Péter Paczolay

The position of the State Audit Office in the branches of power

During the twenty years of the State Audit Office's (SAO) existence, a number of studies have been drawn up to position it, based on its activity, in the system of organisations that exercise public power. Still, in the light of decisions passed by the Constitutional Court in the past few years, it is worth examining the relation of the SAO to each of the branches of power as defined in the Constitution, as well as the role of its reports based on its auditing activity.

The initial question was actually raised in full depth only in the most recent Decision passed by the *Constitutional Court*[1], *No. 42/2008. (IV. 17.)*, which also affected the State Audit Office. The background is that, in 2005 and 2006, the SAO carried out audits concerning financial aids used by local governments for investments in public utility development works, and summarised the findings in two reports. Both reports examined regularity of applying subsidies provided from public finances in relation to local public utility development works, and explored the utilisation of multiple different subsidies in respect of one another, and their respective impacts. The reports revealed the liability of the local governments using the investment system called "ÖKOTÁM 2000" and similar financing solutions in terms of unlawfully reclaimed subsidies for public utility development. The SAO duly left the legal method of such revocation and settlement to be devised by the government and its members; however, in its other recommendations, it initiated issuance of or amendment to the relevant decree, and even amendment of to the law – identifying the use of a specific legal instrument. Based on the contents of the SAO's report, the National Assembly ordered in the Act on final accounts that the deficit generated in such way be repaid by the local governments, and granted authorisation for the payment obligation to be regulated in decrees.

The abovementioned decision, however, annulled the relevant provision of the Act on Final Accounts and the decrees, with reference to the fact that the obligation imposed on local governments to repay the development subsidies pursuant to the SAO's findings was laid down by the National Assembly in a normative form, which deprived the local governments of judicial legal defence. The Constitutional Court pointed out that their decision did not address whether the ÖKOTÁM system was legal, or whether the SAO's reports were substantiated, but whether the established repayment method was constitutional.

Beyond the specific examination of the potential consequences of unlawful utilisation of subsidies granted to local governments in

terms of constitutional law, however, the decision also had other implications; the case indirectly raised the issue of how to use the SAO's reports in the right or in the wrong way, and, through that, the general relationship in terms of constitutional law between the SAO and the branches of power. The Constitutional Court was held back by its limitations of competence from seeking comprehensive answers to these theoretical questions in the decision, but the twentieth anniversary is a good opportunity for further consideration of these questions.

HISTORICAL PRELIMINARIES OF THE SAO

"The past of state audit offices is rooted in the institutions that have been established in the various states since as early as the 11th century in order to audit asset management and to provide accountancy services"[2]. According to a book written by the Head of Council of the Hungarian Royal Supreme Audit Institution[3], university professor *Ferenc Teghze-Gerber,* the *Exchequer* in England was in place as early as in the 11th century, and its scope of authority included examination of accounts and recalling of accountants. The accountants (including, in particular, county sheriffs) were required to attend the meetings of the Exchequer, and were sworn prior to reporting; which is a most ancient act of administrative jurisdiction in the functioning of these offices. In England, revenue has been managed by a separate audit office since 1314. In France, records have mentioned accountants *(magistri computorium)* since 1256, but an accounting chamber is only referenced in 1304. Established in Belgium in 1386, the Ratskammer did not only function as a court but also as an audit office. Similar institutions are also found in the history of other states, under similar names: *Court of Exchequer, Cour des comptes, Camera computorum, Ratskammer, Rechenkammer, Hofkammer, Rechnungshof* – these can be designated in the most general sense as audit chambers or audit offices. The function of these chambers was not only to audit accounts but also to administer legal actions of accounting against accountants; consequently, their organisations also resemble those of courts; being collegial organisations passing judgements on accountants at council meetings, exempting or condemning them. With the development of public finances, however, the first-instance examination and the review of accounts have been split in most states, and the function of audit chambers consists only of reviewing accounts and passing judgements on accountants. Their independence of executive organs is was ensured by their direct subordination to the monarch. Although a constitutional central budget laid down by legislation was missing, and no connection existed between audits by the audit office and the feudal national assembly, *the scopes of authority of audit offices to perform audits in today's sense evolved by the end of the 18th century.*

The first printed budget was published in 1781 in France under finance minister *Necker*, which was followed in 1789 by the first complete and constitutional budget.

