

CORPORATE GOVERNANCE IN ROMANIA: FROM REGULATION TO IMPLEMENTATION

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ABSTRACT

In Romania, the requirements on corporate governance are relatively recent compared to other member-states of the European Union, as they have been introduced in the national legislation since 2006. The objective of the present study is to assess the implementation, at this initial level, of the current relevant regulations. For this purpose, the research aimed at investigating the opinions of the Romanian public interest entities regarding the forms of control/audit applied in these entities and to point out the corporate governance practices in these entities with a precisely defined legal status. The study was carried out in 2009 and is based on empirical research methods. The questionnaires that were launched, collected, processed and analyzed were answered by representative public interest entities such as credit institutions, non-banking financial institutions, private pension funds, listed entities, national companies and societies.

✦ *corporate governance, public interest entities, empirical research, Romania*

INTRODUCTION

Solid corporate governance, understood as the set of relationships between the company's management, the board, the shareholders and other stakeholders, contributes to better financial performance, improves the access to capital markets and to sources of financing and implicitly increases the wealth of the shareholders, as well as the sources of incentives for employees. The international literature and especially the German and Anglo-Saxon literature show great interest in this field.

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In Romania, corporate governance can still be considered a relatively recent research area. Moreover, the legal requirements regarding the introduction of corporate governance are relatively new (under five years) if we consider mainly the amendments to the Company Law starting with 2006 until present days. However, the national literature in the field comprises different studies that analyze the concept of corporate governance, the history of this concept, aspects regarding corporate governance in reference countries such as U.K., Germany and Japan, corporate governance in relationship with internal audit etc. On the background of these previous studies, the originality and the novelty of the present research consist in the fact that its objectives are to establish to which extent the regulations regarding corporate governance are known, understood and implemented in the Romanian public interest entities.

For the purpose of achieving the research objectives, a selective research method was used. In 2009, questionnaires were launched to public interest entities: credit institutions, non-banking financial institutions, private pension funds, entities having their securities traded on a regulated market, and national companies and entities. The answers were formulated mostly by qualified persons: managers, members of the audit committees, members of the board, executive directors etc. Data processing was carried out with the support of the institute IRECSO – IRECSOND (Bucharest).

The paper is structured as follows: the first section contains a review of both the international and the national literature. The second section describes in detail the research design, while the third section presents the results of the study. The section of discussions and conclusions summarizes and discusses the main aspects identified during the research, presents suggestions for solving the identified problems concerning corporate governance and mentions the limits of the research as well as directions for future research.

1. LITERATURE REVIEW

Both at national level and at international level, the topic of corporate governance is of great interest. According to the Organization on Economic Co-operation and Development (OECD), corporate governance comprises a country's public and private institutions, both formal and informal, which together govern the relationship between the people that manage companies and all others who invest resources in the country's companies. Corporate governance implies the existence of a set of relationships between a company's management, the board, its shareholders and other stakeholders. At microeconomic level, solid corporate governance stimulates the management of an entity to follow the objectives that are in the interest of shareholders, and facilitates monitoring. At macroeconomic level, effective corporate governance systems provide a level of confidence necessary in

the market economy. Due to the importance of this field, the international literature comprises a diversity of studies on corporate governance, such as qualitative, conceptual, theoretical and empirical studies.

On one hand, from a theoretical perspective, research such as that of Jeffers (2005), Donker and Zahir (2008) and Letza *et al.* (2008) analyze different corporate governance models, among which the most discussed ones are the *shareholder model*, which gives priority to the interests of the investors and is typical for Anglo-Saxon countries (U.K. and U.S.) and the *stakeholders model*, which recognizes the interests of the employees, the managers, the suppliers, the clients and the community, model which is present in Europe and Japan and is typical for the German capitalism structured around the relationship between banks and industry. In fact, corporate governance models vary depending on the economic and political environment and the investment culture of those regions. Therefore, there are studies such as that carried out by Bhasa (2004) which distinguish between four models of corporate governance, depending on the characteristics of the economies in certain countries and geographical areas: market centric governance model (in U.K. and U.S.), relationship-based governance model (in Korea, Germany, France, Japan), transition governance model (in countries in Central and Eastern Europe and newly independent countries) and the emerging governance model (in India and Taiwan).

