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Good Governance in the Public Sector: Role of Supreme Audit Institutions

SUB-THEME 1:

Strengthening Stakeholders' Confidence:

Audit of Top-management Integrity and Accountability

COUNTRY PAPER

ROMANIA

THE COURT OF ACCOUNTS

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EXECUTIVE SUMMARY

The Court of Accounts conduct external public audit in Romania; the activity is unfold in keeping with the Constitution and with the Law on the organisation and operation no. 94/1992, with internal rules and regulations, as well as with own Standards, drafted in keeping with the generally accepted International Audit Standards.

The Romanian Court of Accounts **cannot make precise quantifications of the integrity level within public institutions**, nevertheless all audit missions conducted by the Romanian Court of Accounts indirectly involve an assessment of management accountability. This assessment is made in the light of the public institution's management decisions economic impact.

The regulations governing the activity of the Romanian Court of Accounts include provisions according to which on unfolding all audit missions, external public auditors are kept to analyse and assess the internal control system of verified entities (the ethical component of verified entities' control environment included).

External public auditors verify the operation of the internal control system, including the compliance with the regulations in force and with the ethic principles of public entities based on the Guidelines for the assessment of public entities' internal control system, drafted by the Court of Accounts.

There also exists a series of other **regulations** supporting the activity of the Romanian Court of Accounts by providing procedures based on which the latter verify the mechanisms ensuring integrity and transparency in the exercise of public functions by employees of the public sector and **institutions** having explicit competences in maintaining integrity, transparency and preventing fraud and corruption in the public institutions in Romania.

In perspective, the Romanian Court of Accounts – a member of the Task Force on Audit and Ethics – intend to identify the audit practices of other SAIs in the field of ethics, integrity and accountability and build on them so as to draft the own methodology to assess integrity and accountability and thus contribute to the enhancement of public management quality.

1. INTRODUCTION

LEGAL FRAMEWORK AND MANDATE OF THE COURT OF ACCOUNTS

The Court of Accounts unfolds the activity based on the provisions of the Constitution, of the Organisation and Operation Law no. 94/1992, of internal rules and regulations, as well as of the own Standards, drafted based on the generally accepted International Audit Standards. The Court of Accounts audits public resources management, providing the legislative and stakeholders reports on the use and management of public funds, in keeping with the principles of legality, economy, efficiency and effectiveness. Furthermore, the county specialised structures provide administrative and territorial authorities and public opinion reports on local public finances.

Supreme Audit Institutions, the Romanian Court of Accounts included, are confronted with the challenge to perform better, as well as to have an increasingly efficient activity, so as to strengthen the confidence of stakeholders.

In this context, the activity conducted by the Romanian Court of Accounts is aimed at creating and maintaining the confidence of stakeholders, as well as of the legislative, the executive, the media, public opinion etc. relating to public finances spending.

The Court of Accounts, through the verifications conducted, also attempts to establish whether public institutions management operates efficiently and whether interested parties are satisfied with the way public institutions fulfil the objectives they were established for.

Furthermore, support to verified public entities in setting up a better management system is among the objectives of the Romanian Court of Accounts' activity, in a modern context.

2. ASSESSING MANAGEMENT INTEGRITY AND ACCOUNTABILITY IN THE LIGHT OF THE AUDIT ACTIVITY UNFOLD BY THE COURT OF ACCOUNTS

The audit missions unfold by the Court of Accounts aim at establishing the legality and regularity level of public institutions' economic operations and at the same time target the assessment of the efficiency, effectiveness and

economy auditees enforce to attain the set objectives. Though, as a general rule, explicit objectives are not defined within audit missions on the assessment of management integrity and accountability, these issues are indirectly analysed by external public auditors from the perspective of the economy, efficiency and effectiveness of entities activity and of the decisions made by their managers.

All audit missions conducted by the Romanian Court of Accounts indirectly involve an assessment of management accountability. This assessment is made in the light of the economic impact of public institutions' management decisions.