A fundamental document of the French revolution, the Declaration of the Rights of Man and of the Citizen, adopted by the National Constituent Assembly as the first step towards producing a constitution on 26 August 1789, declared:

"XIII. A common contribution is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means.

XIV. All the citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution; to

grant this freely; to know to what uses it is put; and to fix the proportion, the mode of assessment and of collection and the duration of the taxes.

XV. Society has the right to require of every public agent an account of his administration.

XVI. A society in which the observance of the law is not assured, nor the separation of powers defined, has no constitution at all."[4]

The 19th century began a new era in auditing, when constitutional transformation in each state lead to recognition of their respective national assembly's budgeting right. As a consequence of this, legislative bodies extended their scopes of audit to the entire financial management of the government. It was obvious to transfer the function of auditing the budget to a relevant institution – the audit offices established in the absolute states, which were most suited to the task – instead of establishing new ones. The new audit offices typically retained the scope of authority of the old audit chambers, together with the names, generally in most cases.

In Hungary, state accountancy and the official organisation dedicated to it was historically based on a decree issued by supreme resolution on 21 November 1866[5]. This decree is materially supplemented by Article XVIII of 1870 "on the establishment and scope of authority of state audit offices"[6] and Act LXVI of 1880 "on the state audit office's internal organisation, administration and scope of authority to audit state debts"[7], which were used on organising the state audit office. The function of the SAO was to audit the state's entire accountancy, with a scope of authority independent of the ministry of finance. It was headed by a president, aided by vice presidents and audit advisors, department advisors, secretaries, auditors, as well as auxiliary and administrative staff in the necessary numbers. The president was commissioned by the king for life service, initiated by the House of Representatives, chosen from three individuals nominated by the National Assembly, as proposed by the Prime Minister. The vice president, the audit office advisors, the departmental advisors and secretaries were commissioned by the king, proposed by the president and countersigned by the prime minister. The president's rank and salary equalled those of the minister. In the event of his unlawful action or default, the House of Representatives declared indictment of the president, and the court authorised to act in cases of indicting ministers passed judgement, pursuant to Article III of 1848.

The institution was discontinued in 1949. Instead of the National Assembly, the control and organisation of state audit was transferred to the government's scope of competence for roughly 40 years (State Audit Centre, Ministry for State Audit, Central People's Control Committee).[8] An amendment to the constitution made on 23 October 1989 re-established the State Audit Office as a key element of the democratic system of institutions, with legal status, duties, scope of competence and organisation regulated in detail by Act XXXVIII of 1989; the general licence to audit laid down in the SAO Act is detailed in another approximately 30 acts. The National Assembly elected *István Hagelmayer*[9] as the first president of the SAO on 31 October 1989, who remained in office until 1 July 1996; since 9 December 1997, the organisation has been headed by *Árpád Kovács.*[10]

On assessing the position of the Hungarian SAO in the system of powers in Hungary, and even more on evaluating the consequences of SAO reports, it must be taken into account that the Hungarian solution does not follow the judicial court type *(Cour des comptes, Corte dei Conti)* structure in terms of organisation and competence, but is more like the German model, similarly unauthorised to administer legal actions of accounting.

BRANCHES OF POWER AND THE SAO

If we accept that the theories of the classic model of power distribution as drawn up by Montesquieu can also be applied to the structure of today's establishment, the SAO is to be positioned with the legislative branch of power[11] – considering that it is the financial and economic auditory body of the National Assembly. It is important to emphasize this theoretical issue because positioning a constitutional institution in terms of powers influences the nature and competences of the respective institution.

It was reinforced by *Decision 3/2004. (II. 17.)* of the *Constitutional Court*, which stated that the SAO was an organ subordinated to the National Assembly. "Subordination" certainly does not imply that the SAO would not be an independent constitutional organisation;[12] the possessive form referred to in Paragraph (1) of Article 32/C of the Constitution *(an organ of the National Assembly)* only denotes that the SAO performs its duties for the National Assembly, as instructed by it, independently from the executive power.

