

## AUDIT – GUARANTOR OF ETHICS IN THE MANAGEMENT OF PUBLIC INSTITUTIONS

### Dumitrescu Adelina

*National School of Political Studies and Public Administration Faculty of Public Administration 6, Povernei Street, Bucharest, Sector 1, Romania E-mail: adelinadumitrescu02@yahoo.com Phone: 0740 604 251*

*Nowadays we can hear more and more references to conflicts of interests, corruption, traffic of influence, and so on. The Romanian Press has literally shouted over the last few years about such cases, diminishing the already doubtful prestige of the Romanian Public Administration. Despite of visible efforts of the Government to solve these problems, efforts concentrating on founding of organisms and institutions powerful enough to fight against such phenomena, they still persist.*

*To apply a medical principle, one must first fight the cause of a disease and only then the effect; and let's be honest – corruption in the Public Administration is a severe disease.*

*As remedy for this disease and its causes we must take the internal audit into consideration, which can generate reports about infringements of the public servant at all hierarchical levels to the ethical and deontological norms of conduit.*

*Keywords:*

*Internal audit, Ethics, Infringement, Public servant, Management*

### 1. Introduction

Ethics and ethical behavior have always been a key player in setting up procedural standards in any field of activity. The first codes of ethics were introduced in ancient days within the military and medicine. The Hippocratic Oath can be considered the first attempt to establish a set of rules and guidelines for behavior in a field of activity. Codes of ethics come to complete legal regulations, infringements to these not necessarily putting the offender on the “wrong side” of the law.

Nowadays every métier has established a code of ethics, which is enforced by professional organizations, and every person who wants to be part of that organization, has to follow these rules in every aspect of his activity. Furthermore these organizations enforce their codes of ethics by granting the right to exercise ones profession only by being a certified member of these organizations. We can mention here for Romania: the Order of Architects (OAR), The College of Doctors, the Bar, The Body of Expert and Licensed Accountants of Romania (CECCAR), the Chamber of Auditors, and so on.

Ethics play a significant role also within the public administration. The public service is an activity meant to help all citizens of a nation, equally, without discrimination of any kind. The behavior of the public servant must be flawless at any level, starting from the management and ending with the last levels of the organization of public institutions. By obeying ethics within the public administration, an objective basis for the decision and the procedures within the public sector is being set up. Especially in the public sector, where money from contributors has to be spent in such manner that these contributors are given the basis for a normal, decent life, infringements to ethics are most dangerous and have to be avoided on a systematic level. In this regard, the Public Internal Audit has the means, the power and the responsibility of enforcing an ethical behavior within public institutions and avoiding infringements within the public service.

Infringements in the public service are to be considered any action, decision procedure or conflict of interests based on subjective criteria whose results can be considered an abuse of power, a fraud or any situation of inequitable behavior against one or more contributors<sup>68</sup>. Furthermore, this definition raises the problem of the moral integrity and personality of the public servant.

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68 Friedberg, A.: „The Role of State and Public Audit in Safeguarding Ethics in the Public Service: Whose Ethics? What Ethics?”, EBSCO Publishing, 2002, pag. 123 – 125.

This paper tries to define the institutional framework for the Public Internal Audit as guarantor of ethics in the management of public institutions and within the public service itself. Two issues have to be clarified:

- What is the place taken by the Public Internal Audit within the public institution?
- What are its interest fields and its limits?

One thing is sure: the Public Internal Audit cannot force the moral conduit in the institution in which it is done. This remains one of the duties of the management, still the audit can pull the right “strings” where infringements to ethical norms have been committed.

## 2. Ethics in the public sector

What do we understand under ethics in the public sector? Leaving a scholar approach aside for a few moments, and trying to give a more plastic definition, one can say that, ethics in the public service are the first weapon in assuring that public service is done for the benefit of the contributor.

There are some principal differences between the activity of a public and a private entity<sup>69</sup>. The public service is done for all contributors alike, regardless of the differences in wealth, social status, religion and so on, whilst private service is done for those who can afford it. This paper isn't meant to be a lecture for human rights, but there must be said that the public service must respect these human rights in its daily business.

