

THE AUDIT BODY FOR EXPENDITURES SUPPORTED BY THE EU BUDGET: ESTABLISHMENT, FUNCTIONING, EVOLUTION, AND RESULTS — A REVIEW OF THE ROMANIAN CASE

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Abstract: The main purpose of our paper is to analyse the issues related to the activities of the Romanian audit body responsible for overseeing EU budget expenditures (the Audit Authority/AA) and to highlight its impact on the efficient use of European funds through a chronological and thematic approach. The authors believe that this article provides a solid foundation for further discussions on optimizing the activities of this body and aligning them with European requirements. Our approach focuses on the legislative steps involved in the creation of the AA, emphasizing that the first step toward institutionalizing the audit of EU budget expenditures was the extension of the Romanian Court of Accounts' (RCA) responsibilities to include European funds. Subsequently, the AA was established as a distinct body with operational independence within the RCA. This institutional model was chosen to meet the EU's specific requirements for audit transparency and autonomy. The current legislation outlines the responsibilities of the AA, including its reporting obligations to the European Commission (EC). Our references also cover the recent results of the institution's activities, as well as the deficiencies identified, which include procedural irregularities, the absence of effective monitoring mechanisms, and delays in project implementation. These issues have been categorized by program, highlighting the areas requiring urgent intervention. The paper's final conclusion is that the analysed body plays a important role in ensuring transparency and accountability in the use of European funds in Romania. Nevertheless, improvements are still necessary to address the identified deficiencies and strengthen the institution's administrative capacity.

Keywords: Audit Authority (AA); EU Budget; auditing expenditures; fraud prevention/combating; transparency; European/national regulatory framework; reporting.

JEL Classification: H54, H61, H72, H83,

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Introduction

The Romanian institutional architecture focused on control and audit activities includes a structure created by law—the Audit Authority (AA) - arising from Romania's status as an EU member state. The AA, with appropriate technical expertise and operational

independence from the structures implementing funds and programs, is tasked with certifying that EU budget funds are used strictly in accordance with the European and national regulatory frameworks. In fact, even before Romania's accession to the EU, "following the European Commission's (EC) 2004 recommendation, which called for the designation of an independent control body responsible for sample-based verifications, system audits, and audits at the closure of ISPA measures, the decision was made to establish an independent body" within the RCA (RCA, 2020a). The role of this body, in the current European context, is significant, with several researchers referencing this aspect in their works and emphasizing the importance of preventing and combating fraud involving the EU budget (Blanco-Alcántara et al., 2022; Nicula and Firtescu, 2018; Bene and Bene, 2017; Bostan, Firtescu, and Nicula, 2017; Beldiman, D., 2016). Notably, a relatively large number of such works address this topic, primarily from the perspective of law and legal sciences (Neagu, N., 2018; Dragodan, A., 2017; Bostan and Pete, 2015; Costea and Ilucă, 2023). The following sections of our article will focus on the most significant aspects characterizing the AA for European funds allocated to Romania, specifically its establishment, organization, and functioning, highlighting key moments in its evolution and the results of its recent activities.

To ensure a thorough analysis of our topic, we have adopted the following structure for this paper: (1) Introduction; (2) Legislative steps in establishing the AA (2.1. A preliminary phase: extending RCA's control responsibilities over the use of EU Funds; 2.2. Establishing the AA as a entity without legal personality, operationally independent of the RCA; 2.3. Provisions regarding the AA in the current RCA Law); (3) Organizational and functional elements of the analysed institution; (4) Recent results of specific activities conducted by the AA (4.1. Audit missions conducted during 2023; 4.2. Specific audit activities conducted by the AA for the 2021–2022 financial period); (5) Significant deficiencies identified by the AA, grouped by program; and (6) Conclusions.