The decision discussed whether the Prosecutor General could be interpellated, but it also examined the issue of responsibility of public dignitaries elected by the National Assembly, in a broader context. In the Constitutional Court's opinion, the fact alone that the National Assembly elects someone in a political dignitary position does not automatically mean that the person fulfilling a public office is politically accountable to the National Assembly in the sense defined in constitutional law. The Constitutional Court distinguished the following groups.

Certain politically exposed persons and heads of organisations – although elected by the National Assembly – do not even have an obligation to report to the National Assembly (such as the President of the Republic, or the President of the Supreme Court). Others (such as the President of the National Radio and Television Commission) are required to report on the activity of the organisation they manage on an annual basis, and acceptance of such reports is decided by the National Assembly, however, non-acceptance has no consequences. The third group consists of managers with a reporting obligation to the National Assembly, and to whom the Members of Parliament are authorised to pose questions (such as the Parliamentary Commissioner for Civil Rights). The Chief Prosecutor belongs to a fourth group on the grounds that he has a reporting obligation, and can be questioned and interpellated; however, he bears no political liability to the National Assembly in terms of constitutional law. Finally, the fifth group comprises the Government and its members, who are required to report to the National Assembly on a regular basis, can be questioned and interpellated; moreover, in the event political confidence declines, there is a facility – with the use of an independent constitutional institution, a motion of no confidence – to revoke the mandates of the Prime Minister (and the whole government).

An obligation to report to the National Assembly alone does not mean a restriction concerning the independence of the obligor and, accordingly, the organisation headed by them (such as the Prosecutor General and the Prosecutor General's Office). The reporting obligation is only a means of general audit and of gathering information about the activity of the particular organisation. Such a reporting obligation is required in the Constitution for the Parliamentary Commissioner *[Paragraph (6) of Article 32/B]*, the Governor of the Central Bank of Hungary *[Paragraph (3) of Article 32/D]* and certainly the Government and its members *[Paragraphs (1) and (2) of Article 39]*. In addition, a number of acts lay down obligations to report to the National

Assembly or any of its committees; along these lines, the President of the National Radio and Television Committee, the President of the Hungarian News Agency, the Director General of the Hungarian Atomic Energy Authority and the President of the Hungarian Competition Authority are required to report to the National Assembly on an annual basis.

"A similar obligation is imposed by Paragraph (2) of Article 32/C of the Constitution on the State Audit Office: it is required to inform the National Assembly in writing of the audits it has performed, submission of which is ensured by the President of the State Audit Office. Although the State Audit Office is an organ subordinated to the National Assembly, and may be instructed to perform specific audits, it is only subject to the law on carrying out such audits, and cannot be instructed to pass or modify specified decisions."[13]

The SAO itself does not exercise executive power; it does not apply general rules of conduct (laws) to everyday life as an authority does, nor is directly responsible for enforcing provisions of law, as is characteristic of the executive power. The SAO's measures – with few exceptions – are indirect in nature, it typically reports to the National Assembly, or initiates proceedings to be performed by other organs. *It follows not only from the Act on the SAO, nor from Article 32/C of the Constitution, but from the structure of the establishment as laid down in the Constitution.* It would be incompatible with a licence of the SAO to assign a licence to the SAO for imposing fines or other scopes of authority executive in nature.[14] It is similarly not permitted by the SAO's constitutional status to act as an authority in order to enforce proper financial management of budgetary funds. All these would entail breaching the constitutional principle of the distribution of power.[15]

Pursuant to the Constitution, auditing is the fundamental duty of the SAO; instead of resolution, it entails exploration of adverse situations emerged. This function, however, is comprehensive: the SAO "[is authorised to examine] utilisation of public funds and operation of public property in terms of the whole public finances and all actions of the executive power in its entirety, independently of the latter".[16]

In this context, it is worth examining the provisions of *Decision 766/B/2004 of the Constitutional Court*[17] on the interpretation of the rule stipulated in the Constitution concerning the SAO, and concerning pre-audits and post-audits.

