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Particularities of The Controlled Exercise on Projects Financed From European Funds

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Abstract

This article aims to highlight the importance of control measures of the institutions implementing and managing EU funds. Both from a legal standpoint and in terms of practical application there are differences and similarities in the performance of control to the public institutions and its application in private companies. In this article is a synthesis theory on the notion of control, the importance of control to prevent irregularities and fraud, legal issues related to control of the implementation of European projects in view of the principles of sound financial management and fairness granting and use of funds, application control both in public institutions and in private entities.

Key words

Control, Fraud, European Projects, Irregularities

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1. Introduction

Improving the performance of public entities managing European funds through high-performing public management is part of the requirements imposed by the European Commission and national public administration reforms. The interest shown for this goal leads to the idea of implementing an adequate control, which plays a key role in this case. Successful implementation of European projects by private entity beneficiaries, prevention of irregularities and fraud is a common goal of both project implementing companies, the institutions that monitor these projects as well as the donor.

The paper aims at identifying the types and ways of applying the control in the projects funded by European funds and the importance of each component as well as of the whole ensemble. Topicality is provided by the debates currently at national and European level. In each entity, control must be implemented and evaluated according to appropriate procedures, where each component has a well-defined role in responding promptly and appropriately to the risks specific to the activities performed.

Both nationally and at EU level aims to use the best conditions of the European funds allocated by eliminating gaps ignorance in this field by managers through the practical application of the monitoring, by regulation, standardization and harmonization practices in all Member States.

This scientific approach will materialize in the presentation of the specialized literature, of the legislation in the field of control, of the models for the elaboration and implementation of the control etc.

2. Literature review

The notion of control originates from the feudal age, when the rulers of the Romanian Lands set the amount of the collections at that time from the payment of taxes on property and services, as well as the way of using them. "Specific for that period is that the income and expenses of the treasury were confusing with those of the rulers. That is why, in order to check the way in which these gifts were made to the treasury, the Romanian rulers had periodic or unexpected checks" (Bunciuc, 2013).

The etymology of the term "control" comes from Latin from the word "counter rolus" which means checking information by comparing it with another information, checking a copy after the original, "checking a duplicate act after the original" (Ghiță, 1995).

Over time, the concept of control and assigned different approaches: "check, a careful inspection of the correctness of note" (Le petit Larousse, 1975), "supervisory action of someone, something, a thorough examination or power to rule as a regulatory instrument of a mechanism" (The New Merriam, 1989), "a complex and continuous managerial activity" (Boulescu and Ghiță, 1997).

The specialized literature attributes to the notion of control the following valences: "the process of measuring, monitoring the performance and taking the corrective action necessary to ensure the desired results" (Simionescu *et al.*, 2006), "all the forms of control existing at the level of the entities, including the internal audit, established by the management in order to achieve the objectives" (Ghiță, 2004).

Control involves a process of knowing the past, present and predicting the future of an economic entity and its economic and financial performance, ensuring the protection of the company's interests and providing a global vision of it. At the same time, "control contributes to the integration of the firm into the market mechanism through a complex and continuous managerial activity" (Boulescu and Ghiță, 1997).

Another approach to control is that proposed by Loebbecke - "a system designed to provide reasonable assurance that management's objectives are being met" (Loebbecke, 2003), and Zander - "all the operative and postoperative evaluation of the organization's results" (Zander, 1979).

In Romania, the term "control" is defined as "verification, permanent or periodic analysis of an activity in order to follow its course and to take improvement measures; continuous (moral or material) supervision"¹, or "continuous moral and material surveillance, as well as the mastery of an activity, of a situation"².

Depending on the purpose and nature, with time manifested individually shaped and different types and manifestations of control, which ultimately implies a system that contribute to the optimal implementation of the entity's objectives or activities. Thus, the concept of "internal control", which evolved extremely rapidly, has been delineated and is currently being implemented in many areas of activity.

Professional bodies define internal control as follows: "all control systems, financial and other measures implemented by management" (French Order of Chartered Accountants), "organizing plans and all models and procedures adopted within a company" (Committee of Accounting in the UK), "give reasonable assurance about achieving the entity" (International Federation of Accountants IFAC).

Although there are many definitions of this concept, sometimes divergent, there is a consensus that is concretized in establishing that it is not a single or a simple function, but presupposes the existence of a set of measures and procedures that support the management of an entity in pursuit and efficiency processes, activities and operations.

The place and role of control, placed at the heart of information flows, is precisely to receive information, process, analyze, and then transmit operationally to decision-makers who use them to maintain or modify certain configurations of the driven system (Popescu, 2011).

