

ASSESSMENT OF LEGISLATIVE AND REGULATORY PROVISIONS RELATED TO THE WORK OF THE STATE AUDIT OFFICE (SAO)



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LIST OF ABBREVIATIONS:

EU	European Union
EUROSAI	European Organization of Supreme Audit Institutions
INTOSAI	International Organization of Supreme Audit Institutions
LPIFC	Law on Public and Internal Financial Control
MF	Ministry of Finance
NCA	Netherlands Court of Audit
PAC	Public Account Committee
RM	Republic of Macedonia
SAI	Supreme Audit Institutions
SAO	State Audit Office

1. INTRODUCTION

The institutional transformation of the State Audit Office (SAO) in Macedonia dates back to 1999, when nine employees from the Directorate for Economic and Financial Audit¹ were transferred to the newly established SAO. Since its establishment until today (First State Audit Law adopted in 1997²) the SAO has been developing in circumstances of intensive reform processes of the financial control system and the public administration, and intensive activities and processes for cooperation with international institutions for the purpose of implementing state's strategic goals in accessing the EU and the European-Atlantic integrations.

The SAO in its defined mission aims at providing objective and timely information to the competent state bodies and the public on the findings from conducted audits, and through clear and effective recommendations addressed to public funds' beneficiaries to contribute to overall improvement of public fund management.

2. LEGAL FRAMEWORK

The State Audit Office is a supreme audit institution in Macedonia, which aims to promptly and objectively inform the Assembly, the Government, other public officials and the general public about the findings from the performed audits. The SAO provides support to the Parliament for execution of its jurisdiction, through identification and presentation of irregularities and illegal operations of audited entities, uncovered with the performed audits. The main principles of SAO's work are: independence, objectivity, competence, professionalism, team work, transparency and integrity. The SAO is legal entity and it is independent in performing financial audits, regularity and performance audits. The Head of the SAO is the Auditor General, who has a deputy. The Auditor General and his deputy are elected by the Assembly.

The legal framework of the state audit is regulated by the State Audit Law, which has been amended several times since its coming into force. The last State Audit Law was adopted in May 2010³. The Law defines the position, role and mission of the SAO, its independence and autonomy, as well as the authorities of the state organs and institutions, eliminating the illegal and unintended use of public funds, and the ways of following the recommendations of the authorized state auditors presented in the issued audit reports. The last State Audit Law from 2010 was amended 6 times. The first and the third amendment in general refer to the legal status of SAO's staff and the salaries.

The second and the fifth amendment refer to the procedures of implementing the professional exam for acquiring the title of certified auditor and mostly to the misdemeanor provisions. The fourth and sixth amendment refer to the misdemeanor provisions. The new Law implies compliance with the Lima Declaration of guidelines on auditing precepts and the Mexico Declaration on independence of Supreme Audit Institutions.

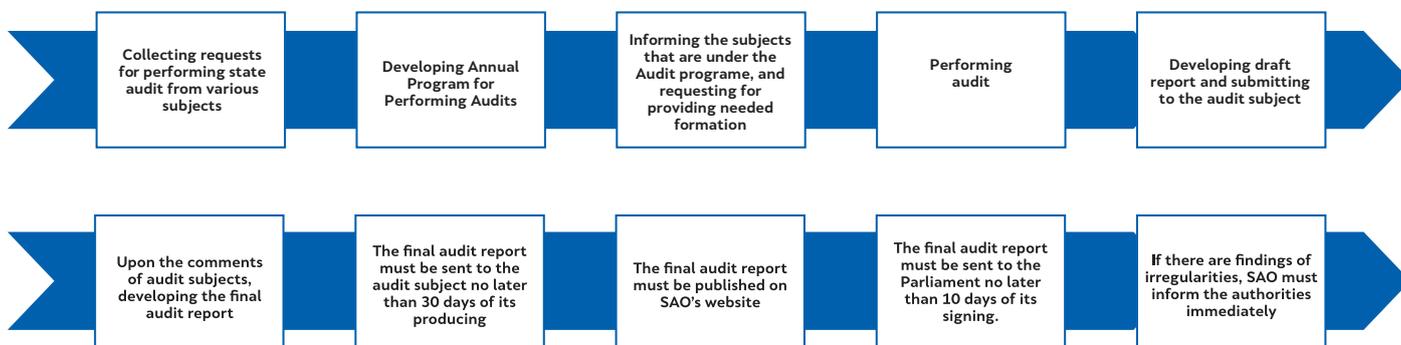
Summarized, the process of planning, performing and informing about the audit subjects work is presented in the following chart:

¹From 1991-1998 the State Audit in RM was conducted by the Directorate for Economic and Financial Audit (transformed into Payment Operation Office in 1994).

²Official Gazette of the Republic of Macedonia no. 65/97.

³Official Gazette of the Republic of Macedonia no. 66/2010; 145/2010; 12/14; 43/14; 154/15; 192/15; 27/16.

Figure 1: SAO's process of performing audits

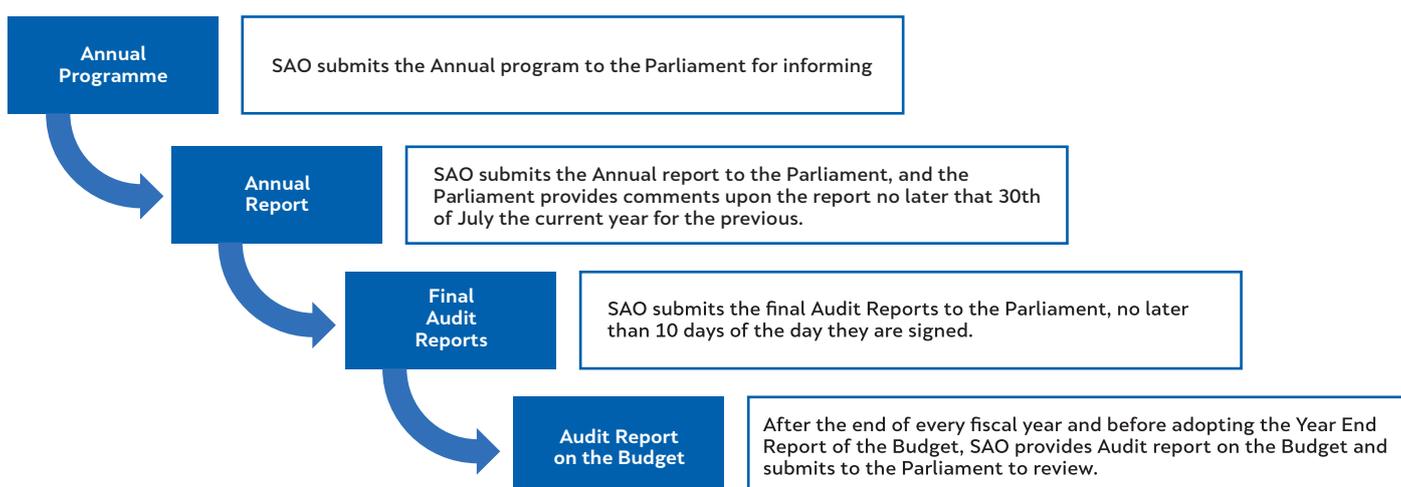


Source: State Audit Law

It should be mentioned here that the criteria and procedures for deciding which request for performing audit to accept are for internal use and not publicly available. According to the Law, the SAO mandate for any further activities upon the performed audits ends with submitting the audit report to the audit entity, the Parliament and eventually to the authorities (if there are findings for irregularities). The law does not prescribe any penalty provisions for entities that will not undertake measures upon the draft audit report within the prescribed period i.e. the Law does not provide executive provisions for SAO.