Public service is all about helping the members of a society in their everyday problems. From healthcare, over daily travel to and from work and ending with culture, public service is present in every aspect of our lives, and influences us more or less, depending of the quality with which the public service is done. Therefore, the public servant must be, regardless of his rank and status within the organization, a keeper and defender of human rights, and his attitude must reflect the above mentioned quality and the desire to help every kind.

We cannot separate the moral integrity of the public servant from the moral integrity of the public manager, because the manager is the first person in the public institution who has to enforce ethics. Ethics starts from the top of the command chain of the public sector and is enforced downwards, so infringements have to be avoided from the top. In this regard, the High Court of Justice of The State of Israel had ruled: *„The political appointment is a breach of trust of the executive branch against the public. It can influence the public's confidence in the public service; it influences the equality of rights; it influences the professional standards of public officials, who are not demanded to prove, by tender, that they are the best. It can bring about a phenomenon characterized by preferring connections to qualifications; and politics in its narrow meaning turns out to be the major factor in the appointment. It can lead to the false organizing of a system, enabling the absorption of close political 'relatives' to speed up their advancement and to create unneeded jobs. It can corrupt the public moral integrity, unbalancing the stability and decreasing professionalism. It can harm the public servant's morale, influence the quality of the public service and hurt its image. In conclusion, the political appointment harms the basic principles of our judiciary system, our concept of values, our understanding of the essence of public service and of the social covenant, which is without a doubt the basis of our existence as human society.”*<sup>70</sup>

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69 Androniceanu A.: “Noutăți în managementul public”, 3rd edition, Ed. Universitară, Bucharest 2008, p. 19-21.

70 High Court of Justice 145/98, the New Labor Federation and the federation of Academics in Social Sciences and Humanities v. The State of Israel, the Minister of Construction and Housing and Shimon Einstein, Director of the Department for Rural Building, 5998, Para. 10.

There are seven criteria which define the moral conduit of a public servant and a manager as well<sup>71</sup>:

- Probity, meaning the correctness of the public servant/manager in fulfilling his duties;
- Dignity: under a material aspect, the public servant/manager is being paid to fulfill his function, and under a moral aspect, the servant has necessary authority, and is denied the right to degrade himself or his function;
- Interdiction of cumulus: the public servant may not have contrary interests to the administration he serves;
- Impartiality: for some public servants, like magistrates, policemen or military it is not permitted to be members of political parties. Because of the very late adoption of The Statute of The Public Servant<sup>72</sup>, political patronage of public institutions was possible;
- Subordination: public servants have the obligation to obey orders and instructions received from hierarchical superiors;
- Fidelity: the public servant must fulfill his duties to and for the interest of the Institution that employs him;
- Respect towards the function: the public servant must not surpass his function.

Even though the problem of the moral conduit it regulated by the Code of Ethics and The Statute of The Public Servant, we are confronted almost on a daily basis with infringements to these codes. The guarantor of ethics should be the management of the public institution itself, but it is exactly here where we find a conflict of interests: the manager is subject to the same infringements as the public servants. The need for an „independent external control”<sup>73</sup> of the moral aspects of the public service is under these circumstances obvious, and enters the field of the internal public audit.<sup>74</sup>

Another issue of the moral behavior of public institutions are local cultural aspects. Starter of the research in this field is considered Geert Hofstede, who has established a series of five criteria to define the cultural aspects of a society<sup>75</sup>, getting even more dangerous, if the society has an open attitude towards risk taking. Also what morality and ethics are concerned, a link to these criteria can be found. For example, it is a known fact, that cultures showing a large distance to power tend more to corruption than cultures with a short distance to power. Although Mr. Hofstede did not measure these criteria other authors too have studied local aspects of organizational culture<sup>76</sup>. For example, Romanian public servants consider that there is a high degree of inequality in Romanian public institutions, due to strong hierarchies and military-like leadership.

### **3. How can the Public Internal Audit guarantee the upholding of ethical and moral laws?**

The main issues which appear in the case of the Public Internal Audit are the following three:

What kind of audit should we consider for the issues of ethics?

