

THE ROLE AND THE IMPORTANCE OF THE PUBLIC INTERNAL AUDIT ENGAGEMENT WITHIN THE PUBLIC MINISTRY

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Abstract

According to the law, any public entity must be subjected to internal audit (Law 672/2002). This article aims to present a public entity, the case of the Public Ministry- The Prosecutor's Office attached to the High Court of Cassation and Justice within the framework of which public internal audit engagements are conducted in a well-regulated manner, the Public Ministry being the primary credit release authority and through the Public Internal Audit Directorate, audit engagements are realized both at the level of the primary credit release authority, as well as at the level of the secondary credit release authorities, in the case of The Prosecutor's Office attached to the Courts of Appeals and at the level of the tertiary credit release authorities, namely The Prosecutor's Offices attached to the Courts. The purpose of this article is to present the objectives of the public audit engagements and the recommendations given to the entities audited by the internal auditors in view of fulfilling their engagement and, specifically, the usage of the public funds in conditions of maximum efficiency.

Keywords: *audit, public funds, efficiency*

JEL classification: *H10, H80, H83*

1. Introduction

The Notion of Public Ministry

The Public Ministry constitutes a public authority which is embedded into the judicial authority, having a relative autonomy and duties associated with the judicial and administrative activity (Leș, 2004, p. 135).

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The magistracy is the legal activity carried out by judges to the purpose of the realization of justice, and by the prosecutors, to the purpose of defending the society's general interests, or the lawful order, as well as the rights and liberties of the citizens (Article 1 of Law no. 303/2004 concerning the status of judges and prosecutors). The magistrates are the judges who operate within the courts and the prosecutors are the ones who activate within the prosecutor's offices attached to these courts (Păcurariu, 2018, p. 6). The Prosecutor's Office is the basic organizational structure of the Public Ministry and it is formed by the totality of the prosecutor magistrates who exert functions that are specific to the Public Ministry attached to a certain court (Leș, 2004, p. 118). Altogether, the prosecutor's office also represents a manner of constitution of the prosecutors within the Public Ministry, who operate as attached to the courts of all degrees and who lead and supervise the judicial police's activity of investigation, under the conditions of the law (Antoni, 2011, p. 676).

Having in view that the prosecutor's offices operate as attached to the courts, we can nominate the following institutions: The Prosecutor's Office attached to the High Court of Cassation and Justice, the Prosecutor's Offices attached to the Courts of Appeals, the Prosecutor's Offices attached to the Courts, the Prosecutor's Offices attached to the courts specialized in minors and families, the military prosecutor's offices and the prosecutor's offices attached to the lower courts. The prosecutor's offices have their seats in the localities where the courts to which they are attached have their seats in, having the same circumscription.

The formula "attached to the courts" signifies, in the sense of the law, in line with the courts, without any connotation of functional dependence (Cochinescu, 200, p. 57). More explicitly, the Prosecutor's Offices are independent in their relations with the courts.

1.1. The Prosecutor's Office attached to the High Court of Cassation and Justice

Within the framework of the POHCCJ operates: the National Anti-corruption Directorate; The Directorate for Investigating Organized Crime and Terrorism; The Section of Criminal Investigation and Criminalistics; the Judicial Section; the Section of Human Resources and Documentation; The Section of the Military Prosecutor's Offices; The Service for Guidance And Control; The service for International Legal Cooperation, International Relations and Programs; The Service of Classified Documents; The Service of

Information Technology; The Bureau of Information And Public Relations; The Judicial Office; The Economic-Financial and Administrative Department; The Public Internal Audit Directorate; the Project Management Unit.

1.2. The Public Internal Audit Directorate

The public internal audit is the functionally independent and objective activity which provides assurances and consultancy to public entity's management, for the good administration of the public revenues and expenditure, by improving the public entity's entities. This activity helps the public entity to fulfill its objectives by way of a systematic and methodical approach, which evaluates and improves the efficiency and the efficacy of the leadership system based on the management of risk, control and of the processes of administration (Dobre, 2003, p. 61).