The communication process between SAO and the Parliament, SAO and the Government or the Ministry of Finance, sublimated and according to the Law is as follows:

Figure 2: Formal communication between SAO and Parliament



Source: State Audit Law.

The communication between the SAO and the Government is defined by the State Audit Law and the Rules of the Government⁴.

⁴Rules of the Government of RM. See more on: http://arhiva.vlada.mk/files/delovnik_z_a_rabota.pdf

Figure 3: Formal communication between SAO and the Government

Submitting the Audit reports to the Government	SAO submits the audit reports to the Government for the subjects that are under governmental authority.
Audit Committee – audit reports review	The Audit Committee is a professional governmental body that under the Rules of the Government, reviews the audit reports and submits written reports to the Government with opinions and proposals for the undertaken measures upon the findings of the audit reports.
Secretary General informs the SAO	The Secretary General of the Government informs the SAO about the conclusions made by the Government about the measures undertaken upon the findings of the audit reports.
Submitting relevant audit reports to the Ministry of finance	SAO submits every audit report to the MF where there are findings of the financial operation of the audit subject. Cooperation defined with the Protocol for cooperation.

Source: State Audit Law and Rules of the Government

The cooperation between SAO and the authorities: the State Commission for Prevention of Corruption, the Public Prosecutor and the Ministry of Interior is enabled and prescribed in the State Audit Law (Article 35). The SAO is obliged to immediately inform the authorities when there are findings of misdemeanor or felony made by some of the audited entities. Within the frame of cooperation with these bodies, SAO should regularly: (1) submit audit reports, information and materials on findings that initiate actions under the competence of the State Commission for Prevention of Corruption, the Public Prosecution Office of the Republic of Macedonia and the Ministry of Interior; (2) provide information and materials on conducted audits at the request of these bodies; and (3) obtain feedback from these bodies on previously submitted information, materials and audit reports.

According to the Law, there is no further prescription for activities that SAO should undertake, or if any information or reports should be provided to the SAO as a feedback, after informing the authorities.

2.1 LEGAL FRAMEWORK SHORTFALLS

Next we will comment on some legal shortfalls related to the SAO mission.

2.1.1 NOT DEFINED AS CONSTITUTIONAL CATEGORY

Despite the efforts of the State Audit Office to have its independence and autonomy embedded in the Constitution of the Republic of Macedonia, in compliance with international standards and good practice in EU countries, and the recommendations of the Lima Declaration on the leading principles of audit, this matter has not been resolved yet, although it is one of the major preconditions for further accession to the EU.

The EU Progress Report from 2010⁵, in Chapter 32 – Financial control, and the List of Urgent Reform Priorities⁶ recommend the SAO to be determined by Constitution and to ensure satisfactory level of autonomy of independence, not only in theory but also in practice, in order to act effectively and free of political pressure.

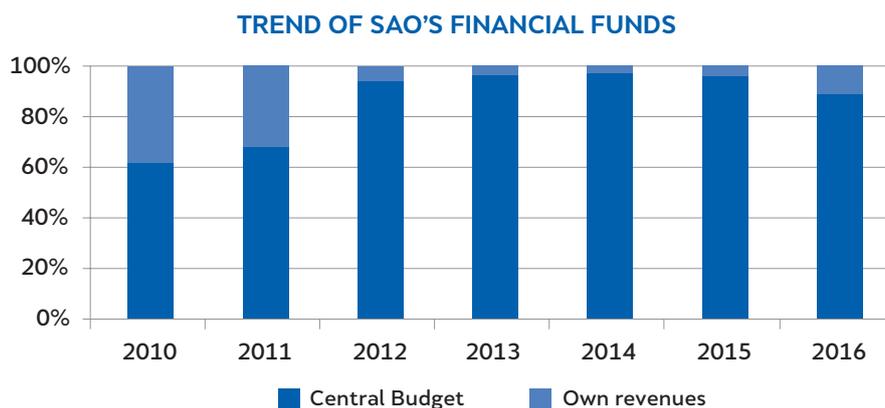
According to EU recommendations, the Government of RM sent a Constitutional Amendments Proposal to the National Assembly on 27.07.2014. The eighth amendment concerns the SAO and its constitutional independence. Ever since the proposed amendments, the process of Constitution amendment has not ended due to the political crisis, and lack of quorum to vote on constitutional amendments⁷. The last commission hearing on the topic was in July 2015⁸, when it was confirmed that the amending process has not ended. The SAO independence and autonomy are only regulated by law.

2.1.2 INADEQUATE INDEPENDENCE AND AUTONOMY

Although the legal framework regulates the SAO independence and autonomy, and gives appropriate operational independence as the power necessary for conducting audits, given the fact that the SAO abides by the same regulations as any other budget user, in practice the independence and the autonomy of the institution are limited from legal and financial aspects. This delays the process of SAO's dynamic development and the harmonization of its operation with the best European practices regarding enhanced security and accountability of public funds financial management.

2.1.3 FINANCIAL INDEPENDENCE

The amended SAO Law aims at strengthening operational and financial independence of the State Audit Office and achieving greater effectiveness and efficiency in conducting state audit. From the graphs below we can see that as of 2011 the central budget share of the SAO total budget increases. A minor part of the financial resources for SAO operation are provided by performing and charging for commercial audits.



Graph 1: Trend of SAO's financial funds⁹
Source: SAO's Annual reports, own calculations.

⁵The FYR Macedonia 2010 Progress Report. European Commission. See more at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf. Accessed 19.08.2016

⁶Urgent Reform Priorities for FYR Macedonia. European Commission. See more at: http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf Accessed 19.08.2016.

