

ANTICORRUPTION STRATEGIES WITHIN THE COMPETENCES  
OF THE SUPREME AUDIT INSTITUTIONS  
IN THE EUROPEAN UNION

HUNGARY\*

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1. GENERAL OVERVIEW OF HUNGARY AND ITS LEGAL SYSTEM

THE Republic of Hungary is an independent, democratic constitutional state. The regime is parliamentary democracy. Hungary had a GDP per capita of 15 732 USD on purchase power standards in 2004 with an inflation rate of 6,8 in the same year. In 1989 a change of the regime took place. Since 2004 Hungary is a Member State of the European Union. The traditional three branches of state power according to Montesquieu - the legislative power, the executive power and jurisdiction - are separated in Hungary.

*Legislative branch:* In the Republic of Hungary supreme power is vested in the people, who exercise their sovereign rights directly and through elected representatives. This power is exercised by a unicameral National Assembly (Parliament) elected for a four-year period. In Hungary a direct universal suffrage applies to citizens of over 18 years of age.

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*Executive branch:* The head of state, the President of the Republic is elected by the National Assembly for a five-year term; the head of government (Prime Minister) is appointed by the President. The Members of the Cabinet are elected by the National Assembly on the recommendation of the Prime Minister.

*Judicial branch:* The main forms of judicial system are: criminal justice, civil justice and review of the legality of the central administration's decisions. In the Republic of Hungary, the judiciary system consists of the *Supreme Court, the courts of appeal, the county (metropolitan) courts and the local (metropolitan district) courts*. The administration of courts is the responsibility of the *National Judicial Council*.

The state's punitive power is represented by the public prosecutor. The organisational structure of the Prosecution Service of the Republic of Hungary is the following: Office of the Prosecutor General; Regional Chief Prosecution Offices; County Chief Prosecution Offices and the Metropolitan Chief Prosecution Office; local prosecution offices.

In Hungary, the independent *Constitutional Court* serves as the main body for the protection of the Constitution, its tasks being the review of the constitutionality of statutes, and the protection of constitutional order and fundamental rights guaranteed by the Constitution.

In Hungary the rule of law is based on the Western model. Its Civil and Commercial Law is German-inspired. While Hungary has a separate Criminal Code, it has no specific laws and institutions for the fight against corruption. The Hungarian Criminal Code refers to criminal acts in connection with corruption, but does not use the expression corruption, it uses bribery. The Code includes two clearly distinct types of criminal behaviour under the conduct defined as bribery: public bribery and economic bribery (bribery in the private sector). Both can be active or passive, depending on whether the perpetrator gives or accepts, promises or asks for the illegal advantage. Moreover, the Code covers both bribery committed domestically and internationally. Other offences regulated in the Code which may be related to acts of corruption are as follows: Money Laundering, Smuggling and the Acquisition of Smuggled Goods, Infringement of Accounting Regulation etc.

## 2. HISTORICAL DEVELOPMENT OF THE SAI

The first independent audit body of the Parliament by the name of Hungarian Royal State Audit Office was established in 1870. It performed the same duties as the Audit Office of Austrian Hungarian Monarchy for ex-

ample *ex ante* audit of the expenditure of the central budget and preparation of the final accounts of central budget. From 1949 the functioning of an independent institution was suspended. The re-establishment of the SAI took place in 1989. The Hungarian SAI as the audit body of the Parliament followed the 'Northern' type (Westminster or Office type) development. Since 1989 the competence of the Hungarian SAO has considerably widened. Thus, the organisation of the institution has been significantly modified.

### 3. THE LEGAL FRAMEWORK OF THE SAI

The legal framework of the SAO consists of several acts and other regulations. The different pieces of regulations are hierarchically built on each other. At the top of the hierarchy we have the Constitution of the Hungarian Republic. The SAO derives its mandate from constitutional and statutory provisions.

*a) The Constitution:* The most important legislation is the Constitution Act containing the main elements of the legal remit and audit competence of the SAO. It declares the constitutional status of the institution, and determines the guarantees of the independence of the SAO. According to the Constitution, the SAO is the audit body of the Parliament performing audits, which cover the management of the public finances. The SAO audits the final accounts made on the execution of the state budget. The SAO reports on its findings to the Parliament. Its reports shall be made public. (See Annex 1 Excerpt from the Constitution.)

*b) Act on the State Audit Office:* The second most important legislation is the Act on the SAO detailing the audit remit of the SAO. The SAO has had a very wide scope of audit from the moment of its establishment. Pursuant to its audit mandate, the SAO covers:

- the overall public finances of the State,
- the treasury assets and entrepreneurial assets of the State,
- the financial management of certain organisations outside public finances,
- the functioning of institutions with an obligation to report to Parliament,
- the subsidies granted from the state budget,
- the management of the local governments,
- the legality of the financial management of political parties etc.

This sphere of authority has been expanded by various amendments born in the course of the past years and this has strongly influenced the focal points of the work done by the SAO.

