, compliant with its own audit standards, developed in accordance with international auditing standards.

CA operates autonomously, in accordance with the provisions of the Constitution and its law of organization and functioning. As the supreme institution of audit, it represents Romania in international organizations in this field. In order to fulfill certain obligations incumbent on Romania as a EU member state in the field of external audit, the Audit Authority has been established, with responsibilities in what regards the non-repayable funds granted to Romania by the European Union. At the level of the administrative-territorial units, CA functions are exercised by chambers of accounts in the counties and in Bucharest, entities with no judicial personality.

4. Conclusions

Public financial control system (PFCS) in Romania can be strengthened and developed through several measures such as:

a) Updating the regulatory legal public financial control database: many laws in this area are not fully compliant with the European directives or no longer apply (see the establishment of internal audit committees);

b) Developing methodologies and procedures so as to align them to European standards and to international common practice in the field: here we need to consider updating all practical guidelines in this area, especially developing new ones,
for example the application of internal management control standards;

c) Training the staff working in this field: the personnel with responsibilities in this area and especially in the field of internal management control must attend training courses on pre-set topics, held by specialists in the field, underlining the necessity of implementing the existing standards and also the tools at their disposal;

d) Integration of the financial control in the sphere of internal management control;

e) Increasing the extent of implementing internal audit at the level of the public administration by developing the cooperation system in order to ensure the evaluation of the use of public funds by guiding the internal audit departments towards performing internal audit and audit by association;

f) Keeping track of the public internal auditors and of certified natural persons by setting up a register.

Regardless of the number and types of forms of control we may have introduce, no matter how much we want to develop or consolidate the public financial control in Romania, the main problem in preventing or uncovering any irregularities, errors, shortcomings, of solving or avoiding them in the future will remain in force as long as the law is not obeyed, as long as the spirit and the letter of the law are not enforced and individual responsibility fails to function.

REFERENCES