On the other hand, empirical studies on corporate governance are also numerous in the international literature. For instance, corporate governance and in particular corporate control mechanisms in thrifts (a category of non-banking financial institutions) were investigated (Cook *et al.*, 2004). Moreover, the topics of the large area of corporate governance that were researched in an empirical manner are: the relationship between corporate governance and firm performance (Bhagat & Bolton, 2008); how investor perceptions on corporate governance initiatives affect corporate value (Alexander *et al.*, 2007); co-evolution of politics and corporate governance (Belloca & Pagano, 2009); financial accounting information, organizational complexity and corporate governance systems (Bushman *et al.*, 2005); the impact of corporate governance on Internet financial reporting (Kelton & Yang, 2008) etc.

Corporate governance was also investigated in the Romanian literature, although the interest for this topic arose rather recently. There are studies on the history of corporate governance (Dragomir, 2008), comparative studies on audit quality control and corporate governance in the European Union (Dobroțeanu *et al.*, 2008), studies that analyze this concept and the related theoretical models (Popescu-Bogdănești, 2005), as well as studies on the capacity of the administrator within both unitary and dual systems (Stoica & Cristea, 2010). At national level, studies that present aspects on corporate governance in representative countries such as U.K., Germany and Japan were also carried out (Feleagă & Feleagă, 2008; Robu &

Vasilescu, 2005), as well as debates on corporate governance in banks (Țurlea *et al.*, 2010a).

Additionally, corporate governance was investigated in connection with internal auditing (Morariu *et al.*, 2008), as well as in the context of the crisis (Manolescu & Lepădatu, 2009). However, as far as the authors are aware of, until the study presented in this article, within the Romanian academic space no research was carried out (and much less an empirical research) that emphasizes the degree of compliance with the minimal requirements on corporate governance comprised in the legislation of public interest entities.

With regard to the **hypothesis development**, the authors based their judgment not only on the existing literature in the field, but also on the recent legislative changes and on the voices of professionals. **First of all**, it is assumed that public interest entities are aware of their status established through the provisions of the Accounting Law 82/1991 republished:

***Hypothesis 1:** Public interest entities are aware of their status established through the provisions of the Accounting Law 82/1991 republished.*

The rationale of this assumption consists in the fact that the law is available to all interested parties and it is very clear and specific in defining the status of “public interest entity”. Since each entity ought to be properly informed about the relevant legislation and its status according to the legal provisions in force, this hypothesis appears to be completely justified. Moreover, the question of status awareness is a *sine qua non* condition for the further investigation of the requirements addressed to public interest entities as a consequence of their specific status.

Second of all, authors presume that there is a lack of awareness within public interest entities regarding the importance, the functions and the objectives of managerial control. It is expected that the survey’s results show confusion among public interest entities regarding the types of control and the functions and the objectives of each of them.

***Hypothesis 2:** There is a lack of awareness within public interest entities regarding the importance, the functions and the objectives of managerial control.*

On one hand, these expectations are substantiated by the fact that managerial accounting and control have been only recently introduced in the Romanian legislation, by comparison with other countries (Caraiani & Dumitrana, 2008: 13). Confusion may also be generated by the organizational theories that have influenced over the years managerial control, as identified by Albu and Albu (2003), among which we mention the influences of the engineering school, the

human relationship school and the modern school. As such, it is hypothesized that public interest entities are not fully aware of the importance, the functions and the objectives of managerial control, especially with respect to its role in performance management.

Third of all, another research hypothesis is that not all objectives of internal control are understood and implemented by public interest entities.

Hypothesis 3: Not all objectives of internal control are understood and implemented by public interest entities.

The main reason for testing this hypothesis refers to the Romanian legislative environment on matters of internal control. Until the issuance of the Order of the Ministry of Public Finance no. 3055/2009 which approves the accounting regulations complying with the European directives and is applicable since the 1st of January 2010, there was a regulative gap with respect to internal control, since no clear requirements on its objectives regarding application, assessment and accountability existed. Thus, it is assumed that neither public interest entities properly understand and implement internal control, due to time shortage in adapting to the new and detailed legal provisions.

The fourth hypothesis questions the awareness of public interest entities of the value-added role of the internal audit function.

Hypothesis 4: Public interest entities are not aware of the value-added role of the internal audit function.

