Jurnalul de Studii Juridice
ISSN: 1841-6195 | e-ISSN: 2067-8509
Covered in: CEEOL, CrossRef, CrossCheck, ICI Master Journal List - Index Copernicus, Ideas RePeC, EconPapers, Socionet, HeinOnline, EBSCO.

2022, Volume 17, Issue 1-2, pages: 134-147 | https://doi.org/10.18662/jls/17.1-2/104

Efficiency and Advantages of Preventive Financial Control Versus Internal Control in A Public Entity

Camelia Madalina BELDIMAN[1]

[1] PhD Lect. Univ., Faculty of Juridical, Social and Political Sciences, "Dunărea de Jos" University of Galaţi, Romania, madi.beldiman@gmail.com

Abstract: *This paper targets to highlight the objectives and advantages offered by the preventive financial control endorsement compared to the efficiency of setting up internal control departments within public entities. The role of preventive financial control is to contribute to the most efficient use of all material and financial resources, which involves the verification and analysis of economic and financial activity in terms of legality, timeliness, and economy of operations. The preventive financial control aims at identifying the projects of operations that do not respect the conditions of legality and regularity or within the limits and destination of the budgetary and commitment credits and through which their performance would be detrimental to the public patrimony or public funds. There are many disadvantages in public entities where internal control departments are established because the internal control is performed over a long period of time and requires several steps to prepare for the audit mission.*

Keywords: *internal control; preventive financial control; risk analysis and evaluation; risk elimination; financial crimes and fraud.*

How to cite: Beldiman, C.M. (2022). Efficiency and Advantages of Preventive Financial Control Versus Internal Control in A Public Entity. *Jurnalul de Studii Juridice, 17*(1-2), 134-147. https://doi.org/10.18662/jls/17.1-2/104

©2022 Published by LUMEN Publishing. This is an open access article under the CC BY-NC-ND license

1. Introduction

The introduction of public internal audit and preventive internal control is a decisive step in the evolution of organizations, especially public ones, an important step in the introduction and development of efficient management in public institutions, regardless of their object of activity.

Most public institutions are still facing powerful bureaucratic influences with a reduced level, sometimes to the point of absence, of the organizational feedback. In this context, the initial favorable conditions are created for such organizations to evolve in the sense that their existence becomes an end in itself, despite the declared noble mission, to serve the public interest. It should be noted that, although it was supposed to improve organizational management, the public internal audit (Dobroteanu & Dobroteanu, 2013; Ghiță, 2009; Ghiță et al., 2010; Ghiță et al., 2009a; 2009b) did not generate much enthusiasm among managers. We could say the opposite. In this regard, we can recall numerous cases in which the auditor was confronted with the prospect of sanctioning after presenting the audit report which inevitably reveals some uncomfortable aspects for the manager.

The most common protective reactions of the hierarchy were those aimed at bringing the auditor under total control of the management, thus being limited in its investigations and, especially, in asserting objectivity in the evaluation act (Dumitrescu, 2012). Such an evolution must be discouraged by all means, as it has the potential to completely nullify the valences of this new institution of public audit (The Romanian Parliament, 2002).

In this context, an important role belongs to the internal audit as part of the process of continuous institutional reform aimed at developing and improving the activity carried out by public institutions, as well as internal public control in public institutions. The general objective of internal control is to ensure the continuity of the public entity in achieving the established objectives.

2. The organization and carrying out the financial control in public institutions

The bodies exercising preventive control shall rule on the legality of the commitment of expenditure and payment orders, on the use of credits within the limits of approved allowances or funds and credits, and on the

recovery of damages, applying the preventive control permit on commitments or payment orders.

Preventive financial control is a sum of all below:

- specialized control involving the verification and analysis of economic and financial activity in terms of legality, opportunity and economy of operations, rational use of material and financial means and the defense of the integrity of property;
- the specific instrument of the action to prevent the deficiencies, of the illegal, unreal, and uneconomic operations, of the irregularities, of the immobilization of the funds and of the damage of the administered patrimony;
- documentary control, the operations subject to verification are verified based on the primary documents;
- anticipated control which distinguishes it from other forms of control: hierarchically operative-current, subsequent control, managerial control. Being a prior control, it is preventive par excellence, in its wholeness.

The preventive financial control is organized as a unit, according to the operating structure reflected in the organizational chart of each economic and social entity (Lepădatu & Jalbă, 2016). The following elements are considered: volume, complexity, and diversity of operations subject to preventive financial control (Munteanu, 2005; 2010, Munteanu et al., 2010; Munteanu et al., 2012; Voinea, 2016), number of persons employed in the unit and size of salary fund, degree of mechanization and automation of preparation and processing of documents, territorial location of compartments where documents are prepared, etc.