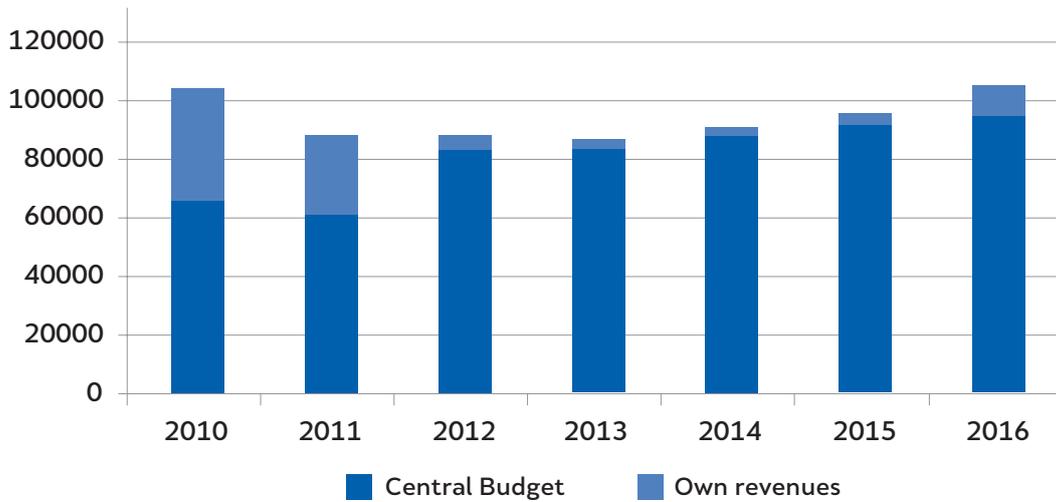
⁷Нови амандмани или нова неизвесnost во Уставот? Article on web portal Pravdiko. See more at:

<http://www.pravdiko.mk/novi-amandmani-ili-nova-neizvesnost-vo-ustavot/> Accessed 22.08.2016.

⁸Finance and Budget Committee: Report of Commission Meeting 54, 09.07.2015.

⁹Data for 2016 are projected from SAO's Annual Program.

TREND OF SAO'S FINANCIAL FUNDS



Graph 2: Trend of SAO's financial funds – absolute values
Source: SAO's Annual reports, own calculations.

The last PEFA Report 2015¹⁰ notes that SAO does not have the resources needed to carry out a full financial and compliance audit of all its auditees every year, and therefore aims to cover most of them in detail over a period of several years.

Namely: “A consolidated annual report of all SAO's activities during the previous year is sent to the National Assembly in June each year. In addition to this, SAO is required to make an annual audit of the execution of the central government Core Budget, which excludes the social insurance funds, as well as operations financed from own revenues or external sources. The last audit is limited to revenue and expenditure statements, and does not cover assets and liabilities. It includes some sample testing of revenues, but expenditures are covered only at the level of the Treasury, without any substantive testing of transactions at the level of the budget users” – PEFA Assessment on FYR Macedonia.

The last Progress report of the European Commission for Macedonia requires increased audit coverage of total public spending in order to improve accountability and transparency of the public finances.

2.1.4 INADEQUATE LEGAL FRAMEWORK TO REGULATE THE ACTION OF A STATE AUDITOR UPON REASONABLE SUSPICION FOR MISDEMEANOR OR CRIME

The existing legal framework does not include SAO authority to legally act and impose sanctions on the legal entity that has failed to follow the recommendations of the authorized state auditor or has failed to provide feedback for SAO regarding the status of the recommendation.

¹⁰PEFA Assessment on the FYR Macedonia, By John Wiggins, Jean-Marc Philip, Bojan Pogačar and Anto Bajo. See more at: <https://pefa.org/sites/default/files/assessments/comments/MK-Dec15-PFMPR-Public.pdf> Accessed on: 22.08.2016

The existing legal framework does not clearly define the obligation of the authorized organs to act upon notification of the authorized state auditor on their reasonable suspicion for a misdemeanor or a crime, and to inform the SAO on regular basis about the measures taken until a final decision is reached by the Public Prosecution Office or the authorized judicial organs on a previous SAO notification.

Further in the Progress report it is stated that in the Institutional framework the State Audit Office's IT infrastructure improved but interconnection with other relevant institutions is still not in place. And more: the enforcement regime needs to be further improved and the roles of relevant institutions need to be clarified to enable control of political party donors and assets received and owned by political parties.

3. PRACTICAL ASPECTS AND PROBLEMS

In compliance with the legal framework determined by law, the State Audit Office issues and submits to the legal entity being subjected to audit and to the authorized organs¹¹ the following:

- Preliminary audit reports, and
- Final audit reports.

The audited subjects are obligated by law to review the submitted audit report and to act upon the recommendations of the authorized state auditor, and provide feedback on the measures taken for elimination of irregularities not later than 90 days. No further obligations of the audited subjects are defined by the Law. Also, the Law prescribes no further activities that SAO should undertake upon failure of the audited subjects to implement SAO's recommendations.

In compliance with the obligations and deadlines specified in the State Audit Law the SAO draws up an annual report, and submits it to the Parliament of the Republic of Macedonia.

The objectives of submitting the annual report to the Parliament of the Republic of Macedonia are the following:

- Inform Parliament members, relevant parties and the public about the tasks and duties performed by the State Audit Office,
- Present the identified irregularities from the operation of the auditees and the manner in which they use public funds,
- Present the existing systemic weaknesses and collision of legal documents and other regulations, and encourage the process of their elimination,
- Elevate the level of engagement of the authorized organs in following the recommendations of the authorized state auditors, and eliminate adverse situations,
- Intensify the processes of identifying the individual and personal responsibility level for the existing shortfalls of the operation of the auditee, and for the situation found by the authorized state auditor regarding the illegal and unintended use of public funds,
- Intensify the process of initiating procedures by the authorized institutions in cases when the authorized auditors have notified them on reasonable suspicion for misdemeanor or crime,
- Raise the awareness for responsible and efficient work of the persons managing the public funds,
- Obligation of legal entities for permanent transparency and publicity of the public funds use.

¹¹Authorized organs according are: Parliament of RM, Government of RM, Ministry of Finance, Public Prosecution Office of RM, State Commission for Prevention of Corruption, end users and the line ministries, and other organs that have supervisory functions according to systemic laws regulating the relative area.

3.1 ACTING UPON SAO FINDINGS/ REPORTS

The dynamics of realization of SAO's defined scope of work for a particular year is defined in SAO Annual Program. All SAO's performed activities are elaborated in an Annual Report.

As it was mentioned previous, SAO performs three types of audits: **financial audit**, regulatory/compliance audit, and performance audit. According to the Law, the financial audit checks the accuracy and completeness of the accounting records and financial reports. **The regulatory/compliance audit** is a process of identifying and assessing the compliance of the entity in accordance with the laws, by-laws and internal regulations. **The performance audit** assesses the economy, efficiency and the effectiveness of operations and the use of funds in a defined area of activities or programs.