Effective control distinguishes the essence of the phenomena, sets out the negative aspects that may occur at a given time, and finds the most appropriate way to prevent and eliminate the causes.

¹ <http://dexonline.net/definitie-control>

² The Explanatory Dictionary of the Romanian Language, Ed. Academiei, Bucharest, 1975

3. Methodology of Research

The starting point of this scientific approach is the positioning in the sphere of knowledge, both of the general research area and of the specific domains. Through the issues addressed, the work has as a general area of research the issue of control, as a subdomain of accounting, especially customized in the control over projects funded by European funds.

The central objective of the research is to present and deepen the issue of conceptual control. The particularity of the approach of control in the monitoring and implementation of the European funds involves the deepening of the specialized literature, of the legislation in force, of the European Commission's series of documents, of the official websites of the European Union and of the authorized institutions of the Romanian State.

As a way of approach, a general-to-specific approach was chosen, starting from a theoretical presentation of the current state of knowledge, identifying the overall control framework and its role in the efficient implementation of projects funded by European funds. The main research technique is the literature review process, documentation in the relevant literature, the study of the papers in the field, various books, articles, applicable legislation.

This paper combines elements of descriptive and explicative research used in the analysis of the state of knowledge with exploratory research tools used to identify and test their own contribution.

În concluzie putem spune că, finalitatea demersului realizat se va concretiza în plusul de valoare adus ariei de interes, prin punerea în evidență a valențele teoretice ale unui management performant, inteligent și adaptativ la schimbările intervenite, printr-o anticipare și controlare adecvată a riscurilor specifice, ceea ce presupune înainte de toate existența unui control adecvat.

4. Purpose, Objectives and Characteristics of Control Over Projects Funded by European Funds

The purpose of control is to support the entity's management in the decision-making process by identifying the relevant factors and information needed in the decision-making process, providing the premises for making the best decisions. Thus, the control follows the objectives and the deadlines set for them at all management structures and levels within an entity.

Starting with 1 January 2007, the date of Romania's accession to the European Union, the national legislative provisions have been gradually harmonized with the Community legislative provisions.

The Community Acquis sets out all the rights and obligations assumed by the Member States. Part of the Community Acquis that addresses control is Chapter 32 (formerly Chapter 28) - Financial Control - which introduces the CFPI concept - Public Internal Financial Control, External Audit and the Protection of EU Financial Interests/Fight against Fraud. It includes the principles of control accepted at Community level that respect the European principles that need to be implemented within the control and audit systems of the public system.

Although the *acquis communautaire* regarding the domain of financial control was adopted by the date of Romania's accession to the EU, in the post-accession period, the harmonization of the national legislation with the Community legislative provisions continues in Romania. This implied the provision of rigorous financial management within all public institutions, the protection of the common financial interests, the preparation and development of the institutional framework necessary for their implementation, in accordance with the assumed commitments.

The main objectives of the control over Community funds are: "to ensure the correctness, legality and regularity of the expenditure incurred and declared in the operations financed by Community and national public funds and to apply appropriate corrective actions and corrective actions in cases of detection of errors and irregularities in the management funds"³.

Both of them, the authorities with competence in the management of European funds and beneficiaries of funded projects, must, according to the legislation in force, develop and apply management and control procedures to ensure the correct allocation and use of these funds, as well as the principles of good financial management as defined in Community legislation.

³ Strategy for the Development of Internal Public Financial Control in Romania for 2014-2016, Ministry of Public Finance, January 2014.

European Union legislation and official documents define financial control as the whole and intercondition of the following three forms of control over the use of public money (sources from the national budget and/or external funds): (1) internal control (or managerial control); (2) public internal audit; (3) external public audit.

Internal control is the set of controls within the entity, embodied in measures and procedures implemented by managers at all levels, in order to control the work being carried out.

In public entities, public internal audit is part of all the forms of internal control exercised. It assesses the level of performance of the internal control system, by assessing how the objectives are met and the ability to control the risks associated with the activities carried out. Based on Law no. 672/2002 on public internal audit within the public entities managing European funds the public internal audit is mandatory and is carried out by internal auditors of the respective public institution under the subordination of the general manager within the Internal Audit Compartment.

In private entities implementing EU funds, internal audit is organized on the basis of national law (Law 31/1990 - Companies Act, GEO 75/1999 on Financial Audit Activity, Decision of the Chamber of the Romanian Financial Auditors No. 88/2007 for the approval of Internal Audit Standards) and can be carried out by both its own auditors and external auditors by outsourcing this service.