- In the course of the year 2000 amendment of the Act on the Hungarian National Bank, the SAO was empowered to audit the Bank's management as external auditor.
- Based on the year 2000 amendment of the Act on the SAO, it can perform audits, upon the request of NATO, the European Union or other international organisations where Hungary is a member, further upon meeting international obligations undertaken by the National Assembly or the Hungarian Government, and the institution should be available as expert both at home and abroad.
- In 2002, due to the last amendment of the same Act, the SAO had the competence to trace budget expenditures to the final user. Its other competence concerns the nomination of chairmen of the Supervisory Board of some state-owned enterprises.

The SAO Act also covers organisational issues concerning the institution and basic rules related to the audits. It contains the substantially required obligations with respect to the auditors as well. (See Annex 1 the whole text of the abovementioned Act.)

*c) Other legislation:* The legal remit of the SAO is regulated not only in the Act on SAO but also in several other acts and regulations such as for example the Acts on the Public Finance System, on Local Governments, on the Sale of State-Owned Entrepreneurial Assets, on the Civil Code, on operation and management of political parties, on National Bank etc.

Besides the audit function, the SAO has other functions as well, for example initiating legal or administrative procedure, counter-signing the agreements related to the credits raised by the budget, expressing opinion on the budget bill etc.

#### 4. ORGANISATIONAL STRUCTURE OF THE SAI

The Hungarian SAO works under the direction of its President who has exclusive powers in taking essential decisions concerning the organisation of the SAO. He has exclusive power in adopting audit plans, internal rules, reports, and in making proposals to the Parliament with regard to the organisational structure of the SAO.

According to the relevant rules, Vice-presidents are replacing the President of the SAO. The President and the Vice-Presidents of the SAO are elected by the Parliament for a 12-year term. Auditors and other members of the staff are selected and appointed by the President in compliance with internal rules.

Since the beginning of 2003 the Hungarian SAO has three directorates. Audits are implemented by two Directorates: the Directorate of Auditing the Central Level of Public Finances and Local Government and Regional Audit Directorate. The operation of the two Audit Directorates are managed by Director Generals. The third Directorate called Organisational Management and Operation Directorate is headed by the Secretary General.

Both auditing directorates are made up of three divisions in accordance with the types of audits, the divisions being composed of several audit departments. The tasks of auditing the use of public funds and of public assets by the central government and by local governments are of equal importance. The auditing capacity of the two directorates is roughly the same. The Directorate of local government and regional audit also includes the Budapest Audit Department and the County Audit Offices.

The third Directorate - responsible for assisting the operational management of the SAO, and for the development of its relationships - performs duties related to legal matters and administration, human resources management, strategic planning and overall reporting, management of national and public relations (Parliament, media, etc.), international relations, IT, operations and financial management.

According to the Annual Report of the year 2004, 594 persons are working for the SAO. Out of this 411 are auditors, 60 managers, 123 administrators. The majority of the auditors (more than 300) has university or college degree in economic or financial sciences. (The only legal requirement for auditors is to have university or college degree.) 201 persons have more than one degree. Nowadays 136 chartered accountants work for the SAO.

## 5. THE COMPETENCES OF THE SAI ACCORDING TO ITS LEGAL FRAMEWORK

The Hungarian SAO contributes in combating corruption in *three ways*.

- During its audits, the SAO pays special attention to the identification of corruption risks and points them out.
- In well-founded cases the SAO initiates the sanctioning of committed crimes.

- Lately, the SAO has also prepared several summing-up papers analysing the reasons for corruption, indicating the risks and tendencies.

The SAI is focusing on the following special risk areas:

*Public procurement:* Hungary adopted a law on public procurements in 1995 to facilitate transparency and fair competition. Since the introduction of this system the value of public procurements has risen three and a half times. Despite this, the value of purchases realised within the public procurement procedures of local governments and central budget organs is significantly less than what could be expected based on the level of public finance generated here.

The main risk factors of the system operation - based on our audit experience - can be grouped as follows:

*1. Internal institutional rules designed to facilitate local application of the laws are deficient.* There is insufficient harmony between public procurement regulations and other provisions of budget financing as well as the conditions for bidding in and using the various aid systems.

*2. Those applying the law are not sufficiently prepared and the personnel and material conditions for ensuring compliance with the laws are inadequate.* There is a high degree of resistance from institutions with regard to centralising local procurements. The underlying misapprehension here is that implementing purchases in this way distorts their independence.

*3. The mitigation of corruption risks was impeded by the limitations of audit function or the prevailing bastions of protecting business secrets.* The SAO was restricted in investigating price calculations, background relations, cartel agreements, etc.

It appears that by removing these shortcomings most of today's corruption risks evident in the field of public procurement can be eliminated (in this respect the so-called "glass pocket law" adopted in 2003 is forward facing, based on which the path of public funding to the "end-users" can be audited).

Thanks to the introduction of the public procurement system, various acts of diverse significance come to light which violate the integrity of investments and services realised from public finances, and which before did not even crop up as problems. Based on this new legal authorisation the SAO has carried out numerous investigations where merely clarifying the

structure of relations with the private sector and mapping the process of money utilisation enabled the mitigation of corruption risks.

*Political Parties:* One specific corruption risk is linked to the financing of political parties. The creation of laws governing the operation of political parties and the co-ordination of elections was forward facing at the time and facilitated the development of transparent financing for the system of political institutions. Yet the reviews carried out in the intervening period have highlighted many problems and the gradual obsolescence of certain laws. Today the main risk factors are the following. Owing to the shortcomings in legislation, the operation of companies founded by political parties is not transparent. The situation is similar regarding the accountability of the election campaign. Despite several reminders and warnings the concept of an election campaign has yet to be defined from a financial perspective, nor has the scope of costs that can be included under election expense or the campaign period itself.

