PERFORMANCE EVALUATION IN ADMINISTRATION AND MANAGEMENT OF PUBLIC ENTERPRISES IN ACCORDANCE WITH THE CORPORATE GOVERNANCE'S PRINCIPLES

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ABSTRACT
The specific constraints known by the public sector, especially in the last two decades, raise a series of questions, not only from the perspective of the State's capacity to exercise its shareholder role, but also from the one of the public enterprises' capacity to obtain performance. Their restructuring aims the mechanisms' implementation of the corporate governance and the governance regimen's harmonization in report with the international norms in the public European enterprises' domain, as well as with the national legislative frame. The entrance into force in 2011 of the normative act issued by the Romanian Government regarding the corporate governance of the public enterprises assess the regulations in the sphere of the processes and of the management and administration relationships, thus creating premises for the public sector's functioning in terms of performance. This study begins from the hypothesis according to which, the governance system's effectiveness of a public operator generates performance differences in its administration and management. The paper's purpose is to examine the corporate governance's effects on the performances of the public enterprises in Romania, focusing on the performance's evaluation in the administration and management, by means of two strategic documents: the Administration Plan and the Management Plan.

KEYWORDS: *Administration Plan; Corporate governance; Management Plan; Public enterprise; Key performance indicator.*

JEL CLASSIFICATION: *G 34, G 38*

1. INTRODUCTION

In the actual economic context, in which the competition for foreign and national investments becomes increasingly closer, the organizations continue to identify measures to remain competitive and to raise their performance. Good governance is recognized as being one of the most effective solutions for the organizations, in rethinking the managerial team's objectives in creating value for the shareholders and as well for reconsidering the stakeholders' interests.
The preoccupations in matter of corporate governance intensified at the beginning of the year 2000 as the consequence of a financial scandals' series, which reached high worldwide companies (*Enron* in the United States of America, *Credit Lyonnais* in France, *Parmalat* in Italy). The origins of these events were issues of the deciders' opportunism, the ineffectiveness of the Board of Directors, or the mistrust in the audit processes. In that moment, no protection mechanism permits the report's control between the patrimonial power and the managerial one, which created a crisis without precedent in the stakeholders' confidence in the managerial teams that should manage their

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businesses. Therefore appears the necessity to implement a regulation instrument between the enterprise's leadership, its Board of directors, its shareholders and the other interested parts. Based on the papers previously realized by the Cadbury (1992) commission in Great Britain, the American government promulgates in 2002 the Sarbanes-Oxley law that will be considered as a reference text in matter of Corporate Governance. A distinct subject in the Corporate Governance sphere is represented by the public enterprises, which for reasons of macroeconomic stability, raises their efficiency need, by developing some new corporate governance mechanisms, supplementary to the ones existing in the private capital companies.

The principles and practices on which the Corporate Governance was built may also be applied in the public sector, and an essential role in the regulation and adaptation was brought by the OCDE (2004) report, in which there were published the directive lines that refer to the governance of the enterprises with state capital.

Reporting to the fact that the Corporate Governance is a process guaranteeing that the enterprises' administration is realized in concordance with the highest deontology and effectiveness standards, with the purpose of promoting the interests of the organization's partners, there appears the relevance of ensuring equilibrium in terms of performance in administration and performance in the management of the public company. Making a parallel with (IGSI, 2005), the performances' evaluation regarding the public enterprise's administration accentuates the Conformance Processes (Chairman / CEO, Non Executive Directors, Audit Committee, Risk Management, Internal Audit), processes that converge in the organization's responsibility plan. Similarly, the performances' evaluation in the public company's management is associated in the Corporate Governance's context with the Performance Processes (Strategic Decision Making, Strategic Risk Management, Scorecards), whose finality is constituted by the creation of value.

Usually, the public enterprises have a monopoly status or they have natural monopoly elements and in the same time, they do not align to the main sanction mechanisms of the market economy: the bankruptcy law and the control instruments. Moreover, while in a private organization the private shareholders might manifest regarding the sale of their shares or the change of an underperforming managerial team, in the public enterprises characterized by a sometimes excessive intervention of the state, the shareholders cannot dismiss the board of directors, they cannot sell actions. Under these conditions, there becomes more important the elaboration of some mechanisms, which on the one side should guarantee the objectivity and the transparency of the public enterprises' management and on the other side it should ensure the reaching of a high performance level in their economic activity.

