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LEGAL CONDITIONS OF THE PRINCIPLES OF MANAGEMENT CONTROL IN THE PUBLIC FINANCE SECTOR AND THE RULES OF COORDINATION OF CONTROL

UWARUNKOWANIA PRAWNE ZASAD KONTROLI ZARZĄDCZEJ W SEKTORZE FINANSÓW PUBLICZNYCH ORAZ ZASADY KOORDYNACJI KONTROLI

ABSTRACT

The principles of management control and coordination of management control are described in Section I, Chapter 6 – Articles 68 – 71 of the Act of August 27, 2009 on Public Finance. Detailed rules on the manner of preparation and specimens of documents required by the provisions of the aforementioned Act are established in the Decree of the Minister of Finance of September 29, 2010 on the activity plan and the report on its implementation, and in the Decree of the Minister of Finance of December 2, 2010 on the model statement on the state of management control. Requirements relating to the establishment, evaluation and improvement of management control systems for the public finance sector are specified in Announcement No. 23 of the Minister of Finance dated December 16, 2009 on management control standards for the public finance sector. Guidance on monitoring and evaluating the adequacy, effectiveness and efficiency of management control is provided in Announcement No. 3 of the Minister of Finance dated February 16, 2011 on detailed guidelines for self-evaluation of management control for units in the public finance sector. The guidelines supporting effective risk management in units of the public finance sector are announced in Announcement No. 6 of the Minister of Finance of December 6, 2012 on detailed guidelines for the public finance sector on planning and risk management. The article analyzes the legal regulations of Articles 68 and 69 of the Law on Public Finance from a public finance law, economic and organizational-management perspective.

STRESZCZENIE

Zasady kontroli zarządczej oraz koordynacji kontroli zarządczej opisane są w dziale I, rozdziale 6 – art. 68 – 71 ustawy z dnia 27 sierpnia 2009 r. o finansach publicznych. Szczegółowe zasady dotyczące sposobu sporządzania oraz wzorów dokumentów wymaganych przepisami ww. ustawy ustalone zostały w rozporządzeniu Ministra Finansów z dnia 29 września 2010 r. w sprawie planu działalności i sprawozdania z jego wykonania oraz w rozporządzeniu Ministra Finansów z dnia 2 grudnia 2010 r. w sprawie wzoru oświadczenia o stanie kontroli zarządczej. Wymagania odnoszące się do tworzenia, oceny i doskonalenia systemów kontroli zarządczej dla sektora finansów publicznych określone zostały w Komunikacie Nr 23 Ministra Finansów z dnia 16 grudnia 2009 r. w sprawie standardów kontroli zarządczej dla sektora finansów publicznych. Wskazówki w zakresie monitorowania i oceny adekwatności, skutecznej i efektywnej kontroli zarządczej znajdują się w komunikacie Nr 3 Ministra Finansów z dnia 16 lutego 2011 r. w sprawie szczegółowych wytycznych

w zakresie samooceny kontroli zarządczej dla jednostek sektora finansów publicznych. Wskazówki wspierające efektywne zarządzanie ryzykiem w jednostkach sektora finansów publicznych ogłoszone zostały w komunikacie nr 6 Ministra Finansów z dnia 6 grudnia 2012 r. w sprawie szczegółowych wytycznych dla sektora finansów publicznych w zakresie planowania i zarządzania ryzykiem. Artykuł analizuje regulacje prawne art. 68 i 69 ustawy o finansach publicznych w ujęciu prawa finansów publicznych, ekonomicznym oraz organizacyjno-zarządczym.

KEYWORDS: *public finance, public finance law, public finance law, administration law, management control, economic efficiency of the organization, management control standards, planning and risk management*

SŁOWA KLUCZOWE: *finanse publiczne, ustawa o finansach publicznych, prawo finansów publicznych, prawo administracyjne, kontrola zarządcza, efektywność ekonomiczna organizacji, standardy kontroli zarządczej, planowanie i zarządzanie ryzykiem*

INTRODUCTION

Commonly, control is understood as the process of determining the actual state, comparing it with the required state and determining discrepancies (Wojciechowski 2018). This is also how both the legislator and practitioners understood the financial control functioning until the end of 2009 in the Law of 29.08.2009 on Public Finance. From the government's explanatory memorandum to the 2009 draft of the Public Finance Act, we learn that the then-functioning financial control was, in practice, identified only with the purely financial aspect of an entity's activities, while the intention of the Ministry of Finance was that the scope of control should include all aspects of an entity's activities. Therefore, in 2010, management control was introduced to replace the previously functioning financial control. The problem is that along with this substitution of terms, the term *control* should also be understood differently. Since 2010, the legislature wants management control to be understood quite differently. In order to understand it correctly, one would have to refer to its statutory definition, while ignoring the wording of the term itself. Thus, it is the totality of measures that are taken in a public

finance sector entity to ensure that objectives and tasks are carried out in a lawful, efficient, economical and timely manner (Article 68 of the Law on Public Finance) (Wojciechowski, 2023).

