

“Institutional independence - key factor for SAI effectiveness: Challenges”

Bujar Leskaj, ALSAI Chairman

Honorable President Tzvetkov,
Honorable guests,

First of all, let me thank you, dear President Tzvetkov for organizing such an event in the EU presidency of Bulgaria. The fact that this Conference is organized in almost the same period with the EU-Western Balkan Summit, to be held two days later in Sofia as well, shows the importance of the message you want to give. This event is a great support not only for us, the SAIs of the candidate countries and potential candidate countries, but above all, for our countries.

Thank you also for the kind invitation to share with all of you, dear colleagues, some ideas on the present challenges that we as SAI face to increase the effectiveness of our work, through maintaining and using at best our institutional independence.

ALSAI is a small SAI, established 93 years ago in 1925. Our independence is sanctioned in four articles of the Constitution and in the SAI law approved in 2014.

In addressing SAI's independence, in our opinion, the challenges of ALSAI's independence consist in:

1. Achieving Mexico Declaration standards
2. Working to maintain these standards
3. Using the Mexico Declaration to foster our role in regard to accountability and transparency.

I. How to achieve Mexico Declaration standards

The crucial factor of SAI's independence is its legal framework, in particular the Constitution and its basic Law. They should reflect the precepts and principles of Lima and Mexico Declarations. This is rule of thumb.

In this regard, the Albanian constitution has already four articles guaranteeing SAI's independence. Due to difficulties of amending the Constitution of 1998, we approached by updating our basic law.

The framework of SAI's independence is fully consolidated now in our basic law of 2014. This legal framework is compliant to the 8 Mexico declaration principles: legal status, sufficient resources, head of SAI, operations, access to information, reporting audit results, content and timing of audit reports and effective follow-up mechanisms.

We do not think that we are granted full independence as a privilege to us. We as SAI consider it important for the governance and the citizens and increased responsibility versus the citizens and the Parliament that have trust in us.

II. How to maintain Mexico Declaration standards

Preserving in real terms the institutional independence, guaranteed by the Constitution and by the SAI law, is considered a continued challenge and the most difficult and delicate one.

The institutional independence of a SAI is challenged in every audit, in every finding, in every conclusion and in every recommendation. In this context, it may be challenged by:

1. The auditees
2. The Parliament
3. The Government
4. The opposition
5. The media
6. The SAI itself.

Preserving institutional independence is not only a question of maintaining the balance, but it also has to do with the institutional wisdom to choose the right moment, to choose the right words, to select the right recommendation and choose the strategic partners.

Preserving the institutional independence may impose to a SAI to be quite vital in a potential judicial “battle”, therefore the SAI needs to have an institutional strategy and a risk analysis that can be used for the safeguard of this independence.

Preserving institutional independence requires partners. Some of them need to be more powerful than the violators of SAI independence. For this reason, our SAI asked the assistance of international partners.

So, DG-Budget and SIGMA supported us in the process of amending our basic law, that needed to be brought in full compliance with INTOSAI standards. This process initiated in 2012, with the organization of public roundtables and consultations with main stakeholders of the SAI. We sent the draft in Parliament, but different pressures kept it out of Parliament's agenda for a while. During this time, the Chairman of Parliamentary Commission on Economy and Finance, the Secretary of the Commission and the members of Parliament in the Commission supported us very much.

Our philosophy is to be agents of change and not anchors dragging behind. In early 2014, the Chairman of Parliamentary Committee on Finance and Economy introduced the draft for approval. The process took almost one year.

During the discussion, different members of Parliament were concerned that the right of the SAI to have access to any kind of information went beyond the content of the audit activity that the Constitution has recognized to the SAI.

The pressure from segments of Parliament was high. They wanted ALSAI independent only in papers.

In a lot of debated sessions, we used as arguments and found support from Lima and Mexico Declarations and from the UN Resolution of 2011 “Promoting the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions”. We informed the members of Parliament and delivered to them the Albanian versions the above documents, as well as the conclusions of EUROSAI Congress on SAI's independence.

We received support also from partner SAIs, such as the Supreme Audit Office of Poland (NIK), the SAI of Slovenia (especially the former President of the SAI, Dr. Igor Soltes who now is a member of the European Parliament, the Croatian SAI, etc.), helped us as well.

The letter addressed to ALSAI from DG-Budget emphasized that having an INTOSAI compatible SAI law is one of the requirements under the openings and closure benchmarks for Chapter 32 of the Association and Stabilization Agreement of Albania with the EU. We acknowledge that without the fundamental support from DG-Budget, the EU Delegation in Tirana and SIGMA, such a law in full compliance with INTOSAI standards would have not seen the daylight.

The Albanian Parliament passed the bill in November 2014 and made it operational in early 2015. This Law provides in Article 6 "Scope of activity", point 1 that "ALSAI audits in compliance with the Constitution, the laws, the bylaws, the manuals in force and the INTOSAI International Standards of Audit" and point 3 "ALSAI in its operation should reflect the highest scale of International Standards of INTOSAI and IFAC, as well as the resolutions of INTOSAI and EUROSAI Congresses".