The present paper intends to present an argued point of view regarding the performances' evaluation in *administrating* public enterprises by means of the Administration Plan as well as regarding the performances' evaluation in *their management*, by means of the Management Plan, beginning from the essence of the corporate governance concept and from the Romanian legislative frame in this domain.

2. THEORETICAL FRAMEWORK

Corporate Governance is a relative recent concept that describes methods and systems used for the organizations' management. Cadbury's (1992) succinct approach according to which the corporate governance is the system through which the companies are guided and controlled, reveals elements of deep profoundness that refer to the report established between the Board of Directors and the internal and external interested parts in order to satisfy a major preoccupation of each organization – reaching the performance. The Corporate Governance principles and practices have been developed in 1999 (OCDE, 1999) and ulterior revised in 2004 (OCDE, 2004).

In the next year OCDE publishes *Guidelines on Corporate Governance of State-owned Enterprises*, in order to ensure good corporate governance practices (OCDE, 2005). Addressing the State as an owner, the Guidelines establish the core elements of a good corporate governance regime. They provide standards and good practices, as well as guidance on implementation, and should be adapted to the specific circumstances of individual countries and regions.

According to (Stilpon, 2001) the Corporate Governance concept is defined by two essential dimensions: *the behavioral dimension* centered on the manner in which the managers, the shareholders, the employees, the creditors, the clients, the suppliers or other interest groups act; *the normative dimension* that emphasize the regulations set in which these relationships and behaviors are framed, like the law of the securities and of the capital markets, the bankruptcy law, the competition law etc. Practically, the corporate governance is a very ample concept, which in the context of the manner's supervision in which the organization is leaded, the organization intends to implement some systems for analyzing the risks, checking, evaluating and controlling that should ensure a performing management. Therefore, he corporate governance concept must approached together with the enterprise risk management, as well as with the internal financial and audit management system (Renard, 2002).

The corporate governance in the public sector was under the attention of the international institutions (ANAO, 2003; OECD, 2004), which underlined that the its low effectiveness is responsible for the lack of performance in this sector's enterprises (Wong, 2004). The public sector denotes a strong differentiation from the private one, especially through their obligation to operationalize – often in a short time – the measures programs elaborated by the political system, frequently underestimating the efficiency and feasibility criteria. Under the performances aspect that the public enterprises are capable to reach in the processes' sphere and of the management and administration relationships, the Board of Directors represents one of the control mechanisms, intensively examined in the research regarding the Corporate Governance (Charreaux, 2000). The Board of Directors' performance is conditioned both by its structure (Denis & Sarin, 1999), and by the roles it has to fulfill: control, strategic planning, obtaining critical resources for the company (Johnson et *al* (1996). The greatest part of the studies postulates that the Board of Directors' effectiveness exercises a significant impact on the public company's performance.

The connection between the corporate governance and the public enterprise's administrative and managerial performance results from the nature of a good governance, in the sense that the corporate governance involves ensuring compliance with legal obligations and protection for shareholders against fraud or organizational failure. Without the mechanisms and principles implied by the corporate governance frame, the manager might "run away with the profits" (Smallman, 2004). Therefore, the approach in this manner of the corporate governance minimizes the possibilities of a low performance in administrating and managing the public company.

3. GUIDELINES REGARDING THE PERFORMANCE MANAGEMENT WITHIN GEO nr. 109/30.11.2011

As a consequence of the objectives assumed by the Romanian Government through the Cover letter to the International Monetary Fund, approved by the Government through the memorandum date the 7 June 2011, revised on the economic context fund that imposed the adopting of some rapid measures for creating the legislative and administrative premises that should lead to the increasing of the public enterprises' efficiency, there has been adopted *GEO nr. 109 from the 30 November 2011*.