In 2015, SAO performed 53 audits, producing 79 audit reports. In summary, the number of performed audits and produced audit reports by year are as per the following table.

Table 1.Number of Performed Audits.

Year	# Performed Audits					
	2015	2014	2013	2012	2011	2010
Financial audit and compliance audit	21	17	93	36	70	78
Thematic audit/special purpose	1	-	3	8	-	2
Performance audit/LPIFC ¹²	13	80	-	-	-	-
Performance audit	18	6	7	10	7	7
Total performed Audits	53	103	103	54	77	87

Source: SAO's Annual Reports

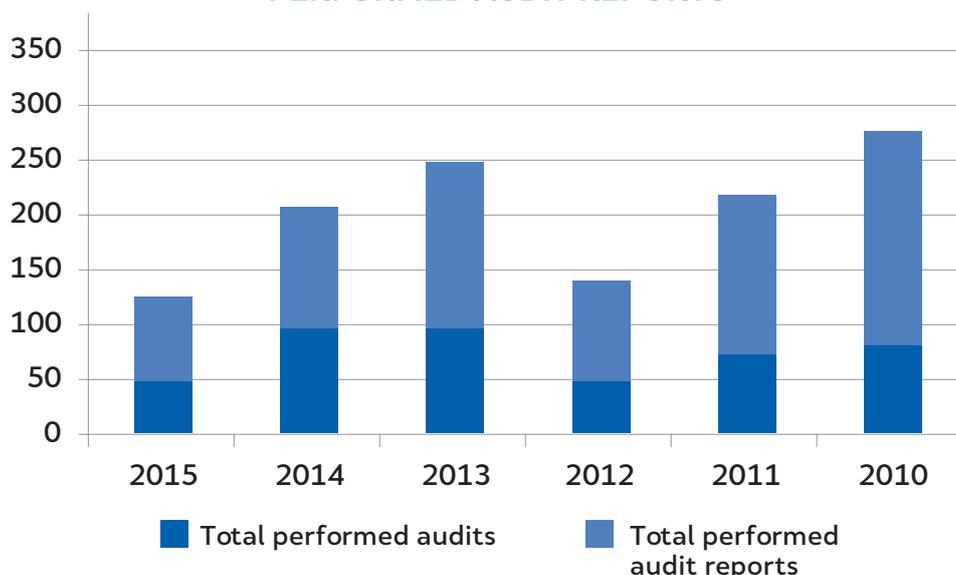
Table 2.Number of Produced Audit Reports.

Year	# Performed Audit Reports					
	2015	2014	2013	2012	2011	2010
Financial audit and compliance audit	47	30	145	75	144	193
Thematic audit/special purpose	1	-	3	8	-	2
Performance audit/LPIFC	13	80	-	-	-	-
Performance audit	18	6	7	10	7	7
Total performed Audit Reports	79	116	155	93	151	202

Source: SAO's Annual Reports

¹²Law on Public Internal Financial Control. See more: http://finance.gov.mk/files/u249/JVFK_%D0%90%D0%BA%D0%B0%D0%B4%D0%B5%D0%BC%D0%B8%D0%BA%D0%B0_1.pdf .

RATIO OF PERFORMED AUDITS AND PERFORMED AUDIT REPORTS



Graph 3 :Ratio of Performed Audits and Performed Audit Reports
Source: SAO’s Annual reports, own calculations

Regarding the legal entities being subjected to state audit, and the final audit reports that include findings of weaknesses and illegal and unintended use of funds, as well as recommendations for their elimination, it may be concluded that the efforts and the engagement of the legal entities and the authorized state organs have been inadequate; this conclusion has been corroborated by the following indicators and facts:

Table 3.SAO’s activities by year:

Year	SAO's activities					
	2010	2011	2012	2013	2014	2015
Audit performed	202	77	54	103	103	53
Subject Audited	169	148	128	170	168	410
# of findings	1067	1213	793	1146	1231	858
# of recommendations	927	725	599	719	833	700
# of follow up	122	118	84	57	70	11
# of implemented recommendation	430	354	303	254	353	147

Source: SAO’s Annual Reports.

In compliance with its legal obligation the State Audit Office submitted final audit reports on regular basis to the authorized organs in the past years.

BOX 1.

Despite the intensive activities and efforts of the State Audit Office, no authorized state organ has devoted necessary attention to the submitted audit reports. The reports are not reviewed, and no adequate efforts for elimination of the current situation are made, especially by some legal entities. There is no legal obligation to trigger action upon the submitted audit reports to the National Assembly.

It came to a surprise that the majority of the MPs in the Parliament did not come to vote for the mandatory legal possibility of the Parliament to discuss upon the final audit reports from SAO in 2010 when the new SAO law was adopted. Acting as an ex post scrutiny instrument of the Parliament, the SAO and the SAO's final audit report have meaning only if they are discussed at Parliament's committees.

The only occasion when the Parliament and the Government of the Republic of Macedonia pay some attention to the audit is the parliamentary debate on the annual reports about SAO's work, and not about the reports for the audited entities.

Moreover, at a September 2007 Government session a decision was adopted that a proposal will be adopted for a separate Public Account Committee-PAC at the Parliament but that never happened. At the same Government session an Audit Committee was established with a mandate to discuss SAO's reports and propose activities to implement SAO's recommendations. That Audit Committee has never had a single meeting so far.

This situation makes an obstacle for the Macedonian SAO to explicitly present its outcomes in terms of efficiency, economy and effectiveness. For example, UK's NAO presented in 2009 that it saved 4.9 billion UK pounds (which at that time was equivalent to 140 new hospitals) in 15 years. Or NAO presented that for each pound spend on NAO it saves 8 pounds for UK taxpayers. Also, it presented that over 90% of PAC's recommendations were accepted.

Table 4. Number of submitted audit reports:

Year:	No. of submitted audit reports						Total
	2010	2011	2012	2013	2014	2015	
Parliament of RM	180	151	93	155	116	79	774
Public Prosecution	16	8	3	14	1	6	48
State Commission for Prevention of Corruption	11	2	-	6	-	-	19

Source: SAO's Annual Reports.

According to the annual audit reports, the State Audit Office identifies many systemic weaknesses, collision between legal documents and regulations and organizational weaknesses; however, they continue to be repeated in several annual reports in a row. This means absence of efforts by the authorized organs.

By establishing a special Committee with specific audit authority (Governmental body) or using the existing Finance and Budget Committee, SAO emphasized the need of introducing a standard procedure for reviewing the audit reports in the Parliament. Through the committees SAO has been corroborated by institutionalized contacts between the Government and the Parliament.