How can we guarantee the authority of the internal audit in front of the manager of the public institution?

What are the limitations of the internal public audit?

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71 Profiroiu M., Parlagi A., Crai E.: “Etică și corupție în administrația publică”, Editura Economică, Bucharest 1999, p. 18-20.

72 Law no. 188/1999 republished in Monitorul Oficial nr. 365 / 2007 regarding the statute of the public servants.

73 As the German like to say: “Vertrauen ist gut, Kontrolle ist besser”. (It is OK to have confidence, but it is better to control).

74 An explanation has to be made at this point regarding the link made between the terms of internal audit and external control: the designator “external” refers here to the object of activity of the public institution. According to its definition, the audit is an independent activity within an entity, which is unrelated to the object of activity of that entity. The word “external” has to be read strictly as not being part of the main activity of the institution. Also, it must be mentioned, that there is a significant difference between audit and control. This paper, as it is structured, relates to internal audit, and not to internal control. That is why, the term of internal control is written between citation marks.

75 www.geert-hofstede.com .

76 Androniceanu A.: “Noutăți în managementul public”, 3rd edition, Ed. Universitară, Bucharest 2008, p. 302-313.

At a first glance, the answer to the first question is obvious: the best suited audit to evaluate ethics within public institutions is the performance audit<sup>77</sup>. Still, we have to ask, what are the role of the other two types of audit (regularity and system audit) in fighting infringements? In this regard we will raise the following question: how does nepotism affect the image of public institutions and their efficiency, efficacy and economic aspects?

Answers like the one of the High Court of Justice of the State of Israel are to be given in each case of infringement of the moral and professional rules of conduit. That is why, every type of audit can give information about infringements or can foresee situations where the public servant/manager can be tempted to break these rules. The audit as a whole has a regulating role within any entity and having to ensure the adaptability of the institution to every situation<sup>78</sup> and the weight of each of the three audit types in solving morality issues depends on the problem itself, yet has to obey the same Three “E” Principle.

What the authority of the public auditor in front of the management of the public institution is concerned, the problem is a bit more complicated. Nobody can deny the necessity of exerting authority over the object of audit. We are talking about the object of audit and not the subject of audit, because the audit is by nature an objective and not a subjective activity<sup>79</sup>. That is why a audit report makes reference only to institutions and not to persons. It often so happens that the manager mistakes the object of audit with the subject, giving birth to unnecessary conflicts sprung out of personal vanities or fears of any nature. Thus the problem has two different aspects:

- A psychological one, referring to the auditors personality;
- An institutional one, referring to the subordination relationship of the auditor to the manager.

The personality of the auditor on one side, and on the other, the accumulation of issues that appear to be infringements to moral integrity can lead to cardinal changes in the way the auditor approaches such phenomena. The problem of political appointments which has strongly contributed to the corruption of the public system, is in this case a very good example. The personality of the auditor, situated on a scale between active and passive, his horizons and his character have a huge influence on his decisions regarding to problems of audit, generally to public entities that have been audited in the past and particularly to issues of moral integrity<sup>80</sup>.

From the point of view of the institutionalization of the internal public audit, it must be said that the internal auditor has to have the same independence as an external one or a controller in order for his activity to have a sense and to give good results<sup>81,82</sup>. In this regard the guarantor of authority of the internal auditor is the statute of the internal public auditor, as stated in the Charta of the Public Internal Audit and in the Law of the Internal Public Audit<sup>83</sup>.

A third guarantor of authority for the internal auditor is the irreproachable moral and ethical conduit of the auditor itself. It is utterly unconceivable that an auditor whose conduit is less than spotless can make statements about ethics in public affairs of an institution. Although the Central Harmonization Unit for Public Internal Audit (U.C.A.A.P.I.) has the role to ensure the good conditions of the Public Internal Audit in public institutions in all aspects that are involved

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77 Ghiță, M., Popescu, M.; „Auditul intern al instituțiilor publice: teorie și practică”; Ed. Ceccar, București, 2006, pag. 101.