The recommendations regarding the amendment to the political party law have been prepared and the need to create a new election law that ensures the transparency of campaign financing has clearly been proven. Although they still await submission to the Parliament, progress is expected here in the future.

*Internal control system:* The other large area of corruption risks is the weakness and inadequate function of internal control. In Hungary the existing internal audit apparatus in public sector organs and institutions essentially disintegrated following the change in the political and economic system. Their renewal was hampered for a long time by unfounded hopes being attributed to the possibilities of external (principally Audit Office) auditing and the self-regulating mechanisms of the liberalised economy.

So the fact that the internal audit system adjusting to the new circumstances developed more slowly than was otherwise possible, is also attributable to the attitudes and approaches adopted. The SAO and the Government Control Office established later on can naturally only exert a limited and indirect effect to improve the organisation and thoroughness of this apparatus. Despite the undoubted progress made, internal control is still encumbered by significant shortcomings. Changing this situation is of crucial importance not only from the perspective of transparent public finances but also in terms of ensuring a direct decrease in corruption risks.

*Privatisation:* Changes in the content of corruption risks can easily be traced through the process of state property privatisation.

In the one or two years prior to the political-economic transition, the new rules were not always taken seriously, not even by the officials supposed to be upholding them. This was a legacy of bygone decades. Ac-

quiring property became a personal interest and goal, as did exploiting the chances of linking to the upper levels of the newly evolving social order.

*In the years of the so-called 'spontaneous' privatisation (1988-90), peculiar methods of procedure emerged in relation to the opportunities for acquiring property. For example the deficient regulation at that time enabled new companies founded by enterprises (principally the managers thereof) to be exempt from founder obligations. This resulted in a peculiar form of state restructuring. As a result, the state was left with significantly indebted corporate shells deprived of their assets.*

Amidst the conflicting regulatory environment the administrative self-defence mechanisms of the state - *e.g.* sending supposedly reliable 'government commissioners' to companies - failed. The origin of income and changes in property could no longer be controlled in the previous manner, while new solutions aligned to the changed circumstances only evolved very slowly, restrained by the various interest groups.

The audit office investigations in this period accurately recorded and indicated the events and circumstances, business difficulties, bad decision-making as well as errors regarding risk management, market opinion and investments, etc. that led to the collapse of companies. *However, state administration was not appropriately prepared to clarify the reasons and acts underlying the facts, as well as to punish and eliminate them.*

The *subsequent phase of privatisation* - from 1991 until the middle of the decade - *handled centrally (in the form of agency)* was supplemented with the involvement of strategic privatisation partners and particularly foreign investors striving to acquire markets. Corruption was given a new feeding ground in many respects.

Inevitably, the institutional system to direct these new, never-seen-before tasks of privatisation and the necessary legal regulations evolved slowly and gradually. The appropriate level of personnel and technical preparedness was missing and with the lack of a capital market and its evaluation system the real market value of assets was unknown, not even the physical records of assets were adequate. Under such circumstances, those making the decisions on property sales were very uncertain, becoming both vulnerable and influential at the same time.

The situation was further exacerbated by the novelty and immaturity of local government and social security administration, the collapse of internal control within administration, and the slow development of governmental control over many years.

*In the third stage of the privatisation in the second half of the decade* the conditions were better. This phase comprised the sales of the large supply sectors (the energy sector and telecommunications) and then the privatisa-

tion of the commercial banks. In comparison with the past, significant asset sales revenue was generated - measured in billions of dollars - which made a substantial contribution to consolidating the Hungarian economy. But this phase was unable to avoid corruption risks either. The compulsions to sell still prevailed to a certain degree.

The privatisation process finally drew to a close at the end of the 1990s. Despite the difficulties and problems described above the results were significant.

*Public Private Partnership (PPP)*: The pre-condition of the regular and successful application of PPP is to have legal provisions of adequate depth and detail in administrative rules and to have indicators of economy and efficiency as regards the use of public funds for a particular purpose. Detailed feasibility study is also essential. The lack of the aforementioned conditions could result in risks of irregularities, fraud and corruption.

The deficiency of audit competence concerning the PPP projects could also raise risks. The issue of authority does not only manifest itself in the extent the SAO is entitled to audit the management of a private enterprise participating in partnership (which documents it has access to) but also whether it is entitled to and, if so, to what extent it is entitled to audit the correctness of state political decisions on the PPP scheme itself.

## 6. DEGREE OF INDEPENDENCE *VIS-À-VIS* THE AUDITEE

*Constitutional/statutory guarantees*: The Constitution of the Republic of Hungary and the Act on the SAO provide for the independence of the institution. The SAO has general competence within the scope of its responsibilities. Its audit powers and responsibilities are stipulated in the Constitution and the relevant Act, as well as other Acts. In the case of certain mandatory audit tasks, the relevant Act contains rules regarding the frequency of audits and the deadline of submission of reports to the Parliament.