On the other hand, the Parliament of the Republic of Macedonia, through its mandate reviews the Annual Financial Statement of the Budget of RM for the previous year; however, it does not review the SAO Final Report to identify the actual situation and take appropriate measures to eliminate the weaknesses.

The SAO and the Sector for Public Internal Financial Control at the Ministry of Finance signed the Protocol for Cooperation in 2006, and its purpose is to enhance the system of public funds management and control. However, the Protocol has not been implemented in all its segments yet. The Ministry of Finance in 2012 established an Audit Committee¹³, as a consultative body, that should strengthen the cooperation with SAO and follow the implementation of SAO's recommendations on budget users as audit subjects. However, according to the previously presented Table 3, the ratios between the number of findings and implemented recommendations have not much changed since its establishment.

In line with its mandate, SAO submits audit reports to the Public Prosecution Office upon reasonable suspicion for a misdemeanor or a crime. Their cooperation has intensified since 2007, when SAO and the PPO signed a Protocol on cooperation for prevention and repression of corruption and conflict of interest¹⁴ (with other 9 stakeholders).

According to the last annual report, the State Audit Office has implemented various activities for eliminating the situation of suspicions actions by the audit subjects (new contacts, various activities, round tables). SAO continued to improve its work through development and use of information technology for rational and efficient use in audit. In that manner, in 2015 SAO fully implemented the applications: Course of the regulatory and performance audits, which are a guide in the audit process.

The EC Progress report also states that: Performance auditing need to be further developed. As concerns the impact of audit work, the SAO's recommendations are not often efficiently implemented by the auditees. The follow-up of SAO's recommendations needs close parliamentary supervision as parliament still does not debate audit reports. Improved parliamentary follow-up of the SAO's recommendations would enhance scrutiny of the executive and ensure that public funds are used more transparently and with greater accountability.

3.2 INTERNAL AND ORGANIZATIONAL PROCEDURES OF ORGANS AUTHORIZED TO ACT UPON THE SAO FINDINGS/REPORTS

One of the main reasons for inadequate engagement of the organs authorized to act upon SAO findings/reports is inadequately defined internal structure. Namely, the Rules of Procedure of the Parlia-

¹³Official Gazette of the Republic of Macedonia no. 90/2009 See more on : <http://www.slvesnik.com.mk/Issues/DB2C5103AB40DE4FBB7509FFF219D147.pdf> Accesses on 19.08.2016

¹⁴Protocol on cooperation for prevention and repression of corruption and conflict of interest. See more on: http://www.dksk.org.mk/index.php?option=com_content&task=view&id=188. Accessed on 28.08.2016

ment and the Government of RM¹⁵ or other internal regulations of authorized organs do not define procedures and authorities of organs and bodies, or the operational method for implementing the role of supervisory organs, and organs responsible and authorized to take measures and activities for eliminating illegal and unintended use of the public funds.

The fact remains that the authority on state audit matters should rest with the Finance and Budget Committee; however, this has not been clearly defined by the Rules of Procedure of the Parliament. It is also necessary to define the authority of the appropriate commission of the Parliament depending on the audited area (exp. the audit report following the audit of the Ministry of Culture should be also reviewed by the Commission for Culture of the Parliament).

The fact remains that the Government of RM amended its Rules of Procedure in September 2007 and established the Audit Committee as a permanent expert body to review the audit reports and the follow-up audit reports/reports on the measures taken by the auditees following the recommendations for eliminating irregularities included in the audit reports. The Audit Committee submits to the Government written reports including opinions and recommendations about the measures taken following the findings included in the audit reports, based on which the Government should come to appropriate conclusions.

It is not satisfactory that the Government amended its Rule of Procedures and established the Audit Committee, since there is no sign that the Committee has reviewed some audit report of audits performed at legal entities, nor has it provided feedback to SAO about the ways to eliminate the systemic weaknesses, especially because such weaknesses are exclusive authority and responsibility of the Government. The Governmental Rules of Procedure define that the General Secretary shall notify the SAO of the Government's conclusions on the measures undertaken by audit subjects based on the findings in the audit reports¹⁶.

Table 5. Status category: Undertaken measures upon Audit recommendations

Year:	Undertaken measures upon Audit recommendations					
	2015	2014	2013	2012	2011	2010
Implemented recommendations	147	561	254	303	354	440
Not implemented recommendations	38	175	27	30	45	64
Recommendations that cannot be implemented	0	2	9	7	7	0
No feedback upon recommendations	137	95	132	20	45	19

Source: SAO's Annual Reports.

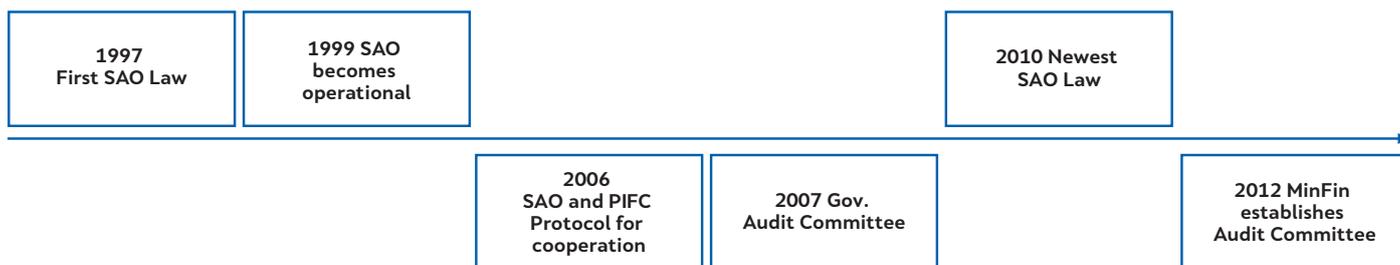
The presented table shows that due to the absence of clear defined obligations for implementing SAO's recommendations, year by year, the number of recommendations implemented by the audit subjects decreases, and on account of that, the number of no feedback recommendations increases.

The next flowchart illustrates the declarative efforts to extend the outcomes of SAO in order to achieve more efficiency, economy and effectiveness. So far with no significant results, though.