Legislative steps in establishing the AA

A preliminary phase: expanding the control responsibilities of the Romanian Court of Accounts (RCA) over the use of EU funds

The need to meet conditions imposed by the EC regarding financial assistance granted to Romania during the pre-accession phase led to the expansion of the control responsibilities of the RCA. Starting in 2002, these responsibilities extended to the use of funds provided by the European Union (EU) and other international financing sources. This expansion was made possible through the adoption of Law No. 77/31.01.2002, amending and supplementing Law No. 94/1992 on the organization and functioning of the RCA (RP, 2002a). These amendments addressed not only the control and jurisdictional competencies at that time but also the institutional structure (RP, 2002b). Briefly, the RCA was reassigned control and jurisdictional competencies in the privatization of state-owned enterprises, an activity previously conducted by the State Property Fund and, later, the State Privatization Authority. This move was justified by "numerous negative phenomena, including fraud and corruption, which were under investigation by judicial authorities" (RP, 2002b). Control and jurisdictional competencies also extended to resolving issues related to non-compliance by buyers with contractual clauses in privatization agreements, as such cases typically caused significant financial damages. Consistent with this focus on

public asset management oversight, the RCA's competencies were further expanded to include financial investment companies and associations or foundations using public funds. These measures aimed to generate substantial revenues for the state budget and included proposals to monitor certain legal entities not previously covered by Law No. 94/1992 (Article 18) (RP, 1992). These entities were defined as "those with fiscal obligations, including the payment of taxes, fees, contributions, and other amounts representing public revenue" (RP, 2002b). Additionally, the RCA was tasked with overseeing the execution of the budgets of the Chamber of Deputies and the Senate, under the same conditions stipulated by law for the Presidency, the Romanian Government, and the Supreme Court of Justice. Concerning organizational structure, a single financial control division was established to ensure unity and coherence in control activities. The number of Court Counsellors was also reduced in both the Subsequent Control Division and the Jurisdictional Division, along with changes to the decision-making processes of the RCA Plenum and the Steering Committee, aiming to enhance decision-making efficiency. Specifically, regarding control competencies, the adopted law stipulated (complementing Article 17 of the RCA Law) that these would also cover "the use of funds made available to Romania by the European Union (EU) through the SAPARD Program and related co-financing" as well as "the use of funds provided by financial assistance from the EU and other international financing sources" (RP, 2002a).

Establishment of the AA as a entity without legal personality, operationally independent from the RCA

In 2004, the EC recommended that Romania designate "an independent control body responsible for sample checks, system audits, and closure audits of ISPA measures." Consequently, it was decided to establish an independent body within the RCA framework (RG, 2005), a measure agreed upon by the EC. The newly created body also met "the requirements of the applicable regulations for the 2007-2013 programming period, which stipulated that each operational program must have a designated management authority, certification authority, and audit authority" (RG, 2005). The relevant legislative act, approved by Law No. 200/2005, stipulated that: "In order to fulfil certain obligations assumed by Romania in the European integration process, an associated body is established within the Romanian Court of Accounts, with responsibilities and procedures distinct from those provided by the current law. This body will ensure external verification and auditing of the funds related to ISPA and SAPARD programs, in accordance with the provisions of the memoranda and financing agreements, as well as structural funds" (RG, 2005). Upon the approval of Emergency Ordinance No. 22/2005, the Romanian Parliament expanded the initial text to specify more explicitly that: "In order to fulfil certain obligations assumed by Romania in the European integration process, an Audit Authority is established within the Romanian Court of Accounts for funds granted to Romania by the EU through ISPA and SAPARD programs and for post-accession funds. Referred to hereinafter as the Audit Authority, it shall have distinct responsibilities and working procedures" (RP, 2005). It was stipulated that the AA "is operationally independent from the RCA and headquartered in Bucharest". Its responsibilities included: "a) System audits, sample-based checks, and final audits; b) External verification and auditing of structural funds allocated to Romania starting in 2007; c) Annual verification of the functioning of the management and control systems established for ISPA and SAPARD programs; d) Verification of eligible expenses

