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# THE EUROPEAN SYSTEM OF FINANCIAL CONTROL/AUDIT INSTITUTIONS– INTEGRATION OF THE ROMANIAN COURT OF ACCOUNTS

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## Abstract

The article is a point of view on the *integration* of the **Romanian Court of Accounts in the European system of financial control/audit institutions**, a process characterized by a reform of the whole Romanian society, both from the economic and financial point of view and from the social one. After some four years and a half covered since the accession moment of our country, though significant progresses were not obvious yet, it is because the way to structures modernization and harmonization, even those of people mentalities takes time and it supposes involvement of all those who have a word to say or who can influence and contribute this transformation issue.

**Key words:** control, financial audit, control system, community Acquis, decision, fraud, public institution, accession, integration, financial instrument, control and audit methodologies etc.

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Contemporary society is confronted with a series of major issues with repercussions in the economic - social area and which could be settled, among others, by a more economic, efficient and effective use of resources – human, material, financial and last but not least, informational.

In this context, particularizing an aspect, respectively the analysis of the manifestation of one of the representative institutions with financial control attributions in our country, the **Romanian Court of Accounts**, starting from the new requirements which it has in the process of integration of Romania in the European Union over all the aspects of life (economic, social, political etc), **is a current theme** and an extremely complexity one for the whole national financial control system.

Currently, Romania is still transiting a period of significant changes, some of which also have an impact on the activity of the Romanian Court of Accounts. In this context, an analysis of the impact of these changes and the influences they induce in the performances of the Romanian Court of Accounts becomes a must.

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It believes that achieving approach supposes though the **fundamental re-thinking of priorities, of tackling control/audit activities, resources allotment, but also an engagement of Parliament in supporting the modern development of the Romanian Court of Accounts.**

Given that market economy – free and competitive – in itself cannot ensure effective operation of economy, the competence to intervene and correct possible deviations stays with public administration, based on the attributions provided by law on the establishment and allotment of resources, so as to grant a source of economic stability. Nevertheless, state intervention in the economic activity of one country, depending on the latter's economic and social development, as well as on the international context, is or would be as low as possible.

**Control**, as one of the forms of intervention of the state in economy in order to correct deficiencies emerging in the market operation mechanisms, appears under various forms and organically integrates in the economic option of community, serves the latter's interests, working as an active factor in the implementation of the desiderata of any community.

Is known that society organizes its control activity by virtue of the right to support and defend its fundamental interests, to ensure financial resources for common needs and to distribute them in relation to the priorities set up by means of the **development programs.**

The necessity to institute **financial control** as a form of state control activity devolves from the fact that the financial resources funds, established and available to the public administration, belong to the overall society, given that by its effects it impedes waste, prevents illegal, inopportune or ineffective expenses, contributing to the recovery of the possible prejudices to public patrimony, to the instauration of order and discipline in the management of goods, moneys and other public assets

**Control**, from a general point of view, represents a set of activities based on which the results obtained are compared with the initially set objectives, in relation to the legal provisions and norms in force. Based on control, the conformity is established of the actions conducted by authorities, institutions and services by relating them to the legal provisions and regulations in force, as well as to the mode of implementation of their staff missions in the effort to act in the general interest, with the observance of the fundamental rights and liberties and, finally, to find the deviations from the normal situations so as to rule them out and integrate the state of legality.

The financial control organization activity is conducted by virtue of the right society has to defend its fundamental interests. The need to organize and conduct financial control results from the fact that financial resources

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established and available to public administration belong to the whole society.

Society is, in its turn, directly interested in providing financial resources to cover common needs, as well as in allotting them in relation to the priorities set by competent bodies, in using public funds, with maximum economic and social efficiency, in harmonizing interests, in sizing financial resources and last but not least, in directing them towards the various programmed destinations.

The financial control has the role to impede waste, preventing - based on its attributions – illegal, uneconomic or ineffective expenses and playing an important part in the recovery of the prejudice to public patrimony, as well as in the instauration of order and discipline in the management of goods, moneys and other assets at the disposal of the public administration.

Financial control is not an aim in itself, in our opinion, it proves its efficiency only when it contributes to the prevention of irregularities and the recovery of prejudice. However, the implementation of the final ends of financial control depends on the quality of the measures ordered and resulting following the examinations conducted, irrespective whether these are control, inspection or audit actions.

Is emphasized that under all its forms, **financial control** consists in a series of processes and mechanisms designed to ensure that budget planning and implementation, the use of resources and others are conducted based on the provisions of the national law, aiming at the fulfillment of the objectives set up by the Parliament and Government in relation to the real state of the operations contained in the approved programs.

The efficient conduct of all these activities starting from obvious objectives, supposes that the staff in charge of the general management of economic entities has an exact knowledge of the whole range of phenomena generating and governing them.