The Ministry of Finance, the drafter of the statutory provisions on management control, explains that *the way management control is defined indicates that it is de facto identical to management* (Ministerstwo Finansów, 2012). Management control should be understood as another name for management. Not as an element of *controlling* the management process, but as the entire management process: from planning to organizing, motivating to controlling inclusive (Chojna-Duch, 2010).

The dilemma of the proper concept of management control originates from the ambiguity of the goals sought to be achieved. There are several official versions of the declarations made by the legislature (Ministry of Finance, Prime Minister's Office) regarding the desirability of management control regulations. Three main reasons can be mentioned.

The first is to promote management control as a management model in the public sector. Consistent with the explanations of the Ministry of Finance, the Prime Minister's Office indicated that management control as a legal norm is a management model. It also specified that the purpose of its introduction into the Law on Public Finance is to promote a consistent and uniform management model in the public finance sector. However, it seems that the purpose of the law to promote – anything – seems somewhat controversial. Or at least, it doesn't seem to be the dominant goal (Reško, Wołowicz, Żukowski, 2010).

The second is transparency in the system of public finance and management of public funds. The designer, the Ministry of Finance, also saw the purpose of the introduced provisions on management control somewhat differently. In the justification of the government's draft law on public finances, seven fundamental goals of the legislation being created were identified, and of these, at least two can be referred to management control. These goals are (Podgórnjak-Krzykacz, 2010):

- strengthening and improving the transparency of public finances (Kos, 2013),
- improving and strengthening the internal audit system.

To paraphrase, the purpose of management control was to ensure an appropriate level of transparency in the activities of public institutions, where public accountability is an integral part of it. Accountability is a particularly important element affecting internal audit's ability to make assessments. It is also essential in creating a system of accountability in the sector, and the explanatory memorandum to the proposed law states explicitly that a fundamental element of management control in administration is the accountability of each unit head (Wołowiec, Bogacki, 2021).

Third is the concept of streamlining the sector – management science and New Public Management. The Ministry of Finance also attributes to management control the goal of streamlining the bureaucratized public finance sector. Specifically, the basic idea of management control is to streamline the management process (Dmowski, Bogacki, Wołowiec 2019; Zawicki, 2011). The 2009 public finance reform and the introduction of so-called *management control* are part of a broader trend of change in administration: a shift from a culture of applying the law to a culture of achieving results. This slogan, in turn, directly refers to the so-called New Public Management, a concept well-known in management science and administration (Wołowiec, Paździor, 2021). The basic tenets of the New Public Management are that public administration should be results-oriented first and processes and activities second, and that in order to achieve results public administration must measure them. Importantly, to improve performance, public entities should, where possible, introduce a competition mechanism through contracting for services, and public services should be performed by public entities, private entities, as well as third sector entities (public benefit organizations). Selection of services should be based on efficiency and effectiveness. In addition, public units must strive to improve the quality of their services and should be constantly responsive to customer needs, and must pay special attention to how they use their resources, and special emphasis should be placed on reducing the cost of services provided or improving quality at the same cost (Wołowiec, Szybowski, Prokopowicz, 2019).

The organizational culture of public units should be characterized by flexibility, innovation, problem-solving attitude and entrepreneurship, and efficient management of public units requires the implementation of modern management tools. When the above principles are met,

the management of public units should be more effective and efficient (Wołowiec, Szybowski, Bogacki, 2019).

It is a concept born during the crisis of the 1970s and 1980s. At the time, the crisis was the impetus for reforming the management model in public administration. The improvement of the public sector was to be fostered by using management knowledge and the best experiences of the private sector. Changes in the sector took place under the banner of moving away from administration toward what was later called New Public Management. New Public Management consists of seven elements, and those that relate to the concept of managerial control are (Fedan, 2011):

- introduction of managerial management in the public sector,
- clear and explicit reception of standards and measures of activity,
- increased emphasis on the control of the results obtained,
- use of management methods and techniques from the private sector (Pollitt, Bouckaert, 2011).