declared, based on a representative sample; e) Appropriate verifications for issuing final declarations regarding measures and programs; f) Certification of SAPARD annual accounts in terms of completeness, accuracy, and reliability; g) Verification of the existence and accuracy of the national co-financing element" (RP, 2005). Additionally, the legislative act regulated the governance of the AA, which was to be led by a president and a vice-president appointed by the RCA Plenum from among the acting counsellors of accounts for a three-year term, renewable only once. The authority was required to present annual or ad hoc activity reports to the RCA Plenum. Funding for its activities was to be provided from the state budget and included in the RCA's expenditure budget. The maximum number of positions within the institution was set at 110 posts.

Provisions regarding the AA in the current RCA Law

Law No. 217/2008, which amends and supplements the RCA Law (Art. 16) (RP, 2008), introduced several additions concerning the organization and functioning of the AA. A review of the current RCA Law reveals, among other things, that: "For non-reimbursable EU funds intended to support agriculture and rural development, the AA fulfils the role of a certifying body." Additionally, following system and operational audits, the AA "reports to the European Commission on the use of non-reimbursable EU funds stipulated in Art. 12, while the main findings and recommendations resulting from the audits are included in the annual public report of the RCA" (RCA, 2022). Currently led by a president and two vice-presidents appointed by Parliament from among the counsellors of accounts, for the duration of their (non-renewable) term as counsellors of accounts, the AA receives the necessary funds for fulfilling its responsibilities from the state budget. These funds are distinctly reflected in the RCA's budget. The diagram below illustrates the revised responsibilities of the institution (Figure 1).

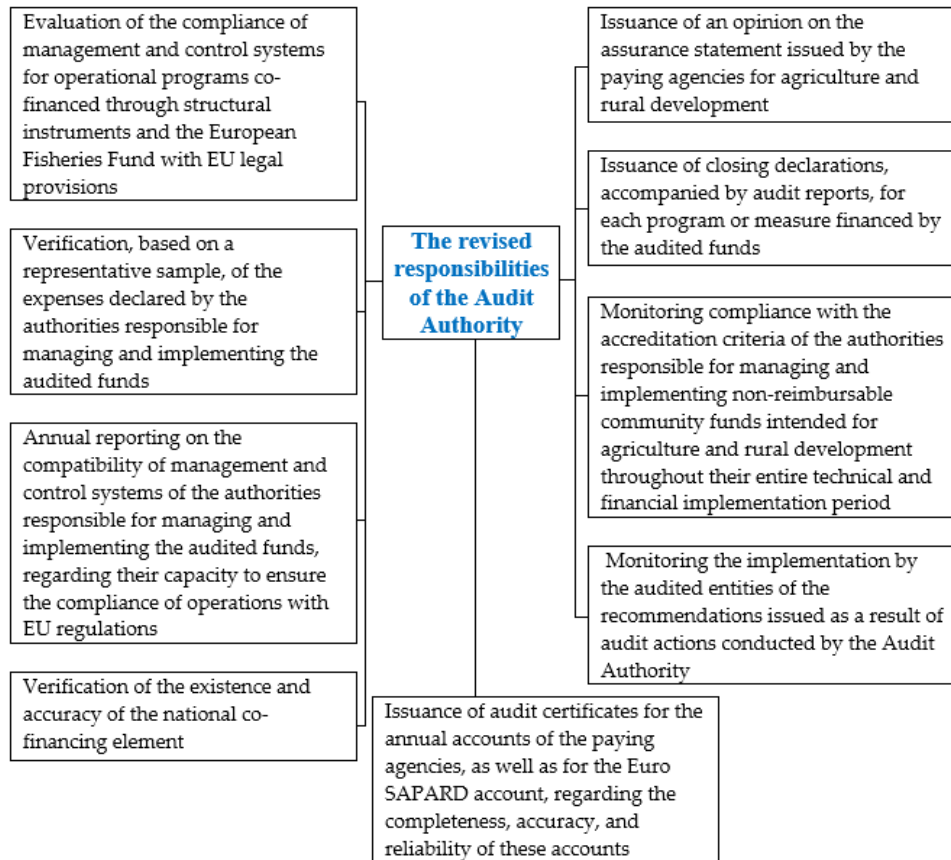


Figure 1. Revised responsibilities of the AA (Authors' elaboration based on [RCA, 2022](#)).