According the "Activity Report for the year 2018" of the Public Ministry www.mpublic.ro

The activity of public internal audit was carried out during the year 2018 within the Public Internal Audit Directorate. It is organized and it carries out its activity under the direct subordination of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice. The Public Internal Audit Directorate provides the exercise of the internal audit duty for the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate, The Directorate for Investigating Organized Crime and Terrorism, the Prosecutor's Offices attached to the Courts of Appeal and the Prosecutor's Offices attached to the Courts, in compliance with article 11, letter f) of Law no. 672/2002 concerning the internal public audit. The 10 auditable fields for which the internal auditors from the framework of the Public Ministry carried out, in the year 2018, audit assurance/consultancy engagements are the following: the financial-accounting activity, the human resources activity, the activity of providing salaries and other rights, the internal control/managerial system, the information technology activity, the public procurement activity, the administrative activity, specific activities carried out by the auxiliary specialized personnel; the activity of the legal counsels and of the programs with external financing (http://www.mpublic.ro/sites/default/files/PDF/raport_activitate_2018.pdf).

1.3. The duties of the Public Internal Audit Directorate

The duties of the Public Internal Audit Directorate

The personnel of the Public Internal Audit Directorate, through its internal auditors, has the following duties:

- a) It elaborates the specific methodological norms according to which it carries out its activity;
- b) It elaborates the annual internal public audit plan within the framework of the Public Ministry, which it submits to be approved by the General Prosecutor of the POHCCJ;
- c) It performs the internal public audit activities in order to assess whether the Public Ministry's financial and control management systems are transparent and compliant with the norms of legality, regulation, cost-effectiveness, efficiency and efficacy;
- d) It provides the activity of supervision for the internal public audit engagements carried out;
- e) It informs the Central Harmonization Unit concerning the Public Internal Audit about the recommendations which were not acquired by the managers of the audited entity, as well as about the consequences thereof;
- f) It reports, to the general prosecutor, the findings and the conclusions resulting from the public internal audit engagements carried out, as well as the implementation stage of the formulated recommendations;
- g) It elaborates the quarterly and bi-annual reports provided by the law;
- h) It elaborates the annual report of the public internal audit activity at the level of the Public Ministry;
- i) In the case of identifying certain irregularities or possible prejudices, it immediately reports them to the general prosecutor of POHCCJ and to the empowered internal control structure.
- j) It performs consultancy engagements, according to the law;
- k) It carries out ad-hoc audits, respectively public internal audit engagements with an exceptional character, which are not comprised within the annual internal audit plan;
- l) It exercises other duties provided by the law and by the regulations or which are ordered by the general prosecutor of the POHCCJ.

The public internal audit directorate audits, at least once every 3 years, without being limited to these, the following:

- a) The budgeting and legal commitments which derive directly or indirectly from payment obligations, including those from the community funds;

- b) The payments assumed by way of budget and local commitments, including those from community funds;
- c) The sale, the pledge, the concession or the rental of goods from the private domain of the state or of the administrative-territorial units;
- d) The concession or the rental of goods from the state's public domain or that of the administrative-territorial units;
- e) The filing of the public income, respectively of the manner of authorization and establishment of the debt instruments, as well as the facilities granted upon their collection;
- f) It performs public internal audit engagements, which are not comprised within the plan, established by way of the order of the POHCCJ's general prosecutor.

Within the framework of the Public Internal Audit Directorate operates the Compartment for Monitoring and Methodology, which exercises the duties provided under letters a), e), f), g) and h), as well as any other duties ordered by the general prosecutor of POHCCJ.

The Public Internal Audit Directorate is led by a director.

The director of the Public Internal Audit Directorate has the following duties:

- a) He/she organizes, coordinates, controls and is liable for the activity of the entire personnel under his/her subordination, concerning the timely and adequate fulfillment of the work duties;
- b) He/she coordinates, guides and checks from a technical and methodological perspective and, as the case may be, supervises the audit engagements performed by the internal auditors;
- c) He/she distributes to the personnel from his/her subordination the works which are of the directorate's competence and guides the personnel in what regards the correct and timely settlement thereof;
- d) He/she settles certain works of the directorate, especially those with a high degree of complexity;
- e) He/she proposes to the POHCCJ's general prosecutor or, as the case may be, to the leaders of the verified prosecutor's office units, to hold accountable, within the limits of their duties, the persons who are guilty for the irregularities noted.
- f) He/she assesses the individual professional performances of the internal auditors, according to the law;

- g) He/she coordinates the activity of the Compartment for monitoring and methodology;
- h) He/she exercises any other duties provided by the law and the regulations or those ordered by the general prosecutor of the POHCCJ;

The director of the Public Internal Audit Directorate has the obligation to define the modality of organization and development of the consultancy activity in the Internal Audit Charter, together with the assurance activities.