¹⁵Rules of Procedure of the Parliament and the Government of RM. See more on

<http://www.sobranie.mk/delovnik-na-sobraniето-na-republika-makedonija-precisten-tekst.nsp> Accessed on 22.08.2016

¹⁶Rule of Procedures, Government of RM. See more on: http://arhiva.vlada.mk/files/delovnik_za_rabota.pdf . Accessed on 22.08.2016



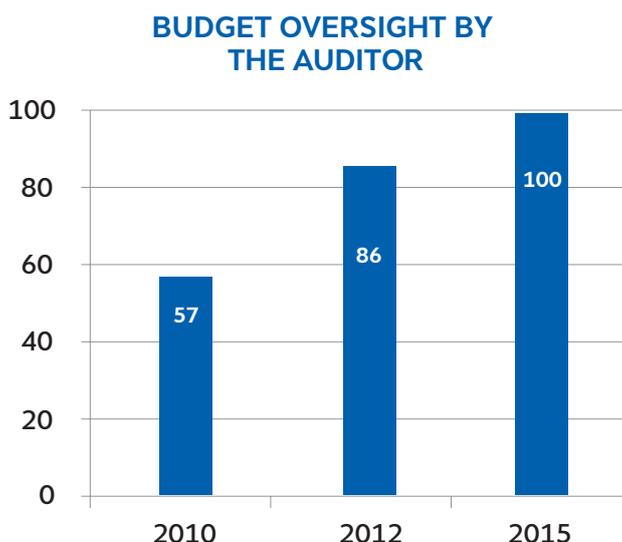
Flowchart 1: Institutional and legal upgrades of the SAO

4. TRANSPARENCY

Transparent operation of the SAO is one of the five strategic objectives defined in SAO Development Strategy¹⁷. According to the Annual Report 2015¹⁸, main activity in the process of transparency was the announcement of the final audit reports on the web page as an essential part of the “SAO Annual program in 2015”.

The International Budget Partnership through its measuring tool Open Budget Survey¹⁹, apart from the transparency of the National Budget, also follows SAO’s in terms of transparency. Drawing on internationally accepted criteria developed by multilateral organizations, the Open Budget Survey uses 5 indicators to measure the Budget oversight by the supreme audit. The results from the survey are that SAO’s budget oversight is adequate. In other words, SAO provides appropriate oversight of the budget. Under the Law, it has every right to audit when deemed necessary. Moreover, the head of the supreme audit institution cannot be removed without a legislative or judicial approval, thus reinforcing its independence. Finally, the SAO provided sufficient resources to fulfill its mandate and have an adequate system of quality assurance.

Through the years, SAO have improved the oversight on the National Budget, as follows (gathered a score of 100, out of 100 in 2015):



Graph 4: Level of budget oversight by the auditor (out of score 100)
Source: Open Budget Index

¹⁷Development strategy of SAO. See more on: http://www.dzr.mk/Uploads/Strategija_razvoj_2013_2017_001.pdf

¹⁸SAO’s Annual Report 2015. See more on http://www.dzr.mk/Uploads/3_Godisen_izvestaj_DZR_2015_WEB.pdf

¹⁹International Budget Partnership- Open Budget Survey. See more on:

<http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=mk>

5. INTERNATIONAL PRACTICE

5.1 INTERNATIONAL NETWORK

In order to have constant development of SAO's work, the cooperation between SAO and the international organizations of supreme audit institutions (SAIs) are of particular importance. This cooperation aims at²⁰:

- exchanging knowledge, experiences, methodology materials, documents and information with SAIs, regional working groups (EUROSAI etc.), professional organizations and associations;
- harmonizing audit methodology in line with internationally accepted auditing standards;
- following current practices for development of audit vocation;
- providing information on activities, results and effects of SAO work at international forums; and
- building SAO reputation and image in the eyes of other SAIs and audit organizations in Europe and worldwide.

SAO has been a member of INTOSAI²¹ (International Organization of Supreme Audit Institutions) since 2001 and EUROSAI (European Organization of Supreme Audit Institutions) since 2002. In addition, the State Audit Office is a member of EUROSAI working groups on Environmental Auditing (since 2002) and IT (since 2005).

SAO competencies are derived from the basic principles of the Lima and Mexico Declaration and the Tokyo Declaration, which define the basic rules and guidelines for conducting audit, ensuring independence, and defining their role in increasing accountability.

5.2 TYPES OF SUPREME AUDIT MODELS

INTOSAI operates on the basis according to which there can only be one SAI for each country. If a country has more than one organization involved in public external audit, then it is the responsibility of the country to determine which organization it wishes to register as the SAI, which usually is the body with the strongest constitutional guarantees of independence.

There are three broad SAI models. There are numerous variations of these three models and recent reforms in many countries are leading to convergence of functions, if not structure, of these three models. The three main models are the following:

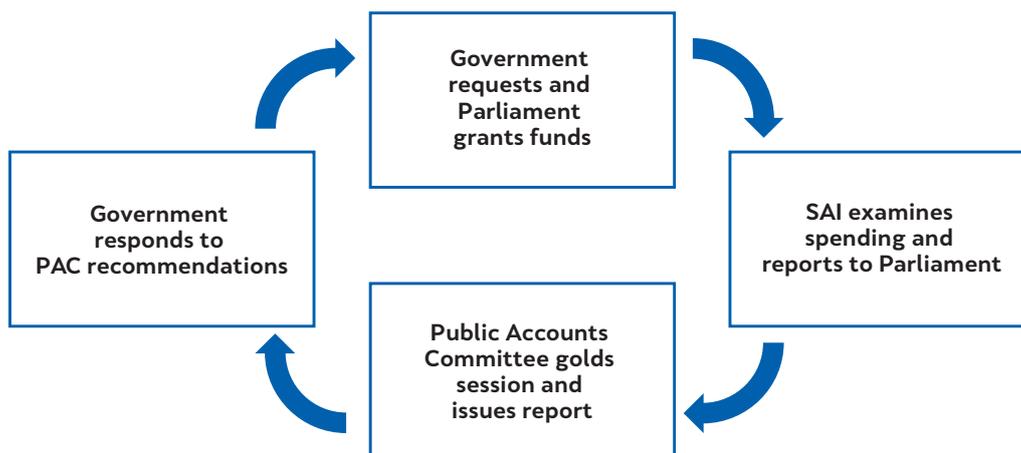
- **Westminster model**, also known as the Anglo-Saxon or Parliamentary model found in the United Kingdom and most Commonwealth countries, including many in sub-Saharan Africa, a few European countries, such as Ireland and Denmark, and Latin American countries such as Peru and Chile – often referred to as national audit offices. Under the Westminster models, SAO's (or Supreme Audit Institution-SAI) work is intrinsically linked to the system of parliamentary accountability. Its basic elements are: authorization of expenditure by the Parliament; production of annual accounts by all government departments and other public bodies; the audit of those accounts by the SAI; the submission of audit reports to Parliament for review by a dedicated committee – usually called the Public Account Committee (PAC); issue of reports and/or recommendations by the PAC; and Government response to PAC reports. **The Macedonian SAO is developed under the Westminster model.**

²⁰See more on State Audit Office web site <http://dzt.mk/en/DesktopDefault.aspx?tabindex=0&tabid=1088>

²¹Ethic Codex, State Audit Office. See more on:

http://www.dzt.mk/Uploads/ISSAI_30_%20Kodeks_etika_INTOSAI.pdf Accessed on 22.08.2016.