The complex, complete and continuous knowledge of the set of activities development within the economic system framework, as well as of the conditions in which these evolve mainly result from the need to ensure a permanent pool of data that would support grounding, ordering, enforcing and following up of decisions.

The premises to conduct an effective management, as a result of pertinent decision making, increase as the pool of data grounding them is richer and permanently supplied with real, correct and updated information, resulting from the knowledge gathering activity, irrespective of the latter's form.

The process involving knowledge of the way economic activities and phenomena is implemented by the intermediary of *theoretical and practical*

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*instruments*, specific to each domain, all of which though being based on the comparison of the projections in the financial and accounting information used to the results obtained, with the provisions, norms, programs, decisions or orders based on which these have been *apriori* defined.

In conclusion, *financial control*, as an activity which is a part of these instruments, through the specific methods used, but also by means of the information it supplies to the manager of economic activities, represents one of the *important levers, with spectacular effects* in the fulfillment of the general and specific objectives to know and model economic phenomena.

During its existence, the Romanian Court of Accounts “*benefited*” from a large number of modifications, some fundamental in kind, such as the one that resulted in the loss of the jurisdictional attributions and in their transfer to the ordinary courts system. Given these issues, an analysis can be launched of the Romanian Court of Accounts, starting from the following aspects: *audit activity of the Court; organization structure, staff and management; human resources; conditions for the subsequent evolution.*

After a period of over 16 years, during which the Romanian Court of Accounts mainly unfold the financial control activity, there is still a debate over *whether, in the instance of Romania, the Court of Accounts should conduct “audit” or “control”*. Introducing **audit** as a *main activity* affected the institutions’ mission, based on the management discharge procedure, which consisted in the investigation and possibly sanction of public managers who did not observe legal regulations in point of public money use.

Abandoning almost altogether the control activity **in favor of the audit** one, which involves using recommendations in place of the sanctions or of the legal obligation to take corrective measures generated not only a substantial minimization of the protection of public funds legally, but also a certain loss of the institution prestige.

Implementing the recommendations issued by a supreme control/audit institution generally stay with the Parliament, which endorses them or not and orders central or local authorities to take corrective measures. Furthermore, theoretically and on condition there is an efficient and operational accountability system in place, the final sanctions for the deficient management are political in kind and take the form of resignation or non re-election.

In the context in which the jurisdictional functions of the Court were transferred to ad-hoc courts, a debate on “audit” versus “control” should, beyond semantics, consistently consider the consequences of such a transfer in relation to the nature and role of the Court and of the specialized jurisdiction provided by the fundamental law, the Constitution of Romania. It is a reason why the position towards the necessity to re-introduce and use the certifying

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officers' management discharge procedure needs to be reconsidered, since this institution is indispensable to the current political, economic and especially civic development stage.

The main activity of the Romanian Court of Accounts, from its establishment and until 2008, on granting management discharge to all certifying officers was a difficult mission in practice. The main reason was the fact that the number of the certifying officers would vary from one financial year to another, as a consequence of a new possible legal provision or of the restructuring of certain existing bodies.

The second reason was the very large number of public bodies or entities financed from state budget, the accounts of which had to be subject to the examination of the Romanian Court of Accounts, in keeping with law.

The third reason consisted in the fact that the organization of the management discharge supposed the use of a large volume of staff resources, which impeded the institution to develop other forms of control and this hindered its evolution to become a modern control/audit institution.

This situation makes it necessary to resume implementation of the management discharge institution; the emphasis should be on the examination of main certifying officers, which should be accountable to the greatest extent for the legal management of the secondary and tertiary certifying officers' accounts under their authority. The change in the approach of the management discharge procedure would be beneficial also due to the fact that main certifying officers would be held accountable to a greater extent in the act of managing funds allotted to secondary and tertiary certifying officers, thus obtaining by enforcing own control procedures, including the current internal audit ones, an increased assurance of the reliability and conformity degree over the budget implementation at all relevant management levels.

This procedure which would relieve to a certain extent the Romanian Court of Accounts structures from the obligation to conduct the operations involving management discharge at the level of secondary and tertiary level would also lead to **the strengthening of the internal public financial control**, and the number of entities examined would be much higher.

This new approach involves the fact that the Romanian Court of Accounts' work would not be limited to the activities conducted within public institutions headed by main certifying officers, but it would also cover the possibility to examine all instances of suspicious deliberate irregularities, fraud or corruption which it would submit to judicial authorities, where applicable. The decision to grant or not management discharge to main certifying officers shall stay with the Parliament, based on the analysis of the opinion issued by the Court of Accounts.