The external audit of European funds is the audit carried out both by public and private institutions, by the Audit Authority attached to the Court of Accounts of Romania, operating under Law no. 94/1992 on the organization and functioning of the Court of Accounts and/or by the European Court of Auditors. External audit seeks to manage and use the European funds efficiently and effectively.

The control exercised by the competent bodies on beneficiaries of projects financed by European funds takes place throughout the project implementation period (from the project proposal to the completion of the project) but also after its completion for the verification of the operation and maintenance of the purchased equipment and the work done within the project and ensuring the sustainability of the implemented project.

The authorities accredited by our state as responsible both for the management and control of European funds⁴ are the Managing Authorities, the Certifying and Paying Authority, the Audit Authority, the National Agency for Public Procurement (ANAP), the Prime Minister's Control Body, The Ministry of Public Finance, the Anti-Fraud Department (DLAF), the National Anticorruption Directorate at our country level, and OLAF and the European Court of Auditors at European level.

The year 2011 brought new regulations for the institutions that manage European funds, through the adoption of Ordinance no. 66/2011, which provides in the article no. 4: "The public entities have the obligation to organize and exercise the internal control, preventive control and risk identification and management, as well as to carry out the internal audit activity"⁵.

All Member States and the European Commission are responsible for the control implemented in the programs and for their management, but control over the operations carried out under the programs rests only with the Member States. They adopt their own management and control systems, which is one of the functions of the managing authority for each operational program.

The European Union's Financial Regulation together with other European regulations and their specific implementing rules lay down obligations for management, control and audit activities for Member States. They must implement the best management and control measures and systems in such a way as to protect the EU's financial interests.

The legislative provisions did not elaborate a single model, method or procedure that accurately establishes how to implement the control system, so the approach differs from one entity to another, from the public sector to the private sector. Also, given the perception and reasoning of the persons involved in the control activity, we can say that the control activity has a relative character, in which the involved ones will imprint.

⁴ Decision no. 1183/2014 on the nomination of the authorities involved in the management and control system of the European structural and investment funds 2014-2020, Text published in the Official Gazette of Romania, in force since 07.01.2015

⁵ Emergency Ordinance no. 66 of 29 June 2011 on the prevention, detection and sanctioning of irregularities in obtaining and using European funds and/or national public funds related to them, Government of Romania, Bucharest, art. 4.

For Romania, joining the European Union and the allocation of European funds is an opportunity that we must benefit from and using the human, institutional and strategic context we have to maximize the effects of using these funds. The effort is considerable and involves the institutional adaptation, the human and material resources involved, the socio-cultural values to the great challenge of achieving the highest possible absorption of the allocated funds.

The new dimensions of control in the monitoring and implementation of European funded projects are to provide the appropriate framework as well as the information needed to assess the impact of the technical assistance activity on increasing the efficiency of the European funds management and control system. The ultimate goal is to attract and use European funds in order to achieve significant results, especially for activities generating high added value. Control activity appears to be an appropriately used leverage to help attract and absorb Structural and Investment European Funds in order to generate and sustain economic growth and promote social cohesion.

5. Conclusions

By synthesizing control features, we can say that this is an objective of the activity of a result-oriented entity. Based on a defined strategy, using qualified and involved staff, control is a dynamic, permanent, objective process that ensures that the entity's ongoing information needs are met. So, control by its very objectives is a practical and consistent tool or tool that assures management that the objectives pursued and the planned and expected results are achieved in performance conditions.

The purpose of control is to collect and analyze the information available at the economic entity so as to enable the optimal managerial decision to be taken to achieve the proposed objectives. With the help of the control, the transition from knowledge of the theoretical aspects to their implementation in the directions of the social requirements and the concrete economic and financial problems is made.

Even if we can control the control over the European projects in the general notion of control, it has certain characteristics that delimit it from the other types of control. We refer to how it is organized within the specialized institutions, the applicable specific legislation, the professional training of the personnel involved, the flow of documents.

The control of European funds aims at "ensuring the correctness, legality and regularity of expenditure incurred and declared in operations"⁶ and, where appropriate, applying financial corrections and corrective actions if errors and irregularities are detected in the implementation and management of these funds in order to ensure the protection of the financial interests of the European Union and the Member States.

European regulations require Member States to take appropriate measures to properly implement and operate their management and control systems in such a way that they can provide assurances to the funder as to the correct use of the funds allocated.

An effective system of control both at the level of the beneficiaries and at the level of the institutions managing and monitoring the implementation of the projects financed by European funds implies the observance of the legislative provisions in the field with the help of an appropriate number of experts involved in the implementation and monitoring of the projects.

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