Evolution and legal regulation of financial control in state institutions of Lithuania under context of EU

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Abstract

Restored independence of Lithuania not enough of required attention have been paid on internal financial control as on other sorts of public financial controls. Facts of inappropriate or non-effective usage of assets in processes of management of budget of state estimates together with other circumstances have been possible under conditions internal financial control being just under creation and had not possessed experience of EU countries.

Necessity of legal regulation of internal financial control has come clearer while reaching membership in EU. Match to requirements of EU on regulation of financial control has been one of basic conditions of integration in EU. EU has formed a demand for negotiable position for separate questions of financial control in 1999.\(^1\)

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nancial control EU has shown that internal financial control acting orderly is the main condition of success of actual and effective position of finance to be granted. Reform of decentralization of position and control of finance in common has also some impact on importance of these questions as had been being used in European Commission after 1999. This had stimulated creation of legal acts regulating financial control in countries members of EU.

Object of investigation – control of internal finance public sector as in effective assumption of implementation of state budget and integration of the finance system of EU, legal acts regulating it's principles and their analysis and factors of acting of internal financial control.

Keywords
Audit, public sector, financial management, objectives of governance, model.

Introduction. Evolution of the system reform

Implementation of internal financial control, exercises of legal regulation is actual and global – international problem. Works of the following authors have been named for analysis of it Stoner, J., Freeman, R., De Koning, R., Allen, R., M. Barzelay and other. Separate aspects of public sector of internal financial control (i.e. meaning’ targets, composing parts, impact on processes of internal financial management) are being analyzed under views of requirements of European Commission and development of EU financial system are being analyzed in their works. Specialty of these studies is the fact that these are focused
on existing trends of development of separate financial control systems in EU countries by a process of development of financial management strategy under relation of functions of internal financial control.

Beginning of reform of Lithuanian financial control system year 2000 can be stated, when legal basis of internal audit have been begun to been created. Decision no 127 "due internal audit of state companies and estimates" made by government of the republic of Lithuania on 7th of February 2000 had an assertion of meaning. Decision had affirmed statements of an Office of internal audit, where targets, functions, rights and liability of the Office and organization of work of the Office as well as an order of establishment of offices of internal audit had been regulated.

Government of the republic of Lithuania had confirmed "a program of creation of a system of internal audit and control of public sector" on 18th of October 2000.

The basic part of measures foreseen in the program had amended creation of methodology of internal audit and internal financial control. Coordination of financial control has strengthened in March 2001 having restored Continuous interdepartmental commission for creation of system of internal audit in public sector.8

Major part of duties of internal auditors and audit offices in Lithuanian state institutions has been created during 2000–2001.

Strategic development plan for State control for 2001–2006 has been prepared in 2001 as being essentially reasonable in area of external audit. Reorganization of State control institution into highest audit institution matching international requirements has being foreseen into this plan. Law of change of State control law of the republic of Lithuania has been accepted on 13th of December 2001 and came in to force since 1st of March 2002.9 Under this law principles of auditors and activity of highest audit institutions INTOSAI have been affirmed in national law as being applied in international practice as following: it is aimed to implement international standards of international and activity audit and the best experience of

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8 "Decision of government of the republic of Lithuania dated 9th of march 2000 Nr. 273 "Due internal audit system commission composition for coordination of functionality and affirmation of its statements", State news, 2001, No. 22(735).

9 "Law of change of State control law of the republic of Lithuania has been accepted on 13th of December 2001", State news, 2002, Nr. 51(1243).

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other countries by using state audit. Activity of State control is being grounded with principles of independency, legality, publicity and professionalism.

The old State control law of the Republic of Lithuania had mentioned that State control had been able to make revisions, quotes, criminal prosecution, to apply penalties including this, it is implementing preventable – control activity only. Having stated continuous essential breaches it is taking preventable measures for breaches not to be repeated.