Particularly evident in the management control model are attempts to use management methods and techniques from the private sector. Management control standards, based on the requirements of the PIFC (Public Internal Financial Control) model, have a single primary source – management standards (precisely internal control and risk management) developed and operating in the private sector, known as COSO. Importantly, these standards are based on many of the paradigms of good governance recognized in management theory. Thus, the streamlining role that management control is supposed to play in the public finance sector is strongly grounded in business practice – that of the commercial sector – as well as in theory (Lisiecka, Papaj, 2012).

REASERCH METHODOLOGY

The research methods used in the legal sciences are related to their problematics and the functions performed. In the literature of legal theory, it is indicated that within the legal sciences we distinguish dogmatic, socio-technical and theoretical problematics. Dogmatic problematic concerns the identification

of legal norms belonging to a given system of law. Sociotechnical problematics in the legal sciences is related to the impact of law making and the corresponding application of the law on certain social effects. The theoretical problematics of legal science concerns the formulation of claims about the applicable law. From this scope arises the methodological problematics of legal science, dealing with the description of methods, ways of solving particular problems or formulating directives on how to solve these problems.

In special areas of law – which management control undoubtedly is – it is necessary to recognize the need to undertake multidisciplinary and interdisciplinary research. Thus, in the work – analysing the issues of the functioning of management control in legal and management aspects – traditional research methods used in the scientific study of law (generally in the social sciences) were applied:

1. linguistic analysis (formal-dogmatic and linguistic-logical analysis of the regulation of public finance law on the organization and functioning of management control in the public sector, taking into account the judgments of administrative courts and guidelines of tax authorities);
2. economic analysis of the law of public finance (including the analysis of the economic effects of implementing management control procedures from the perspective of efficiency and rationality of management processes in the public sector),
3. comparative method (showing the issues of legal and organizational regulations in the field of general public finance law in Poland and the EU, taking into account court decisions).

Induction was used as the main research method. It consists in drawing general conclusions or establishing regularities on the basis of analysis of empirically established phenomena and processes. It is a type of inference based on details about the general properties of a phenomenon or object. The use of this method requires the assumption that only facts can form the basis of scientific inference. These facts are real-life situations (social, legal, or organizational). Inductive methods include various types of analysis, expert opinion, statistical data and scientific documents used in social research. In addition, the paper uses two general research methods, i.e. analytical and synthetic methods, which are characterized by a particular approach to the study of reality.

TWO-LEVEL CONSTRUCTION OF RESPONSIBILITY FOR MANAGEMENT CONTROL

Accountability is an important element of the management control model. The provisions on management control wanted to influence increased accountability for the management of public funds (Wojciechowski, Popik-Konarzewska, 2022). However, responsibility for management control in local government units (LGU's) was assigned in the law with two controversial assumptions: o the two-tier nature of management in local government units and on the fact that a local government unit is managed by its executive body.

The law assigns responsibility for the management of a local government unit to the head of that unit. This is not controversial. It was a step in the right direction for the legislature to indicate that an LGU's organizational unit is not managed solely and autonomously by its head. This is because he or she is essentially an executor of the policies made by his or her principal, the LGU's authorities. Therefore, the legislature has indicated that the responsibility for management control in LGU's is two-level. The first fundamental level is the responsibility of the unit head himself, and the second level is the level of authority of the entire local government unit (Ministry of Finance, 2013). Here the *levelness* of management control ends. Unfortunately, such an assumption does not properly assign responsibility, as the results achieved are not only a matter of LGU's management at the level of its bodies. In order to illustrate the real multilevel nature of responsibility in public administration, it would be necessary to identify at least another third level of management control – the level of government, which has significant influence (management competence) in many aspects of LGU's activities (Giebel, 2013).

Returning to the second level of management control, i.e. local government, the responsibility for managing a local government unit (municipality, county or province) is assigned in the management control regulations to a single-person representative of the management board – the executive body, i.e. the head of the municipality, mayor, president of the city, head of the county and marshal of the province, respectively. However, this indication does not seem entirely accurate, as it does not correspond to the systemic principles of organization of public administration in Poland. Indeed, it is already accepted

in the Constitution of the Republic of Poland that management in local government is to be collegial in nature. The provisions shaping the system of local government assign part of the management functions to the legislative bodies and part to the executive bodies. Thus, if management competencies are not assigned exclusively to mayors, city mayors, county heads and marshals on a one-man basis, responsibility for management cannot be assigned to them on a one-man basis. This is because responsibility should go hand in hand with the competencies assigned (Niedźwiedzka, Anczakowski, 2017).

