

EUROPEAN FUNDS AUDIT IN ROMANIA

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ABSTRACT: *To become a net beneficiary of EU funds, Romania must ensure an absorption rate as high as it can. The appreciation of these funds' management and formulating opinions in support of improving the absorption of European funds in the future can be done with the audit because it is a guarantee for good performance by our country, but also by public authorities, of commitments which they have undertaken.*

KEY WORDS: *structural and cohesion funds, financial assistance grants, system audit, operations audit, compliance audit, irregularities, operational programs.*

JEL CLASSIFICATION: *E60, H00, H83, M42.*

1. INSTITUTIONAL DIMENSION OF EU FUNDS AUDIT IN ROMANIA

European Requirements incidents in the matter of financial assistance grants to Member States shall make provision, in specific institutional system and a structure in charge for the audit and control, respectively an audit authority. This is a public authority or a public or private body, national, regional or local level, independent of the managing authority and by the certification authority of the a functional perspective designated by the Member State for each operational program and responsible for verifying the effective functioning of the system management and control (European Commission, 2006a).

Accounting for a project must reflect both eligible and ineligible expenses. Regarding the financial and accounting supporting documents on according to which shall be accounted for expenses incurred in the project, these should be kept in original to the accounting department, usually for a minimum period of 5 years from the completion of the Operational Programme that financed the project. There may however be other explanations for the obligatory keeping of accounting documents in the financing contract.

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In our country public external audit of EU funds, but also on national public contribution (a part of the co-financing) is exercised, for all operational programs (because Community rules states this possibility), by an autonomous institution from a functional perspective respectively by the Audit Authority, which operates attached to the Court of Accounts.

The scope of public external audit covers the following financial instruments:

- Pre-accession grant funds granted to Romania through PHARE, ISPA and SAPARD;
- post-accession grant funds: European Regional Development Fund, European Social Fund, the Cohesion Fund, the European Agricultural Guarantee Fund, European Agricultural for Rural Development Fund and European Fisheries Fund;
- other categories of European funds (Law no. 94/1992).

Audit Authority performs complex functions that are well defined both by European legislation and by national law. A manifestation of the Audit Authority is wide, it may perform audits of all entities that manage, implement, certify or benefit from European funds, regardless of legal status (individuals or legal entities) and ownership (public, private or mixed). If structural funds were not used properly, a performant audit procedure should discover this. Romanian Court of Accounts, through Audit Authority exercise audit missions through which checks compliance by institutions involved in the management of structural and cohesion funds of EU law, national legislation, contractual provisions etc. Audit Authority's work also focuses on following up the implementation of recommendations by auditees entities in the previous missions.

Any authority audit which is organized and operates in an EU member state, operates under an audit strategy, presented to the European Commission and under the annual work program.

From a structural viewpoint, the Audit Authority has a central unit and regional audit directorates (regional audit offices), which are eight in number, some of which have in their structure also functional compartments. All these structural components of the Audit Authority works to fulfill its functions and tasks, develop hierarchical relationships and collaboration ones between them and perform the exchange of information in relation to each tasks.

2. PROCEDURAL DIMENSION OF EU FUNDS AUDIT IN ROMANIA

In order to respond European requirements incidents in this field, but also to be able to perform the functions stated by the national legal provisions, the Audit Authority from Romania carries out four types of audit (Regulation on the organization and developing relevant activities by the Court of Accounts and the documents resulting from these activities, 2014):

1. compliance auditing - aims to obtain reasonable assurance that the management and control systems established for the implementation of operational programs co-financed by the Structural Instruments and through

European Fisheries Fund or other financial instrument of Community budget are established according to the principles of the Community regulations;

2. system audit - seeks to gain reasonable assurance that management and control systems operate effectively to prevent errors and irregularities and if this occurs, the system is able to detect and correct them. Audit Authority establishes the criteria used for this type audit in order to determine the reliability of management and control. These criteria should include a quantified assessment of all key elements of the system and encompass the main authorities and intermediate bodies participating in the management and control of the operational program;
3. operations audit - runs to obtain reasonable assurance that statements of expenditure submitted to the Commission are accurate and related transactions are in compliance with Community rules and national law. This type of audit is performed for each period of twelve months on a sample of operations selected by a method established or approved by the audit authority. The objectives refer to the following conditions:
 - operation meets the selection criteria of the operational program, it was realized in accordance with the approval decision and fulfills all applicable conditions concerning its functionality and utilisation or the objectives to be attained;
 - expenditure declared corresponds to accounts and supporting documents held by the beneficiary;
 - costs declared by the beneficiaries are in accordance with community and national rules;
 - public participation has been paid to the beneficiary;
 - audit upon completion the project/program - the objective of this type of audit is to gain reasonable assurance that the project/program has been implemented in accordance with the requirements of the Community regulations based on which it is issued the declaration of partial/final closure.