Taking into account the deficiencies of the legislative framework regarding the good governance of the state companies, the adopting of the previously mentioned normative act, was realized in an emergency regime, as any delay would perpetuate the existing malfunctions in the management and administration of the organizations with an integral or majority state capital, thus affecting their capacity to contribute to the equilibration of the state budget and implicitly to the economy's revival.

The normative act also includes a series of references to the *implementation of the performance's management*, which have been developed by the Organization for Economic Co-operation and Development, with the purpose of optimizing the managerial processes and relationships, as well as the administrative ones constituted at the public enterprises' level. In this sense, the mentioned normative act reveals the necessity to ensure an increased transparency of the administrative and management organisms' selection, by raising the managerial responsibility, as well as by creating some supplementary mechanisms for protecting the shareholders' rights.

Thus, within the Art. 8 (2) – for the members of the Board of Directors – and respectively within the Art. 21 (4) – for the directors of the public enterprise, there is reflected the direct connection between the performance and the reward, their allowance being "established through the mandatory contract and annually revised, depending on the fulfillment degree of the performance indicators provided in the mandatory contract". Moreover, Art.21 (2) details the structure of these performance indicators: "in the mandatory contract, along with the specific performance criteria, there are obligatorily provided quantified objectives regarding the reduction of the outstanding obligations, reducing the losses, the raise of the profits, of the turnover, the raise of the work's productivity". In parallel with the regulation of the performance objectives, the above mentioned GEO also includes references to the remuneration structure of the Board's of Directors members and of the public enterprises' directors. Thus, within the Art.55 (3) that introduces the concept of *variable remuneration*, as being the one based on "performance criteria", there is also established "the report between performance and remuneration", as well as "the considerations that justify any annual bonuses scheme or non-monetary advantages".

Under the aspect of the instruments used for the performance's management, these ones are regulated within GEO nr. 109/30.11.2011 on two levels:

- ***The administration level*** of the public company, for which the concept of *Administration Plan* is introduced, which includes according to Art.13 (1) "the administration strategy during the mandate for reaching the performance objectives and criteria established in the mandatory contract". The analysis of the Administration Plan by means of the manner, in which this one correctly reflects the performance's management principles, is realized by the public tutelary authority.
- ***The management level*** of the public enterprise uses as a main document the *Management Plan*, which includes "the leading strategy for reaching the performance objectives and criteria established in the mandatory contracts" (Art.22(1)). The Management Plan subordinates to the society's administration strategy, as it results from the same article. In this context, according to Art.22(2), "the Board of Directors might request the completion or the revision of the management plan if this one doesn't provide the measures for realizing the objectives contained in the mandatory contract or if it doesn't include the results forecasted for ensuring the performance indicators' evaluation."

Both structuring levels of the performance's management system are subordinated to the general performances criteria of the public enterprises, regulated by the public tutelary authority under the form of "economic realization indicators of the shareholders policy's objectives" – Art.58(2).

From the managerial point of view, the system's structure of the performance management regulated through GEO nr. 109/30.11.2011, detailed up to the operational level, is represented in figure 1:

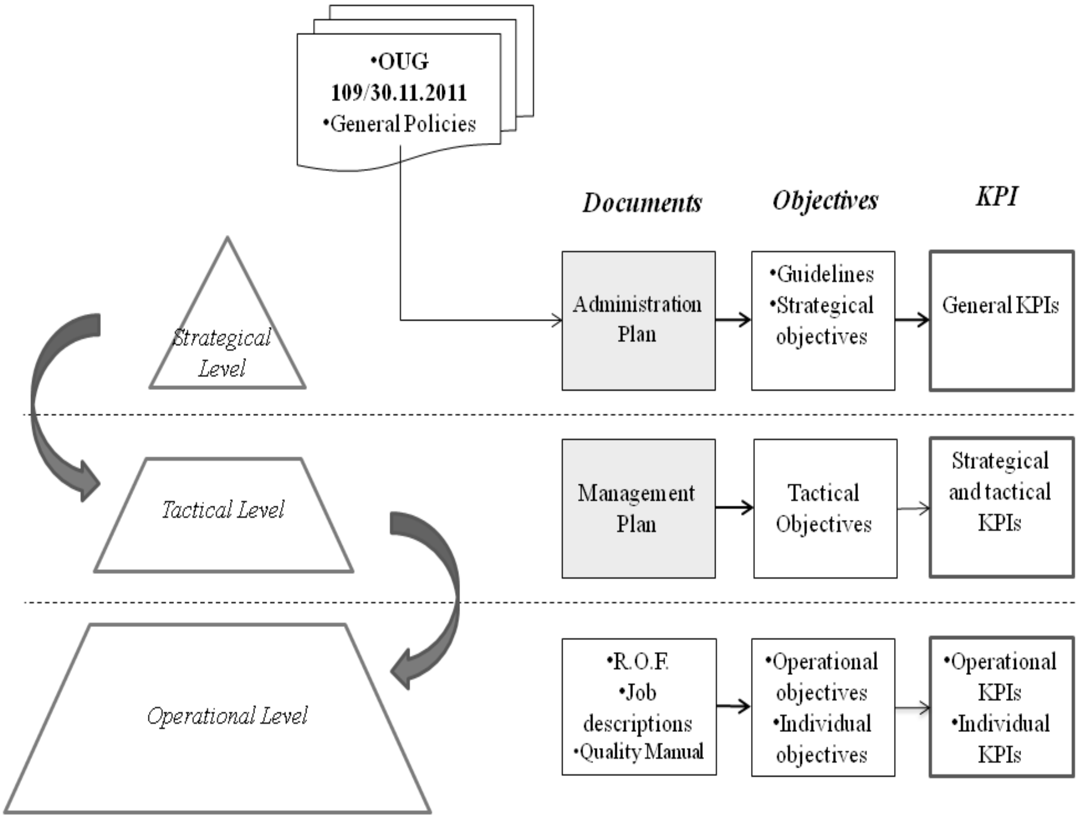

Figure 1. The system's structure of the performance's management in correlation with GEO 109/30.11.2011
Source: authors

The present paper presents the concrete consolidation modality of the performance's management system for the strategic and tactical levels from the above figure, following that the operational level should be detailed within a future research, in which there will be also focused the connection between global performance and individual performance, by means of the human resources management.

4. THE PERFORMANCE'S EVALUATION IN *ADMINISTRATING* PUBLIC ENTERPRISES

By applying the GEO nr. 109/30.11.2011, the Administration Plan becomes the main strategic document of the public company, which integrates both the guiding principles regarding its administration on a time horizon of 4 years, and the fundamental objectives, the performance targets and the strategic priorities defined at the level of the same calendar horizon, which will be at the basis of realizing the Management Plan. The Administration Plan is based on the managerial vision of the Board's of Directors members on the evolution perspectives of the public company, based on the consolidation of the strategic management processes.
In the authors' vision, the Administration Plan is necessary to be structured, on 5 guidelines categories that might be part of the administration strategy of each public company (Figure 2).