Of course, the attempt to assign one-person responsibility should be evaluated positively, because where responsibility is collegial, it is difficult to speak of real public accountability (accountability). Nevertheless, it is not a successful attempt, because it is not compatible with the entire system of law constituting the system of public administration in Poland. Particularly since important management competencies such as strategic planning and the fundamental shape of the budget are in the competence of the constituting bodies of the territorial self-government, not the executive (Szałachna, 2024).

MANAGEMENT CONTROL STANDARDS

The model firming by the term *management control*, on the basis of which public institutions should create management systems, is to a small extent regulated by the provisions of the Public Finance Law directly. The law, with regard to local government units:

- defines management control,
- defines the required features of management systems (adequate, effective and efficient),
- outlines how a public institution should achieve its objectives (specific management control objectives),
- indicates the responsibility for management.

The essential part of the model has been specified as management control standards and issued by the Minister of Finance in the form of a communiqué. They are postulatory in nature. The standards themselves state

somewhat ambiguously that they are *basic requirements relating to management control* and at the same time *a structured set of guidelines that those responsible for the operation of management control should use to establish, evaluate and improve systems*. Thus, these are requirements that should, but do not have to, be used by managers of institutions to create management systems. The right approach seems to be to treat the management control standards only as a source of knowledge, not as obligations (Wołowiec, 2021).

The various standards refer to management paradigms and concepts such as management by objectives, quality management, continuous improvement, etc. The concept of management control is therefore firmly grounded in management theory. Management control standards are, in terms of content, a compilation of textbook management principles recognized in management science. An important factor affecting the usefulness of the implemented management control standards is their proper translation into practical solutions. Assuming that the standards are manual in nature and must be directly applied seems to be a fundamental mistake. A good example of this is the standards relating to risk management. They are a description of a process, which, however, has the dimension of general principles. We can just as well find these principles in academic management textbooks as in widely recognized ISO standards. They therefore have more of an educational dimension than ready-made practical solutions. For example, a two-dimensional risk assessment matrix should mainly make unit managers aware that how serious an identified risk is is a product of not only the probability of its occurrence, but also the potential negative consequences. This does not yet mean that managers must *draw* a three-color matrix when analyzing risks. Such illustration of the level of risk has a didactic rather than practical dimension.

It is worth adding that the implementation of management tools postulated in management control can bring both benefits and harm to an entity. Strict adherence to textbook recommendations, framed as management control standards, can be counterproductive. It should be remembered that management theory currently has a certain practicality problem. That is, there are no universal, proven methods, formulas and ways of doing things that will definitely and always benefit every organization (ee, 2014).

Unfortunately, although the legal status of management control standards does not indicate that they are a legal requirement, the methodology of the work of control bodies adversely affects the efficiency of the public finance sector. This does not mean, of course, that the institution of control as such is harmful. It definitely has a positive role. Nevertheless, a certain dysfunction is the way the criteria for evaluating public institutions are selected. Evaluation criteria can be divided into two groups: legality and non-legality. Legality criteria are requirements arising directly from legal obligations. For the auditor, they are *safe*, since the necessity of their fulfillment cannot be easily challenged (the exception may be contradictory provisions, which is related to the quality of the legislation). Non-legal criteria, on the other hand, do not derive from any legal obligation. They are formulated on the basis of individuals' practices (often called good practices), book principles of good action (praxeology) and various types of standards and guidelines issued by institutions. These requirements are subject to some risk of mismatch. Especially when it comes to the area of management control, or governance.

RESPONSIBILITIES OF MANAGERS. LEVELS OF MANAGEMENT (MANAGEMENT CONTROL)

An analysis of the content of paragraph 1 of Article 68 of the Public Finance Law shows that the legislator has specified:

- a. entities (persons) who are responsible for the functioning of the management system (management control),
- b. de facto levels of management control,
- c. features that the management control system must meet.

With regard to both the central level (state administration) and LGU's, management control is implemented (Wołowiec, Bogacki, 2021):

1. at the basic level, i.e., SFP's organizational units (Level I of management control), and then the head of the respective unit is responsible for its functioning;

2. at the level of the administrative department or LGU's themselves (Level II of management control), in which case the duties and responsibilities are assigned to the minister and the executive body (in municipalities) or the chairman of the board (in local government districts and provinces), respectively.