Missions (actions) of the audit conducted according to projections from the audit strategy and from annual work program, starts by notifying entity who will be audited. To it there are provided information regarding the period the mission runs, the general objective or goal's specific, legal basis on which the action takes place and certain obligations of the audited entity.

Theory and general practice of auditing provide that any audit action (so implicitly those public external audit of EU funds) involves three steps:

- Planning (scheduling);
- Execution (examination);
- Reporting.

Planning of the audit aims to conduct this to a high quality in terms of efficiency and effectiveness and resource compliance in a certain time. Planning is not a separate phase of the audit, but rather a continual and iterative process that often begins shortly after (or in parallel to) the completion of the previous audit and continues until the completion of the current mission of the audit (IFAC, CAFR, 2009).

In the vision of the specialized body from our country (Regulation on the organization and developing relevant activities by the Court of Accounts and the documents resulting from these activities, 2014), audit planning includes:

- establishing audit objectives;
- knowledge and understanding of the audited entity's activities;
- risk analysis;
- establishing materiality;
- use the work of other auditors and experts, if necessary;
- sampling;
- development, review, endorsement and approval of the audit plan, accompanied by audit programs, checklists, questionnaires and other tools.

Setting the objectives audit. In financial and accounting theory - there are presented several categories of objectives that audit must follow. The most frequently remind two such groups, respectively specific and general objectives. There are, however, views that considers t audit should establish and follow a number of key objectives. Beyond their type, an important requirement in the matter under review concerns the need to identify and fix quantifiable targets.

Knowing and understanding the audited entity's activity. External public auditor seeks to obtain knowledge and understanding enough of the audited entity and its environment, including the system of internal control / audit, to identify and evaluate risks audit, but also to have the capability (in so far as is necessary) to develop and perform additional audit procedures. In essence, we can say that the knowledge and understanding of the audited entity activity establishes a frame of reference within which the auditor plans the audit and exercises professional judgment.

Performing risk analysis. Because the external public auditor may obtain reasonable assurance (high), but not absolute, it is clear that the audit work performed by it is subject to risks. Risk assessment is an analysis conducted on the risks identified in order to reach a conclusion linked to their meaning. In theory and practice there is a unanimous opinion that the risk of audit is for the auditor to express an opinion inconsistent (improper) with reality.

The main categories of audit risk, enshrined in the theory and practice are the following (Romanian Court of Accounts, 2011; European Court of Accounts, 2015):

1. inherent risk;
2. risk control;
3. risk of not detecting:

Inherent risk is the susceptibility that a category of economic transactions contain errors / deviations significant, either individually or aggregated with errors / deviations of other categories of economic transactions involving, inter alia, that in the entity verified does not exist / are not implemented internal controls. Control risk is the risk that an significant error/deviation will occur without being prevented, detected or corrected in a timely manner by the internal control system and the accounting system of the audited entity. Risk of not detecting is the probability that the procedures applied by public external auditors fail to detect weaknesses that exist in a category of economic transactions and which may be significant individually or when they are

aggregated with misstatements from other categories of economic transactions (Regulation on the organization and developing relevant activities by the Court of Accounts and the documents resulting from these activities, 2014).

To reduce audit risk to an acceptably low level, the auditor should determine overall responses to the assessed risks.

Establishing materiality. Establishing materiality means basically determining the materiality threshold. It represents the point (ceiling) beyond which it is considered that are significant errors and may influence the audit opinion. In another approach (Romanian Court of Accounts, 2011), materiality is the level, size and importance of a sum or information more than public external auditor considers the results of financial audit conducted may affect the decisions of users of financial statements. Materiality helps determine the nature and extent of audit procedures.

In determining the materiality threshold an important role return to professional reasoning (judgment) of the auditor.

Theory and auditing standards of materiality defines three categories, namely:

1. materiality by value - expresses the maximum allowable error value;
2. materiality by nature - refers to the errors, deviations of whatever denomination which have a significant impact by nature (eg fraud);
3. materiality by context - focuses on errors, deviations that are not significant through amount and / or their nature but by the context it creates (eg converting a debit in the debt, a surplus in the deficit etc.).