The Austrian Court of Audit (ACA), in its peer review report on ALSAI's independence presented in 2016, affirmed that "*Independence, mandate and the organization of ALSAI are legally de facto established and protected by the Constitution and the SAI Law. With the entry into force of the SAI Law in 2015, ALSAI had significant improvements in its independence compared with the provisions of the previous law. The established legal framework is appropriate and effective and complies with the Mexico Declaration*".

In reference to the Peer review findings, we consider that there is a lot to be done in two pillars. In the pillar of financial resources, which need to ensure that ALSAI must have the proper monetary means to complete its mission, and on the effective follow-up mechanisms, that require Parliament to use more SAI's findings and recommendations while controlling and making accountable the Government.

In order to ensure full operational independence, we approach based on the SWOT analysis, in which we are able to identify the opportunities and use our strengths to reduce weaknesses, as SAI's performance improvement instrument.

ALSAI SWOT Analysis on institucional independence

Strengths	Weaknesses
Guaranteed SAI's independence in Constitution and basic law fully compliant with INTOSAI standards	Impact of inherited tradition of financial inspection approach yet visible in some audit practices
Politically neutral and professionally objective audit staff	
Well trained audit staff, including the young auditors	Difficulties in implementing the ISSAIs
An individually tailored professional development and long life training approach	Shortcomings in tracking audits after reporting
Ethic Code of ALSAI(2012) and Ethic Code of Chairman(2018), deciding not to run for a	Limitation in financial independence due to ways of budget allocation

second mandate	
Opportunities	Threats
The existence of an appropriate constitutional, legal and statutory framework for the effective realization of functional duties. (Constitution, Law 154/2014)	Resistance to change from older auditors
Mandate in office and dismissal of the Chairman and governing structure foreseen in the Law as independent from the Executive	Unprofessional and politically motivated offenses against ALSAI, including members of the Parliament, for personal or political party interests
SAI enjoys complete independence from the Legislature and the Executive in the planning, performance and reporting of audits	Insufficient perception by the media and the public about how the SAI audit work should be used
SAI enjoys full mandate in carrying out audits	Culture of impunity in the Albanian public administration
SAI does not make policies, but audits their implementation	Some public institutions or entities obstruct the audit or the provision of information
	Low level of implementation of ALSAI recommendations by the audited entities in regard to removal from office of high ranked officials caught in abuse
	Insufficiency of financial resources

3. Using the Mexico Declaration to foster our role in regard to accountability and transparency

The fact that a SAI enjoys by Constitution and by law the required institutional independence, according to the eight principles of the Mexico Declaration, does not necessarily mean that the independence is effective.

The UN Resolution of 2011 “Promoting the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions” and the **UN Resolution of 2014** "Promoting and fostering the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions" are good tools in maximizing the institutional independence of a SAI. We use them in any case that we want to advocate for our independence and receive support from main stakeholders to implement our recommendations.

We consider as the main instrument for achieving effective institutional independence the strengthening of relations with Parliament.

Recently, ALSAI is approaching based on SIGMA's White Paper on the Relationships between SAIs and Parliament, aiming to increase the pressure on Government to properly respond to its recommendations.

Comparing with the previous experience, when we went only 2 times in front of Parliament and the Commission on Economy and Finance, when reporting on the execution of the State Budget of previous year and on SAI's performance, starting from 2014, the situation changed.

Referring to last year, 12 hearing sessions have been held in Parliament's commissions, in regard to high public interest audits. This indicates Parliament's growing confidence on SAI work.

In 2016, the Parliament adopted the Resolution on SAI activity for 2015 and acknowledged the need to set up a Parliamentary Subcommittee to cover the findings and recommendations of SAI audits, which has the potential to increase SAI's work impact.

Although the Government and the majority in Parliament are not quite supportive to ALSAI's work, the former and present President of Republic, the Speaker of Parliament, the Chairman and the Secretary of the Committee on Economy and Finances have participated in various SAI's activities and have encouraged the SAI in its mission. The Commission on Economy and Finance is the biggest ally of ALSAI after media, contributing in every case there was need for their support.

The words of a personality of supreme audit such as Dr. Josef Moser, former Secretary General of INTOSAI, can lead us to further foster our independence to the benefit of effectiveness of our work:

“Independence of SAIs is a cornerstone for the functioning of States. It strengthens parliaments in their oversight and control function and is only guaranteed if established in law and enshrined in the Constitution”

Dear colleagues,

We do face more or less the same challenges. For this reason, we are in the same roundtable, united in ambition and determination, considering that sharing experiences would bring out the added value of our daily work, based on INTOSAI motto “Experientia mutua Omnibus Prodest”

Thank you!