78 Dumitrescu A, “The Role of the audit in Optimizing The Spending of Public Funds” IESC 2009 Conference Proceeding, Sibiu 2009.

79 Law 672/2002; Monitorul Oficial, Nr. 953 din 24.12.2002 regarding the internal public audit.

80 Friedberg, A.; “The Role of State and Public Audit in Safeguarding Ethics in the Public Service: Whose Ethics? What Ethics?”; EBSCO Publishing, 2002, pag. 123 – 125.

81 Morariu A., Suciuc Gh., Stoian F., “Audit intern și guvernare corporativă”, ed. Universitară, Bucharest 2008, p. 148-150.

82 At least at a theoretical level. In practice this requirement proves itself very difficult to uphold because the internal auditor obeys the public manager.

83 Law 672/2002; Monitorul Oficial, Nr. 953 din 24.12.2002.

including the ethical-deontological one, we feel that the proper moral conduit of the auditor must not spring out of the fear of consequences, but out of one's own moral convictions and attitude.

The main issue in determining the field of interest of the auditor concerning the manager's behavioral study is determining those actions of facts that represent or will lead in the future to infringements to conduit rules of the public administration. Here we must take out of differentiate socially immoral or amoral behaviors from legally unethical behaviors, because it is not the duty of an auditor to examine morality aspects of the character of public servants/managers but the conformity of actions, decisions procedures and systems to ensure the objectivity of undertaken analysis and of the reported conclusions. On the other hand, when we spoke earlier about the moral behavior of the auditor as guarantor of his authority we meant the professional and the moral behavior as well. These issues play an important role in the quality of the audit<sup>84</sup>.

Jaques Renard<sup>85</sup> clearly distinguishes between the audit of management and management audit, meaning that the audit must not question the decisions of the public management nor must he intervene in either way in the decision making process, but he must analyze the decisions, procedures and methods and evaluate risks and consequences and to point them out to the management. The role of the audit when ethics are concerned relies thus in determining infringements to deontological norms, where such infringements have already taken place, and determining facts and decisions that could in the future lead to such infringements, and in bringing them and their consequences to the attention of the public management.

It is in this author's opinion that the auditor must know very well the mechanisms that work within the public institution, and furthermore to ensure that the management understands itself these mechanisms and that his actions<sup>86</sup> are compliant to these mechanisms but also with the ethical norms that rule his activity.

#### **4. Conclusions**

Infringements to deontological norms that are valid in public institutions are unavoidable. We do not necessarily believe that all infringements are premeditated, but more they come from misunderstanding an ambiguous and permissive legal framework. The consequences of such infringements are nevertheless in most cases extremely serious, for the public, seeing that the trust of the contributors in the administration is very low, and for the public servant breaking these rules as well.

It is of the duty of the management to impose the rules of deontological conduit and to ensure that these rules are followed by all public servants. Managers must themselves be guarantors of these rules within the institution they manage and the audit must pull on the emergency signals for possible infringements. This is why we consider that the Public Internal Audit must ensure the compliance of current activities of the institution without questioning the decisions of the management or interfering with daily business of public institutions. The audit cannot impose the moral conduit on public servants.

The auditor himself must be a model of personal morality and professional conduit in order to exert authority in issues of ethics within the public institution and to fulfill his mission in compliance with the demands for quality that are set to him.

Safeguarding ethics is by no means the only field of interest of the internal public audit, but it is one of the most important. It interferes with other issues at more levels than one and it is difficult to say if one problem is only of an ethical nature or if it concerns more aspects. However,

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84 Deis D. R. jr., Giroux G., "Determinants of Audit Quality in The Public Sector", *The Accounting Review*, vol. 67, no. 3, 1992, p. 462 – 463.

85 Renard J., „Theorie et pratique de l'audit interne”, Paris, 2002, tradusă în România printr-un proiect finanțat de PHARE, sub coordonarea Ministerului Finanțelor Publice, București, 2003, pag. 42-45.

86 In the very broad sense of the term.

especially in Romania, it is especially demanding, also because of the demands of the European Union to fight corruption and other infringements to ethical behavior.

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