In accordance with the Constitution the Head of the SAO is elected by the Parliament. The term of office of the President is fixed by law. The independence of the SAO is strengthened by the fact that its President and Vice-Presidents are elected for a 12-year term by the Parliament pursuant to the relevant Act. The Act also defines the rules applicable to the removal and recall of elected officials from their offices. The special cases of removal of the President are stipulated in the Act on the SAO. Strict rules of conflict of interest shall apply to the chief officers and auditors of the SAO.

*Functional/operational independence:* The SAO shall carry out its audit work impartially, without any political influence. The President of the SAO shall freely decide on the audit tasks, within the limits of the relevant laws, and shall define the annual audit plan of the SAO. Within the limits of laws, he shall freely define the priorities of audit work, audit programmes and the methods serving to implement the objectives of audits to be performed.

The SAO shall perform the requests of the Parliament aimed at audits on the basis of a decision of the Parliament. The President of the SAO shall decide on the detailed objectives and methods of audits even if audits are performed on the basis of requests and initiations and a decision of the Parliament.

Pursuant to law, the SAO may perform audit at the request of the Government. Heads of the public administration may initiate audit by the SAO in connection with the financial management of local governments, based on the experiences of legality audits they have performed. In such cases, the President of the SAO shall decide on the performance of the audits initiated. In case of audits being performed on the basis of Decisions of the Parliament, requests, initiatives, the President of the SAO shall decide also on the detailed objectives, methods of the audits.

Legal provisions allow an auditor of the SAO to enter any premises of the audited organisation, to request and seize deeds and other documents, and to request information orally or in writing from any employee of the organisation. There is no restriction on their access to the information needed to conduct its audits. The auditors could check the existence of the assets on-the-spot as well.

Keeping its independence in view, the SAO shall ensure that the audited organisations be aware of its audit mandate, methods and procedures, in the interest of establishing well-balanced and correct work relations. Good work relations promote access to information in the course of audit, and clarification of any problems and divergent views of the audited party.

Pursuant to the relevant legal provision, making an effort to establish cooperation with the auditee, the head of the audited organisation may make written remarks regarding the findings of the audit. The SAO shall take account of the fact-related well-founded remarks of audited organisations. The SAO shall maintain its independence both when elaborating its audit recommendations and in all other cases when explaining its view. It shall not intervene in the activities of the executive power or the audited organisation. The audited bodies may take measures according to the audit findings of the SAO, but they have only an opportunity but not an obligation to do that.

Employees of the SAO who are close relatives of or maintain other relationships - that endanger objectivity - with the management of the audited organisation, may not be assigned to audit that organisation.

The employees of the SAO cannot take part in the management and activities of the audited organisation. The persons performing audit cannot be members of management bodies. Employees of the SAO cannot give instructions to the employees of audited organisations in connection with their tasks. In the case of giving advice, auditors must make it clear that the advice given is only in the form of recommendations.

*Financial autonomy:* The SAO is an independent chapter in the central budget. The draft budget of the chapter shall be compiled by the SAO, and then submitted by the Government to the Parliament as part of the central budget bill. This provides the guarantee of financial independence from the Government.

*Managerial/administrative autonomy:* In the framework of the SAO Act the institution recruits independently its auditors. The only legal requirement for auditors is to have university or college degree. SAO has the authority to recruit and dismiss consultants and experts. The remuneration scales of the auditors are highly determined in the SAO Act and in the internal rules. The remuneration of the experts is not regulated in the SAO Act.

The President of the SAO may, within the appropriation of personal allowances, increase the basic remuneration of an auditor by a maximum of 40%, or he may reduce it by a maximum of 20%, depending upon the evaluation of his work.

Within the budgetary appropriations the SAO has authority to buy and dispose of equipment.

*Freedom of reporting:* The SAO has large freedom of reporting, it presents its annual and audit reports to the legislature, the Parliament and makes all of its audit reports public. Only some limitations are imposed on the content of its reports considering secrecy (state or business secrets).

#### 7. WHICH OF THE COMPETENCES OF THE SAI CONTRIBUTE IN ANY WAY TO THE ANTICORRUPTION FIGHTING?

The main tool of this combat would be prevention. Besides investigation, prosecution and adjudication prevention is the most important tool in the fight against corruption. The mandate of the SAIs can contribute to this kind of *prevention*.

*Audit:* The Hungarian SAO is mandated to carry out a broad range of audit work. (See point 2.) The most important audit mandates in this respect are the following:

The SAO has the competence to trace budget expenditures to the final beneficiaries. It audits the legality of the financial management of political parties etc.

In the course of the audits the auditors can access all kind of information. According to the authorisation of freedom of reporting, the SAO makes all of its audit reports public. In its audit reports the SAO makes recommendations and puts forward proposals for alteration of laws and regulations.

*Other authorisation:* Besides audit mandate, other competences can contribute to the fight against corruption. For example the Hungarian SAO concerns the nomination of chairmen of the Supervisory Board of certain state-owned enterprises.

*Disclosure:* The SAO can also reveal, in course of its audits, infringements and irregularities in connection with managing public funds. Making the irregularities and corruption risks public could be effective in the process of fight against corruption. Publicity could be a power in this case.