The grounds for the development of this hypothesis is that over the years, the international literature in the field has persistently attempted to promote a change of paradigm regarding the role of internal audit, respectively, the defection from the traditional approach of internal audit – seen as a simple administrative procedure – and the adoption of a more proactive approach, in the direction of creating added value (e.g. Bou-Raad, 2000). According to Hass *et al.* (2006), at present, the internal audit department changes its function, offering services centered on prevention rather than detection, whereas internal audit and the entity's management work in partnership. Thus, the control-based approach is dropped out in favor of a counseling and risk-based approach, thus adding value to the audited entity (Țurlea *et al.*, 2010b). However, it is only natural that there is a gap between the ideas promoted by the academic literature and the practical implementation of these ideas, especially within the still fragile Romanian economic and legislative environment. As such, the present research presupposes a lack of awareness regarding the potential of internal audit as value-adding function of public interest entities.

According to the fifth research hypothesis, there are deficiencies in the functioning of the audit committees of public interest entities. Additionally, **last but not least**, it is hypothesized that the communication between the statutory auditor and the audit committee of public interest entities is defective.

Hypothesis 5: There are deficiencies in the functioning of the audit committees of public interest entities.

Hypothesis 6: The communication between the statutory auditor and the audit committee of public interest entities is defective.

The concern about the topic of the audit committee displayed by the international body of research reveals the importance of this corporate governance mechanism, which is responsible, among others, for monitoring (a) the financial reporting process, (b) the financial audit activity, (c) the efficacy of the internal control, internal audit and risk management systems. Therefore, it was mandatory that our research on corporate governance in public interest entities dealt with the activity of the audit committee, too. Additionally, the international literature in the field raises questions related to the efficiency of the audit committee, as well as to its relationship with the external auditors. For instance, DeZoort *et al.* (2002) and Beasley *et al.* (2009) deal with the efficiency of the audit committee. Moreover, there are studies regarding the role of the audit committees in managing the relationships with the external auditors of the entity (Hoitash & Hoitash, 2009) and the relationship between the characteristics of the audit committee and ending the collaboration with the financial auditor, both at the initiative of the entity (Carcello & Nea, 2003) and at the initiative of the auditor (Lee *et al.*, 2004). Since sensitive aspects in the functioning of the audit committee are identified even in economic and geographical areas with a longer corporate governance tradition, it is assumed that in Romania, too, there are deficiencies in the functioning of the audit committees of public interest entities and in the communication of the audit committee with the statutory auditor, especially on the background of the novelty of the relevant legislation.

2. RESEARCH DESIGN

The research on „Corporate Governance of Public Interest Entities” was launched and carried out during 2009 and comprised representative public interest entities, namely: the credit institutions, the non-banking financial institutions, the private pension funds, the entities whose securities are traded on a regulated market, the national companies and entities. The structure of the sample is presented in the table below. More than 50% of the sample comprised trade companies, followed by credit institutions (18.14%) and non-banking financial institutions (16.09%).

Table 1. Legal form of the entities in the sample

	%
National companies/national entities	6.67
Trade companies	51.48
Credit institutions	18.14
Insurance companies	3.81
Non-banking financial institutions	16.09
Other form (mention that form)	3.81
TOTAL	100.00

The set comprises entities with the clearly defined status of „public interest entities”, so that the sample is representative for all entities that build up this category (as defined by the Accounting Law 82/1991). The total size of the sample is of 105 entities, representing approximately 20% of the total population.

The field data were gathered using several methods: through direct data gathering, through regular mail or on-line. Data processing was made based on a SWOT analysis, with the support of the institute IRECSO – IRECSOND, support which insured an increased quality of the resulting data.

The questionnaire was drafted so that all objectives initially set to be achieved. It included both close-ended and open-ended questions, in order to find out other opinions of the respondents (employees), too. Some questions have alternative pre-defined answers, in order to receive accurate information on a specific research objective.

The investigated aspects referred mainly to: the organization of internal control and managerial control and the objectives of these forms of control in the surveyed entities, exerting internal audit and statutory audit as independent forms of control, the way specific requirements are followed in these areas of auditing, the allocation of resources necessary to the audit activity of the entity and the way auditors make appropriate recommendations for improving the corporate governance process etc.

3. RESEARCH FINDINGS

This section presents the findings of the research in connection to the hypotheses described above. The questions were mostly answered by qualified persons: managers, members of the audit committees, members of the board, executive directors etc. Following the analysis of answers, most of the research hypotheses were validated.