Preventive financial control aims at identifying projects of operations that do not comply with the conditions of legality and regularity and / or within the limits and destination of budgetary and commitment appropriations and through which the public patrimony would be harmed and / or public funds (Nicolaescu, 2011).

Preventive financial control is subject to operations which mainly concern:

- legal commitments and budgetary commitments[1];

[1] Legal commitment - the legal act which creates, in the case of administrative acts or contracts or states, in the case of laws, Government decisions, agreements, court decisions, the obligation to pay on account of public funds, according to art. 2 para. (1) point 3 of Law no. 500/2002 on public finances, with subsequent amendments and completions.

- opening and allocating budget appropriations;
- change the quarterly and subdivision distribution of the approved budget classification of appropriations, including by transfers of appropriations;
- ordering expenses;
- the establishment of public revenues, regarding the authorization and establishment of the collection titles;
- concession or rental of goods belonging to the public domain of the state or of the administrative-territorial units;
- sale, pledge, concession, or rental of property belonging to the private domain of the state or of the administrative-territorial units;
- other categories of operations established by order of the Minister of Public Finance;

Depending on the specifics of the public entity, its manager decides to exercise preventive financial control over other categories of operations. The public entities through which the revenues of the state or of the administrative-territorial units are realized organize the preventive financial control according to the specific norms elaborated according to the modalities provided by the fiscal legislation for establishing the collection titles and for their reduction, staggering or cancellation.

Public institutions that manage public assets and manage public funds are subject to the general framework of operations subject to preventive financial control, as well as checklists.

The checklists constitute a guide in the exercise of the preventive financial control by the designated persons, these persons having at the same time the obligation to formulate proposals for the improvement of the respective lists.

Thus, the preventive financial control is exercised over the documents in which the patrimonial operations are recorded, before they become legal acts, by their approval by the right holder of the competence or by the holder of a delegated competence in accordance with the law. The analysis and certification of the financial and / or patrimonial statements and the verification of the operations already performed do not fall within the scope of preventive financial control.

Budget commitment - the administrative act by which the budget credit is reserved to extinguish the payment obligation resulting from the execution of the legal commitment, according to art. 2 para. (1) point 2 of Law no. 500/2002, with subsequent amendments and completions.

The preventive financial control of the operations is exercised based on the acts and / or the justifying documents certified regarding the reality, regularity, legality, by the heads of the issuing specialized departments.

The operations regarding legal acts by which the public entity is patrimonially engaged are subject to preventive financial control after their approval by the specialized legal and financial-accounting departments. At the public entities where compartments of legal and / or financial-accounting specialty are not organized, the preventive financial control is exercised exclusively through the permit of the person designated by the head of the public entity.

The managers of the specialized departments are responsible for the reality, regularity, and legality of the operations whose documents and / or supporting documents have certified or approved them. Obtaining the preventive financial control visa for operations based on certified or endorsed documents and / or supporting documents, which subsequently prove to be unrealistic, inaccurate, or illegal, does not exonerate the heads of the specialized departments or other competent persons within them.

The persons with attributions and responsibilities in initiating and carrying out the operations subject to their own preventive financial control are:

- the authorizing officers or the persons to whom the powers of authorizing officer have been delegated, in accordance with the law;
- the managers / heads of the specialized departments in which the operations subject to their own preventive financial control are initiated and carried out, as well as the subordinated personnel, with attributions in the administration of the material goods or other values;
- the head of the financial-accounting department, within the meaning of the law;
- the head of the legal / similar department, for the operations that are approved, according to the law, by the legal department, before being subjected to its own preventive financial control.

The nomination of the persons with attributions and responsibilities in initiating and carrying out the operations subject to their own preventive financial control is made, at the proposal of the heads of the financial-accounting departments, together with the draft of the specific framework.

The persons who certify the reality, regularity, and legality of the projects of operations subject to their own preventive financial control are the heads of the specialized departments in which the operations subject to their own preventive financial control are initiated and carried out.

The nomination of the persons certifying the reality, regularity, and legality of the projects of operations subject to own preventive financial control is made together with the establishment of the specialized compartments in which the operations subject to own preventive financial control are initiated and carried out.

