

THE STATE OF PRINCIPAL MATTERS CONCERNING THE COMMITMENTS' ACCOUNTING SYSTEM WITHIN THE PUBLIC INSTITUTIONS IN ROMANIA

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Throughout this work, the improvements brought by OMPF (Order of the Ministry of Public Finance) 1792/2002 for the approval of the methodological Norms are presented, with regards to the employment, liquidation, enactment and payment of public institutions' expenditures but also organization, evidence and account of budgetary and legal commitments through Order of the Ministry of Public Finance 547/2009 regarding its modification and addition..

The attempt is to bring clarifications with respect to delicate aspects, individual/global commitment, manner of processing the annexes to the financial situations, proper determination of the available resources before making the payments, calculation of the available resources in case of payments made in currency, the need of a budget for commitment credits.

Key concepts

Commitment credits, multiannual actions, commitment creits, budget, the commitments', reflection within the financial states' annexes .

The range of commitments' accounting organization

All public institutions, irrespective of their organizational form and the manner of financing the expenditures, have the obligation to:

- organize the accountancy of the legal and budgetary commitments;
- observe the procedures for going through all the 4 stages of the expenditures' budgetary execution, respectively the commitment, clearance, authorization and expenditures' payment.
- organize, run the accountancy and the report of budgetary and legal commitments starting with the budgetary year 2003, based on the normative act of the Order of the Ministry of Public Finance no. 1792/2002 for approving the Methodology norms on the commitment, clearance, authorization and expenditures' payment of public institutions, as well as the organization, clearance and report of budgetary and legal commitments.

Sensitive matters-deriving from the general framework

at organizational level

The managerial circuit regarding the commitments activity is based on the principle of **separating the attributions** of the people that have the capacity of credit release authority from the attributions of the people that have the capacity of accountants.

Credit release authorities for the budgets mentioned in art.1 para.(22) in Law no.500/2002 are authorized to commit, clear and authorize expenditures throughout the budgetary exercise, within the limit of the approved budgetary credit, while the payment of the expenditures is carried out by the people that, according to the law, bear the general title of accountant.

There was a need to re-approach the following concepts: commitment credit, budgetary credit, multiannual actions defined like this:

“The commitment credit represents the maximum limit of the expenditures to be made during the budgetary exercise and within the aptoved limits.

The budgetary credit is the budget approved sum, representing the maximum limit for the enactment and payment during the budgetary year of the commitments contracted during the budgetary exercise and/or from previous exercises for multiannual actions, respectively budget payments for other actions can be engaged, enacted and executed.

Multiannual actions represent programmes, projects and other similar actions occurring on periods longer than one year and which generates credit commitments and budgetary credits”.

Among the multiannual actions according to budget financed actions (with the greatest impact due to the sums and number of implementing beneficiaries) the following can be listed:

- programmes of public investment which are presented in the budget annexment of main credit regulators;
- programmes financed through irredeemable pre-adherence external funds, as well as projects and programmes financed through irredeemable post-adherence external funds afferent to European Union Cohesion politics, common agricultural and fishing politics but also other post-adherence facilities and instruments.

Funds afferent to multiannual actions will consist in commitment and budgetary credits, in budget annexments of main credit regulators.

-at activity fusion level

The budget annexes become the basis of sums extraction representing the commitment credits afferent to multiannual actions and are an integrant of these.

The specific operations of commitment, clearance and authorization of the expenditures fall in the competence of the credit release authority and are carried out based on the specialty compartments’ permits of the public institution according to art. 53 para.(3) in Law no. 500/2002 regarding public finances.

According to the legal frame, the unit leaders/managers may delegate competencies to the people with whom they collaborate, may designate people within the respective unit to carry out certain tasks, with the observance of the legislation in force, of the organization and functioning regulations.

The need to have a clearer definition of certain aspects can be noticed, especially regarding: delimitation direction within the leadership department

Definition of competence (from competence delegation):

It represents the transfer of competence to people in the organizational structure that may, based on the delegation act, commit the institution by legal acts with patrimonial consequences or may order the elimination of the obligations undertaken by the respective public institution by means of these legal acts.

delimitation direction within the execution department

The manner in which authorized persons are chosen, incompatibility situations among them:

the manager of the “economic directorate” **cannot** enter the category of “other empowered persons” because it is the leader of an operational organizational structure which in the process of the budgetary execution fulfills the attributions and competencies of a “specialty compartment” leader; the structure involved in certifying reality, regularity and legality of the created or asserted patrimonial operations, depending on the pertaining tasks from the Organization and Functioning Regulation

defining the specialty compartment:

it represents the organizational structure of the public institution where payment obligations based on public funds are created (in case of administrative acts or contracts) or are asserted (in case of laws, Government decisions, agreements, court orders).