3.1. Are public interest entities aware of their status established through the provisions of the Accounting Law 82/1991 republished?

Article 34² of the Accounting Law no. 82/1991 republished defines public interest entities as being: credit institutions; non-banking financial institutions, defined according to the regulations and registered in the General Registry; insurance companies, companies of insurance and reinsurance and reinsurance companies; entities authorized, regulated and supervised by the Private Pension System Supervisory Commission; investment management companies and undertakings for collective investment – authorized/approved by the Romanian National Securities Commission; trade companies whose securities are traded on a regulated market; national companies and entities; and legal entities that belong to a group and are part of the consolidation area by a parent company which applies the International Financial Reporting Standards.

As explained in the research design section, the sample comprises entities with the clearly defined status of „public interest entities”. However, surprisingly, more than 30% of the respondents are not informed about their status of public interest entities set through the provisions of the Accounting Law no. 82/1991 republished. What is more, some entities incorrectly mentioned the legal basis that establishes the status of public interest entity, namely the provisions of the Order of the Public Finance Ministry 907/2005, which at this date is not in force anymore, instead of mentioning article 34² of the Accounting Law no. 82/1991 republished. Consequently, the first hypothesis was **invalidated** by the empirical findings.

3.2. Is there a lack of awareness within public interest entities regarding the importance, the functions and the objectives of managerial control?

Managerial control can be defined as an important function of performance management. However, only 35.24% of the respondents declared to have organized a distinct department of managerial control, and 60% did not organize such a department. Worth noting is that a percentage of almost 4.76% are not even aware of the importance of this type of control.

The **functions** of managerial control are known by only approximately half of the surveyed persons. It was found that 69.52% of the respondents are aware of the fact that managerial control ensures control over the use of resources, while 50.48% consider that it is an important function in performance management, and 40.95% say that it increases the motivation of the persons in charge.

The mission of managerial control is mainly achieved by the use of budgets and action plans, which reveals a short-term focus in this area. The following **instruments** are put into place in the entities of public interest: budgets (83.81% of the surveyed entities), action plans (69.52% of the respondents), operational plans

that define the strategic objectives for approximately 3 years (65.71% of the respondents) and strategic plans that comprise the aims and objectives over a period of 5-10 years (48.57% of the surveyed entities).

For more than half of the respondents (52.38%), the **objective** of managerial control is to ensure the coherence of organizational control which is exerted by assessing the reliability and the quality of the decisional process at the level of the entity by integrating all its dimensions: structure, decisional procedures, actors' behavior, entity's culture. A similar percentage (51.43% of the respondents) considers that managerial control ensures the achievement of strategic objectives in the day-to-day administration. Some entities (42.86%) also agree that managerial control contributes to accomplishing these objectives, but without a managerial control function being explicitly set in the organizational chart. A relatively high the percentage of the respondents states that the entity does not have in view the achievement of the strategic objectives (13.33%).

Managerial control operates with **instruments** of budgetary administration (budgets and budgetary control) in most of the interviewed entities (80%). Instruments of cost calculation (managerial accounting, computing and cost analysis) are used by 58.10% of the respondents, while indicators of performance management are used in 55.24% of the surveyed entities. A smaller percentage, namely 37.14%, use dashboards as instrument for modeling performance, for improving performance management in decentralized entities, assessing performance and favoring internal communication. A significant percentage of 7.62% use other instruments that are not identified in the survey.

Regarding the implementation of **a procedure for performance measurement**, the situation revealed by the study is critical, especially that the entities subject of the survey are public interest entities, and the procedures for performance measurement should have already been implemented by their managers. The ones that do not use any procedures represent 20% of the interviewed ones and thus approximately a quarter of the researched entities does not use or does not even know that there are procedures for performance measurement.

Consequently, research has found that almost 5% of the surveyed public interest entities are not aware of the importance of managerial control, while its functions are only known by around half of the surveyed persons. A relatively high percentage of the respondents states that the entity does not have in view the achievement of the strategic objectives and therefore is not aware of the role managerial control plays in this respect. Moreover, a quarter of the respondents does not use or does not even know that there are procedures for performance measurement. As such, the second hypothesis was **validated**.

3.3. Are all objectives of internal control understood and implemented by public interest entities?

Control in general and internal control in particular represent critical corporate governance mechanisms, especially in public interest entities. The interviewed companies declared that their most frequent form of control is internal audit (92.38%), followed by internal control (86.67%) and statutory audit (83.81%). Managerial control is on the last place (52.38%). However, it may be noted that a percentage of 19.05% of the control forms in some entities is represented by „Other forms of control”.