The exercise of the attributions of preventive financial control by the designated persons is carried out based on the following principles:

- Professional competency. The person designated to exercise his own preventive financial control must know and apply consistently and firmly the legal provisions in the field, ensuring the legality and regularity of the projects of operations subject to the visa, as well as their inclusion within the limits of budget and / or commitment appropriations. For this purpose, it has the obligation to always know all the legal regulations specific to the field in which it exercises its attributions for granting its own preventive financial control visa.
- Decisional independence in the conditions of separation of attributions. The person designated to exercise his or her own preventive financial control is independent in his or her decision-making and may not be required in any way to be granted or refused his or her own preventive financial control visa. The management of the public entity in which the activity of own preventive financial control is exercised is obliged to take the necessary measures for the separation of the attributions of approval, execution, and control of the operations, so that they are entrusted to different persons.
- Objectivity. In carrying out its own preventive financial control activity and in making the decision to grant or refuse a visa, the designated person must systematically and thoroughly check the operational plans, not to succumb to prejudices, pressures or influences that could affect him. their correct appreciation, to show impartiality, to have a neutral attitude, devoid of subjectivism.
- Moral conduct. The person designated to carry out the activity of his own preventive financial control must be of a recognized moral probity, to have a correct conduct, to show impeccable professional behavior, at the level of the highest standards. It must behave in a dignified manner in society, carry out its activity in such a way as to have a good reputation.
- Confidentiality. The person designated to exercise his / her own preventive financial control activity is obliged to keep the state secret, the service secret in connection with the content of the projects of

operations subject to the visa, not to disclose in any way the information of a third party, apart from the cases where it is expressly authorized by those in law or where the provision of information is a legal or professional obligation.

- Incompatibility. Persons deprived of the right to exercise a public office, who are in the period of 3 years from the date of dismissal or dismissal from the respective public office, may not be designated to exercise their own preventive financial control activity, based on a decision taken by the National Employment of Integrity, as a result of a situation of conflict of interest, nor persons under criminal prosecution, trial or convicted of acts of abuse of office, forgery, use of forgery, deception, giving or taking bribery and other crimes that have caused damage to the property of individuals or legal entities.

If the amnesty intervened in the case of criminal prosecution, trial or conviction, the person in question may not be appointed to carry out his / her own preventive financial control activity for 2 years from the date of application of the amnesty.

Persons who are first-degree spouses or relatives of the head of the public entity with which they are to carry out this activity, nor those persons who may be in a situation of conflict of interest in connection may not be designated for the exercise of their own preventive financial control for the operations that are subject to it.

The persons designated to exercise their own preventive financial control must improve their knowledge and professional practice through continuous training.

The management of the public entity will ensure the necessary conditions for professional training. The own preventive financial control visa is exercised in handwriting, by applying the signature, and the identifier of the visa holder is the number of the seal held by the designated person.

The data from the documents presented at the preventive financial control visa are entered in the register regarding the operations presented at the own preventive financial control visa. The register is completed in handwriting. The register is archived / kept for a period of 10 years, starting from the date of the end of the financial year during which it was drawn up.

3. Internal public financial control in the local public administration

The control exercised by the Prefect and the Institution of the Prefect.

The Prefect is the representative of the Government in territorial plan, being the guarantor of the observance of the law and the public order at local level.

The Prefect leads the decentralized public services of the ministries and of the other bodies of the central public administration subordinated to the Government, organized at the level of the administrative-territorial units.

In the field of control, the Prefect mainly fulfills the following attributions:

- ensures, at the county level, the application and observance of the Constitution, of the laws, of the ordinances and of the decisions of the Government, of the other normative acts, as well as of the public order;
- acts for the achievement in the county of the objectives included in the Government Program, ordering the necessary measures for their fulfillment, in accordance with the competencies and attributions incumbent on it according to the law;
- verifies the legality of the administrative acts of the county council, of the local council or of the Mayor.

The Prefect may verify the measures taken by the Mayor or the President of the County Council, in their capacity as representatives of the state in the administrative-territorial units and may notify the competent bodies, in accordance with the law.

Control exercised by the Mayor.

The Mayor represents the executive authority in the local public administration and represents the administrative-territorial unit, where he was elected, in the relations with other public authorities.

In the field of local public finances and public internal financial control, the Mayor mainly fulfills the following attributions:

- elaborates the projects of strategies regarding the economic, social and environmental state of the administrative-territorial unit and submits them to the approval of the local council;
- presents to the local council an annual report on the economic, social and environmental status of the administrative-territorial unit;

- draws up the draft local budget and the closing account of the budget year and submits them to the local council for approval;
- monitors and reports on the execution of the local budget during the year;
- commits, liquidates, and orders the expenses of the local budget, for which it fulfills the quality of main authorizing officer;
- organizes the activity of ascertaining, controlling, following up and collecting the local taxes and fees, as well as any other revenues of the administrative-territorial unit, where elected;
- verifies, through the specialized compartments, the correct fiscal registration of the taxpayers at the territorial fiscal body for the local taxes and fees;
- take measures to ensure the inventory, statistical evidence, inspection, and control of the performance of public services of local interest;
- takes measures for the good administration of the goods from the public and private property of the administrative-territorial unit, etc.