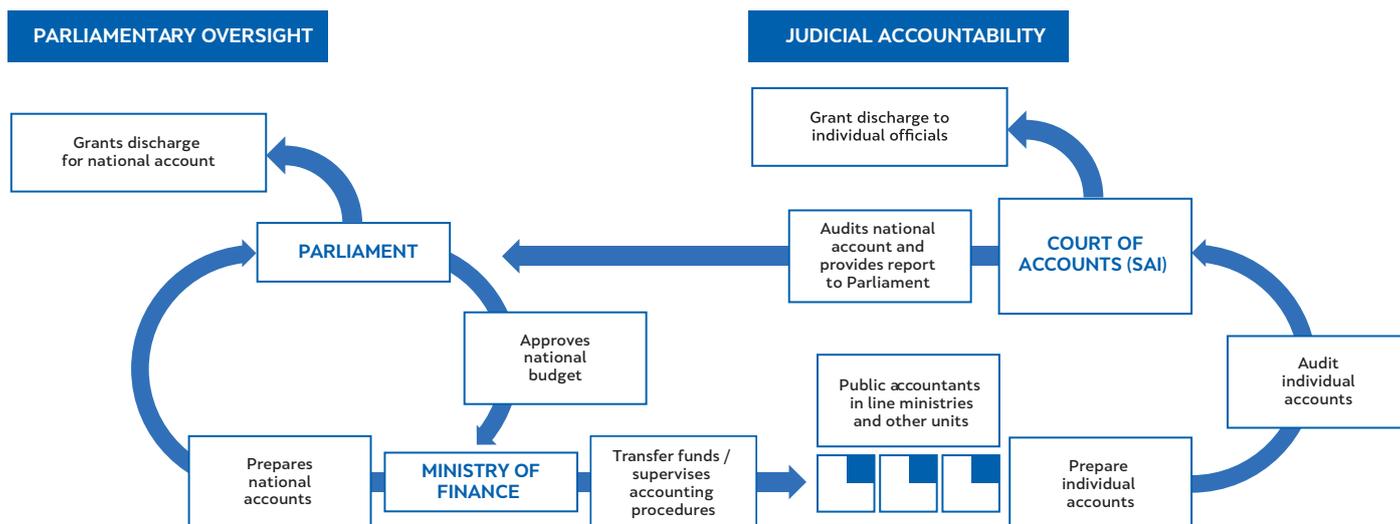
Figure 4: The Westminster accountability model



Source: Department for International Development (DFID)²²

- Judicial or Napoleonic model**, found in the Latin countries in Europe, Turkey, Francophone countries in Africa and Asia, and several Latin American countries including Brazil and Colombia; often referred to as courts of audit or courts of accounts. In Francophone Africa, this model may co-exist with general state inspectorates, some of whom may be nominated as the country’s SAI. They are usually part of the executive, but independent of specific ministries and departments. A main aspect of the judicial model is that relevant government officials are normally held personally liable for the sums involved should an unauthorized or illegal payment be made.

Figure 5: The judicial model



Source: Department for International Development (DFID)²³

²²Department for International Development Briefing. See more on: <http://webarchive.nationalarchives.gov.uk/+/http://www.dfid.gov.uk/aboutDFID/organisation/pfma/pfma-externalaudit-briefing.pdf>

²³Department for International Development Briefing. See more on: <http://webarchive.nationalarchives.gov.uk/+/http://www.dfid.gov.uk/aboutDFID/organisation/pfma/pfma-externalaudit-briefing.pdf>

- **Board or Collegiate model**, found in some European countries including Germany and the Netherlands, Argentina, and Asian countries including Indonesia, Japan and the Republic of Korea. The basic structure of the model is similar to the Westminster model, with the key differences being in the internal structure of the audit institution. With the collegiate system, the SAI obtains number of members who form its college or governing board and take decisions jointly. Collegiate audit bodies are normally part of a parliamentary system of accountability. Reports and opinions agreed by the college are submitted to the Parliament, where there is usually some form of Public Accounts Committee to act on them. Collegiate bodies do not have judicial functions.

5.3 INTERNATIONAL EXPERIENCES

SLOVENIAN COURT OF AUDIT²⁴

In accordance with the Slovenian Constitution, the Court of Audit of the Republic of Slovenia is the highest body for supervising state accounts, the state budget and all public spending in Slovenia. The Court of Audit is independent in the performance of its duties and bound by the Constitution and law. The Court of Audit cannot be categorized within any of the three branches of power, legislative, executive or judicial. Its independent status is guaranteed in several respects by the Constitution and the law:

- The Court of Audit exercises its powers entirely independently. It is responsible for adopting its own program of work. Pursuant to the Court of Audit Act, the deputies and working bodies of the National Assembly, the government, ministries and local authority bodies may propose that an audit be carried out; among these proposals the Court of Audit selects for its annual work program at least five proposals from the National Assembly, two of which must come from opposition deputies and at least two from the working bodies of the National Assembly.
- For covering the costs of its activities the Court of Audit proposes a financial plan to the National Assembly, which approves the required working funds.

The public nature of the work carried out by the Court of Audit is assured by the issuing of an annual report, which is submitted to the National Assembly. The report is discussed in a committee of the National Assembly whose session is open to journalists and other representatives of the media. Furthermore, the annual reports are made generally available on the Court's website, while press conferences are organized on specific issues and particular occasions. Whenever appropriate, statements or information are released to the media, while important opinions concerning audit issues are made available for publication.

CROATIAN STATE AUDIT OFFICE²⁵

The State Audit Office is structured as a unique institution with a Central Office in Zagreb and 20 regional offices in the county centers. The central office in Zagreb and regional offices operate on the entire territory of the Republic of Croatia.

²⁴Court of Audit of R. Slovenia official website. See more on: <http://www.slovenia.si/slovenia/state/court-of-audit/>

²⁵State Audit Office of Croatia, official website. See more on: <http://www.revizija.hr/en/>

Activities, tasks and responsibilities of the State Audit Office are defined by the Act on the State Audit Office and by the Charter of the State Audit Office. The office is headed by the Auditor General. The Auditor General has a deputy and assistants who assist him in managing the Office, and coordinate performance of audits and other activities in cooperation with heads of the departments and heads of regional offices.

The State Audit Office has an Expert Council, which is an advisory body of the Auditor General, and it consists of the Auditor General and up to seven external members –recognized experts, appointed by the Auditor General.

NETHERLANDS COURT OF AUDIT²⁶

The Netherlands Court of Audit as a ‘High Council of State’ is a central government body created to ensure that the democratic system works properly. High Councils of State are independent of the government.