It is also appreciated that materiality level may be established and applied on two levels:

- materiality threshold - which concerns the materiality level at the entire dimension (on all elements audited);
- functional significance threshold - which applies to parts of the entire and it is established usually to reduce to an appropriate low level probability that an audit opinion which regards the whole to be distorted by errors.

In the audit of EU funds it is established materiality level of 2% max% (European Commission, 2006b).

Using the work of other auditors and experts. If external public auditor considers appropriate for the purpose and objectives of the audit, then he can use the work of other auditors or experts. In this situation he must determine the impact those work can have on their own audit work. The fundamental objective of such an endeavor is to obtain appropriate audit evidence, sufficient and relevant.

Sampling. Audit sampling involves the application of audit procedures only on a part of the population (the elements included in a category of economic transactions) so the auditor after evaluating audit evidence obtained by testing the elements in the sample to be able to draw conclusions regarding the entire population (Romanian Court of Accounts, 2011).

The main feature of the sample must be representativeness. The sample is considered representative if its elements have characteristics similar to those of the entire population.

The methods by which it can be selected samples of audit statistics (based on probabilities on mathematical modeling and the most used are the random selection and systematic selection) and non-statistical (based on hazard and the auditor's judgment, and as examples we can mention selection random, block selection, etc.).

In the case of public external audit of EU funds, the sample of operations which have to be audited each year is based primarily on a method of random statistical sampling to that has to be applied taking into account the volume of expenditure, the number and type of operations and other relevant factors. Audit Authority regularly examines the coverage of the random sample, having regard in particular the need to obtain a sufficient guarantee of declarations to be provided at partial and final closure of each operational program. The institution may decide, based on an assessment of competence, if it is necessary control of an additional sample of subsequent operations to take account of certain specific risk factors that have been identified or to guarantee for each operational program, a coverage degree satisfactory for different types of operation, beneficiaries, intermediate bodies and priority axes. The results of monitoring additional sample shall be analyzed separately from the random sample.

The confirmation on the functioning of management and control of EU funds is determined by the level of confidence resulting from the conclusions of the systems audit and controls operations in the sample selected by a random statistical sampling method. To obtain a confirmation as solid, which means a reduced audit risk, the audit authority should combine the results of operations control with the results of systems audit. It first evaluates the reliability of the systems (high, average or low) taking into account the results of systems audits in order to determine the technical parameters of the sampling, in particular the confidence level and error rate. The combined level of assurance obtained from the systems audits and audits of operations must be high. The confidence level used for the sampling operations should not be less than 60%. For a system whose reliability is estimated to be small, the confidence level used for sampling operations must not be less than 90% (European Commission, 2006b).

Elaborating, review, advising and approval of the audit plan, accompanied by audit programs, checklists, questionnaires and other working tools. Elaborating, review, advising and approval of the audit plan, accompanied by audit programs, checklists, questionnaires and other working tools.

The audit plan is prepared by the audit team and is a tool that supports the implementation of the audit strategy, it is in greater detail than this and describes analytical audit procedures. The plan should identify in a clear and concise manner the work which is to be performed, resources required and deadlines imposed and the expected impact of the audit.

Implementation audit involves performing tests of controls, substantive procedures, applying audit techniques and obtain audit evidence (Regulation on the organization and developing relevant activities by the Court of Accounts and the documents resulting from these activities, 2014).

Audit Authority develop and apply, within its tasks, tests of controls to obtain audit evidence about the efficiency functioning instituted on EU funds management and control.

The audit report through comments it contains, must pursue besides the financial part also the efficiency systems used for detecting and correcting errors and irregularities that may arise during the implementation of projects financed through structural funds. The draft audit report is submitted to the conciliation procedure, which involves consultation within a period of time between the Audit Authority and the audited entity in order to elaborate by these points of view on the findings and recommendations of the measures that are required and their implementation. The audited entities may acquire or not external public auditors' findings and opinions. In case of divergence of views is maintained after conciliation in the final audit report it is mentioned distinct point of view of the audited entity and explain the reasons for unresolved differences.

The information contained in the audit authority reports become public with the publication of annual public report of the Court of Accounts of Romania.

However, the Audit Authority has the obligation to annually submit to the European Commission an audit report expressing the results of all audits carried out. Also in line with European provisions incidents in this field, the Audit Authority is obliged to monitor how there are implemented by auditees, based on a timetable agreed, recommendations recorded in its audit reports. In this regard, quarterly this receives from the the management authorities the implementation status of the recommendations, but also verifies on the field after a predetermined time these issues either within distinct missions, specially developed in this respect, either as objective on missions more comprehensive of the audit. The results of these missions to verify the recommendations' implementation are part of special reports, so-called "follow-ups".