*Initiating legal (criminal or administrative) procedure:* According to the Act on the SAO, if the SAO establishes well-founded suspicion of a criminal offence, it *shall* notify the competent authority - usually Police or Prosecutor Office - of its findings without delay. This section of the SAO Act puts the audit institution under obligation. Since 1990 the Hungarian SAO started criminal procedure in several (more than fifty) cases.

While in other cases of default, *i.e.* in non-criminal cases, the SAO *may* initiate the calling to account of the persons concerned by the person exercising employer's rights of the auditee. In accordance with this competence the Hungarian SAO can recommend the management of the auditee to start disciplinary (administrative) procedure.

*Initiating freezing of material and financial assets:* To prevent the occurrence of loss, the SAO may, with the exception of wages, freeze material and financial assets during the period of audit, if it establishes irregular or wasteful utilisation, or the audited body causes damage by seriously violating the rules related to the management of financial resources. Based on the request of the President of the SAO, the Minister of Finance or the head of the auditee shall take steps for the execution of freezing.

*Initiating suspending usage:* In respect of investment projects financed from budgetary resources, the SAO may, with the exception of the amounts required for the payment of wages, suspend the use of financial

resources until further measures are taken, in the case of irregularities or wasteful utilisation.

Since 1989 SAO initiated freezing of assets and suspending of the usage of funds in only some cases.

## ANNEX 1

LEGAL REMIT AND COMPETENCE  
OF THE HUNGARIAN STATE AUDIT OFFICE*Table of Contents*

Act XX of 1949 on the Constitution of the Republic of Hungary (excerpts)  
Act XXXVIII of 1989 on the State Audit Office

ACT XX OF 1949 ON THE CONSTITUTION OF THE REPUBLIC OF HUNGARY  
(EXCERPTS)*Article 19 (3)* ...the Parliament

k) Elects the President of the Republic, the Prime Minister, the members of the Constitutional Court, the ombudsmen, the President and Vice-Presidents of the State Audit Office, the President of the Supreme Court and the chief prosecutor.

*Article 20 (5)* No Member of Parliament may become ... President, Vice-President or Auditor of the State Audit Office...

*Article 27* The Members of Parliament may put questions to the ... President of the State Audit Office ...  
on any matter that falls within his competence.

*Article 32/C (1)* The State Audit Office is the financial and economic audit organisation of the Parliament. Its duties shall include exercising control over the management of public finances and within this the foundation of the budget bill and the need and expediency of each spending item. It countersigns the contracts on borrowing by the budget; reviews in advance the legality of the utilisation of the budget; audits the final accounts made on the execution of the state budget. The State Audit Office audits the management of state assets, the wealth-preserving and wealth-increasing work of state-owned companies and enterprises; and sees to other duties that are made part of its competence under the law.

(2) The State Audit Office carries out its audits by considerations of legality, expediency and efficiency.

The State Audit Office reports on its findings to the Parliament. Its reports shall be made public. The President of the State Audit Office submits the

findings on the final account together with the final account itself to the Parliament.

(3) For the election of the President and Vice-Presidents of the State Audit Office, the votes of two thirds of the Members of Parliament are required.

(4) To pass the law on the organisation and principles of the operation of the State Audit Office, two thirds of the votes of the MPs present are required.

#### ACT XXXVIII OF 1989 ON THE STATE AUDIT OFFICE

The Parliament passes the following Act in the interest of establishing the organisational structure of the constitutional state, and auditing the revenues and expenditures of the state, as well as the utilisation of state property.

##### *Chapter I*

##### *Legal Status, Authority and Duties of the State Audit Office*

*Article 1.* (1) The State Audit Office is established as the financial and economic auditing organ of the Parliament, subject only to the Parliament and the Laws.

(2) The State Audit Office is the supreme organ of state audit; it has general authority with regard to its scope of duties defined in this Act.

(3) The State Audit Office is an independent chapter in the structural order of the state budget.

*Article 2.* (1) The State Audit Office shall audit the management of the state budget, and within the framework thereof, the foundations of the state budget proposal (supplementary budget proposal), the feasibility of meeting the revenue appropriations, the lawfulness, necessity and expedience of resources utilisation, the credits raised by the budget, and their use and repayment. The State Audit Office shall make sure that no item of the budget expenditure is exceeded and that no regrouping is effected without the authorisation of the Parliament. It shall audit the final accounts prepared on the execution of the state budget.

(2) The (President of the) State Audit Office shall countersign the agreements related to the credits raised by the budget.

(3) The State Audit Office shall audit the operation of the chapters and segregated state funds falling under the structural order of the state budget.

(4) The State Audit Office shall audit the tax levying activities of the Tax and Financial Control Office and of the local governments, and the activities of the Centre of Financial Institutions, the Customs and Finance Guard, and the Duty Offices.

(5) The State Audit Office shall audit the institutions managed from the state budget, and the use of subsidy extended from the state budget by local governments, foundations, social and other organisations.

(6) The State Audit Office shall audit the management of state assets, and those of activities of the state-owned (partially state-owned) companies and enterprises which are directed at maintaining and increasing the property value.

(7) The State Audit Office shall express its opinion on the reasonableness, expedience and execution of the government programmes and investment appropriations submitted to the Parliament and involving state commitment.