Principle of publicity is very essential in this law, I. E. it is stated in article 23 that reports and conclusions of state audit, activity results of State control and other information is being published in addition of State control. Furthermore, under the order set by law society is being informed about other measures of society information as well. Community information is also granted (art. 21, I.E. cooperation of State control with institutions of law enforcement, audit institutions acting of the Republic of Lithuania companies and offices of internal audit, as well as with the highest audit institutions of other countries.

New financial control of local municipality corrections of law of local municipality have been accepted in September of 2001, by strengthening function of municipality internal audit by including audit of municipalities into area of state internal financial control. Corrections have legislated that Office of municipality controller as liable for internal audit in municipality is to be led by the same decisions of government state institutions and companies are being lead in its activity. Negotiable department of financial control of European Commission has essentially forced creation of audit system and this has been kept one of the most difficult during negotiation of Lithuania for attendance of European Union. Basic requirement of European Commission of area of financial control – to ensure appropriate usage of state funds and EU support. It has been required for this maintenance to create internal and external audit systems for state institutions acting properly. No doubts are being raised that such ,,pressure'' of EU that internal and external audit system of state institutions granting proper usage of state funds has to become active as fast in Lithuania is the most useful for Lithuania as such for proper position of funds of the country is an essential part of effective state position.

**External state audit**

Law of change of State control law has given authorizations to reorganize State
control into an institution of state audit. Acts concerned with this law are change law of article 134 of criminal process code, law of change and amendment of articles 224, 2591 of administrative law breach code and naming article 2251 as lost its power and law of change of articles 372 and 373 of civil process code. New redaction of the law (2001) has regulated creation of system of state audit and rounded competence and stators of State control as an institution of state audit: State control is the highest institution of state audit accountable to Seimas (art. 3).

Attention should be paid on that State control as the highest institution of state audit has independence affirmed by law. It is accountable to Seimas, and Seimas sets size of assignations of State control directly. Such independence of institution status of State control can be valued as an appropriation to the main conditions of independence item as listed in Lima declaration INTOSAI. In an addition of the law basic exercises of State control are rounded: to ensure state audit matching international standards accepted by INTOSAI international organization of highest audit institutions and affirmed positive role of state audit an impact on state and society.

In conclusion we can state that State control is auditing all subjects concerning usage and disposal of state funds assets. Concept, ,,auditing''(art. 9) instead of ,,controls' as it has been stated in the previous law is being used rounding the competence. Usage of audit concept lets state reasonably that State control is making checkups as institutions of state audit. All works are being implemented grounding usual methodical of audit implementation and procedures of it.

**Forms of internal financial control**

Internal financial control as a process of check-up, survey, regulation and sum of financial activity of estimate granting reach of targets set by the estimate it is very essential to set factors and forms of activity control of an appropriate state estimate as remarked for internal financial control for proper implementation of targets of estimate, it's exercises and measures fating them. Various factors of classification of internal financial control are being given in literature; various names are being given by stating that exception of separate forms of it is necessary disputing internal financial control is not to be limited by appropriate forms of internal control of a single sort.

N. Treen, J. Madsen offers to sort forms of internal financial control under
free primal components of common internal control\textsuperscript{10}:

1) prevention. Actions reaching to secure protect against mistakes, abuses breaches;

2) disclosure – actions empowering to set financial mistakes and breaches in time;

3) directionality of leading – actions and powering to grand reaching of targets of an estimate.

Targets of all forms of the control are to be cleared, results are to be stated, an inclusion impacts are to be known as well as the continuous activity\textsuperscript{11} Forms of internal control are being classified in literature under view of time:

1) prior or preliminary is being implemented before affirmation of financial operations reaching to guess future economic operations and their possible subsequencies and to cross a road to unwanted events;

2) operative – being implemented directly during economic activity, during accountable period, reaching to set this marches from the plan, norms and other parameters operatively, to clarify reasons of these mismatches and to regulate under demand economic situations before the end of an appropriate process;

3) retrospective – being implemented after the end of accountable period with the basic target to set legality of past economic operations, as well as reasonability and justice, to disclose lacks and foresee measures of their liquidations;