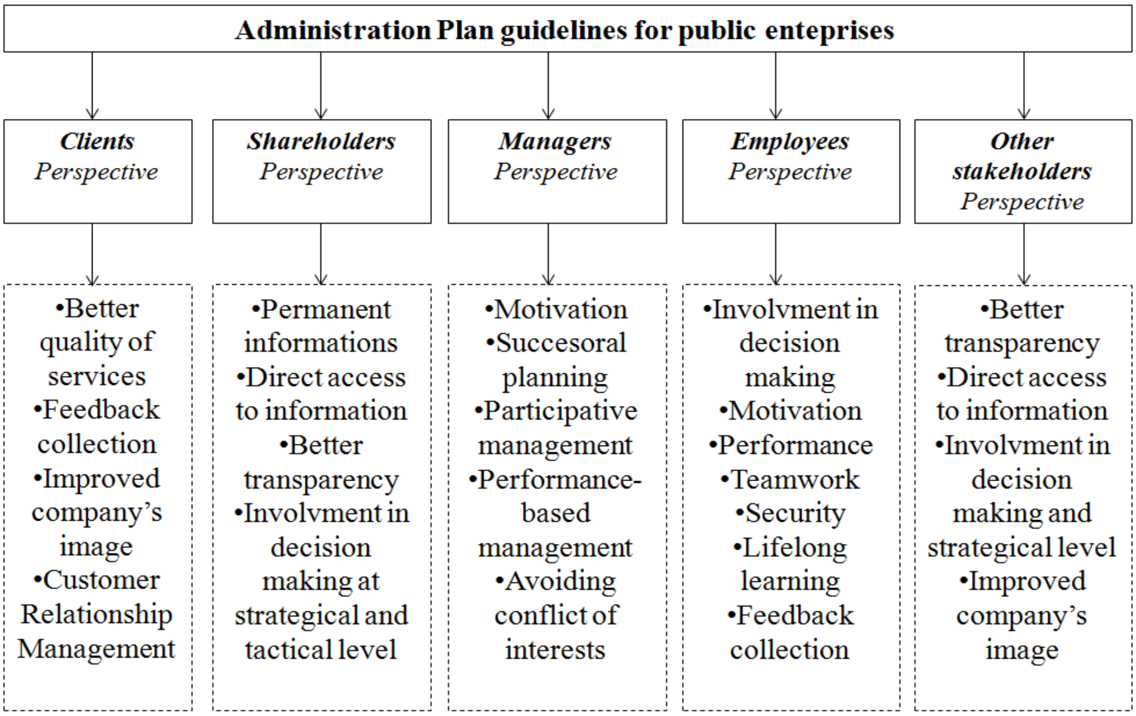

Figure 2. Guidelines of the public enterprise's Administration Plan
Source: authors

GEO nr.109/30.11.2011 complements the ones regulated through the Law 31/1990 regarding the commercial societies and respectively the Law nr.544/2001 regarding the free access to public interest information, with an obligations series of the Board of Directors, aligned to the previously mentioned guidelines. Among these we mention:

a. the elaboration of a *semester report*, presented to the public tutelary authority, regarding the public enterprise's activity, which also includes information regarding the execution of the directors' mandatory contracts.
b. the issuing and presenting for approval to the public tutelary authority of the *Administration Plan*;
c. the publishing of the announcement regarding the directors' selection in two widespread economical and/or financial newspapers and on the public enterprise's website, containing the conditions that have to be met by the candidates and their evaluation criteria;
d. publishing the Meeting's convener on the public enterprise's website, as well as of the documents that have to presented to the shareholders within the Company Shareholders' General Meeting with at least 30 days before the general meeting's date and until the end of its evolution;
e. creating the conditions for exercising the voting right for all shareholders, including the vote through electronic means and the vote through correspondence;
f. publishing the decisions of the Company Shareholders' General Meeting within 48 hours from the meeting's date, the annual financial situations within 48 hours from their approval, the semester accounting reports within 45 days from the semester's end, as well as the annual audit report;
g. making the documents that reflect essential and significant dates and information regarding the transactions realized with the administrators or directors *available to the shareholders* or
h. presenting the semester Report on the administration activity within the Company Shareholders' General Meeting;

i. elaborating an *Annual report regarding the society's activity*, in May of the year following the one regarding to which it is being reported, published on the public enterprise's website.

Besides the action ways regulated through normative act, the authors recommend that the Administration Plan should include other concrete modalities for operationalizing the 5 guidelines, like: careful monitoring of the employees' interaction with the clients in order to sanction the behaviors that damage the organization's image, the extension of the personnel's number with leadership functions that will have to receive customers in audience, the elaboration of some confidentiality policy regarding the personal data of the consumers, the implementation of the Service Level Agreements – SLA that will be brought into the consumers' knowledge by means of the society's website, the implementation of the personnel's back-up plan, the elaboration and implementation of the professional training plan of the managerial and execution personnel, the stimulation of team activities, the supplying to all stakeholders of some complete and concrete general interest information regarding the financial situation and the economic results of the society etc.