It follows from the above that in the case of ministers, they carry out duties at both levels of management, i.e. as heads of organizational units (ministries that are budgetary units) and as heads of government departments. The analogy is with LGU's. For the local government entities listed in paragraph 1(2) of the regulation in question, in addition to ensuring the functioning of management control at level II (i.e., the LGU itself), are also – in connection with their status under local government constitutional laws – responsible for management control in the offices they manage (i.e., control at level I), as by law they also act as heads of offices (respectively, of a municipality office, county district office or marshal's office). Of course, it should be pointed out that as part of ensuring adequate, effective and efficient management at level II, the competent entity (e.g., minister, mayor) should concretize the entities that are responsible for ensuring the functioning of management control in specific areas (including those implemented in the entity aspect). By way of example, it can be pointed out that the Minister of Justice, within the framework of the established management system (management control) in the department, has designated (exercising the competence under Article 69 (5) of the Public Finance Law) the entities responsible for ensuring the management system at level II. These include:

- a. the president of the superior court – within the scope of the tasks assigned to this body in the Law of 27.07.2001. – Law on the system of common courts – with regard to subordinate courts;
- b. Director of an appellate court – within the scope of tasks assigned to this body in the Law on the Organization of Common Courts – towards subordinate courts;
- c. Director General of the Prison Service – to subordinate organizational units of the Prison Service.

Management control is supposed to be adequate, effective and efficient. When attempting to identify these features of the management model in the public sector (management control), one should first of all refer to the indicated terms in the sense used in management science (since we are talking about aspects of management), and only in their absence – to the colloquial understanding of them. Besides, when decoding the meaning of the features of management control prescribed by the legislator in Article 69 (1) of the Law on Public Finance, one must not forget the definition of such control contained in Article 68 of the Law on Public Finance. For only this combined perspective can give a reasonably satisfactory result with regard to the understanding of the condition for ensuring the adequacy, effectiveness and efficiency of the control in question. As for the concept of adequacy, management science does not provide a special treatment of this term. Thus, bearing in mind that adequacy is generally appropriateness, suitability, compliance with something, it can be considered that the adequacy of management control means:

- a. on the one hand – the adaptation of management processes (i.e., the management control system and its individual elements/components) to the objectified conditions of the activity of a given SFP unit, i.e., the legal norms of activity, the specifics of the operation of a given unit, the conditions/environment of operation;
- b. on the other hand – such construction and operation of management control that it is adapted to the intra-organizational conditions/factors of a given unit, including resources (organizational, human, material);
- c. alignment of the subject, entity and/or quality (strength of influence) of individual processes and elements of management control with the types of statutory control objectives – with an appropriate balance of the aforementioned aspects/types of factors, so that the system can serve (be appropriate) to achieve the goals and objectives of the entity in a lawful, efficient, economical and timely manner.

In turn, regarding the understanding of the effectiveness of management control, it is necessary to start from the basic understanding in management science of effectiveness as the ability to set appropriate (relevant) goals or, taking a process approach, to do the right things (Wołowiec, Skowron,

Cwynar, 2023), i.e. to achieve predetermined goals. At the same time, bearing in mind that management control/management is a kind of process, the basic and specific goals of which have already been defined by law (in Article 68 of the Law on Public Finance), it can be proposed that such management control (its system), through which its statutorily established goals are achieved, should be considered effective .

Efficiency, on the other hand, in the most general terms, is the measure/relation of the achieved result/result to the inputs/resources used for this purpose. An effective instrument/activity/process is one that leads to the achievement of the result/objective with the least possible use of inputs/resources (material, organizational, human). Thus, an effective management control is one whose (statutory) goals are achieved with the least (but reasonable) level of involvement of organizational, human and financial resources/resources (Matwiejczuk, 2010).

To sum up, adequacy means, most generally, the adaptation (object, subject and quality) of the management system and its elements to the realization of the statutory control objectives, while effectiveness is the achievement (real) of these control objectives, while efficiency is the achievement of control objectives/results at the lowest possible cost (material or otherwise). Thus, the legislator rightly pointed out the three characteristics by which management control (its system) is to be characterized. For theoretically, control could be effective but ineffective, or vice versa. Adequacy, in this view, should be regarded as a basic (initial) condition for achieving effectiveness and/or efficiency of control (Podolchak, Martyniuk, Tsygylyk, Skowron, Wołowiec, 2022).

Turning to the issue of implementation of the statutory requirement to *ensure* the functioning of management control with certain characteristics, it should be noted that neither the commented regulation, nor any of the other provisions indicate how the entities listed in Article 69 (1) of the Public Finance Law are to implement this *assurance*. However, given the common requirements for formalization of the organization of work and all procedures in public finance sector units, it is clear that, fundamentally, the managing entity (implementing management control) is obliged to normalize (regulate internally) the system of management control, including its relevant rules and procedures. At the same time, this normalization can take place in one or more acts (ordinance/orders).