(8) In the course of its audits, the State Audit Office shall monitor compliance with the state accounting system, shall express opinion on and countersign the proposals for further development, and shall make such proposals.

*Article 3.* The State Audit Office shall control the credit relations of the Hungarian National Bank with the state budget, and its data related to the issue of banknotes and coins.

*Article 4.* The State Audit Office shall audit the management and utilisation of the Social Insurance Fund.

*Article 5.* The State Audit Office shall audit, in accordance with the provisions of a separate Act, the financial management of the political parties.

## *Chapter II*

### *Organisation of the State Audit Office*

*Article 6.* The State Audit Office shall consist of a President, Vice-Presidents, senior officials, auditors, administrative and ancillary staff.

*Article 7.* (1) From among the Members of Parliament, the Parliament shall establish a nominating committee of eight members, which shall make a proposal in connection for the persons who can be elected as President and Vice-Presidents of the State Audit Office.

(2) The Plan and Budget Committee of the Parliament shall hear the nominated persons and notify the Parliament of its opinion.

*Article 8.* The Parliament shall elect the President and the Vice-Presidents of the State Audit Office for a term of 12 years, and they can be re-elected upon the expiry of their mandates.

*Article 9.* Without the consent of the Parliament, the President and the Vice-Presidents of the State Audit Office may not be arrested, and no criminal proceedings may be instituted against them, except in flagrant delict.

*Article 10.* (1) The functions of the President, Vice-Presidents, senior officials and auditors of the State Audit Office are incompatible with functions and assignments of any organs that are provided with a budgetary subsidy, and during their employment at the State Audit Office they may not be Members of Parliament, and may not hold senior positions with business federations.

(2) The President, Vice-Presidents, senior officials and auditors of the State Audit Office may not hold any commission or gainful employment, and may not accept remuneration except for scientific, educational, artistic, proof-reading and editorial activities and activities coming under copyright protection.

(3) Persons who, during the previous four years, were members of the Government, or held any elected senior position in the national (central) organisation of any political party may not be nominated as President or Vice-Presidents of the State Audit Office.

(4) The President, Vice-Presidents, senior officials and auditors of the State Audit Office may neither be close relatives of one another, nor of the members of the Government [Article 685 (b) of the Civil Code].

(5) The President and Vice-Presidents of the State Audit Office, in accordance with the regulations related to the Members of Parliament, at the time of their election and then annually, and also the senior officials and auditors of the State Audit Office, in accordance with the regulations related to civil servants, at the time of their appointment and then biannually, shall make property declarations.

(6) The property declarations of the President and the Vice-Presidents of the State Audit Office are registered and verified by the Parliamentary Committee on Immunities, Conflict of Interests and Credentials. The property declarations of the senior officials and auditors are registered and

verified by the President of the State Audit Office. The property declarations of the senior officials and auditors are not public.

*Article 11.* (1) On the occasion of their assumption of office, the President and Vice-Presidents of the State Audit Office shall swear an oath before the Parliament.

(2) The senior officials and auditors of the State Audit Office shall swear an oath before the President of the State Audit Office on their assumption of office.

*Article 12.* (1) The mandate of the President and Vice-Presidents of the State Audit Office shall be terminated:

- a) Upon the expiry of their terms (Article 8),
- b) Upon completing the 70th year of age,
- c) By resignation,
- d) If a conflict of interests is established,
- e) By recall,
- f) By exclusion and
- g) By death.

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(2) Resignations shall be notified to the President of the Parliament in writing.

(3) The mandate may be terminated through recall if, for any reasons not attributable to them, the President or Vice-Presidents of the State Audit Office are not able to fulfil the duties resulting from their mandates.

(4) The Parliament shall terminate the mandate by exclusion if, for any reasons attributable to them, the President or Vice-Presidents of the State Audit Office fail to fulfil the duties following from their mandate, or commit a criminal offence established by a judgement in law, or become unworthy of their function in any other manner.

(5) If a conflict of interests referred to in Article 10 exists in the case of the person elected President or Vice-President, or appointed as senior official or auditor of the State Audit Office, the person concerned shall eliminate the reason giving rise to the conflict of interests within 10 days following his election or appointment. He may not exercise his authority originating from his function until this has taken place.

(6) If the President or Vice-President of the State Audit Office fails to fulfil his duty specified in subparagraph (5) by the deadline prescribed, the Parliament shall, in a decision, establish the conflict of interests. The President of the State Audit Office is entitled to establish the conflict of in-

terests in the case of the senior officials and auditors of the State Audit Office.

(7) If the President or Vice-President of the State Audit Office exercised his function for at least three years, and his functions are terminated due to the expiry of his term, the completion of his 70th year of age, resignation, recall or death, he is entitled to receive, for a further period of six months (in the case of resignation for a further period of three months), a benefit equalling his monthly remuneration, which is an income serving as a basis for social security contribution, health-care contribution and, excepting the case of death, for health insurance and retirement benefit.

(8) In the case of death, the benefit is due to the widow(er) (or heir). No health-care insurance, no retirement contribution is to be paid from this benefit. This benefit shall not be taken into account when determining the average monthly earning serving as a basis for fixing the dependent retirement allowance.