The director of the Public Internal Audit Directorate is liable for the organization and the development of the consultancy engagements and of the resources necessary for the development of these engagements.

The activity of this Directorate is realized based on an annual plan which has in view the following aspects: the budget activity; the activity of asset inventory; the financial activity; the accounting activity; the public procurement activity; the human resources activity; the IT activity; the activity of providing salaries and the administrative activity.

Aspects which are pursued in the audit engagements within the framework of the activities carried out by the economic-financial and administrative department:

Under the aspect of this department's management, the following matters are pursued:

- a. Conducting and organizing the process of substantiation, elaboration and presentation of the annual budget project prepared by the Public Ministry to the empowered bodies, in the terms and the conditions provided by the Law no. 500/2002 concerning public finances, with subsequent amendments and completions;
- b. The manner of efficient use of the funds received from the state budget, the budget of the state social insurances or the budgets of the special funds, as well as those constituted from own revenues, according to the law;
- c. Whether it provides and it is liable for the budgetary framework, as defined by Law no. 500/2002 concerning public finances, with subsequent amendments and completions;
- d. The manner of assuming liability, organization and conduct of POHCCJ's own accounting, as well as the preparation and presentation, upon the established terms, of the financial statements according to the applicable accounting norms and regulations in force;

- e. Whether it provides the performance of the full and timely payment of the rights of a salaried nature granted to the POHCCJ personnel;
- f. Whether it organizes the keeping of the records for all the immovable properties or the administration of all the prosecutor's offices from the Public Ministry, as well as of the other goods within their patrimony;
- g. Whether it organizes, guides and coordinates the activities of administration and maintenance- serving the POHCCJ seat, as well as those referring to the fire prevention and extinguishing, and it takes measures for providing the material conditions in view of the adequate development of these activities;
- h. The manner in which organization and performing the inventory of the assets is fulfilled, in the conditions of the law;
- i. Whether it assesses, on an annual basis, the individual professional performances of the personnel from its subordination;
- j. Whether it provides the professional training and perfection of the personnel from the department, by taking the required measures;
- k. Whether it assures the conditions necessary for the implementation and the development of its own internal control/managerial system, according to the Order of the Minister of Public Finances no. 946/2005, republished, with subsequent amendments and completions;
- l. Whether it coordinates the elaboration of norms, instructions, dispositions, orders, decisions for its own activity and whether it participates, in relation with the activity carried out, in the elaboration of the drafts of normative acts which are to be transmitted to the Ministry of Justice;
- m. Whether it organizes, guides and coordinates the activities for the prevention and protection carried out within the POHCCJ and it takes measures for providing the material conditions necessary for the realization of these activities;

Aspects which are pursued within the financial service, payroll service, accounting and budgetary commitments:

Duties referring to the treasury and cash operations, wherein:

- a. It traces the manner in which the payments, the collections and the settlements of any kind are performed and executed from the budgetary or extra-budgetary funds;

- b. The manner of preparation for the payment documents, for the financial operations, according to the legal regulations in force and it transfers the associated amounts;
- c. The operations noted by the State Treasury are checked within the statements of accounts;
- d. The manner in which the payment of the employee's rights to salary is performed is checked, and it is liable for the correct preparation of the payment forms;
- e. The manner of daily handover and verification, for recording within the accounting, of the documents which are at the basis of the collection and payment operations comprised within the cash book;
- f. It is pursued the correctness of the collections and of performing the settlements with the other credit release authorities and natural and legal persons;
- g. The supporting documents based on which the payments are performed from external non-reimbursable funds are verified and the payment documents are prepared;
- h. The manner in which the activity of the cash office is organized, in conformity with the legal provisions; etc.
Aspects concerning the fiscal obligations have the following in view:
 - a) The fulfillment of the fiscal obligations referring to duties and taxes and to the contribution to the special funds;
 - b) The preparation and the monthly submission of the statements concerning the fulfilment of the fiscal obligations, according to the law, and it is liable for the correct preparation thereof;

In duties concerning the relationship with the employees, the following are examined by the auditors:

- a) The manner of calculation of the monies due to the employees;
- b) The modality of preparation of the payrolls, of the wire transfers and of the statements, in compliance with the provisions in force;
- c) Whether any certificates requested by the employees have been issued;
- d) Whether the withholding decision or imputation order approved by the legal office have been performed , concerning the recovery of the damages caused to the employees (if applicable);