With the obvious aim to enhance public institutions' performance and to generate a higher discipline and rigour level in the management of public finances, imperative norms have been introduced in the Romanian legislation on the implementation of control standards at the level of all public entities. These internal control standards include multiple instruments that can afford the institution a high integrity and accountability level among employees, top-management included.

The good operation of all internal control instruments within public institutions guarantee that all deviations form ethics and integrity, respectively from the economy, efficiency and effectiveness of public funds management, are rapidly reported, identified and corrected.

The Romanian Court of Accounts cannot make exact quantifications on public entities' integrity level. However, considering the current economic and social environment in Romania which triggers the need to adapt audit themes so that they answer the best possibly stakeholders' information requirements, the Court of Accounts, using instruments specific to performance audit, conducted an action to assess exposure to corruption. Thus, at the beginning of 2012, an audit mission was conducted at the National Agency for Tax Administration (ANAF), the main objective of which was assessing the corruption exposure level in the taxes and charges collection activity.

The aim was identifying main causes predisposing to infringement of integrity principles, building on the following audit mission main questions:

- Does ANAF activity organisation and regulation allow for an efficient and effective management of corruption associated risks?
- Which are the main areas/domains of ANAF activity exposed to corruption phenomena?
- Which are the main factors fostering corrupt practices within ANAF?

- Which are ANAF institutional instruments to counteract emergence of these phenomena? How efficient are these instruments?
- What is the internal control system performance level and how efficient is it in point of corrupt practices identification and fight, within the tax administration system?

The performance audit report included deficiencies and susceptibilities which may endanger public servants' (execution and management functions) integrity level within each activity segment of the institution; recommendations were established to enhance activity and minimise corruption associated risks.

The audit report was forwarded to the interested institutions and was loaded on the website of the Court of Accounts.

POSSIBILITIES TO EXAMINE ETHICS AND INTEGRITY, BUILDING ON THE VERIFICATION OF AUDITEES' INTERNAL CONTROL SYSTEMS

Standardisation of internal control within public institutions, legislated in Romania in 2005, supposes identifying and analysing all processes at the level of the public institution and establishing and approving a set of complete and transparent rules, based on which the activity of the respective institution is unfolding.

The rules governing the activity of the Romanian Court of Accounts contain provisions according to which external public auditors are kept to analyse and assess the auditee's internal control system within all audit missions conducted. Moreover, internal rules include provisions relating to the obligation to include in each audit report a distinct chapter on this issue.

In assessing the internal control system, the Romanian Court of Accounts examine the organisational measures, the rules, the risk analyses and the internal reporting procedures which the entity management established and implemented and also the measures they took to eventually promote an integrity organisational culture.

Assessing the auditee's internal control environment is an efficient instrument to prevent corruption and fraud. To examine these issues, the Court of Accounts considered, among others:

- the existence of standards/rules as a general basis to maintain an effective internal control in the public sector;
- the way the internal control system was conceived and the extent to which it operates;
- the existence of a strong internal control environment;
- the implementation by public sector managers of effective internal controls and the permanent maintenance of a positive internal control environment;
- the personal and professional integrity, the ethical values established by management for the overall staff, a permanent supportive attitude towards internal control included;
- the concern of the auditee management with competence of the overall staff;
- leading by example (management activity philosophy and style).

External public auditors examine public entities internal control systems operation, including the compliance with the regulations in force and with the ethical principles, based on the Guidelines to assess public entities' internal control systems, established by the Court of Accounts.

The Guidelines were adopted by the Plenum of the Court of Accounts in March 2012 and published in a brochure; they may also be electronically accessed on the website of the institution. The INTOSAI Guidelines on Good Governance (INTOSAI GOV) were attached thereto.

In keeping with the regulations provided in the Guidelines, the findings and conclusions on the assessments of auditees' internal control systems are loaded by external public auditors in a software application called INFOPAC and analysed in view of drafting an annual report. This report is submitted to the Plenum of the Court for endorsement and subsequently forwarded to the Ministry of Public Finances, Government and other stakeholders.