Some organizational and functional aspects regarding the analyzed institution

As highlighted in our previous references, the AA is an operationally independent body, distinct from the RCA and from any other authorities responsible for managing and implementing non-reimbursable European funds. Its position within the RCA is illustrated in the organizational chart below ([Figure 2](#)).

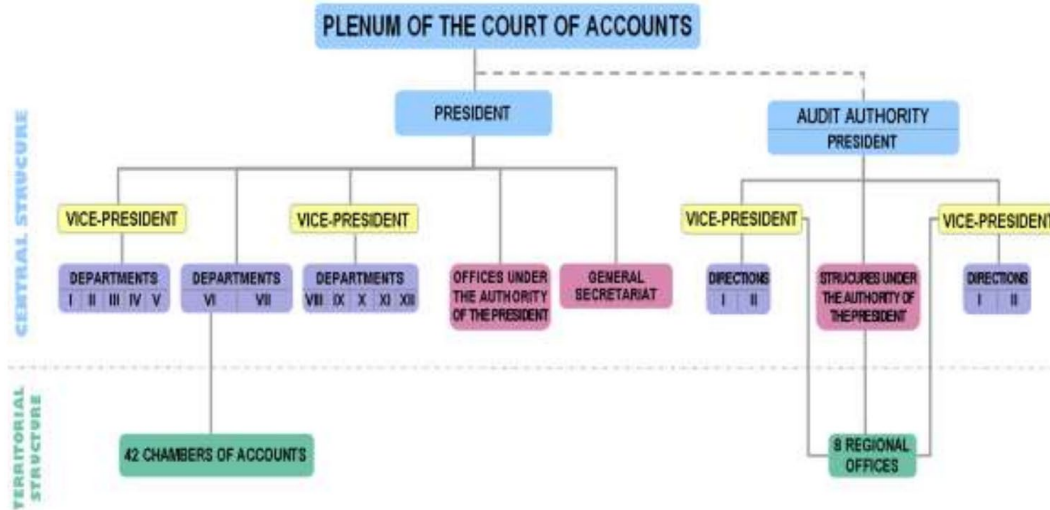


Figure 2. The Position of the AA within the RCA (RCA, 2020b).

This is the only national authority that can legally perform external public audit on the use of non-reimbursable European funds, as shown in Table 1.

Table 1. Funds subject to the activity of the AA (RCA, 2022).

Funds subject to verification by the Audit Authority of Romania	
<ul style="list-style-type: none"> ● European Regional Development Fund ● European Social Fund ● Cohesion Fund ● European Neighbourhood and Partnership Instrument ● Instrument for Pre-Accession Assistance ● European Agricultural Fund for Rural Development ● European Agricultural Guarantee Fund ● European Fisheries Fund ● Fund for European Aid to the Most Deprived ● Internal Security Fund ● Asylum, Migration, and Integration Fund 	<ul style="list-style-type: none"> ● European Fisheries and Maritime Affairs Fund ● European Neighbourhood Instrument ● European Social Fund Plus ● Just Transition Fund ● European Maritime, Fisheries and Aquaculture Fund ● Financial Support Instrument for Border Management and Visa Policy ● Funds allocated to Romania through the Recovery and Resilience Facility ● Other categories of funds (according to European/ national regulations)

The institution can also perform external public audits on other European funds if specific regulations provide the necessary resources for covering such actions. The AA has its own structures at the central level, and in the territory, it has regional structures (Figure 3) organized in the counties where its agents, management authorities, and/or intermediary bodies managing European funds operate.