Asked to name what are the other forms of control exerted, the respondents stated that the most frequent form is operational control and managerial financial control, whose object is the existence, the integrity, the maintenance and the safeguarding of goods and values of any kind and held under any condition and the use of material values of any kind, the decommissioning of goods and so on.

In reality, these forms of control are part of the internal control that needs to be exerted within each entity. The effective way of exerting these internal controls and their effects on the management of the entity must be checked by internal auditors, under conditions of independence and objectivity, in entities which are explicitly mentioned in the legislation. Therefore, the research reveals a state of confusion regarding the types of control in general and internal control in particular.

Additionally, the respondents were asked to mention which of the elements belonging to the system of internal control are applied in their entity. The answers are presented in table 1, as follows:

Table 2. Structure of the elements of the control system

	%
- the existence of a control environment;	69.52
- identification and measurement of risks;	85.71
- control activities and separating functions;	82.86
- informing and communicating;	84.76
- activities of monitoring and correcting deficiencies.	85.71

One can notice that almost all the elements of the internal control system are applied in all entities of the sample in a percentage of more than 80%, except for the existence of a control environment (69.52%). These answers show the insufficient awareness of the fact that each entity must represent a control environment as a consequence of the general and specific risks generated by its activity.

The most common **objectives** of internal control in the surveyed public interest entities are the objectives regarding the compliance with the laws and regulations in force (see table 2). The performance objectives (efficiency and effectiveness of the activities), as well as the objectives regarding the information, namely the relevance, the credibility, the completeness and the opportunity of the financial and administrative information are both at the level of 73.33%, while the category of other objectives has a percentage of 13.33%.

Table 3. Structure of the control objectives

	%
- performance objectives	73.33
- objectives regarding information	73.33
- objectives regarding compliance	95.24
- other objectives	13.33

Additionally, the research also reveals what are the objectives of the internal control on matters of accounting and financial information within the surveyed public interest entities, as presented in table 3. The main objective of internal control regarding the compliance of accounting and financial information with the relevant accounting rules has the highest percentage of 92.38% according to the data in table 3. The other objectives have a percentage of more than 85% on average.

„Other objectives” have a percentage of almost 6% and include, in the opinion of some entities, diminishing losses, avoiding the occurrence of operational risk events, maintaining return rate, profitability, operational security, maintaining the brand image of the entity etc.

Table 4. Structure of the objectives of the internal control on accounting and financial information

	%
-compliance of the accounting and financial information with the accounting regulation in force;	92.38
- applying accounting policies and procedures set by the entity's management;	87.62
- protecting the entity's assets;	81.90
- preventing and detecting fraud and accounting irregularities;	88.57
- reliability of the disclosed financial and accounting information;	78.10
- other objectives (please mention).	5.71

We consider that, based on the formulated answers, it can be concluded that, although the great majority of the entities correctly understood the objectives of

internal control, their actions will still be considered fully coherent when each entity will understand to set for itself the first five objectives nominated in their entirety. Concluding, the third hypothesis was **confirmed** by the research, too.

3.4. Are public interest entities aware of the value-added role of the internal audit function?

First of all, public interest entities were asked whether they set up an internal audit function. A percentage of 89.52% of the respondents declares that the internal audit activity is organized in their entity, and approximately 5.71% state that this activity is not organized. Significant is also the percentage of 4.76% that respond that do not know whether internal audit is or not organized in the institution. The answers „No” or „I don’t know” given by more than 10% of the respondents are surprising if we consider their status of public interest entities, in which, according to the legal provisions, the internal audit function must exist.

The respondents that confirmed the existence of the internal audit function in their entities were also inquired about whether this function is independent and objective and effectively contributes to adding value to the activity of the entity. The majority of the interviewed entities, namely 87.62% state that it contributes to adding value to the entity’s activity. In the opinion of some respondents, the added value is generated by the objectives of the internal audit function, among which essential are: testing the degree of adequacy of the control systems, mechanisms and procedures, consulting the management in achieving the entity’s objectives, assistance in assessing and managing risks etc. The answers „No” and „I don’t know” reflect the management’s mentality of some entities with respect to applying certain legal provisions (in this case organizing the internal audit function), but also the lack of interest regarding making periodical assessments on the added-value effect that internal audit could bring to the entity.

