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AUTOR/A: PANIAGUA NÚÑEZ, Miguel Ángel (GP); SUÁREZ LAMATA, Eloy (GP)

RESPUESTA:

Atendiendo al contenido de las preguntas, se entiende que se refieren al informe 1.398, en lugar del 1.038, que data del año de 2011.

El Tribunal de Cuentas (TCu) supervisa y controla el cumplimiento de las recomendaciones incluidas en sus informes de fiscalización, y lo hace de dos maneras: en el marco de posteriores fiscalizaciones, o con fiscalizaciones específicas.

El “Informe de fiscalización del grado de implementación de los modelos de prevención de delitos y de comportamientos contrarios a la ética en las sociedades mercantiles estatales en el ejercicio 2018” (número 1.398), resulta especialmente relevante, por su carácter innovador, al abordar por primera vez las medidas adoptadas por las principales Sociedades estatales como consecuencia de la extensión de la responsabilidad penal a las personas jurídicas.

El ámbito objetivo de la fiscalización ha estado constituido por los distintos aspectos que resultan imprescindibles para valorar el nivel alcanzado por las Sociedades



Mercantiles estatales en el proceso de implementación de los modelos de compliance o cumplimiento normativo penal y de ética, mientras que el ámbito subjetivo no se ha extendido a todas las sociedades estatales, sino, exclusivamente, a aquellas más relevantes.

El propio TCu señala que el alcance de su fiscalización “ha consistido en comprobar su puesta en marcha (en alusión a los modelos de prevención), centrándose el análisis realizado en la determinación del grado de implementación de los sistemas”.

En la redacción del informe ha primado el enfoque positivo, resaltando los logros y buenas prácticas observadas en algunas de las Sociedades, lo que contribuye a exportar las mejores prácticas al resto de Sociedades adaptándolas a sus propias circunstancias. Y en sus conclusiones, el TCu pone de manifiesto que no ha encontrado deficiencias ni irregularidades en la organización, gestión y control de las entidades públicas fiscalizadas y añade, literalmente, que “las sociedades fiscalizadas, en general, se han esforzado en implementar modelos o sistemas de prevención de riesgos penales que pretenden evitar su responsabilidad penal”.

Asimismo, entre las conclusiones del informe se destaca el “importante nivel de concienciación en la materia”, como pone de manifiesto el progresivo crecimiento de los recursos económicos y humanos, así como la implicación del personal en general.

Respecto de las Recomendaciones formuladas por el TCu, en el caso que nos ocupa, las recomendaciones parten, como el propio Tribunal indica, de los aspectos puestos de manifiesto “susceptibles de mejora necesarios para implementar y/o profundizar en la implementación de los sistemas de prevención de riesgos penales”.

En cualquier caso, el compromiso adquirido por el Tribunal de Cuentas de efectuar un seguimiento del grado de implementación de las recomendaciones formuladas en este informe de fiscalización, contribuirá a fomentar el desarrollo y puesta en marcha de estos sistemas o modelos de compliance y, especialmente, a potenciar su grado de eficacia en el futuro.

Cabe señalar que el citado informe fue aprobado el 29 de octubre de 2020 y elevado a las Cortes Generales y al Gobierno el 13 de noviembre de 2020. A fecha de hoy, no ha concluido su tramitación parlamentaria, estando pendiente su presentación por parte del Tribunal de Cuentas en la Comisión Mixta Congreso-Senado para las relaciones con el Tribunal de Cuentas y el posterior debate y aprobación, en su caso, de las propuestas de Resolución que presenten los diferentes Grupos parlamentarios.

Madrid, 15 de marzo de 2021