4) prospective – the main target is to foresee prospective of activity of an estimate paying attention more risk full prospective activities these can impact composition of damage. R. Allen states that forms of internal financial control are composed of\textsuperscript{12}:

1) control of administration, I. E. estimate has to have plan (structure) confirmed by the order of the leader of the estimate, where functions are to be rounded and disbursed, subordination is to be shown as well as accountability under all questions of activity of the estimate; tender of authorizations and liability is to be rounded clearly, appropriate activity of control and maintenance is to be implemented including valuation of budget plan and implementation, procedures of check-up in specially and internal audit functions;


\textsuperscript{11} Mackevičius, J. (2001), \textit{Audit: theory, practice, prospectives}, Lithuanian science, Vilnius, p. 178.

2) physical control, I. E. procedures and security measures set by order of leader of estimate against security of assets granting the assets to be accessed by personal having appropriate authorizations; such control is more important speaking about security of mostly valuable, tangible, changeable or demanded assets;

3) control of accounting i.e. justice of accounting procedures and expenditures concerning economical operations comparing to dater of affirmed budged, it's maintenance and control;

4) control of financial decisions (mostly implemented before affirmation of payment procedures or sanctioning) that is being made reaching to grand justice of future economic operations, their purposeless and economical item;

5) control of purchases i.e. maintenance of implementation of purchase reaching to control purchases of sizes bigger than usually;

6) control of division of duties is being implemented reaching to decrease risk of appropriate economic operations, risk of intention manipulation or mistakes; such functions as affirmations, implementation, securing, registration and creation of systems in case of computerized accounting and daily operations should be devised; internal audit and financial control (were appropriated) should be in depended against daily position of activity;

7) internal audit, i.e. systemic and objective study ad valuation of activity of an estimate and processes of control reaching to set is the risk set and possessed, are procedures and policy of estimate being kept, does activity match standards, are resources being used effectively and economically, are targets set and economic activity is right and reliable.

Forms of internal financial control should be analyzed as a study of activity results (comparing them with dater of affirmed budget) and valuation of implementation of programs.\(^{13}\)

The main functional budget is composition of a plan and keeping maintenance of it paying attention of the fact that demand of services by providing by state is elastic but state funds are not as elastic and this financing plan is directed to creation of economic welfare, granting social justice, disbursement and reimbursement of revenue and control of finances.\(^{14}\)


\(^{14}\) Pollitt, C. (1999), *Performance or Compliance? Performance Audit and...*
This principle grounds financial control and marks usage of concepts of economic policy (rationality) and effectiveness by applying program budgeted and focused on results and other concerning measures.\(^{15}\) Speaking about nowadays regulation process of companies budget position attention should be paid on the fact that orders rules and procedures are being implemented in state estimate are to be rational, i.e. budget processes and all its elements in requirements of an appropriate standards and legal acts.\(^{16}\)

Legal forms of internal financial control can be divided under principles of results of accuracy, common requirements for control and reaching budget under programs:

1) under view of principle of time accuracy such forms of internal financial control can be excluded:

Prior (notifying) financial control. Is a control being implemented before implementation of financial decisions can be excepted after affirmation of a worker liable for financial control only;

Present (operative) financial control. a control being implemented during the implementation of budget program, same Project and usage of funds; during the process of this control it is important to divide functions of affirmation of economic operations, implementation of these and inclusion and accounting together with security of assets; purpose of the control – to grand that funds and material resources are being used under purpose and effectively that funds are being secured properly and action a process of maintenance of implementation of economic operations is being granted;

Further financial control. Is a control being implemented having used funds also checking up concerned actions reaching to set has funds and material assets been used legally, effectively reaching results and under the purpose and no breaches of legal acts and abuses have raised.


2) under principle of common requirements for controls following functions are being excluded for investigation of internal financial control forms:
- physical control;
- accounting control;
- sanctioning;
- control of purchases and payments and other.