- e) Whether there have been any payments made to the state budget, the budget of the state social insurances, within the terms provide by the law;
- f) Whether the monthly and periodical statistical reports concerning the work and salary indicators have been prepared, assuring the transmission thereof to the National Institute of Statistics;
- g) It especially traces the commitment, liquidation, authorization and the payment of the expenses with the personnel, according to Law no. 500/2002 concerning the public finances, with subsequent amendments and completions;

Referring to the duties concerning the planning, the formation, the administration, the employment and the use of the funds allocated to POHCCJ, the following is traced:

- a) Whether the income and expenses budget draft was well substantiated and prepared, including the rectified budget draft, according to the dispositions of Law no. 500/2002, with subsequent amendments and completions, as well as other regulations form the fiscal-budgetary field;
- b) Whether the approved budget was correctly distributed per quarters, according to the law;
- c) Whether the centralized list of credits required was correctly prepared
- d) Whether payments from the budgetary credits have been correctly made, only after the expenses have been committed, liquidated and authorized by the credit release authority;

Referring to the duties regarding the registration into the accounting books and the records of the budgetary commitments, the auditors follow:

- a) Whether the legal provisions concerning the organization and the conduct of accounting have been applied correctly and they pursue the reflection, in the accounting records, of the entire process of performing the income and expenses budget, by registering chronologically and systematically all the operations concerning the assets of the institution;
- b) Whether the patrimonial operations have been chronologically registered into the accounting records, with the observance of the succession of the supporting documents, according to the date of

preparation or entry into the institution, and systematically, into the synthetic and analytical accounts, with the help of the operational log book.

- c) Whether the mandatory accounting books provided under the law of Accounting no. 82/1991, republished, with subsequent amendments and completions, have been prepared correctly, respectively: The Operational Log Book, The Inventory Register, and The General Ledger.
- d) Whether the following have been correctly prepared: the accounting records of the assets and stocks; the accounting records of the receivables; the accounting records of the intangible fixed assets, of the tangible fixed assets, of the assets in progress and of the financial assets; the accounting records of the suppliers; the accounting records of the debts to the state budget, the budget of the state social insurances and similar accounts; the accounting records of the treasury accounts; the accounting records of the non-reimbursable external funds; the accounting records of the funds with a special destination; the accounting records of the expenses; the accounting records of the financings and revenues; the records of the patrimonial result; the accounting records of the accounts outside the balance sheet; the records of the proposals for the accrual of expenses; budgetary commitments; as well as that of the payment authorizations issued by all the compartments from the institution;

Referring to the monthly, quarterly and annual financial statements, the auditors examine whether: the annual and quarterly financial statements have been prepared in accordance with the methodological norms issued by the Ministry of Public Finances; whether the grand total of the debtor and creditor sums, as well as the final balance of each account is correct; whether the trial balance has been prepared correctly on a monthly basis; whether the reports concerning the outstanding payments, the balance sheet indicators, the performance of the expenses financed from non-reimbursable external funds etc. have been realized correctly, in the terms and conditions provided by the law; whether the statements concerning the monitoring of the expenses financed by the budget approved for the Public Ministry's own apparatus have been prepared correctly in compliance with the legal dispositions in force;

Referring to the activity of the Service for the Investments and Public Procurements, the audit directorate pursued whether the procurement methodologies have been prepared correctly, according to the list of the prosecutor's offices from the Public Ministry, whether they have been elaborated according to the law, the Public Ministry's investment program, according to the prioritized investment projects/objectives, in view of comprising the investment expenses into the budget draft; whether, upon the assessment of the offers of the potential designers, equipment and material suppliers or executants of construction works, on the occasion of deploying the specific procurement procedures, qualified personnel was appointed for its own committees, as well as for the committees of the other prosecutor's offices; whether the preparation of the technical and economical feasibility studies for the planned investments, as well as the documentation for the approval of the intervention works for capital repairs was thorough and in accordance with the applicable law, etc.

1.4. Referring to the auditable field and the general objectives of the public internal audit engagement within the regularity/compliance audit engagements.