Important for adding value to the entity are also the knowledge and competence of the internal auditors. Most of the respondents (87.62%) consider that the entity’s internal auditors have the necessary knowledge and competence for discharging their individual responsibilities and for detecting fraud. The percentage of the ones that do not know what to answer is almost the same as in case of the previous question discussed. The answers of „no” and „I don’t know” given by more than 12% of the respondents identify a situation that needs to be analyzed (from case to case) with respect to the independence and objectivity of the internal auditor, requirements that can be attained and kept through the professionalism and the ability to detect important malfunctions and to suggest pertinent recommendations, having in view the interest of the entity’s development.

Part of the value-added role of the internal audit function is also its responsibility for assessing and making adequate recommendations aimed at improving the corporate governance process. Asked whether in their entity there is such a

contribution of the internal audit function to improvements of the corporate governance process, a percentage of 15.24% of the ones surveyed gave a negative answer, while approximately 10.48% stated they did not know whether internal audit plays or does not play a role in assessing and improving the corporate governance process.

The percentage of approximately 26% of non-positive answers reveals an inadequate situation if we consider the fact that, in the entities that, according to the law, are subject of internal audit, the periodical reports on the internal auditing results regarding all structures of the entity, with the corresponding recommendations to the decision factors, must reach the members of the board, namely managing board and supervisory board, and, if the case, to the audit committee, all these having the obligation to permanently monitor the receptiveness of the entity's management to the recommendations of the internal audit.

However, the majority of the respondents (74.29%) declare that the internal audit function assesses and makes adequate recommendations for improving the corporate governance process. According to the study, the recommendations of the internal auditors refer to a number of aspects (see table 4).

The analysis of the information in Table 4 reveals that for more than 25% of the researched entities, it is not a priority to promote adequate ethical values (for instance hiring, promoting and motivating personnel on strictly professional criteria), and in case of almost 25% of the respondents it was found that there are still issues regarding the actual coordination of the entity and the communication between the decision factors.

Table 5. Structure of the actions of internal audit

	%
- promoting adequate ethical values within the entity;	73.07
- ensuring that the entity's management becomes aware of its responsibilities and operates efficiently;	84.61
- communicating risks and information resulted from the control of responsible structures within the entity;	93.58
- the way in which the coordination of the entity's activities and the communication of information to the managers, internal and external auditors, audit committee, and, if the case, to the board are actually performed.	75.64

The questionnaire sent to the public interest entities also inquired whether the respondents consider that the persons charged with the internal audit activity have

allocated the resources necessary for following the approved audit plan and have established the policies and procedures that provide an adequate framework for the internal audit activity. 80.95% of the surveyed persons consider that the ones responsible for the internal audit activity have allocated the necessary resources. However, a rather high the percentage of the respondents are not aware what happens with this activity (15.24%).

Summarizing, it seems that public interest entities are not fully aware of the added-value role of the internal audit function, thus the fourth hypothesis is also **validated** by the conducted survey. There are entities in which the internal audit function does not even exist or the ones questioned are not aware of its existence. The research also detected a lack of interest with respect to making periodical assessments on the added-value effect that internal audit could bring to the entity. Additionally, only three quarters of the respondents declare that the internal audit function assesses and makes adequate recommendations for improving the corporate governance process.

3.5. Are there any deficiencies in the functioning of the audit committees of public interest entities?

According to article 47¹ of the Government Emergency Ordinance no. 90/2008 on the statutory audit of annual financial statements and consolidated financial statements, public interest entities must have an audit committee. However, at the question whether an audit committee functions in the entity, the answer is divided almost evenly: 46.67% answer „yes” and 44.76% answer „no”. A percentage of 8.57% state that do not hold information whether an audit committee exists or not. In some entities, the audit committee, although set up, is not yet functional.

The respondents that answered affirmatively to the question regarding the existence of an audit committee in their entity were also asked to mention whether at least one member of the audit committee is independent and has competence in accounting and/or audit, as required by the same article 47¹. A percentage of 81.64% of the interviewed ones state that this condition is fulfilled, 2.04% gave a negative answer, while 16.32% say they do not know.