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This action would also foster the development and strengthening of the relations between the Parliament and the Court of Accounts, relations which currently are not at the level of the ones established between similar structures of the member states of the European Union. Here are the arguments supporting this affirmation:

*The annual report of the Romanian Court of Accounts would be a much more important source of information both for the structures involved in the management of public funds and for stakeholders. For this purpose, it could be drafted in two parts, the first one would approach the management discharge procedure (conformity/compliance audit) and the second one would be dedicated to specific issues relating to the establishment, management and use of financial resources (audit of the administrative and control system, organized at the level of the administration) of public entities.*

The examination of the “*establishment, management and use of public resources*” should highlight issues of interest for public management. In this context, in point of revenues, a review should be conducted of the mode in which specialized departments or units within the Ministry of Public Finances conduct fiscal examinations. This is an extremely important aspect in the national context recording public deficit, but the approach chosen for reporting it is still oriented to a very great extent towards conformity.

This would make it necessary for the structures of the Court of Accounts to firstly examine the way the system organized for tax collection operates at the level of central and local administrations.

*The activities of the Romanian Court of Accounts were programmed, from the very beginning of its operation, according to an annual plan, which details the tasks of the departments and chambers of accounts for the following year; the multi-annual programming method was not used.*

A new approach is necessary in this respect, especially in view of the **integration into the control/audit institutions European system**, namely the strategic planning for a four year period, which should be based on criteria such as risk, materiality, Parliament suggestions and obviously and be based including the legal mandate of the Court.

This new approach would allow the Romanian Court of Accounts to conduct a planning based on an over one year perspective and in this way, develop and concentrate on wide strategic zones, so that the results of its activity are more relevant and more visible to stakeholders.

In conclusion, greater consideration also needs to be given to the programming activity, since this represents one of the main characteristics

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of the independence statute awarded to the Romanian Court of Accounts, in its capacity as an institution conducting the external control/audit of public funds. This programming procedure needs to be transparent enough and the activities shall be set in relation to priorities and resources.

*A priority on the agenda of the European Union, set for member state as early as the pre-accession stage, but also after this date, is the fight against fraud and corruption.*

The Romanian public authorities with competences in the organization and conduct of the fight against corruption were granted the required importance, which is a further argument in favor of the reform of the Romanian Court of Accounts.

In its capacity as a public institution, the Court of Accounts should play an active part in the context of the efforts made in this field; this would be a normal situation not only because this institution is the guarantor of the use of public money and has an examination function relating to all types of public activities, but also for the fact that it is an important public institution and enjoys a certain prestige.

In Europe, the role of supreme control/audit institutions is not firstly to fight against fraud or corruption, but **to examine to what extent internal control systems and procedures**, which could prevent the emergence of such phenomena or would reduce their incidence, **are in place and operate adequately**. This matter of principle does not rule out the necessity that the structures of the Court of Accounts be aware of the fraud and corruption risk and order the required measures in the planning of activities, in the unfold and follow up of their results, in permanent consideration of these risks. The 4.0.17 INTOSAI Standard approaches the corruption issue as follows: *...”the auditor shall report on significant irregularities, either perceived or potential, on the inconsistency of the regulations implementations or on fraudulent practices or corrupt acts.”*

The Court of Accounts should also rely to a greatest extent, in this context, on an adequate policy, which would prove its engagement in more efficient actions against fraud, a policy it should implement based on legal provisions.

**The Romanian Court of Accounts control/audit procedures** should contain specific instruments to approach fraud and corruption cases, such as checklists, questionnaires and other similar ones, as well as criteria to identify the genuine fraud and corruption instances, the required control/audit evidence, the measures to be ordered in the conduct of the control/audit activity and last but not least, the way to report such findings.

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The enforcement of this procedure would also ensure the required assistance to report to the institutions having competences in this field, according to case, and the establishment of adequate connections with them to facilitate useful relations between the control/audit institution and the judicial component as well as the exchange of opinions and experience.

In order to attain these objectives, the syllabus for auditors' training should include specific modules dedicated to the fight against fraud and corruption and especially to the improvement of the recommendations on the strengthening of internal controls, to make it possible to supply auditees with efficient procedures to prevent fraud and corruption.

The Court of Accounts should consider in the future, when the audit activity becomes more consistent and of a better quality, the performance of actions in the domain of anticorruption policies efficiency and effectiveness, according to the model of other control/audit institutions of the European Union.

As it is known, the Commissions for Budget, Finances and Banks of the two chambers of the Parliament of Romania only periodically analyze (once a year, as a rule) the Annual Public Report.

In relation to the report drafted by the Romanian Court of Accounts, its relation with the Parliament can and should be developed and strengthened also based on the improvement of the quality of the information supplied, as well as on a better concentration on the public money related management and performance control/audit. This report still requires improvements, among which the presentation of legislative modifications that would be required as resulting from the Court's activity, so as to rule out inconsistencies and inadvertences found.