Prior to explaining the arising constitutional issue, the standpoint of the International Organisation of Supreme Audit Institutions (INTOSAI) concerning the abovementioned duties of audit institutions must be discussed. INTOSAI comprises the audit offices of states that are also members of the United Nations or any of its Specialised Agencies. INTOSAI was founded in 1953 in Havana, and since then the number of member institutions have risen from the original 34 to over 180. The chief duty of the organisation is to develop and control cooperation among audit institutions. These institutions have a major role in auditing the accounts and operations of governments, and facilitate their reliable financial control and accountability. In 1977, INTOSAI adopted the Lima Declaration[18] of audit principles, which is considered as the Magna Charta of government auditing.[19]

Section 2 of the Declaration addresses pre-audit and post-audit issues. Pre-audit represents a before the fact type of review of administrative or financial activities; post-audit is audit after the fact. Subsections 2, 3 and 4 of Section 2 state: "Effective pre-audit is indispensable for the sound management of public funds entrusted to the state. It may be carried out by a Supreme Audit Institution or by other audit institutions. Pre-audit by a Supreme Audit Institution has the advantage of being

able to prevent damage before it occurs, but has the disadvantage of creating an excessive amount of work and of blurring responsibilities under public law. Post-audit by a Supreme Audit Institution highlights the responsibility of those accountable; it may lead to compensation for the damage caused and may prevent breaches from recurring. The legal situation and the conditions and requirements of each country determine whether a Supreme Audit Institution carries out pre-audit. Post-audit is an indispensable task of every Supreme Audit Institution regardless of whether or not it also carries out pre-audits".[20]

In Decision 766/B/2004 of the Constitutional Court[21], a question was raised concerning the statutory duties of the SAO pursuant to the effective provisions of the Constitution, without any amendment to the Constitution. The specific question was whether, pursuant to Paragraph (1) of Article 32/C of the Constitution, pre-audits belong to the SAO's scope of duties and competence irrevocable by law. Paragraph (1) of Article 32/C of the Constitution lays down that the SAO "oversees in advance the legality of the utilisation of central budgetary funds".

The Act on the SAO originally stated that "[the SAO] audits the financial management of public finances, including substantiation of the central budget proposal (supplementary budget proposal, possibility of compliance with the revenue appropriations, legality, necessity and expediency of utilisation, borrowings of the central budget, their utilisation and repayment. *The [SAO] ascertains that none of the items of spending in the central budget are exceeded or transferred without authorisation from the National Assembly.*

It audits the final accounts produced on execution of the central budget" *[Paragraph (1) of Article 2 – my italics]*.

As of 27 June 2004, however, this list was modified: it is no longer a statutory duty of the State Audit Office to ascertain that "none of the items of spending in the central budget are exceeded or transferred without authorisation from the National Assembly". According to a motion submitted, with this modification, which restricts the statutory duties of the SAO, the act has been made contrary to the Constitution, although the prevailing standpoint in the field considers pre-audits to be a duty of the fiscal governance.

The majority decision followed an interpretation of Paragraph (1) of Article 32/C of the Constitution that stated that the National Assembly held a broad freedom of decision concerning the SAO's regulation in terms of the specific scopes of duty and competence transferred to the audit office for complying with its financial and economic auditing tasks, with respect to the latter's constitutional legal status.

According to the Constitutional Court, the National Assembly is bound by the requirement concerning pre-audits of the utilisation of the central budget laid down in Paragraph (1) of Article 32/C of the Constitution to an extent that forces it to regulate the SAO's scope of authority in a way that it is able to comply with this constitutional duty within its scope of authority.

The decision points out that no constitutional requirement derives from the legal state clause to stipulate that all the duties of a constitutional organ as laid down in the Constitution must be repeated in an act regulating the legal status, scopes of duties and competence thereof.

This standpoint explained in the decision is built on a restrictive and limiting interpretation of the Constitution; the use of an expansive and broader, more "activist" method of interpretation would have yielded a different result.