Not least, it is necessary that in the Administration Plan should be crystallized the managerial vision of the public enterprise, based on defining the fundamental corporate management principles, a premise of their efficiency's and competition's maximization. Among these principles, we appreciate that the following one are essential:

The principle of the participative management – it is necessary to create and maintain at formal or informal level the participative management organisms within the public enterprise. The authors propose, in this context, the operationalization of this principle within the Management, at least through the following actions:

- proliferation and permanent making, with regulated frequency (weekly or twice a month) of the meetings of *"management board" type*, with the participation of the superior level management, as well as of some guests from the medium level management's side;
- regulation of the relationships with the stakeholders by implementing the corporate governance principles, regulated through GEO nr. 109 from the 30 November 2011;
- consulting the employees using feedback questionnaires regarding the main decisions with impact in the human resources area.

The principle of the objectives' supremacy – will be materialized by focusing the main human resources of the public enterprise in the most important work sectors. This principle might be implemented based on the Administration Plan through 2 action categories:

- the formalization of the organizational objectives' system by introducing a set of forecasted documents that will include the following: the global development strategy, the society's administration plan, the society's management plan, development strategies at the level of the functional key areas (human resources, computerization, investments, etc);
- implementing the evaluation system of the organizational performances, as a measure of monitoring and controlling the objectives' realization degree by using on a large scale the key performance indicators.

The principle of the management's permanency – for each management position it is necessary to provide a person that might replace anytime his/her titular. The Administration Plan might ensure the principle's operationalization through at least 3 measures in the human resources sphere:

- the generalization of the performances' evaluation system at the level of all organizational links and positions within the society, a measure that will permit a pertinent evaluation of the personnel and implicitly an identification of the employees with potential to supply leading positions;

- the permanent elaboration and actualization of the human resources' development strategy, in correlation with the organization's strategic objectives that will include a component regarding the succession planning;
- the operationalization of career plans for the organizational positions in the organization that are considered to be strategically important.

In conclusion, the Administration Plan represents a strategic planning instrument of the public enterprise's administration policy, being as such a reference document for all administrators and managers of the company. It represents a forecast document for formalizing the administrative processes and relationships, based on which the managerial policy of the public enterprise is issued, reflected in its Management Plan.

5. THE EVALUATION OF THE PERFORMANCES IN THE PUBLIC ENTERPRISES' MANAGEMENT

The Management Plan represents the integrant part of the public enterprise's development strategy, being in the same time correlated with the formalization documents of the structural and procedural organization (Internal regulation, Organization and Functioning Regulation and Documentation of the Integrated Management System), as well as with the Administration Plan elaborated by the its Board of Directors, according to the provisions of GEO nr. 109/30.11.2011. Taking these aspects into account, the authors appreciate that the Management Plan tends to become the main strategic management instrument the managerial team of the public enterprise will dispose of, subordinated to its global development strategy.
From the point of view of their content, the authors consider that the Management Plan has to follow the succession of the main managerial impact areas, as they are ordered in the Organization and Functioning Regulation and in the Society's Organigram, with a more pronounced approach at the level of the human resources policy and at the investment one, appreciated as being critical for the development of each public enterprise in Romania.
In order to realize the society's general objectives, as well as the guidelines regulated in its Administration Plan, the Management Plan is necessary to include *quantifiable strategic and tactical objectives, expressed as performance targets*, correlated with performance indicators specified in the Mandatory Contract of the managerial team. We further exemplify through correlation with the requests included in Art.21(2) of the GEO nr.109/30.11.2011 the formulation modality of these global objectives, as *strategic key performance indicator (KPI):*

- ensuring a profit rate of ...%, at the end of the year ...;
- ensuring a current over-unity liquidity, at the end of the year …;
- ensuring a rotation speed of the clients-debits of … days, at the end of the year ....;
- ensuring a report of the clients number per employee equal with …, at the end of the year …;
- realizing exploitation costs of … lei at incomes of … lei, for each year of the Management Plan's time horizon;
- realizing a rotation time of the stocks equal with … days, for each year of the Management Plan's time horizon;
- ensuring a physical productivity of the work of … up./sal./an, for each year of the Management Plan's time horizon etc.