STANDARDS OF MANAGEMENT SYSTEM IN THE PUBLIC SECTOR (MANAGEMENT CONTROL)

The Minister of Finance was required to define and promulgate management control standards for the public sector that are consistent with international standards (in paragraph 3 of Article 69 of the Public Finance Law). They were promulgated in 2009 and constitute not only a determination of the requirements relating to management control in the public finance sector, but also a set of guidelines that those responsible for the operation of management control should use to establish, evaluate and improve management control systems. The management control standards were designated in five groups corresponding to the elements of management control, consisting of:

- a. internal environment,
- b. objectives and risk management,
- c. control mechanisms,
- d. information and communication,
- e. monitoring and evaluation.

The applicable management control standards are presented below in a tabular version to make them more readable. At the same time, given the nature of the management functions and their natural sequence (resulting from the succession and conditioning of individual activities in the organization), their listing is in a different order than that contained in the Finance Minister's Communiqué No. 23 – which does not affect the substantive issues in any way. In addition (in the last column of the table) there is an indication of the function/functions (stage/stages) of management, which a given standard can or should address – which should be taken into account in the creation of the management control system in a given entity.

Table 1. Management control standards

Management control element (group of standards resulting from Communication No. 23 of the Ministry of Finance and its description)	Standard (name, number – in accordance with announcement no. 23 of the Ministry of Finance)	Content of the standard (in accordance with the announcement no. 23 of the Ministry of Finance)	The management stage to which the standard refers
<p>Goals and risk management (group B)</p> <p>A clear definition of the mission can facilitate the establishment of a hierarchy of goals and tasks and effective risk management. Risk management aims to increase the likelihood of achieving goals and completing tasks. The risk management process should be documented.</p>	<p>Mission (No. 5)</p>	<p>The possibility of indicating the purpose of the unit's existence in the form of a short and synthetic mission description should be considered. The mission of the ministry should refer to the government administration departments headed by the minister, and the mission of the local government office should relate to this unit.</p>	<p>– Planning</p>
	<p>Defining goals and tasks, monitoring and assessing their implementation (No. 6)</p>	<p>Goals and tasks should be defined clearly and with a time horizon of at least one year. Their performance should be monitored using designated metrics. The superior or supervising unit should provide an appropriate system for monitoring the implementation of goals and tasks by subordinate or supervised units. It is recommended to evaluate the implementation of goals and tasks, taking into account the criteria of economy, efficiency and effectiveness. When specifying goals and tasks, care should be taken to indicate the units, organizational units or persons directly responsible for their implementation, as well as the resources intended for their implementation.</p>	<p>– Planning – Monitoring (as part of organizing and controlling)</p>
	<p>Risk identification (No. 7)</p>	<p>At least once a year, risk should be identified in relation to goals and tasks. In the case of a government administration department or local government unit, it should be taken into account that the goals and tasks are also implemented by subordinate or supervised units. In the event of a significant change in the conditions in which the entity operates, the risk should be re-identified.</p>	<p>– Planning – Control – Organizing</p>
	<p>Risk analysis (No. 8)</p>	<p>Identified risks should be analyzed to determine the probability of occurrence of a given risk and its possible effects. The acceptable level of risk must be determined.</p>	<p>– Planning – Organizing</p>
	<p>Risk response (No. 9)</p>	<p>For each significant risk, the type of response should be specified (tolerate, transfer, withdraw, act). Determine the actions that should be taken to reduce the risk to an acceptable level.</p>	<p>– Planning – Organizing</p>
<p>Indoor environment (group A)</p> <p>The appropriate internal environment has a significant impact on the quality of management control.</p>	<p>Compliance with ethical values (No. 1)</p>	<p>Managers and employees should be aware of the ethical values adopted in the unit and follow them when performing assigned tasks. Managers should support and promote compliance with ethical values, setting a good example with everyday conduct and decisions.</p>	<p>– Planning – Motivating – Monitoring (as part of organizing and controlling)</p>