The majority decision states that it cannot be considered as unconstitutional if a regulation does not assign distinct scopes of authority identified as expedient for compliance with the

duties defined in the Constitution for any of the duties specified for the State Audit Office in the Constitution, but it defines the SAO's scope of authority in a way that, on exercising it, the SAO can, directly pursuant to the Constitution, comply with its function regulated in Paragraph (1) of Article 32/C of the Constitution.

The reason set forth in the decision argues that the provisions of law invariably refer legality audits of the budget proposal, the final accounts and the chapters within the structure of the central budget, financial management of social security funds and separated funds to the competence of the State Audit Office; on such audits, a legality audit includes examining whether in their financial management the audited organs have complied with the budget appropriations laid down in the central budget, and ascertaining that the budget appropriations are not exceeded or transferred without the National Assembly's authorisation. In the opinion of the Constitutional Court, nullification of the provision of the SAO Act referenced by the abovementioned motion has not left the State Audit Office devoid of means in terms of auditing the legality of utilisation of the budget appropriations laid down by the National Assembly in the Budget Act and complying with its duties defined in Paragraph (1) of Article 32/C of the Constitution. The reason admits at the same time that the Act does not *expressis verbis* require the SAO to use its *ex ante* audit licences on auditing the utilisation of budget appropriations; however, the Act on the SAO and other acts specify further broad scopes of competence for the SAO, exercising which the SAO performs its functions specified in Paragraph (1) of Article 32/C of the Constitution.

The final conclusion of the decision is as follows: "The provision of the Constitution concerning ex-ante legality auditing of the utilisation of the central budget – with respect to the fact that the utilisation of the central budget is a process implemented through numerous specific financial decisions of numerous state-operated organs – cannot be considered as a rule applicable to the scope of competence, and does not give rise to an obligation either for the audit office to set up an 'ex ante' audit system, or for the act regulating the audit office's scope of competence to define an identified scope of competence that entails ex-ante legality auditing of decisions concerning utilisation of the central budget."[22]

A dissenting opinion[23] enclosed to the decision states that the interpretation of the Constitution is not an appropriate means of settling disputes[24] concerning justification of ex-ante audits; the majority decision also accepts that the Constitution contains some kind of pre-audit *(ex ante or a priori audit)* concerning the legality of utilisation of the central budget (at least in the form of a task); at the same time, it is indisputable that neither the legal regulation of the public finances, nor the Act on the SAO recognise such scope of competence for the audit office – not even such scope of duty. The dissenting opinion disagrees with the conclusion drawn by the majority, stating that the wording the SAO "oversees in advance" set forth in Paragraph (1) of Article 32/C of the Constitution is a norm applicable to the duty and not to the competence; consequently, it is the legislator that decides the norms concerning competence to be assigned for implementing the task. According to the dissenting opinion, it would have justified *ex-officio* establishment of omission.

The other dissenting opinion[25] points out that on amending the Act on the SAO – as a consequence of Parliamentary Resolution 35/2003. (IV. 9.) – "outdated, non-performable provisions were removed". Compared to the system envisaged in 1989, designated in the Constitution, and regulated accordingly in detail in the following few years, Act XXXVIII of

1992 on public finances, as well as Act CV of 1995 on amending certain associated provisions of law induced changes. Unlike the previous ones, this new system also re-formulated the role of the SAO differently from the earlier ones. As a result of increased transferring and auditing activities of the government, the rules related to pre-audit by the SAO were not retained: – Pursuant to Article 39 of the Public Finances Act, the State Audit Office was required to be informed of the government's transfer decisions performed within a small circle within 8 days, and this notification obligation was removed by the amendment of 1995; the reason set forth in the amending bill stated that "public disclosure of modifications to the appropriations implemented within the Government's scope of competence also entails notification of the SAO." – Pursuant to Paragraph (1) of Article 42 of the Public Finances Act, the Government was required to notify the SAO of a decision passed on assuming guarantee; as opposed to that, the amended Paragraph (1) of Article 42 of the Public Finances Act states that the Government passes a public resolution on individual guarantees assumed on account of the central budget, and pursuant to the new Paragraph (3), the guarantee contracts are signed by the Minister of Finance, and sent to the State Audit Office on a monthly basis. No countersignature by the President of the SAO is referenced here. Moreover, the reason given by the minister in the bill identified "a treasury to be set up in order to perform financial tasks related to the functioning of public finances in a centralised way" as a fundamental cause of amending the Public Finances Act. According to Paragraph (1) of the new Article 18/A of the Public Finances Act, the Hungarian State Treasury financially administers execution of the budgets of public finance subsystems and Paragraph (1) of the new Article 18/B assigned audit functions to the State Treasury. After 1995, the Public Finances Act was repeatedly amended, but the abovementioned provisions were not changed in essence.