In case of salary, benefits or corresponding contributions expenditures, the specialty compartment is the one that has attributions in calculating the salary rights and the corresponding contributions that draft the clearance documents (collective or individual payrolls), as well as Payment credit release.

Collaboration oriented (among different departments)

It is necessary to have the involvement of the legal specialty compartment in controlling, in a preventive manner, the legal aspect of the administrative acts, by the prior consulting notice, both exclusively for certain administrative documents and before exercising the preventive financial control visa. The consulting notice is part of the category of documents prior to adopting the legal deed, whose request is obligatory, but it does not involve the obligation to comply.

Practically, questions emerge due to article number 2 of the Order of the Ministry of Public Finance no. 547/2009 for the modifications and additions made upon the Order of the Ministry of Public Finance no. 1792/2002 for the approval of the methodological norms regarding the engaging, clearance, authorizing and payment of public institutions' expenditures, as well as regarding the organization, evidence and report of legal and budgetary commitments which stipulates that "The legal commitment's project is being presented for the proper preventive financial control visa alongside with the form <Proposal of engaging an expenditure within the limit of commitment credits> or alongside with the form <Proposal of engaging an expenditure within the limits of budgetary credits>, depending on the case, according to the models presented in annex no. 1a) and annex no.1b) in the present methodological norms", without specifying the role of juridical notification..

With respect to the specification on the preventive financial control part, it is necessary within the Omfp.1792/2002 to replace the phrase "person empowered to perform the preventive financial control" with "the person designated to perform the proper preventive financial control", replace the phrase "preventive financial control visa" with "proper preventive financial control visa" and specify what happens within forms (where the collocation is mentioned) and with the designated regulator.

The budgetary authorization is not global. This requires a *specialty* of the credit based on expenditures' categories.

Credit specialty is regulated by art.12 and art.2 in Law no,500/2002, according to which: "...budgetary expenditures are registered and approved in the budget by expenditures' categories, grouped according to their economic nature and their end use, according to the budgetary classification". provision harmonized with the Financial Regulation no.1605/2002 of the Council "the credits are specialized on titles and chapters, the chapters are subdivided in articles and positions.

Committing expenditures

Commitment represents the stage in which the institution creates legal obligations to third persons (legal commitment) and reserves the necessary budgetary credits for covering these obligations (budgetary commitments). Committing any expenditure has two aspects: legal commitment and budgetary commitment.

a). The legal commitment represents, according to the definition included in Law no.500/2002 at art.2 para.(3), "...any legal deed resulting into or that could result into an obligation based on public funds"

b) The budgetary commitment represents the deed by means of which necessary amounts for covering certain expenditures are reserved from the budgetary credits. Consequently, the approved budgetary commitments cannot exceed the approved levels of budgetary credits.

The budgetary commitments may be:

- individual budgetary commitments;
- global budgetary commitments.

For compliance with the approved annual credit limit, it is mandatory to reserve the committed budgetary credits for the payments that will be carried out in that budgetary year. The budgetary commitment by means of which the public funds were reserved for a certain use, within the limit

of the approved budgetary credits, precedes the legal commitment. Thus, the value of the legal commitments **cannot** exceed the value of the budgetary commitments and that of the approved budgetary credits by the incomes and expenditures budget.

The consequence of the introduction of accounts 8071 „Approved commitment credits” and 8072 „Employed commitment credits” is that budgetary and legal commitment accounts will work through different analytical programs for annual / multiannual actions so that the budgetary credits approved for each category of actions do not exceed the limit.

Depending on the nature of expenditures, their frequency, knowing the sum and supplier, a global or individual budgetary commitment is enacted.

The budgetary credit represents a payment authorization, and the commitment credit represents a commitment authorization which, in part, may generate payments in the future exercises as well.

It is necessary that the whole budget (not just the budget for multiannual actions – so far limited to investments, loans, irredeemable external funds) ceases to be a planning act strictly limited to a budgetary exercise, and to allow it to become of the commitment credits due to the existence of specific activity sectors, so as not to be in contradiction with the principles of commitments' accounting.

Similarly, in December, salary commitments and the corresponding contributions can only be highlighted within the limit of the budgetary credits. These are registered in the corresponding expenditures accounts in view of observing the basic principles of the commitments' accounting, which leads to differences.