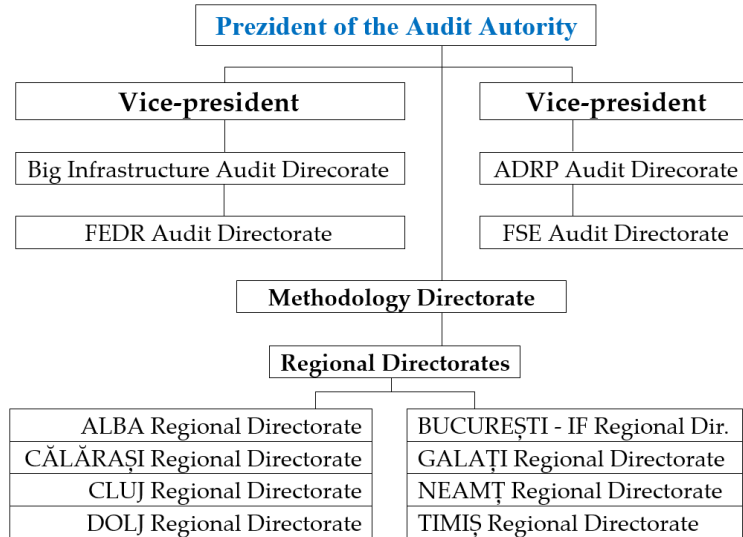


Figure 3. Organizational chart of the AA
 Source: Adapted by the authors according to (RCA, 2021).

The organizational structure, staff number, and the list of positions of the AA are approved by the Plenary of RCA, upon the proposal of the President of AA. The available staff – working in the central structure, which includes five directorates, and in the regional directorates – generally has an economic background, but may also come from other fields of expertise. By the end of 2023, there were 273 positions funded for AA, out of a total of 1,966 approved positions at the RCA level (RCA, 2024).

Recent results of the specific activity conducted by AA

Audit missions carried out in 2023

According to the RCA Activity Report for the year 2023 (Section 6: AA) (RCA, 2024), it is shown that 71 audit reports were prepared at the analyzed institution, along with 17 annual control reports (accompanied by the respective audit opinions), developed based on the provisions of Article 63, paragraph (7) of the EU Financial Regulation (EU, 2018), a summary of audits for payment request 3, in accordance with the provisions of the Regulation establishing the Recovery and Resilience Facility (EU, 2021), and five ex-ante evaluation reports of simplified cost options. Of these, one audit report concerned the 2007-2013 programming period, 70 audit reports and 17 annual control reports concerned the 2014-2020 programming period, and the five ex-ante evaluation reports of simplified cost options concerned the 2021-2027 programming period. During the reference period, AA audited a total of 50,261,677 thousand lei of the expenses declared to the EC, related to the 2007-2013 and 2014-2020 programming periods. The total expenses audited amounted to 7,426,117 thousand lei, representing 15% of the total expenses declared to the EC. Irregularities were identified totaling 141,891 thousand lei, of which 73,319 thousand lei represented deviations from the eligibility criteria for expenditures, and 68,572 thousand lei represented financial corrections applied due to non-compliance with the Public Procurement Law.