3) under the aims of the program budget performance principle such forms of financial control are possible:

control of economy, i.e. is being set made has the financial control been implemented using the most less expenditures keeping the best required quality of the result received as required reaching to set:
- resources (financial, material, and intellectual) for the implementation of the project have been properly chosen under view of quality and quantity;
- resources have been acquired under the fewer prices;
- all resources have been used;

control of effectiveness, i.e. relation between results reached and resources used to reach these results is being valuated; reaching to set effectiveness of the budget program depending on specific of the program, it is required to analyse various alternative factors concerning implementation of an appropriate program and to choose methods for expenditure analysis. During the valuation of effectiveness following items are being set:
- could a program have been implemented in such a way that expenditure would be minor;
- could a program have been implemented in such a way that result would be better;
- are work methods most rational, i.e. is an organisational structure of the estimate maximum matching implementation of the program together with procedure and principles of work of the estimate;
- are some lack that could have been mentioned exist;
- are functions not doubled and other.

control of reaching of results, i.e. comparison of received results with aims and targets of the program reaching to set and evaluate the following:
- have targets and aims of the program been reached under grounded expenditure and during the period of time set;
- have the aims of the program been set properly;
- have the measures for reaching the aims been described reasonably and other.
Requirements of legal acts of EU about financial control

Match with requirements about internal financial control procedures is one of the most important obligations of membership in EU. The obligations are of common type mostly not setting special procedures of implementation and development reaching to mark that each country member of EU has its standing traditions for financial management and control these are to be paid with an attention by giving them appropriate freedom for choice of measures, methods of implementation of financial control. European Commission describes financial control as part of management system of an appropriate state estimate financial control that is being grounded with principles common mostly, but in practical application it has to have specific valuation criteria and statements of applying in practice depending on scopes and the reason. Reaching to optimise functionality of internal finance control system, to valuate efforts and prospective of development in area of internal financial control it is useful to understand EU requirements for this system ace well as practice of activity of the system in European Commission and in EU countries members.

The basic EU requirements for internal financial control are being set by the following documents:

– Agreement for establishment of European Community, Chapter of financial statements\(^\text{17}\);

– Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities \(^\text{18}\);

– Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds\(^\text{19}\);


\(^{19}\) "Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the..."
– Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds; 20


Common statements for internal financial control rounded in Agreement for establishment of European Community, Chapter of financial statements state the main requirements for composition of the budget and processes of financial control in the estimate accenting that total budget of EU must be implemented by keeping principles of reliable management of finances, each financial operation must be implemented by appropriately implemented rules, methods, procedures and elements of financial control that are to be applied for securing financial interests of countries and funds of budgets of European communities. 22

Analysing requirement for countries members of EU it is notable that one of the basic outcomes of European Commission reforms for 2001-2006 are changes Financial statements of 1977 being applied on the basic budget of EU, where the main principles of budgetary financial control and management are formed 23:


– unity, universality, specification and annual grounding of budget law;
– specification and transparency of budget composition;
– balance of budget;

Requirements for control are being set under principles of reliable control of in this document being grounded with views of economy, effectiveness, reaching of results and match of financial activity to set valuation criteria, also liabilities of leader of estimate, leaders of accounting department and internal auditor and control and audit functions that are appropriate in implementation by them.

It is shown in Financial statements that leader of state estimate must be liable for implementation of procedures of revenue and expenditures under principles of reliable financial management and for implementation of proper internal financial control. Sanctioning is being excluded as procedure element of financial control, i.e. before affirmation of economic operation not depending on preparatory of the operation; operation must be checked up by an officer empowered for this function. Leader of accounting department is to be liable for:

1) control of payments;
2) control of management of accountancy;
3) prior financial control.

It should be noted that during the process of prior financial control item will economic operations be implemented not overcoming affirmed estimates and matching affirmed obligations and payments, are documents of economic operations prepared properly and is economic operation legal. Attention should be paid on fact that prior financial control is also composed of:

– prior control for applications for projects (match to set procedures);
– check up of results created by EU projects (administrative checkups);
– check up of financial properness of expenditures and certification of these (financial match).