<p><i>continued</i></p> <p>Indoor environment (group A) The appropriate internal environment has a significant impact on the quality of management control.</p>	<p>Professional competence (No. 2)</p>	<p>It is necessary to ensure that managers and employees have the knowledge, skills and experience to effectively and efficiently perform their assigned tasks. The employment process should be conducted in a way that ensures the selection of the best candidate for a given job position. The development of professional competences of the unit's employees and managers should be ensured.</p>	<p>– Organizing – Motivating</p>
	<p>Organizational structure (No. 3)</p>	<p>The organizational structure of the unit should be adapted to current goals and tasks. The scope of tasks, powers and responsibilities of units, individual organizational units of the unit and the scope of subordination of employees should be specified in writing in a transparent and consistent manner. The current scope of duties, rights and responsibilities should be defined for each employee.</p>	<p>– Planning – Organizing – Control</p>
	<p>Delegating authority (No. 4)</p>	<p>The scope of powers delegated to individual managers or employees should be precisely defined. The scope of delegated powers should be appropriate to the importance of the decisions made, their complexity and the risk associated with them. It is recommended to delegate authority to make decisions, especially those of an ongoing nature. The acceptance of delegated powers should be confirmed by a signature.</p>	<p>– Organizing – Motivating – Control</p>
<p>Information and communication (group D) Managers and employees should have access to information necessary to perform their duties. The communication system should enable the flow of necessary information within the unit, both vertically and horizontally. An effective communication system should ensure not only the flow of information, but also its proper understanding by recipients.</p>	<p>Current information (No. 16)</p>	<p>Managers and employees should be provided, in an appropriate form and time, with appropriate and reliable information needed to perform their tasks.</p>	<p>– Organizing – Control</p>
	<p>Internal communication (No. 17)</p>	<p>Effective mechanisms for transmitting important information within the unit's organizational structure and within the government administration department and local government units should be ensured</p>	<p>– Organizing – Control</p>
	<p>External communication (No. 18)</p>	<p>An effective system for exchanging important information with external entities influencing the achievement of goals and implementation of tasks should be ensured.</p>	<p>– Organizing – Control</p>
<p>Control mechanisms (group C) Standards in this area constitute a list of basic mechanisms that can function within the management control system. However, they do not constitute a closed catalog, because the management control system should be flexible and adapted to the specific needs of an entity, government administration department or local government unit. Control mechanisms should respond to specific risks. The costs of implementing and applying control mechanisms should not be higher than the benefits obtained from them.</p>	<p>Documenting the management control system (No. 10)</p>	<p>Internal procedures, instructions, guidelines, documents specifying the scope of duties, rights and responsibilities of employees and other internal documents constitute the documentation of the management control system. Documentation should be consistent and available to all persons for whom it is necessary.</p>	<p>– Planning – Organizing – Control</p>

<p><i>continued</i></p> <p>Control mechanisms (group C)</p> <p>Standards in this area constitute a list of basic mechanisms that can function within the management control system. However, they do not constitute a closed catalog, because the management control system should be flexible and adapted to the specific needs of an entity, government administration department or local government unit. Control mechanisms should respond to specific risks. The costs of implementing and applying control mechanisms should not be higher than the benefits obtained from them</p>	<p>Supervision (No. 11)</p>	Supervision of the execution of tasks should be carried out in order to ensure their economical, efficient and effective implementation.	<ul style="list-style-type: none"> - Organizing - Control
	<p>Business continuity (No. 12)</p>	It is necessary to ensure the existence of mechanisms to maintain the continuity of operations of the public finance sector entity, using, among others, the results of risk analysis.	<ul style="list-style-type: none"> - Planning - Organizing - Control
	<p>Resource protection (No. 13)</p>	It should be ensured that only authorized persons have access to the unit's resources. Managers and employees should be entrusted with the responsibility for ensuring the protection and proper use of the entity's resources.	<ul style="list-style-type: none"> - Planning - Organizing - Control
	<p>Detailed control mechanisms regarding financial operations and economic (No. 14)</p>	There should be at least the following control mechanisms for financial and economic operations: a) reliable and complete documentation and recording of financial and economic operations, b) approval (authorization) of financial operations by the head of the unit or persons authorized by him, c) division of key responsibilities, d) verification of financial and economic operations before and after implementation.	<ul style="list-style-type: none"> - Planning - Organizing - Control
	<p>Control mechanisms relating to IT systems (No. 15)</p>	Mechanisms should be defined to ensure the security of data and IT systems.	<ul style="list-style-type: none"> - Planning - Organizing - Control

Źródło: komunikat nr 23 Ministra Finansów

In paragraph 4 art. 69, the legislator authorized the Minister of Finance to issue detailed guidelines on management control for the public finance sector. So far, the minister has used it twice, issuing:

- Communication No. 3 of February 16, 2011 on detailed guidelines for self-assessment of management control for public finance sector entities;
- Communication No. 6 of December 6, 2012 on detailed guidelines for the public finance sector in the field of risk planning and management.