In its work, the Audit Authority can apply also sanction measures. Essentially these are: application of civil fines, the application of suspected serious matter damage suspend and criminal referral. Meanwhile, when indications of fraud are discovered, they are communicated to the Anti-Fraud Department or OLAF.

3. IRREGULARITIES IN THE STRUCTURAL AND COHESION FUNDS AUDIT

Irregularity is any deviation from legality, regularity and conformity in respect with national and/or European regulations, as well as provisions of contracts or other commitments legally binding under these provisions, resulting from an act or inaction of the recipient or of the authority competent in managing European funds, which harmed or could harm the Union budget (Government Emergency Ordinance no. 66/2011).

Irregularities management system means all european and national institutions/ organizations involved in the prevention, detection, reporting, investigation, reporting and monitoring irregularities and recovery of sums unduly paid as well as relations between them in this process. In accordance with european and national legislation, standards audit internationally accepted, The Audit Authority performs audit system and audits of operations. In the case of audit system from the analysis of annual public

reports of the Court of Accounts of Romania, the results of irregularities found using audit engagements conducted by the Audit Authority were:

1. Organizational/administrative irregularities referring to aspects of precontractual type, respectively at irregularities encountered in the evaluation of projects, irregularities in the organization and operation of the Managing Authorities and Intermediate Bodies as well as gaps / leaks to level of the regulations issued by the Managing Authorities of the Operational Programmes;
2. Procedural irregularities, these appreciating cases of breaches/violation of various legal provisions starting from Community legislation to the level of procedures issued by the management authorities of operational programs;
3. Implementing irregularities, capturing aspects of effective implementation of the projects, unmanaged correctly either by customer or by the managing authority or intermediate bodies.

According to the last report of the Romanian Court of Accounts published fairly low degree of absorption of EU funds registered in public administration, was determined by the following main causes (Romanian Court of Accounts (2014b):

- the non request for information by MFP, until 2013 (for implementation of the 2012 financial year) on the status or on the budgets execution, granted to public beneficiaries to attract / develop EU funds, e not even through annual financial statements of public institutions;
- although within public budget, according to Art. 1, paragraph (2), i) of the Public Finance Law, it is provided the existence of non reimbursable external funds budget, it does not provide actual monitoring of the amounts affected by the public budget for the support of European funds;
- it has not been exercised control/internal audit on the way of the implementation/execution of the budget allocation for the implementation of projects / programs financed from European funds at public beneficiaries, by structures with responsibilities in this regard at the level of MFP, respectively the Central Harmonizing Unit for Public Internal Audit and internal Audit Department as well as by internal audit departments within the ministries that have organized in their structure Managing Authorities;
- lack of involvement of the public beneficiaries, both at central government level and at the local government level in the efficient and economical use of public funds allocated to support the implementation of projects financed from European funds.

4. CONCLUSION

With the experience on implementing and managing European funds, irregularities should decrease. Analyzing annual public reports of the Romanian Court of Accounts, it is clear that is not the case, most of the irregularities being repeated. In this context, we can say that the objective of audit engagements namely "tracking the

implementation by auditees of recommendations issued by Audit Authority within the previous missions" is not fulfilled. Of course, we do see that some irregularities have declined massively, but most frequent irregularities particularly at the level of the public procurement continues, thus demonstrating that the manner of implementation by auditees of the Audit Authority recommendations within previous missions It has not been pursued.

Following verifications made on how the money allocated from the state budget for implementation of programs or projects funded through European grants by the end of 2013, The Audit Authority made several recommendations whose fulfillment is imperative to be pursued, namely (Romanian Court of Accounts, 2014):

- performing, by MFP, through competent structures in the area at least once a year, assessments on the final expenditure from the public budget to support running programs / projects financed from European funds;
- making by the structures in charge of managing/ unning programs financed from European funds, an analysis through which will be assessed the stage of implementation of each project and regular transmission (quarterly) to the Certifying and Paying Authority and to the Ministry of European Funds a situation covering at least the information set.

Regarding the the audit work, I believe it is necessary to conduct audit engagements during the implementation of projects and formulating suggestions for correction, to improve implementation of EU funds. It is also required to standardize the entire process, from registration data to reporting the results, to increase the absorption level and for the efficient use of European funds.

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