Order 547/2009 does not solve the problem for these cases because they do not fall into the category of multiannual credits for this sort of activities.

Clearing expenditures

Clearing expenditures is the phase in the process of the budgetary execution where the existence of the commitments is checked, the reality of the due amount is determined or checked, the contingent liabilities of the legal commitment is checked based on justifiable documents attesting the respective operations. The operations of clearing expenditures are carried out by the credit release authority within the limit of the approved commitment / budgetary credits.

A special aspect that occurs in case of clearing the global service provision contracts is that the invoice is issued for a global service without detailing it on types of activities, case in which there can no longer be an exact assertion of the strict observance of the contract, complying per budgetary articles.

During this phase some sensitive matters remain:

- the global contracts, the need to justify through factures the delivered services through these contracts these contracts in order to provide the necessary information demanded by article 155, Law 571/2003 regarding the fiscal code;

- the requirement of a correlation with the evolution of the general framework regarding the vouchers, the expenditures' limits (for example: the elimination of the fiscal facture as a voucher)

Authorizing payment expenditures

Authorizing expenditures represents the phase within the process of the budgetary execution when there is a confirmation that the delivery of goods existed or that other accounts receivable were checked and payment can be carried out.

Authorizing payment is the internal documents by means of which the credit release authority orders the manager of the Financial-Accounting Compartment to draft the expenditures' payment instruments. This operation does not reflect in accounting, being strictly a managerial action.

On filling out the available resources in column 1 at the moment Annex no.3 "Payment Authorization" is drafted, it is recommended for the specificity of the data to take into account the budgetary commitments highlighted in account 8066 "Banking commitments" (former 950) but also the payment made in account 770 "Budget financing" (former 700) or in other available resources' accounts as the case may be; but also the expenditures that were committed, cleared and authorized before that did not appear as deducted in the bank statement at the moment of the draft, the amounts erroneously entering the account, the amounts undergoing clarification as well as the amounts reserved and employed for multiannual actions but which are due to payment that year.

If the Payment authorization is drafted for buying currency necessary to make external payments, the amount in ron or the equivalent in ron of the currency payment obligation is calculated at the exchange rate set by the National Bank of Romania valid on the date of the transfer of the amount for buying currency, with an additional insurance margin covering possible exchange rate differences for the period starting from the day of the transfer and the date of the external payment to the suppliers and to the other creditors, as well as possible commissions and other due costs.

Expenditures' payment

Expenditures' payment is the final phase of the budgetary execution by means of which the public institution is free of its obligations to third parties-creditors.

No payments regarding several subdivisions of the budget approved in one payment can be included, even if it is made for a sole supplier.

Until last year – sums representing advance payments unjustified by delivered commodities, executed works and provided services by the end of the year and recovered during the subsequent year by the public institution that authorized the advance payments, were being reimbursed to the budget granting them, levying afferent taxes and sanctions, according to the law.

For the time being, they are specified within the chapter or subchapter payments were made from the previous years and at title 85 „Payments made in previous years and recovered in the current year” and article 85.01 „Payments made in previous and recovered in the current year”.

In case the payments in RON represent the equivalent of sums in foreign currency, it is necessary that the paid RON sum be correlated with the engaged sum, because this one was made as a RON equivalent of a foreign currency sum.

Reporting commitments

Moreover, because of the commitment credits' need of reflection, a new column was introduced within the „Execution accounts – Expenditures”.

With regard to eliminate the confusions emerging in filling the „Execution accounts - Expenditures” (i.e. annex no. 7) the terms „Initial budgetary credits” were changed into „Updated budgetary credits” for the trimestrial reports, for the purpose of a correct filling with the last *approved* budget at the end of each trimester.

A special aspect to be considered in the annual report is the fact that the initial credits will be completed by the initial budget.

Recommendations:

It is recommended that a continuous analysis and necessary rectifications of the disposable employed for payment are made.

Particularly, it is important that the steps followed in multiannual actions are accounted for so that during the employment phase „Annex no.2 Individual / Global Commitment” is framed.

Having these reserved budgetary credits (in case they are due the current year) it is necessary to influence the available credits in column 1 „The disposable before payment” of the form „Payment authorization”.

Special attention must be paid to evidence according to analyzers of budgetary, legal commitments with the purpose of

- correctly report the available budgetary credits for employment
- correctly complete the mature balance account within the current exercise

Justificate at legislative level the aspects pertaining to the possibility of inclusion in the budget of the debts with December’s salaries and their attachments, of other similar situations, of the way credits were employed for current activities when an institution’s budget is made of integrate programmes.

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