As a summary of those exposed above, an annual public internal audit plan which has as auditable field: the budgetary, financial-accounting activity, the activity of public procurement, of human resources, of paying salaries and other rights, the administrative activity, the IT activity, the judicial activity and the programs with external financing has the following general objectives:

- The substantiation of the budget of the credit release authority;
- The opening and the distribution/withdrawal and the use of the budgetary credits;
- The accrual, the liquidation, the authorization and the payment of the expenses, as well as the organization of accounting and the budgetary and legal commitments;
- Own financial preventive control;
- The inventory of the elements of the nature of assets, debts and own capitals;
- The revaluation and the depreciation of the fixed tangible assets within the patrimony of the public institution;
- The decommissioning the fixed assets, declassing and scrapping certain goods which are within the patrimony of the institution;

- The transmission without payment and the capitalization of the goods belonging to the public institutions;
- The organization and keeping the accounts;
- The preparation of the financial statements;
- The selection of the procurement procedures;
- Awarding of contracts;
- Monitoring the performance of the contracts;
- Organizing the recruitment of the personnel;
- Establishing the salary rights;
- The record and the management of the positions;
- The records and the management of the professional files;
- The calculation and the payment of the salary rights and of the other rights associated with salaries;
- The calculation and the payment of the obligations towards the state budget and the budget of the Social Insurances;
- Occupational health and safety;
- Fire prevention;
- The organization of the information technology activity;
- The security of the data and their protection against losses and deterioration;
- The approval of the legal documents concluded by the institution;
- The coordination of the activities through which the implementation of the projects with external financing is realized;
- The technical management of the projects and of the associated agreements, according to the finance agreement;
- Transmitting the reports, the data and the information requested by the empowered institutions for the on-going projects with non-reimbursable financing.

1.5. General recommendation as a result of the audit engagements with the above-mentioned objectives:

- The update of the operational procedures according to each activity carried out in the institution;
- Compliance with the succession of the phases for the budgetary execution;

- Preparation of the global budgetary commitments for all the budgetary articles associated with the concluded supply agreements;
- Preparing, on the date of noting the budgetary obligation, the global/individual budgetary commitments through which to certify the existence of available budgetary credits and their reservation for the performance of the expenses resulted from the legal commitments signed by the credit release authority;

Upon granting the approval of the Consolidation of Own Preventive Financial Control, the “Specific framework of the operations subjected to the Consolidation of own preventive financial control” shall be observed:

- The financial- accounting up-to-date documents shall be handed over to the archives of the institution;
- Within the Inventory protocol, the inventory committee shall mention the proposals for the scrapping of the fixed assets and of the materials such as the inventory objects;
- Within the extra-accounting records the goods received in custody shall be recorded and inventoried;
- The leadership of the institution shall designate a person responsible for public procurements via the Electronic System for Public Procurements;
- The addenda for the extension of the initial contracts shall be prepared for a period of maximum 4 months, in compliance with article 165, letter d) from Government Decision no. 395/2016 for the approval of the methodological norms of application of the provisions referring to the awarding of the public procurement contract/framework agreement of Law no. 98/2016 concerning public procurement.
- The payrolls shall be correlated with the collective attendance sheets, abbreviations shall be inscribed for each of the newly appeared situations and they shall be updated in due time;
- In the procedure of scrapping the fixed assets and the inventory objects, all the steps according to Chapter 2, paragraph 2.1. of Government Decision no. 841/1995 concerning the procedures of transmission without payment and of capitalization upon the goods belonging to the public institutions shall be observed.

- A point of view from the Inspectorate for Emergency Situations shall be requested referring the mandatory character of obtaining the security authorization in case of fire for certain immovable properties;

2. Conclusions

Currently, within the specialized literature, the limits of the internal audit, respectively those of the process of acknowledgement, elaboration and supply of recommendations are exceeded by the consultancy such as coaching. Therefore, coaching is a modern method to exercise a new profession, of the realization and the intervention of certain new functions or, as the case may be, of financial and non-financial services (Petraşcu, 2013, p. 694-702). For the auditors, the continuous improvement of the internal control system brings an aid to their clients and enables the reduction of the audit works, since it has as an effect the increase of the quality of the accounting documents and records. From the standpoint of the audit, the internal control system reduces the routine works, the mechanical checks over the exactness of the accounting totalities and it implies reasoning and judgment, the accentuation of the global examination, analysis, assessment and the statistical survey. In the conditions of the internal control's existence, the audit proceeds to an in depth study and to an appreciation thereof in order to give an opinion about the degree of trust which it must grant and, as a consequence, in order to determine the importance of the tests to which the audit procedures are limited (Boulescu, Ghiţă, Mareş, 2003).

A step forward towards...COACHING... even if it is specific to the business area, it would be ideal if it were embraced in the public sector, as well, since, what we could symbolically call "an added value" to our life eventually depends on the manner in which the public money is managed and on the manner in which the public auditor expresses his/her opinions in this regard.

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