This legislative objective set forth in the parliamentary resolution referred – among others – to a portion of the SAO's tasks listed in Paragraph (1) of Article 32/C of the Constitution. Without amendments to the Constitution, the duties and scope of competence defined in the Constitution for the SAO, which functions as the financial and economic auditing organ of the National Assembly, cannot be reduced by law. On creating an amendment to the law, Article 32/C of the Constitution was not amended. According to the dissenting opinion, as a consequence of the amendment only performed at the level of the law, the rule attacked by the motion is partly contrary to Paragraph (1) of Article 32/C of the Constitution.

However, the issue of ex ante audit examined in the resolution can also be analysed in the context whether it shakes the SAO out of its role as a helper of the legislative power, and whether it pushes it towards the executive power.

CONCLUSION: THE ROLE OF THE SAO'S REPORTING

Designation of the SAO's constitutional position provides help with exploring the nature of its reports in terms of constitutional law.

This question was addressed in detail by Decision *1251/E/1995 of the Constitutional Court*[26], where the initiating local government raised an objection stating that it does not have a legal remedy that complies with Paragraph (5) of Article 57 of the Constitution against the SAO's report – which was adverse to them. In its decision, the Constitutional Court also focused on the constitutional position of the SAO. It was an argument of the Constitutional

Court that the SAO does not act as an authority, and, as a general rule, does not pass a decision that is mandatory for the audited organisation, in terms of neither contents, nor format. From this starting point did the decision arrive at the pivotal standpoint that *in terms of the fundamental right to legal remedy, the SAO's report is not an authority act containing a decision, but it is an opinion*. And, certainly, if the report is only an "opinion formulated on the financial management of the audited organisation", in that case, no material legal remedy is necessary to be provided against it.

There are two recipients of this opinion. The National Assembly, on the one hand, as the legislative power, intended to "utilise" the report. On the other hand, however, the public is also a recipient, as pursuant to Paragraph (1) of Article 18 of the SAO Act, the SAO's reports must be disclosed to the public. This rule validates the right of access to data of public interest; subjects can access the data on financial management of public funds – with little restriction.

Discussing the ÖKOTÁM case, an answer can be found to the question concerning the purpose of the SAO' report addressed to the National Assembly. The case may lead to the conclusion that notification of the National Assembly about the audit result facilitates legal and political accountability, instead of legislation, directly. The National Assembly – as seen in the ÖKOTÁM case – cannot automatically incorporate the result of the SAO's report in law, because it would infringe constitutional rights of the audited organisation. It is a different question that an indirect result of the findings presented in the SAO's report may be an amendment to the law, if that serves the purpose of excluding future occurrences of abuse.

The ÖKOTÁM case pointed out that the *system of legal steps resulting from the audit office's reports is unclear.* In systems built on legal actions concerning accounting, exercising the judicial function puts an end to the case through the statutory decision. In the Hungarian solution, it is courts of record that need to draw the conclusions, in addition to sanctioning and eliminating the situation criticised by the SAO. A possible and most evident way of doing so is through a legal action initiated by the State Treasury. Although consequences of legislation cannot and should not be excluded with absolute validity, the government's response to the ÖKOTÁM case was law-making. What is more, not only at the level of law-making (the Final Accounts Act listed indebted local governments), but also through government decrees. According to our standpoint, the appropriate government response would have been an individual government measure, instead of normative law-making.