To carry out the given responsibilities, the Mayor benefits from a specialized apparatus, which includes the specialized structure in which there are carried out activities regarding the establishment and registration of debt related to the local budget, collection, monitoring, and control of the tax returns.

4. The evolution of internal audit and the responsibility for internal control

Internal audit is a functionally independent and objective activity of assurance and counseling, designed to add value and improve the activities of the public entity, help the public entity to achieve its objectives, through a systematic and methodical approach, evaluate and improve the efficiency and effectiveness of risk management, control, and governance processes. It also contributes to the accurate and effective management of public funds.

The head of the public entity annually approves the draft internal public audit plan. The internal auditor carries out ad-hoc audits, respectively exceptional public internal audit missions, not included in the annual public internal audit plan.

The relationships with the audited entity and the object of the audit can be described as follows:

- Contacting the audited entity - the person in charge of the audited entity is informed, before the start of the assignment, of the date of the audit intervention and its content, defined in a service order.
- Carrying out the mission on the spot - the audit must be carried out in a climate of trust, ensured by the very role of the internal public audit, which essentially aims to improve the functioning of the entity and respond to its interests. The opening meeting allows the presentation of the object of the mission, the definition of the material conditions, the establishment of the meetings, the contacts and the information and documents necessary for the knowledge of the audited activity.
- Transmission of results - findings and recommendations are brought to the attention of the audited entity as they are obtained, if they are relevant. Each mission shall lead to an on-the-spot closing meeting, which shall inform the audited entity's officials of the relevant key comments, validate those comments and apply the first corrective action by those concerned. For the public institution, the public internal audit report is sent for approval to its head. After approval, a copy of the public internal audit report will be sent to the audited structure.
- Follow-up of audit missions - the conciliation meeting sets out the modalities for implementing the recommendations. The audited entity should propose an action plan with a timetable for implementation. During the conciliation meeting they are discussed and accepted by mutual agreement.

The efficiency of the internal control refers to the set of control forms exercised at the level of the public entity established by the management in accordance with its objectives and with the legal regulations, in order to ensure the administration of the funds in an economical, efficient and effective way. Internal control is a phrase that refers to any type of control and, at the same time, includes all forms of control organized at the level of a public entity, except preventive control. Unlike preventive control, which emphasizes the legality of an operation, internal control emphasizes its efficiency. Internal control encompasses all categories of control, including internal public audit.

The goal of organizing internal control is good financial management by ensuring the legality of regularity, economy, efficiency, and effectiveness in the use of public funds and in the administration of public assets.

The essential features of a public internal control system are the following:

- Identifying risks.
- Design the system and procedures to reduce or eliminate the risks.
- Development of an internal audit system to verify whether the internal control system is effective in reducing or eliminating risks, to identify any risks that have not been considered or have been improperly treated.

The concept of risk covers the following elements:

- Waste of financial, human, and technical resources, including external aid
- Lack of regularity and efficiency in the execution of the budget or other forms of public policy
- Financial offenses or financial fraud
- Corruption
- Error
- Inadequate accounting records
- Failure to provide quality financial information to management in a timely manner.

Conclusion

The present paper is intended to be a challenge to a more in-depth study of internal audit and is equally addressed to those who want to embrace the profession of internal auditor, to those who have the decision-making competence within an organization regarding the establishment of an internal audit department, but also to managers and specialists in the financial-accounting field, accounting experts, auditors, and financial analysts. The persons who perform the preventive financial control or are part of the internal control department, have the responsibility to advise the head of the public entity to find solutions to solve his problems. In any public entity, there must be a certain system of internal control, otherwise its operation would be marked by frequent and serious distortions.

Each manager is organized to lead his activity: he will define the individual tasks of the staff, he will develop the working methods, he will be equipped with an information system, he will supervise the activities of the staff. This means nothing more than the establishment of an internal control system.

The purpose of the internal audit is to improve the quality of the activity of the public institution in which it operates, to add value, promoting the achievement of their objectives, by verifying the internal control and how it has met its objectives on: asset security, information quality, compliance rules / procedures / regulations and optimization of resources based on risk analysis, making recommendations for improving the audited activities. The internal public audit offers possibilities for intervention in case of manifestation of some dysfunctions of the procedures.