Furthermore, the Guidelines provide external public auditors with the items they need to assess internal control systems and especially integrity and accountability. Thus, external public auditors are able to establish, among other issues, whether at the level of verified public institutions:

- there is a code of ethics in place;
- all staff is familiar with the code of ethics and the procedures to identify and report rules infringements;
- there are procedures in place to report on infringements of the code of ethics;

- staff is encouraged to report on any ethics-related deficiencies or issues;
- there is a procedure in place to answer internal/external complaints;
- there are mechanisms in place for management to be informed on the claims number and content;
- there is an annual/multiannual programme unfolding for professional training of staff as well as of managers which includes ethics issues in the curricula and whether the results of this activity have been assessed etc.

Following the verifications made, the Court of Accounts found that:

- in certain entities of the public system there is no ethics infrastructure.
- certain public institutions of Romania, under the verification competence of the Court of Accounts, adopted codes of ethical conduct, applicable to all staff categories. Most of these codes provide relevant principles and values from the perspective of public life integrity, such as altruism, integrity, objectivity, accountability, openness, honesty etc.

3. MAIN REGULATIONS AND INSTITUTIONS IN THE FIELD OF INTEGRITY

In Romania, the main regulations in the field of ethics, of integrity assurance and corruption prevention and fight are provided in:

- Law no. 161/2003 *on certain measures to ensure transparency in the unfold of public dignities, of public functions and in the business environment, corruption prevention and sanctioning.*
- Law no. 176/2010 *on integrity in the unfold of public functions and dignities (which includes provisions on the setting up, organisation and operation of the National Agency for Integrity),*
- Law no. 115/1999 *on ministerial accountability,*
- Law no. 7/2004 *on public officers' Code of Conduct*
- Law no. 477/2004 *on the Code of Conduct of contracted staff within public authorities and institutions,*

- Order 946/2005 *for the approval of the Code of internal control, covering standards on management/internal control at the level of public entities and for the development of managerial control systems etc.*

As to the **National Agency for Integrity**, its main responsibility is the activity involving the assessment of wealth declarations, of patrimonial data, information and of modifications to such, of interests and incompatibilities concerning all persons holding public dignities or functions. In keeping with law, in Romania it is mandatory that a Declaration on the wealth of certain categories of persons working in the public sector be submitted, in order to ensure transparency and integrity in the conduct of public dignities and functions and to prevent institutional corruption.

Based on the provisions of the Code of ethics for public officers and of the one applicable to contracted staff working in public authorities and institutions, in these institutions there exist provisions on the mandatory establishment of annual reports on the Standard of conduct of public officers/contracted staff.

Building on the above mentioned regulations, the Romanian Court of Accounts can verify, within the boundaries of the mandate, the implementation and enforcement of these provisions on integrity and transparency in the conduct of public functions by staff employed in the public sector, but also by top management of public institutions.

It is worth mentioning that the **Department for Antifraud Fight** was set up in Romania in **2005**; this body has control competences over irregularities, frauds or other illicit activities negatively impacting on the financial interests of Romania and of the European Union, in general, within the context of public funds management.

The Court of Accounts and the Department cooperate in the sense that certain aspects which the Court of Accounts suspect to be fraudulent are communicated to the latter. Subsequent to these communications, the Department conduct administrative investigations, on the spot controls, documentary analyses and verifications.

4. CONCLUSIONS AND FUTURE ACTION TRENDS

The conclusions and future action trends may be synthesised as follows:

- considering that the audit activity of the Court of Accounts has been relatively recently regulated – in 2008 – no audit proper has been conducted of the integrity and accountability of public entities' management; however, this activity has been conducted indirectly, through the assessment of the internal public control system in place at the level of public entities, the internal control environment included, which also cover ethics issues.
- our intention is, considering that we are members of the Task Force on Audit and Ethics, to identify audit practices of other SAIs in the field, respectively audit reports and methodologies, and building on them to draft our own methodology to assess the integrity and accountability, so as to enhance public management quality.