The Government Emergency Ordinance no. 90/2008 on the statutory audit of annual financial statements and consolidated financial statements stipulates the functions of the audit committee. These functions include: monitoring the financial reporting process; monitoring the effectiveness of the systems of internal control, internal audit and risk management; monitoring the statutory audit of annual financial statements; and last but not least, checking and monitoring the independence of the statutory auditor and the potential situations in which he/she delivers additional services to the audited entity.

Firstly, 51.43% of the respondents state that the financial reporting process is monitored, while 41.90% do not know about this activity. Asked to make other comments, the respondents say that this audit committee will follow the provisions of the Government Emergency Ordinance 90/2008 after its being set up or when the already set up committee will become functional. **Secondly**, a percentage of 51.43% of the surveyed entities state that, among the tasks of the audit committee, there is also the request of monitoring the effectiveness of the systems of internal control, internal audit and risk management, while 6.67% do not have this component, and 41.90% are not aware of this aspect.

Thirdly, asked whether the audit committee is involved in monitoring the statutory audit of the annual financial statements, the answer is in proportion of 51.43% positive and 10.48% negative. There is still a high percentage of 38.10% of the ones that do not know. **Lastly**, the questionnaire also investigated the opinion according to which the audit committee is involved in checking and monitoring the independence of the statutory auditor and of the potential situations in which he or she delivers additional services to the audited entity. Thus, 49.52% have a positive opinion regarding this activity, while 8.57% categorically answer that the independence of the statutory auditor is not monitored, and an overly high percentage, namely 42% declare they do not know.

All the ones asked for other opinions mentioned that the audit committee must follow, in the end, the provisions of the Government Emergency Ordinance no. 90/2008. However, the answers show a great disinterest and several deficiencies in the functioning of the audit committees of public interest entities. Consequently, the fifth research hypothesis was **confirmed**. An explanation for the answers with „no” or „I don't know” of almost 50% of the respondents may be the fact that the national regulations that include the tasks of the audit committee are rather recent (Government Emergency Ordinance 90/2008). Moreover, the disinterest in this area could also be explained by the lack of sanctions in case of not observing the legal regulations.

3.6. Is the communication between the statutory auditor and the audit committee of public interest entities defective?

Following the research, it was found that only approximately one third (32.38%) of the respondents are aware that the statutory auditor reported to the audit committee the essential aspects that resulted from the auditing process and the significant deficiencies of the internal control regarding financial reporting. The same percentage of surveyed persons answered negatively to this question, revealing that the auditor did not communicate on such topics with the audit committee. Additionally, a percentage of 35.24% of the respondents stated their lack of awareness regarding the communication between the statutory auditor and the audit committee. The answer „I don't know” of more than 35% of the respondents can

be considered to be stemming from the limits of the access to information of the persons that filled in the questionnaire.

The most representative comments regarding the relationship between the financial audit and the audit committee are presented below:

- the financial auditor reports to the audit committee the aspects identified during the statutory audit without presenting material deficiencies of internal control with regard to financial reporting;
- not having an audit committee, the statutory auditor sends a letter to the company's management with the purpose to inform management on some aspects found during the performed audit;
- the financial audit reports the deficiencies found by the company's management;
- the statutory auditor reports to the board the essential aspects that result from the statutory audit regarding the material deficiencies of internal control;
- the audit committee was set up and until the date of filling in this questionnaire no reporting to the financial audit was made.

These findings show fallacies in the communication between statutory auditors and those charged with corporate governance of the audited entities, thus the sixth research hypothesis is also **confirmed**.

DISCUSSIONS AND CONCLUSIONS

The results of the present research on the corporate governance mechanisms in Romanian public interest entities are somewhat worrying. The main conclusions of the study, with reference to the six main research hypotheses, are that: (1) at the date of the research, some Romanian public interest entities were not aware of their status established through the provisions of the Accounting Law 82/1991 republished; (2) there is a lack of awareness within public interest entities regarding the importance, the functions and the objectives of managerial control; (3) not all objectives of internal control are understood and implemented by public interest entities; (4) public interest entities are not aware of the value-added role of the internal audit function; (5) there are deficiencies in the functioning of the audit committees of public interest entities; (6) the communication between the statutory auditor and the audit committee of public interest entities is defective. The results of this study are also valuable for other countries (such as Bulgaria, Slovakia, Slovenia etc.) that may have similar experiences regarding the changes in the regulations relevant for the corporate governance of public interest entities.