Specific audit activity conducted by AA in the 2021-2022 financial year

According to the AA Activity Report for 2022 (RCA, 2023), in the 2021-2022 financial year, 60 audit reports were prepared for various types of missions, as well as 17 annual control reports, accompanied by audit opinions concerning declared expenses, primarily for the 2014-2020 programming period, but also for the 2007-2013 period. Analyzing the two periods separately, the situation regarding the number of reports is as follows: for the 2014-2020 programming period, 58 audit reports and 17 annual control reports, accompanied by audit opinions for the 2021-2022 financial year, were completed; regarding the 2007-2013 period, two audit reports were prepared concerning the closure of the Regional Operational Program. During the audit actions, 432 entities (public and private) were checked, and 697 reimbursement/payment requests from European funds submitted for settlement by their beneficiaries were audited. The total value of audited expenses amounted to 3,140,006 thousand lei, representing 8.24% of the total expenses declared to the EC for the 2021-2022 financial year, which totaled 38,097,964 thousand lei. Following the verification of reported expenses for the 2021-2022 financial year, financial irregularities were identified in the audited sample, totaling 61,409 thousand lei. Of these, financial corrections applied to contract values for deviations from procurement rules amounted to 33,330 thousand lei, while irregularities due to non-compliance with eligibility requirements totaled 28,079 thousand lei (Table 2).

Table 2. The situation of declared expenditures, audited expenditures, and the level of financial impact of identified irregularities (Thousands of Lei) (RCA, 2023)

Programming period	Certified and declared expenditures to the EC, from which the samples were extracted	Audited expenditures	Audited expenditures from declared expenditures	Errors detected with financial impact in audited expenditures	Out of which:	
					Financial corrections (illegal procurements)	Ineligible expenditures
2009-2013	112,167	112,167	100	50	43	8
2014-2020	37,985,797	3,027,839	7,97	61,358	33,287	28,071
Total	34,097,964	3,140,006	7,97	61,409	33,330	28,079

Relevant deficiencies identified by AA, grouped by program

The deficiencies identified by AA in the implementation of certain programs funded by the EU budget, as observed during the 2021-2022 financial year, were relatively numerous. Below is a brief summary of these findings - Selection/Synthesis based on (RCA, 2023):

(i) Regional Operational Program

In the course of the audit actions, reported expenses for the 2021-2022 financial year amounting to 6,729,434 thousand lei were examined. The sample analyzed included 35 reimbursement requests totaling 332,385 thousand lei, representing 4.94% of the total declared expenses. The audits revealed financial deficiencies amounting to 2,280 thousand lei, of which 1,806 thousand lei were financial corrections due to non-compliance with public procurement legislation, and 474 thousand lei represented expenses incurred without adhering to eligibility rules.

(ii) Large Infrastructure Operational Program

During the audit actions, reported expenses for the 2021-2022 financial year totaling 9,472,260 thousand lei were examined. The audited statistical sample included 35

reimbursement requests amounting to 1,743,381 thousand lei, representing 18.41% of the total declared expenses. The audits revealed financial deficiencies of 28,996 thousand lei, of which 28,664 thousand lei were financial corrections due to non-compliance with procurement regulations, and 332 thousand lei represented ineligible expenses.

(iii) Competitiveness Operational Program

In the audit missions, reported expenses for the 2021-2022 financial year totaling 2,078,422 thousand lei were examined based on a representative statistical sample. The audited sample included 30 reimbursement requests amounting to 337,485 thousand lei, representing 16.24% of the total reported expenses. The audits identified irregularities with a total financial impact of 1,040 thousand lei, corresponding to expenses incurred without adhering to eligibility rules.

(iv) Human Capital Operational Program

In the audit missions, reported expenses for the 2021-2022 financial year totaling 3,048,300 thousand lei were examined based on a representative statistical sample. The audited sample included 30 reimbursement requests totaling 31,501 thousand lei, representing 1.03% of the total reported expenses. Given the specific nature of this program and the significant number of transactions related to salary expenses, travel, and costs for the target group, the total audited expenses were determined using second-degree sampling. The audits identified irregularities with a total financial impact of 3,424 thousand lei, of which 240 thousand lei were financial corrections due to violations of procurement regulations, and 3,184 thousand lei represented ineligible expenses.