EU shows in legal acts that measures of internal financial control is being composed of environment (i.e. philosophy, disbursement of liability in management systems and policy of order of the control) and order of financial control (preventing and stating measures being included by management for securing against fraud, inaccuracies and mistakes)\(^{24}\). Measures of internal financial control can be widely divided so:

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\(^{24}\) "Council Regulation (EEC) No 595/91 of 4 March 1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural
Character of EU requirements for financial control is that financial control requirements are not being detailed that should be applied unified as compulsory in it by marking the most important principles and common development trends of separate elements. Match of Lithuania and EU during period of negotiations for the beginning of mentioned European Commission reform and continuous changes of EU requirements for control of financial management and the most effective and optimal systems has also conditioned non detailed item of installation of internal financial control and necessary primary stages in Lithuania.

In context of EU development – there have been no legal norm for internal financial control as under EU legal norms in Lithuania in the beginning of negotiations, but only links of European Commission for countries entering EU that should have primary been applied on funds of EU, gradually applying these methods for national financial systems. European Commission in 28 part of negotiable chapter – Financial control – has marked meaning of internal financial control as system of control measures installed by Government that has a target to control audit and pay for usage of funds of national budget.

Application of model of internal financial control regulated by EU in separate countries candidates could have been different. Compulsory conditions of functionality of public sector internal financial control stated by European Commission have been such:

- affirmed unique strategy of internal financial management control development in public sector;
- basic statements of internal financial control regulated by normal legal acts, i.e. system grounded with legal norms;
- clearly stated liability of administration of estimate and granted satisfying and systemic view on functions of financial control and internal audit;
- competitive personnel of financial control and internal audit areas with prepared continuous training program;

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– proper accountability system and effective usage of it;
– reliable and secure system of management of informative technologies;
– effective application of accountancy processes;
– effectiveness, activity in internal financial control and usage of risk valuation;
– forming of independent internal audit;
– clear division of functions in same estimate between administration, financial control, accountancy and audit and necessary cooperation among internal and external functions of control and audit.

**Conclusion**

Analysis of legal regulation of financial control in European Union and Lithuania lets state that:

1. Principle requirements of European Commission for internal financial control is grounded with conditions of latter years and internal practice of European Commission;

2. Principles of organisation of financial control in European Commission are composed of delegated liability, decentralised management and control, proper division of duties, application of reliable financial management criteria (economy, effectiveness and resulting, justice and satisfaction of valuation criteria), assumptions on quality, rapidity, simplicity and accuracy of economic operation including their reliability and accounting for systems of financial management and control as per assurance;

3. Requirements of European Commission for implementation of detailed internal financial control legal acts for EU countries are not unique and accurate, including lots of practical questions (ex.: criteria of installation of internal financial control, elements of procedures of financial control and other) are nor regulated in EU legal acts or recommendations and these are to be solved by countries absolutely;

4. EU requirements for internal financial control for countries attending EU ground demand of strategy of internal financial control, legal and methodical basis composed paying attention on appropriate international standards, creation, installation of decentralised structure and concerning measures of implementation, formation of consulting board and establishment of centralised coordination function reaching to implement advanced practice of internal financial control in public sector matching requirements of EU and prospective of development.
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Эволюция и правовое регулирование финансового контроля в государственных учреждениях Литвы в контексте ЕС

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Аннотация
В статье рассматриваются вопросы правового регулирования системы финансового контроля и аудита госучереждений Литвы в соответствии стребованиям ЕС; выявлены проблемы правового регулирования финансового контроля в государственных учреждениях Литвы, приводится система нормативных правовых актов, регулирующих отношения в сфере финансового контроля.

Ключевые слова
Финансовый контроль, внутренний аудит, правовое регулирование, источники финансового права, формы и методы финансового контроля.

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