

**International Convention on Role and position  
of the SAI of the Republic of Montenegro within the new Constitution  
and within the system of the parliamentary democracy**

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**The Key Features of SAIs' Effective Independence**

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At its 44th meeting in Montevideo, Uruguay, the INTOSAI Governing Board (1998) established a task force to examine the state of independence of member supreme audit institutions (SAIs), and to make recommendations on ways and means to bring about realistic improvements in a proactive and productive manner.

According to the Final Task Force Report (2001) the key elements of an effective independence of SAIs are the following:

- **Constitutional/Statutory Guarantees of Independence**

- Appointment of Head of SAI
- Removal of Head of SAI
- Appointment of Deputy Head of SAI
- Accountability of SAI
- Decisions about internal structure of SAI
- Audit of accounts and/or performance of SAIs
- Appointment of external auditors of SAIs

- **Functional/Operational Independence**

- Access to information
- Selection of audit issues, approaches and methods

- **Financial Autonomy**

- **Managerial/Administrative Autonomy**

- Recruitment, dismissal of personnel
- Job descriptions, promotions, discipline, remuneration
- Contracting and purchasing

- **Freedom of Reporting**

SAIs were asked to describe the extent to which they enjoy independence under these five categories, and sub-categories. Hereinafter I adapt the features of the abovementioned paper to the situation in Hungary.

**Constitutional/Statutory Guarantees:**

Appointment and removal of Head and Deputy Head of SAI

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\* on behalf of the Head of Delegation, Dr. Pál Csapodi (Secretary General of the State Audit Office of Hungary)

In accordance with the Constitution the Head of SAO is elected by Parliament. Law fixes the term of office of the President. The independence of the SAO is strengthened by the fact that its President and Vice-Presidents are elected for 12 years by 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. (death, inability to perform functions for illness or incapacity, misbehaviour, misconduct, etc.) Strict rules of conflict of interest shall apply to the chief officers and auditors of the SAO.

#### Accountability of SAI

The Hungarian SAO is the Supreme Audit Institution of the State; it is only subordinate to Parliament and the regulations.

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 defined in Constitution and the relevant Act, as well as other Acts.

#### Decisions about internal structure of SAI

The President of the Hungarian SAO makes proposal to the Parliament about the internal organisational structure of the institution.

#### Audit of accounts and/or performance of SAIs and appointment of external auditor of SAIs

According to the Act on the SAO the management of the SAO is audited by external auditor, selected by open competition and appointed by the President of the Parliament. These rules have been in force since 2004.

#### **Functional/operational independence:**

##### Selection of audit issues, approaches and methods

The SAO shall carry out its audit work impartially, without any political influence. The President of the SAO, within the limits of the relevant laws, shall freely decide on the audit tasks, approaches and methods. 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. In case of certain mandatory audit tasks, the relevant Act contains rules regarding the frequency of the audits and the deadline of the submission of reports to Parliament.

Our President defines the annual audit plan of the SAO. Every year the annual audit plan is sent to the Committee of Parliament dealing with SAO issues in order to express opinion about it.

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

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 regularity audits they have performed. In such cases, the President of the SAO shall decide on performance of the audits initiated. In case of audits being performed on base of Decisions of Parliament, requests, initiatives, the President of the SAO shall decide also on the detailed objectives, methods of the audits.

Keeping its independence in view, the SAO shall ensure that the audited organizations 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 co-operation with the auditee, the head of the audited organization may make written remarks regarding the findings of the audit. The SAO shall take account of the fact-related well-founded remarks of audited organizations. 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 organization.

#### Access rights

Legal provisions allow an auditor of the SAO to enter any premises of the audited organization, to request and seize deeds and other documents, and to request information verbally or in writing from any employee of the organization. There is no restriction on their access to the information needed to conduct its audits. According to the statutory mandate of the SAO, it may examine the track of utilising public funds and property up to the end user, and may obtain the information required for audit from persons or organizations possessing the given information irrespective of whether they belong to public or private sectors.

The auditors may have access to any documents even if they contain state secret, service secret or any other kind of secret and may prepare copies and extracts thereof. The auditors could perform on-the-spot audits as well.

#### Independence of the auditor of SAO

Auditors shall carry out their work independently and objectively. Independence shall primarily mean that auditors fulfil their tasks free of any influence, in accordance with audit standards and ethical norms. Auditors shall establish

their audit findings, conclusions and audit opinion in accordance with their professional judgement, with due care.

Auditors shall not only be independent, but must also be seen to be independent. They shall, therefore avoid all situations and circumstances, which could provide an opportunity to others to question their independence.

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

The employees of the SAO may not take part in the management and activities of the audited organization. The persons performing audit may not be members of management bodies. Employees of the SAO may not give instructions to the employees of audited organizations 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 Government to Parliament as part of the central budget bill. The annual budget is approved by the legislature.

This provides the guarantee of financial independence from Government. These rules have been in force since 2004. Before 2004 the financial independence of SAO was not entirely fulfilled.

### **Managerial/Administrative Autonomy:**

Recruitment, dismissal of personnel

In the framework of the Act on the SAO the institution recruits independently its auditors. The only legal requirement for auditors is to have university or college degree. In case any special professional skills are required for audits, which are not in the possession of the auditors, the SAO shall provide assistance by the employment of experts or consultants on contractual basis, taking into account the criteria of economy. If the work of an expert is required for the audit, the independence, objectivity and professional skills of the expert shall be examined.

Job descriptions, promotions, discipline, and remuneration

The individual duties and power and the rules applicable to the organization and operation of the SAO shall be stipulated in the Organizational and Operational Rules, the rules of procedures and the directives of the President and the Secretary General within the limits of the relevant laws.

The SAO shall define its mission, objectives and development tasks in its strategy. The SAO shall review and update the strategy of the organization every four years. Therein it shall define the main directions of its audit activity, its professional and organizational development objectives and the basic conditions required therefore.

The general professional requirements relating to the audit work, as well as the ways and techniques of fulfilment of such requirements are defined on a comprehensive basis in the Code of Ethics, the Audit Principles and Standards and the Audit Manual of the SAO.

The remuneration scales of the auditors are determined by the Act on the SAO and by the Civil Servant Act. The remuneration of the experts is not regulated in the Act on the SAO.

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

#### Contracting and purchasing

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

#### **Freedom of reporting:**

SAO has a 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 their reports considering classified information (state or business secrets). The auditor shall keep confidential any state, bank, securities, business and official secrets that come to his/her knowledge, may not deliver such secrets to any third party without a separate authorization, and may not use it outside his/her scope of responsibilities.

SAO include recommendations in its reports. Reports shall be delivered to the audited organization for comments. Implementation of the recommendations and proposals set forth in the report of the State Audit Office shall be the responsibility of the addressees of the audit report.

The SAO pursues a wide range of information activity, including its Internet website and "open days" directly accessible electronically, as well as through the publishing of its studies.

#### **Conclusion**

The Hungarian SAO enjoys a very wide range of independence. As I indicated before, the elements of the independence developed gradually, by means of modifications of the Act on the SAO.