In parliamentary states, however, it is also a duty of the legislative power to exercise control over the executive power. The SAO is an organ of control; the audit office's report helps the National Assembly's role of a controller against the government.[27]

This is because the government is accountable for the financial management of the budget, which is a kind of "financial liability", denoting responsibility for the state's financial activity in line with the principles of legality, economy and expediency.[28] Accountability and its means are defined by the National Assembly – on a parliamentary basis. The SAO's responsibility is limited to revealing anomalies in its reports and reporting on these to the National Assembly, thus providing it with adequate ammunition for financially auditing the government.

The rest does not depend on the State Audit Office…

Notes

[1] Decisions of the Constitutional Court (hereinafter referred to as ABH) 2008, 417.

[2] Ferenc Teghze-Gerber: State Accountancy, vol. I, General Accountancy, Second revised and extended issue, Budapest, 1941, p. 34

[3] The name of the State Audit Office established in 1870 under the leadership of Salamon Gajzágó was changed in 1914 (Act IV of 1914) to Hungarian Royal Supreme State Audit Office. http://hu.wikipedia.org/wiki/Állami_Számvevőszék

[4] http://mek.oszk.hu/00000/00056/html/228.htm, Hungarian translation by Sándor Mika

[5] In civil states, distinction must be made between royal decrees issued with ministerial countersignature and ministerial decrees issued at the king's resolution.

[6] http://www.1000ev.hu/index.php?a=3&param=5424

[7] http://www.1000ev.hu/index.php?a=3&param=5957

[8] http://www.magyarorszag.hu/kozigazgatas/intezmenyek/egyszerv/allszam

[9] Parliamentary Resolution 28/1989. (XI. 10.)

[10] Parliamentary Resolution 111/1997. (XII. 10.)

[11] Representing the SAO as an independent branch of power is not unheard of in the legal literature. (László Nyikos: Conceptual issues of audits performed by the audit office, Public Finance Quarterly 1994, Issue No. 3, pp. 159 and on.) However, I agree with András Holló that defining the SAO as an independent branch of power is disputable not only in respect of the Hungarian constitutional structure but also in general (see András Holló: A few remarks on the constitutional position of the SAO, Public Finance Quarterly, 1994, Issue No. 6, p. 474.).

[12] In this respect, I share the critical observations made by Attila Vincze. Attila Vincze: the State Audit Office, In. András Jakab (editor): Commentaries to the Constitution, Századvég, Budapest, 2009. (being published) [27]

[13] Decision of the Constitutional Court 3/2004. (II. 17.), ABH 2004, 48, 56.

[14] With a different approach, Holló arrives at the same conclusion, i. m.

[15] In more detail, see the parallel explanation given by judge of the Constitutional Court Péter Schmidt to Decision 1251/E/1995 of the Constitutional Court

[16] Árpád Kovács: Fifteen years in the life of the State Audit Office, Magyar Közigazgatás, 2004/Issue No. 10, p. 610

[17] ABH 2006, 1631.

[18] http://www.asz.hu/ASZ/modszert.nsf/0/966A55C26B060B85C1257322003EB2D3/$File/issai_1.pdf

[19] Hungary has been a member of the International Organisation of Supreme Audit Institutions (INTOSAI) since 1968. In recognition of the active participation in the international organisation, the State Audit Office of Hungary was invited to organise the XVIII INCOSAI meeting of the organisation in 2004; concurrently, SAO President Dr Árpád Kovács took over the chair of the Governing Board (2004-2007). http://www.asz.hu/ASZ/www.nsf/intosai.html

[20] Hungarian translation by Irén Malatinszkyné Lovas and Zoltán Giday

[21] ABH 2006, 1631.

[22] ABH 2006, 1631, 1634.

[23] A dissenting opinion of András Bragyova, shared by Mihály Bihari.

[24] The motion was submitted by an expert working on specific questions of financial audits.

[25] Attila Harmathy's dissenting opinion, shared by Elemér Balogh and Árpád Erdei.

[26] ABH 1996, 572.

[27] Árpád Kovács quotes a conference presentation by Franz Fiedler in November 2001 in Limassol. Kovács, i.m. p. 610

[28] Schambeck, Herbert: Government and Parliament, Thoughts about parliamentary auditing in the wake of Austria's example, Magyar Közigazgatás, Issue No. 11/1994, p. 649