If the mandate is terminated within a period shorter than 3 years, but the mandate was exercised for at least one year, 50% of the benefit is due. Upon written request, or in the case of death, the benefit or the outstanding portion thereof shall be paid as a lump sum within 15 days to be counted from the date of receiving the request or of obtaining official information of the fact of death.

(9) If the mandate of the President or Vice-President of the State Audit Office comes to an end, the person holding this office is entitled to use the title indicative of this post, provided that his mandate was not cancelled with respect to point (d) or (f) of Article 12 (1).

(10) The stipulations contained in subparagraphs (4) to (6) above shall appropriately be applied also in the case when the President, a Vice-President, senior official or auditor fails to comply with his obligation to make a property declaration or if he intentionally makes an untruthful declaration on essential data or fact.

*Article 13.* The President of the State Audit Office shall

- a) Make a proposal to the Parliament with regard to the organisational structure and the number of the staff of the State Audit Office;
- b) Approve the organisational and operational regulation of the State Audit Office;
- c) Direct the activities of the State Audit Office and ensure their compliance with the rules of law;
- d) Ensure the execution of the annual audit plan and that of the *ad hoc* audits of the State Audit Office;

- e) Ensure that the reports containing the results of the audits performed and analyses made by the State Audit Office are submitted to Parliament, and that the reports containing the results of the audits performed on the request of the Government are sent to the Prime Minister;
- f) Participate in the sessions of the Parliament and its committees, with a right to debate;
- g) Represent the State Audit Office;
- h) Exercise the employer's rights in respect of the senior officials, auditors, the administrative and ancillary employees, and keep records of, and verify the property declarations made by, the senior officials and the auditors.

*Article 14.* (1) The organisational structure, number of staff and annual budget of the State Audit Office shall be approved by the Parliament.

(2) The President of the State Audit Office is entitled to remuneration equal to the basic monthly remuneration of a Minister, the Vice-Presidents to that of a State Secretary, fixed pursuant to Act XXIII of 1992 on the Legal Status of Civil Servants. The amount of supplementary remuneration is 100% of the basic salary in the case of the President of the State Audit Office and 80% in the case of the Vice-Presidents. In other respects, the President of the State Audit Office shall be entitled to the benefits established for Ministers, while its Vice-Presidents to the benefits established for the Public Administration State Secretaries.

(3) An auditor empowered with decision-making and acting on behalf of the State Audit Office, as well as performing audits or substantive duties directly related to audits shall be a person with higher education.

(4) The auditor shall be classified into one of the following categories:

- Trainee Auditor
- Auditor or
- Auditor Counsellor.

(5) The President may appoint the auditor, for an indefinite period, as the head of a separated organisational unit, a chief auditor counsellor, a deputy audit director or an audit director. The audit director shall be entitled to the remuneration established for deputy state secretaries.

(6) The auditor is entitled to a supplementary leave of 11 working days and the auditor counsellor to 12 working days. The period of supplementary leave due to a senior official is as follows: in the case of a chief auditor counsellor and a deputy audit director 13 working days, and in the case of an audit director 14 working days.

(7) The basic remuneration of an auditor, in accordance with the remuneration base established in a separate Act, is as follows:

- a) In the case of a trainee auditor, 3.9-times the base remuneration;

- b) In the case of an auditor, 7-times the base remuneration;
  - c) In the case of an auditor counsellor, 7.5-times the base remuneration;
  - d) In the case of a chief auditor counsellor, 8-times the base remuneration;
  - e) In the case of a deputy audit director, 8.5-times the base remuneration;
  - f) In the case of an audit director, 9-times the base remuneration.
- (8) The supplement remuneration for senior officials is as follows:
- a) In the case of the audit director, 50% of the basic remuneration;
  - b) In the case of a deputy audit director, 40% of the basic remuneration;
  - c) In the case of a chief auditor counsellor, 30% of the basic remuneration.
- (9)-(10)

(11) Those who work for the State Audit Office are entitled to two months' remuneration in each calendar year, as a special benefit. This sum shall be paid by the end of the month following the reference half year, even if the employment of the employee with the Audit Office has already terminated by the time of the payment. If the employment of the employee at the Audit Office is terminated during the year, the special benefit shall be due pro-rata based on the complete calendar months spent as an employee of the State Audit Office, if the legal relationship existed for at least five months during the calendar half year.

(12) On his non-transferable authority, the President of the State Audit Office may, within the appropriation of personal allowances, increase the basic remuneration of an auditor fixed in accordance with this paragraph, excepting the cases contained in paragraph 13, by a maximum of 40%, or he may reduce it by a maximum of 20%, depending on the evaluation of his work.

(13) On his non-transferable authority, the President of the State Audit Office may increase the basic remuneration of the audit director, the deputy audit director and the chief auditor counsellor by a maximum of 40%, depending on the evaluation of their managerial activities.

*Article 15.* The seat of the State Audit Office shall be in Budapest.

### *Chapter III*

#### *Rules related to the audits*

*Article 16.* (1) The State Audit Office performs its audits based on expediency, efficiency and legality considerations.

(2) The State Audit Office shall perform legality audits on the financial management of political parties, the use of the subsidy disbursed by the Parliament to the Parliamentary fractions of parties based on a separate

Act, and the data related to the issue of banknotes and coins by the Hungarian National Bank and to the utilisation of the special operational cost appropriation of the national security services.