At tactical level, the detailing of the strategic performance indicators is realized in ”waterfall”, for each functional area within the public enterprise (juridical, human resources, financial, commercial etc.). We exemplify in table 1 some *tactical key performance indicators (KPI).*

Table 1. Examples of tactical key performance indicators (KPI) included in the public enterprise's Management Plan

Item nr.	Indicator's name	Functional area	Measuring unit	Calculation Formula	Period
1.	*Success rate of representing in litigations*	Juridical	%	(Number of cases solved favorable for the society by the juridical department/Total number of cases solved by the juridical department) *100	Annual
2.	*Cost-benefit report afferent to the juridical cases*	Juridical	-	(Total costs regarding the files' instrumentation]/(Receivable incomes – Amounts to be paid)	Annual
3.	*TESA personnel's rate*	Human Resources	%	(TESA personnel/Total Personnel)*100	Semester
4.	*Rate of the direct productive staff*	Human Resources	%	(Direct productive staff/Total personnel) *100	Semester
5.	*Debts recovery period*	Commercial	%	(Total received/ Total billed)*100	Semester
6.	*Current liquidity rate*	Financial	-	(current actives/current debts)	Annual
7.	*Global debt rate*	Financial	%	(Total debts/Total actives)*100	Annual
8.	*Medium time for responding to written reclamations of the customers*	Communication	%	(Number of written reclamations received from the clients and solved in less than …. Days/Total number of written reclamations received from the clients)*100	Monthly
9.	*Response rate to petitions*	Communication	%	[(Number of petitions to which a response was formulated/ Number of registered petitions)]*100	Monthly
10.	*Total investment level cumulated per client*	Investments	%	(Total cumulated level of the investments/ Number of clients)/100	Semester
11.	*Medium financial progress index of the investments*	Investments	%	(Realized medium progress/planned medium progress)*100	Semester
12.	*Responsiveness index of the helpdesk activity*	IT	%	(Number of requests treated in the first … hours from their perception/Total number of received perceptions)*100	Monthly
13.	*Hardware upgrade rate*	IT	%	[(Value of the components purchased in order to upgrade the existing equipments + Value of new purchased equipments)/Amortization value of the hardware infrastructure]*100	Semester

Source: authors

For the operational level**,** the objectives assumed by the superior management team will be overtaken at the level of each functional area, by the department's chiefs or by the one of the production sections, in order to organize the activity of the own personnel and to defalcate the individual objectives. The responsibility assuming at operational level, both of the medium and inferior level managers, and of the execution personnel will be realized by means of assuming the key indicators included in the performances' evaluation system, in conformity with the Internal Regulation and with the professional evaluation procedure of the employees.

6. CONCLUSIONS

This research present a point of view regarding the performances' evaluation in *administrating* public enterprises by means of the Administration Plan as well as regarding the performances' evaluation in *their management*, by means of the Management Plan, beginning from the essence of the corporate governance concept and from the Romanian legislative frame in this domain. The Administration Plan becomes the main strategic document of the public company and it should be structured on 5 guidelines categories that might be part of the administration strategy of each public company (clients, shareholders, managers, employees and other stakeholders). Besides this, the Administration Plan should include other concrete modalities for operationalizing the 5 guidelines, like: careful monitoring of the employees' interaction with the clients in order to sanction the behaviors that damage the organization's image, the elaboration of some confidentiality policy regarding the personal data of the consumers, the supplying to all stakeholders of some complete and concrete general interest information regarding the financial situation and the economic results of the society etc. Considering these the Administration Plan represents a forecast document for formalizing the administrative processes and relationships, based on which the managerial policy of the public enterprise is issued, reflected in its Management Plan. We appreciate that the Management Plan tends to become the main strategic management instrument which should include quantifiable strategic and tactical objectives, expressed as performance targets, correlated with performance indicators specified in the Mandatory Contract of the managerial team.
This study provides a foundation for future research. Now, it is focuses on the performance's management system for the strategic and tactical levels. The operational level should be extend the current study by applying the connection between global performance and individual performance, by means of the human resources management.

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