In Romania, the legislative process regarding the organization and functioning of trade companies, in general, and financial institutions, in particular, has been profoundly influenced by the set objectives, those of obtaining the status of

member state of the European Union and consequently, of complying with the communitarian acquis, as well as with the recommendations of different organisms in the area. Therefore, the law on trade companies no. 31/1990 and the legislation specific for credit institutions, insurance companies, private funds, capital market, non-banking financial institutions and other categories of national entities and companies comply with the entirety of the requirements of the adherence treaty, European Directives, regulations, decisions and recommendations regarding their organization and functioning, on one hand, as well as with the requirements regarding the financial control and the organization of internal and external control that insures their going concern under predictability, relevance, credibility of financial information.

Most of the legislative requirements on the introduction corporate governance principles are relatively young (under five years) if we consider mainly the amendments made to the law on trade companies starting with 2006 and until today. This reality, connected to the fact that the Ministry of Justice as initiator of the law on trade companies does not have the obligation to issue norms for its application lead, as natural, to numerous situations of confusions and doubts regarding the implementation into practice. If we also consider the legislative inconsistencies regarding the responsibility of the decision-makers and the fact that, in Romania, unlike the majority of the member states of the European Union, there was no corporate governance code for companies and no culture in this respect, doubled by the fact that the regulations regarding the functions of basic components of corporate governance, such as internal control and audit committees appeared incomplete or with delay, we consider that the display of factors which emphasized confusion and lack of decision is almost complete.

In our opinion, both the deficiencies of the legal framework regarding internal control should be pointed out. Thus, the requirements of the Law on trade companies no. 31/1990 subsequently amended and republished are not explicit with regard to organizing and exerting internal control (the law refers to financial control and not internal control). Moreover, we consider that the Order of the Ministry of Public Finance no. 3055/2009 which approves the accounting regulations complying with the European directives and is applicable since the 1st of January 2010 fills a gap in internal control, in general, and in accounting and financial internal control, in particular, by comprising clear requirements on its objectives regarding application, assessment and accountability. Thus, this order details the components of internal control referring to the clear definition of responsibilities, internal dissemination of pertinent and reliable information for the adequate discharge of responsibilities, the existence in each entity of a system of risk identification and analysis and of procedures for risk management and explains its purpose to ensure the coherence of the objectives and to identify the key-factors of success.

We appreciate as very useful to the external auditors the requirements of these regulations with regard to evaluating internal control, especially with respect to the existence of guides and manuals of procedures, guaranteeing the evolution of the system of internal control, ensuring the possibility for the external control to access the system. This is why, in our opinion, the accounting regulations mentioned, that concern all categories of entities, should considerably help both the persons charged with corporate governance, the entities' management, as well as the financial auditors in establishing entities' internal control as essential factor in providing information that is reliable and in compliance with the legal provisions of the professional standards. At the same time, in our opinion, the Law on trade companies should be modified, so that the legal requirement regarding the responsibilities in organizing and exerting internal control to be clear and explicit.

An important role in enhancing the process of implementation of corporate governance in Romania is played by statutory audit, to which international auditing standards set, on one hand, clear responsibilities regarding the communication with those charged with governance stipulated by ISA 260 ("Communication with those charged with governance") and at the same time requirements properly defined by ISA 265 ("Communicating Deficiencies in Internal Control to Those Charged with Governance and Management") to communicate adequately the internal control deficiency identified in accordance with the professional judgment of each auditor to persons charged with governance and to the management of audited entities (IFAC, 2009).

These clearly defined responsibilities regarding the statutory auditors lead, in our opinion, to the need of permanent actions of the professional body (The Chamber of Financial Auditors of Romania) for analyzing and debating concrete aspects regarding the communication for the purpose of understanding the mutual advantages that follow from implementing solid corporate governance. Another issue that we consider to be essential at this date is the need to revise the appointment on political criteria of the persons with responsibilities in the area of corporate governance. The international literature points out that, for a high-performance management, such appointments should only be made on professional criteria.

Although the entities that are part of the sample have the status of „public interest entities”, the possibilities for deepening the research were limited, because the study focused on the compliance with the current minimal requirements in the legislation on corporate governance. We consider necessary to continue research and debates in seminars, conferences and literature, so that many of the current issues regarding: the need for a corporate governance culture, understanding the responsibilities persons charged with corporate governance have and the existence of training programs in the field are understood as priorities.

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