The advantage of the preventive financial control over the internal control refers to the fact that the person designated with a visa can request other supporting documents in an emergency so as not to delay or prevent the payment operation which will be done immediately after verifying the documents. If, following the verification of the supporting documents, illegalities are found, then the person designated with the visa takes the preventive financial control, informs in writing, the economic-financial inspection bodies within the Ministry of Public Finance and the Court of Accounts (Popescu, 1995; The Court of Accounts of Romania, 2011), transmission of a sheet on the internal decision act. Internal control emphasizes the long-term performance it provides to the public institution, encompassing all categories of control, including public internal audit of efficiency in the use of public funds and by eliminating the risks of financial crime or fraud.

The internal control together with the preventive financial control must contribute to the achievement of a good financial management, by ensuring the legality, regularity, economy, efficiency, and effectiveness in the use of public funds and in the administration of the public patrimony.

Acknowledgment

This work was supported by a financing agreement concluded with the „Dunărea de Jos" University from Galati, no. 14713/10.05.2022. Paper published within Internal Research Project based on the Financial Contract with „Dunărea de Jos" University of Galați/Contract de finanțare cu Universitatea „Dunărea de Jos" din Galați, nr. 14713/10.05.2022.14th International Conference "Exploration, Education And Progress In The Third Millennium" 12-13th May 2022, https://www.fdsa.ugal.ro/images/2022/Conferinte/Book_of_Abstracts_EEP_Conference_2022_compressed.pdf

References

Dobroteanu, C., & Dobroteanu, L. (2013). *Audit intern* [Internal audit]. Infomega.

Dumitrescu, A. (2012) *Audit și contabilitate* [Auditing and accounting]. Economica.

Ghiță, M. (2009). *Auditul intern* [Internal audit]. Economica.

Ghiță, M., Croitoru, I., & Țogoe, D. (2010). *Guvernanța corporativă și auditul intern* [Corporate governance and internal audit]. EuroPlus.

Ghiță, M., Ghiță, R., Boghean, F., & Hlaciuc, E. (2009a). *Guvernanță corporativă și audit intern* [Corporate governance and internal audit]. Tipo Moldova.

Ghiță, M., Iațco, C., Olguța Brezuleanu, C., & Vorniceanu, M. (2009b). *Guvernanța corporativă și auditul intern* [Corporate governance and internal audit]. Tipo Moldova.

Lepădatu, G., & Jalbă, L. (2016). *Audit și control financiar* [Financial audit and control]. Pro Universitaria.

Munteanu, V. (2005). *Control și Audit Financiar Contabil* [Control and Financial Accounting Audit]. Lumina Lex.

Munteanu, V. (2010). *Auditul intern la întreprinderile și instituțiile publice* [Internal audit at enterprises and public institutions. Wolters Kluwer.

Munteanu, V., Zuca, M., & Zuca, S. (2010). *Auditul intern la întreprinderi și instituții publice. Concepte, metodologie, reglementări, studii de caz* [Internal audit at enterprises and public institutions. Concepts, methodology, regulations, case studies. Wolters Kluwer.

Munteanu, V., Zuca, M., Țintă, A., & Ștefan, V. (2012). *Audit financiar – contabil* [Financial Accounting audit]. Pro Universitaria.

Nicolaescu, E. (2011). *Control și audit financiar* [Financial control and audit]. Ed. ProUniversitaria.

Popescu, G. (1995). *Curtea de Conturi – Curte Constituțională a sistemului financiar* [Court of Accounts - Constitutional Court of the financial system]. *Buletinul informativ al Curții de Conturi* [Newsletter of the Court of Accounts], 1–2, 41-47.

The Court of Accounts of Romania. (2011). *Ghid de evaluare a sistemului de control intern în entitățile publice* [Guide for evaluating the internal control system in public entities]. https://www.yumpu.com/ro/document/view/15586751/ghid-de-evaluare-a-sistemului-de-control-intern-curtea-de-conturi

The Romanian Parliament. (2002). Legea nr. 672 din 19 decembrie 2002 privind auditul public intern republicată [Law no. 672/2002 regarding the internal public audit, republished]. *Official Gazette no. 953 of December 24, 2002*, republished in the Official Gazette, Part I no. 856 of December 5, 2011. https://legislatie.just.ro/Public/DetaliiDocument/40929

Voinea, M. C. (2016). *Auditul intern. Între teorie şi practică* [Internal audit. Between theory and practice]. Pro Universitaria.