Specific case: *In the project - Equal opportunities in education for children from Dolj and Vâlcea counties with parents working abroad - implemented by a private beneficiary together with four partners, an erroneous reimbursement of ineligible expenditures amounting to 87 thousand RON was identified, representing salaries and related contributions. The identified deficiencies involved the following aspects: (i) Two project partners employed four experts under individual employment contracts on an hourly payment basis for positions within the organizational chart, in addition to their main 8-hour/day employment contracts within the same institution. This arrangement did not comply with the provisions of Article 1(b) of the Framework Regulation approved by Government Decision No. 325/2018. (ii) For one partner, two out of the three founding members of the Regional Consultancy Association Oltenia were employed within the project. These individuals were related by kinship or affinity up to the second degree, indicating a potential conflict of interest (RCA, 2023).*

(v) Administrative Capacity Operational Program

In the audit mission of operations, reported expenses for the 2021-2022 financial year totaling 493,688 thousand lei were examined. The audited sample included 30 reimbursement requests amounting to 84,061 thousand lei, representing 17.03% of the total reported expenses. The audits revealed deficiencies with a financial impact of 32 thousand lei, representing ineligible expenses due to non-compliance with eligibility rules. An additional objective was to identify aspects of the Management and Control System that might constitute redundant administrative tasks, lacking added value or efficiency, or that could generate excessive costs in relation to the benefits obtained.

(vi) Technical Assistance Operational Program

During the audit actions, reported expenses for the 2021-2022 financial year totaling 150,229 thousand lei were examined. The audited sample included 30 reimbursement requests totaling 9,646 thousand lei, representing 6.42% of the total reported expenses. The

audits revealed deficiencies with a financial impact of 7 thousand lei, of which 2 thousand lei were corrections applied due to irregularities found in public procurement, and 5 thousand lei were ineligible expenses due to non-compliance with eligibility rules.

Conclusions

The AA has demonstrated a significant impact in monitoring the use of European funds in Romania, serving as a central pillar in ensuring transparency, compliance, and efficiency in the management of European resources. Through its activities, the AA contributes to identifying deficiencies, preventing fraud, and improving the use of funds, all critical aspects for Romania's efficient integration into the EU financial mechanisms. Its role is further strengthened by a well-defined legislative framework, which clearly sets out responsibilities and limits of competence, as well as adherence to international audit standards, ensuring the credibility and recognition of its results at the European level. However, the AA's activities do not have an immediate, massive impact on eliminating all identified deficiencies. These include significant delays in implementing projects financed with European funds, procedural irregularities that compromise the efficiency of administrative processes, and the lack of robust monitoring mechanisms that allow for early identification and correction of dysfunctions. Thus, there is a need to address these challenges through additional measures and specific reforms. In order for the AA to maximize its contribution to increasing the absorption rate of European funds and using them efficiently, several targeted initiatives are necessary. These include the continuous modernization of audit tools, the integration of advanced technologies into operational processes, and strengthening institutional capacity through the allocation of adequate human and financial resources. Additionally, increasing collaboration with other national and European institutions involved in managing funds is important to developing coordinated solutions to complex and recurring problems. In the long term, the efficiency and impact of the AA will depend on the implementation of proactive policies addressing the root causes of current deficiencies, as well as the creation of an integrated system for monitoring and evaluating the results of European funding.

Limitations of the Research

This study has certain limitations due to the fact that our analysis was based on publicly available information, limiting access to more sensitive details regarding the specific nature of the identified deficiencies. Furthermore, the focus is clearly on Romania, and the study is exclusively concentrated on the activities of the AA in Romania. An extended comparison with other EU member states could have provided a more comprehensive perspective.

Future Research Directions

To further deepen this subject, the authors understand the need to investigate how similar bodies operate in other EU member states to identify best practices that can be adapted to Romania. Additionally, there is a need to explore the extent to which AA's recommendations are implemented and influence the efficiency of European fund utilization, while exploring the use of advanced technologies, such as artificial intelligence and big data, to optimize the audit process remains equally important.

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