This approach would also benefit the Parliament in the process involving harmonization of national law with the European one.

These less consolidated relations with the Parliament are also a consequence of the fact that at its level there is no structure – parliamentary commission – with which the Court of Accounts would establish and maintain a permanent relation.

This is a concern especially because the Court of Accounts operates, according to law, near the Parliament, but in reality it is a known fact that the institution is rarely consulted on legislative proposals or on the modification of the existing ones, which highlights the absence of a common culture in the field or the lack of mutual trust. A solution for an immediate remedy of the existing situation is the establishment of a special commission within the Parliament, which would deal with the analysis of the information included in the Court's reports; this would improve the activity of both institutions.

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Such structures exist in the parliaments of other member states of the European Union; a relevant example in this respect is the *Commission for Budgetary Control* of the Parliament of the European Union.

The presentation of the above situation relies on the analysis of the ever wider practice of European supreme control/audit institutions in their relations with the Parliament and on the presumption that the existence of such a commission shall lead to a tighter cooperation between the two institutions, which would grant the Court of Accounts a strong ally in strengthening its independence position.

Mention shall be made though that the **process involving strengthening of institutional relations** by establishing a specialized commission could generate a certain risk, in the sense that the Court's activity could be exploited.

Nevertheless, in this context, any effort to make the relation with the Parliament more efficient has a beneficial impact on the Court of Accounts' activity and on its capacity to reach a consensus on important matters, which would mainly contribute to the institution's acknowledgement as a key partner by MPs. In this capacity, the Court of Accounts should continue improving the quality of reports, including in point of a more clear definition of the report's objective, by highlighting its contribution to supplying the Parliament the data on public finances management in Romania.

Given the above mentioned issues, based on the theoretical aspects in the field, the human resources policy which should be implemented at the level of the Court of Accounts as well, needs to be grounded on the following elements: *staff recruitment shall be conducted according to a program, the cost of individual activities or functions shall be identified by introducing a time employment recording system, launching a policy to rotate attributions so as to prevent routine, which can be induced by the staff remaining a long time in the same theme and geographic area, determined by the duration of the coordinating counselor of accounts term of office, further training the staff by creating a specialized structure in charge of establishing an adequate program in this respect.*

These modifications are needed also due to the fact that after some 20 years since its approval, Law on the organization and operation of the Romanian Court of Accounts underwent over 16 modifications of the text, which shows that a form that would answer all current requirements is still being sought.

These are also justified due to the fact that most changes brought to the organization and operation of the Romanian Court of Accounts did not result from a thorough analysis of its operation, but sooner from certain factors,

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frequently invoked and rightfully or not justified by the preparation for the accession to the European Union.

In this period, the modifications were accompanied by three changes in the management of the institution, in 1999, 2002 and in 2008, in the second instance it involved the resignation of the president of the Romanian Court of Accounts, while others affected the structure of its Plenum. These processes only resulted in hindering the normal development of the Court of Accounts' activity, since these are associated most of the time with internal debates generating malfunctions.

The Ministry of Public Finances is perceived in the European Union member states as the main partner of control/audit institutions, as well as the main controlled/audited institution, the relation with it being crucial since these two institutions are the only ones that have a global image of the public sector from the financial perspective. Furthermore, the Ministry of Public Finances is directly responsible for defining the structures and financial statute of public sector institutions. This would ground the modality in which the Romanian Court of Accounts and the Ministry of Public Finances can relate to each other, cooperate and coordinate their activities in a way benefiting both and especially the management of public finances in Romania.

The Romanian Court of Accounts also contributes through the results of its activity to support of all attempts to simplify and fluidize the current structure, rather complex, of budgetary institutions, an important approach to maintain the state of normality, in the context of the changes at the level of central and local public administration, especially in the financial domain.

Among the efforts to **integrate within the European control/audit institutions system**, mention shall be made of the fact that the Romanian Court of Accounts needs to give more consideration to the relations between the internal audit functions of the administration and of the Ministry of Public Finances. A certain lack of trust between the internal and external audit functions generates numerous instances of overlapping in the activity of the Court of Accounts, hindering the unfolding of an effective control/audit activity.

### Conclusions

The conclusion is that financial **control/audit** in Romania is heading the right way, while time is needed for the new institutions and processes to prove their effectiveness. The integration of Romania in the European Union and the rapid and complex changes occurring at world economy level impose a permanent further training of specialists in the field, accompanied by the

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implementation of control and audit techniques harmonized with European and international ones and with the accounting and audit standards. Within the framework of any new exercise – programmatic or strategic – the Court of Accounts should consider to what extent its current or planned activity adds value to public finances in Romania. There certainly exists a need to better understand the roles of various key actors in the field and probably the need to redefine certain roles. Redefinition of the roles would not necessarily involve revolution, but only a certain adjustment.

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