The first of the mentioned guidelines specify and develop some of the management control standards from group E. Monitoring and evaluation. As indicated in Communication No. 3, one of the conditions for ensuring adequate, effective and efficient management control is monitoring and evaluation of its functioning. Such an assessment may be made, among others: through self-assessment of management control recommended in the *Management*

Control Standards for the Public Finance Sector. One of the most frequently used methods of conducting self-assessment of management control is the use of surveys (questionnaires), especially in entities that do not have other tools for assessing management control, e.g. internal audit, or where audit resources may be considered insufficient. This method is also recommended when:

- the self-assessment is carried out in a relatively large unit or employees are scattered in different locations;
- the organizational culture of the unit is not conducive to open discussion, which makes it impossible in practice to use another popular self-assessment method – self-assessment workshops;
- the entity's management wants to minimize the time and costs of collecting information regarding the functioning of management control.

The guidelines emphasize that self-assessment cannot replace other management control assessment tools, e.g. internal audit, but rather should be considered as one of the tools used in management control monitoring. However, internal auditors may participate in the self-assessment process.

These guidelines present a possible course of the self-assessment process using surveys and sample surveys that can be used by entities in this process. The first stage is to determine the scope of self-assessment, which may be varied, but it should cover at least those areas of activity that serve the implementation of the unit's basic goals and tasks. However, if the results of the self-assessment are to be one of the sources of information on the functioning of management control for the purposes of submitting a statement on the state of management control, efforts should be made to cover all elements of management control in the entire entity in the self-assessment.

CONCLUSIONS

Failure to comply with the provisions specified in Art. 69 section 1 of the Public Finance Act, entities' obligations related to the operation of the management system may result in their liability of various nature. However, expressis verbis only the provisions of the Act on liability for violations of public finance discipline link liability with omissions in the field of management control. It should be noted in advance that liability for violating public finance discipline – due to the fact that it is intended to protect financial management processes – applies only to such management control behaviors that are related to and concern financial management. Pursuant to Art. 18c section 1 of the Act on violation of public finance discipline, a violation of public finance discipline is non-performance or improper performance by the head of the unit of duties in the field of management control, if it had an impact on:

1. reduction in revenues due to this entity, the State Treasury or a local government unit;
2. making an expense that exceeds the amount of expenses determined in the financial plan of the entity;
3. incurring a liability without the authorization specified in the Budget Act, budget resolution or financial plan or exceeding the scope of this authorization or in violation of the provisions regarding incurring liabilities by a public finance sector entity;
4. failure to timely perform the entity's obligations, including the obligation to refund customs duties, taxes, overpayments or unduly paid social security or health insurance contributions;
5. awarding a public contract to a contractor who was not selected in accordance with the procedure specified in the public procurement regulations;
6. concluding a framework agreement without conducting the procedure in accordance with the provisions on public procurement;
7. concluding a public procurement contract or a framework contract in violation of the provisions on public procurement regarding the form of a written contract, the period for which the contract may be concluded, or in the event of an appeal, the date of its conclusion;
8. failure to exclude from public procurement proceedings a person subject to exclusion from such proceedings under public procurement regulations;

9. invalidation of a public procurement procedure in violation of the provisions on public procurement specifying the grounds for invalidating this procedure;
10. concluding a concession contract for construction works or services with a concessionaire who was not selected in accordance with the provisions on concession contracts for construction works or services;
11. concluding a concession contract for construction works or services in violation of the provisions on the concession contract for construction works or services regarding the form of the written contract, the period for which the contract may be concluded, or in the event of an appeal against the action of selecting the most advantageous offer – the date of its conclusion;
12. invalidation of the proceedings for concluding a concession contract for construction works or services in violation of the provisions on concession contracts for construction works or services;
13. carrying out, in the scope of financial management or in the public procurement procedure or in the preparation of this procedure or in the procedure for concluding a concession contract for construction works or services, an activity violating the discipline of public finances by a person unauthorized to perform this activity;
14. action or omission resulting in the payment from public funds of a penalty, fine or fee constituting a financial sanction, to which the provisions on enforcement proceedings in administration apply.

The structure of the above-mentioned regulation clearly indicates that omissions by the unit's manager in the field of management control are punishable, provided that there is a breach of discipline by an employee of the unit and at the same time it concerns the above-mentioned. deeds. In the latter context, it is also necessary to recall administrative court jurisprudence, which confirms the principle that the manager of an entity does not waive responsibility for management control by authorizing employees subordinate to him to perform specific duties as part of the management of the entity (Judgment of the Provincial Administrative Court in Warsaw of May 14, 2012 , V SA/Wa 216/12, judgment of the Supreme Administrative Court of September 7, 2022, I GSK 2804/18).

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