*Article 17.* (1) The State Audit Office shall control the state budget proposal annually, audit the final accounts and control the credit relations of the Hungarian National Bank with the state budget.

(2) The State Audit Office shall audit the financial management of the political parties on a regular basis.

(3) The State Audit Office shall audit the financial management of the chapters coming under the structural order of the state budget and of the separate state funds on a regular basis.

(4) The State Audit Office shall perform *ad hoc* audits upon instructions from the Parliament. It shall check the issue of banknotes and coins by the Hungarian National Bank upon instructions from the Parliament.

(5) The President of the State Audit Office shall determine the frequency of other audits coming under the scope of duties of the State Audit Office.

(6) The State Audit Office may perform audit at the request of the Government.

(7) Upon requests from NATO, the European Union and from international organisations where the state of Hungary is one of the members, and, furthermore, in order to perform the obligations following from international agreements made by the Parliament or the Government, the State Audit Office may perform audits, also against remuneration, and may provide expert services within its field of competence both at home and abroad. The activity specified in this paragraph may not endanger the fulfilment of the annual audit programme of the State Audit Office.

*Article 18.* (1) The President of the State Audit Office shall notify the Parliament of the audits performed in the course of the year in a report. The report shall be made public. The report made public may not contain any state secrets or service secrets.

(2) The President of the State Audit Office shall submit the report made on the audit of the final accounts to the Parliament together with the final accounts.

*Article 19.* (1) The President of the State Audit Office shall assume responsibility towards the Parliament for the authenticity and validity of the data and statements of fact contained in the reports he has submitted.

(2) The person performing audits on behalf of the State Audit Office shall be responsible for

- a) Fulfilling the audit duty in accordance with the contents of the audit programme;
- b) Establishing (revealing) and recording in writing all the important facts in the field specified in the audit programme;
- c) The validity and factual justification of the findings.

*Article 20.* In the case of an on-the-spot audit, the person performing the audit shall notify the head of the audited organ of the commencement of his activities.

*Article 21.* (1) A person performing an audit on behalf of the State Audit Office may carry out investigations at the organs listed in Articles 2 to 5, may request deeds and other documents, may have access to them even if they contain state secrets or service secrets and may prepare copies and extracts thereof; however, he may seize documents, after preparing copies of them, only if a serious irregularity occurred, and there exist any reasons to fear falsification or destruction of the documents concerned.

(2) The person performing audit on behalf of the State Audit Office may enter any premises of the audited organ, and may request verbal or written information from any employee thereof.

(3) If it becomes necessary to establish the authenticity or completeness of the documents produced, or the supplement of certain audit findings, and for the purpose thereof an audit shall also be performed with another organ, the auditor of the State Audit Office is entitled to examine the related facts at that place.

*Article 22.* (1) To prevent the occurrence of loss, the State Audit Office may, with the exception of wages, freeze material and financial assets during the period of audit if:

- a) It establishes irregular or wasteful utilisation, or
- b) The audited organ causes damage by seriously violating the rules related to the management of financial resources.

(2) In respect of investment projects financed from budgetary resources, the State Audit Office may, with the exception of the amounts required for the payment of wages, suspend the use of financial resources until further measures are taken, if the cases included in subparagraphs (1) a) and b) above are established.

(3) Based on the request of the President of the State Audit Office, the Minister of Finance or the head of the audited organ shall take steps for the execution of freezing.

*Article 23.* The person performing audit on behalf of the State Audit Office shall disclose his findings in writing to the person he indicates in the course of the examination as responsible for the occurrence, and shall request a written explanation from him. The person indicated as responsible shall give the written explanation within 8 days; the person performing the audit shall express in writing within 15 days whether he accepts or rejects the explanation.

*Article 24.* The audited organ shall

- a) Fulfil the requests of the State Audit Office, giving them priority over other tasks;
- b) Give oral or written information or explanation to the person who is performing the audit on behalf of the State Audit Office, and make it possible for him to have access to the documentation;
- c) Make a declaration, upon the request of the person performing the audit, on the completeness of the data supplied and the documentation made available by him;
- d) Create any other conditions required for the undisturbed performance of the audit.

*Article 25.* (1) The State Audit Office shall send the audit findings to the head of the audited organ, who may make written remarks or may order the taking of measures within 8 days. The State Audit Office shall be notified of the measures taken within 30 days. If the measures are not satisfactory, the President of the State Audit Office shall notify the head of the audited organ; he may notify the Parliament or may disclose the case in the annual report related to the final accounts.

(2) If the person performing the audit on behalf of the State Audit Office establishes the well-founded suspicion of a criminal offence, he shall notify the competent authority of his findings without delay, while in other cases of default, he may initiate the calling to account of the persons concerned by the person exercising employer's rights.

#### *Chapter IV*

#### *Closing Provisions*

*Article 26.* (1) This Act shall come into force on the date of its promulgation.

(2) Act V of 1968, as amended by Decree (with the force of an Act of Parliament) No. 9 of 1971 and Act II of 1984 shall cease to be in force as of 31 December 1989.

(3) By 31 December 1989, the Council of Ministers shall take steps to amend or abrogate any legal regulations that may be contrary to this Act.

(4) The State Audit Office shall commence its operation on 1 January 1990.