The Court of Audit’s tasks, powers and legal status are laid down in the Constitution and the Government Accounts Act 2001. It is an independent institution. That means that the Court decides what it will audit. The Court often receives requests to carry out audits from members of parliament, ministers and state secretaries who need an independent expert opinion on a particular matter. Because the independence of the Court of Audit to process the requests, but in practice, the Court usually honors requests made by members of parliament or government. The Court responds carefully to signs and reactions from the society, the public, enterprises and organizations. The Court may decide, for example, to involve them in the audits.

SUPREME AUDIT OFFICE - CZECH REPUBLIC²⁷

The existence of the SAO has been enshrined in the Constitution of CR and in contrast to the past, its mandate is conceived in an entirely new way. The SAO performs its functions independently, being dependent neither on the legislative power (parliament) nor on the executive power (government).

The Constitution of the Czech Republic, besides legislative, executive and judicial power and other constitutional elements, defines the status of the SAO as an independent body in a separate chapter, with provisions that:

- it shall audit the management of state property,
- its President and Vice-President shall be appointed by the President of the Republic upon the proposal of the Chamber of Deputies for a term of nine years,
- its status, powers and organizational structure shall be defined by law.

To ensure the highest possible degree of objectivity in considering audited matters and in decision-making, the collective principle has been adopted for the work of the Office. For this reason, decisions on the planning and results of the auditing activity of SAO are taken by its collective bodies: according to the importance and nature of audits, either the whole 17-member Board or three-to-five-member Senates. The Board consists of President, Vice President and 15 members of the Office. The members of the Office are elected by the Chamber of Deputies of the Parliament of the Czech Republic; their term of office lasts continuously until they attain the age of 65 years, and their status is comparable to the status of the members of parliament.

The institutional independence of SAO is supplemented by adequate financial independence. The sole institutions determining it are the Chamber of Deputies and the state budget.

²⁶Court of Audit of Netherlands, official website. See more on <http://www.courttofaudit.nl/english>

²⁷Supreme Audit Office of Czech Republic, official website. See more on: <http://www.nku.cz/en/default.htm>

COURT OF ACCOUNTS - ROMANIA²⁸

The supreme audit institution of Romania, the Court of Accounts is based on the provisions of the Romanian Constitution. It operates in support of the Parliament and conducts its activity independently – functionally, operationally and financially – from the entities it examines.

The Court of Accounts shall conduct the control of the establishment, management and use of state and public sector financial resources. In keeping with the law, the litigations resulting from the activity of the Court of Accounts shall be settled by specialized courts.

The Court of Accounts shall submit to the Parliament, on an annual basis, a report on the national public budget management accounts of the closed budget exercise, also identifying the irregularities found. Upon request by the Chamber of Deputies or by the Senate, the Court of Accounts shall examine the public resources management and shall report on the findings.

The Counselors of Accounts shall be appointed by the Parliament for a nine-year term of office, which may not be extended or renewed. The Members of the Court of Accounts shall be independent in the conduct of their mandate and irremovable for its entire duration. They shall be subject to the incompatibilities laid down in the law on judges.

The Court of Accounts shall be renewed by a third of the Counselors of Accounts appointed by the Parliament, every three years, under the conditions laid down in the Court's organic law. The Court of Accounts Members shall be revoked by the Parliament, in the instances and under the conditions laid down in the law.

Table 1: Summary of the presented Audit institutions^{29 30}

Country	Audit Institution	Legal regulation	Communication	Types of Audits performing
Slovenia	Court of Audit	Constitution and Law	Court of Audit submits annual report to the Parliament, and the Parliament approves the required working funds	Legal, financial, performance compliance and IT audits
Croatia	State Audit Office	State Audit Office Act	State Audit Office submits the annual and audit report to the Parliament on an annual basis	
Netherlands	Court of Audit	Constitution and the Government Accounts Act	The Netherlands Court of Audit relation with the Parliament is in term of ensuring control and sharing information	Legal, financial, IT performance and compliance audit.
Czech Republic	Supreme Audit Office	Constitution	The President of the Office submits all plans, requests and reports to the Board of the Office	Legal compliance audit and Financial Audit
Romania	Court of Accounts	Constitution	Court of Accounts submits annual report to the Parliament on annual basis	Audit of conformity, Performance audit, Financial audit

²⁸Court of Accounts of R. of Romania, official website. See more on: <http://www.curteadeconturi.ro/DefaultEN.aspx>

²⁹For more see the SIGMA Paper No.33 [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma\(2002\)1](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma(2002)1) and the Overview and comparison of public accounting and auditing practices in the 27 EU Member States

<http://ec.europa.eu/eurostat/documents/1015035/4261806/study-on-public-accounting-and-auditing-2012.pdf/5ad43e2b-2ba7-4b05-afab-d690fc2ad9dd>

³⁰All legal regulations of the Supreme Audits Institutions can be found on: <http://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx>

6. DRAFT RECOMMENDATIONS FOR IMPROVING SAO'S WORK

RECOMMENDATIONS FOR THE DECISION MAKERS:

1. Adopt an amendment to the Constitution at the very next occasion, to include the state audit as a constitutional category, and define the SAO as independent and autonomous supreme audit institution in the Republic of Macedonia.
2. Adopt an amendment to the Constitution at the very next occasion to provide full financial independence of the state audit, and create an independent budget of the State Audit Office to be approved by the Parliament of RM upon proposal of the SAO and the opinion of the parliamentary Finance and Budget Committee prior to approval of the Budget of RM.
3. Amend the State Audit Law to regulate the legal status of the state auditors, and specify the responsibilities of the authorized organs regarding the recommendations of the authorized state auditors.
4. Enhance the rights and the authorities of the State Audit Office in the Law on State Audit, for cases when a legal entity or an authorized organ fails to follow/act upon the recommendations of the authorized state auditors i.e. introducing executive provisions in the Law for the SAO.
5. Adopt relevant amendments to certain systemic laws and determine the legal framework and the obligation of the Parliament of RM to review the annual reports of certain users of public funds together with the audit report, as well as the obligation to review the Annual Financial Statement of the Budget of RM and the findings of the audit, in accordance with the best practice in European countries (in the Netherlands, the state audit has the Accountability Day, when the Parliament reviews and discusses the report of the performed audit of the Budget and budget users);
6. Establish an audit committee or an audit sub-committee within the Finance and Budget Committee with a role to review the individual SAO reports.

RECOMMENDATIONS FOR THE PUBLIC:

1. Raising awareness of civic organizations and media in checking the published audit reports produced for the institutions related to their work.
2. Enhancing capacities of civic organizations and media for reading the audit reports and making pressure with the public if the audit subject does not undertake measures upon the audit recommendations.
3. Raising awareness of civic organizations, media and the general public for sending requests for performing audits.

RESOURCES

1. Court of Audit of R. Slovenia official website. See more on: <http://www.slovenia.si/slovenia/state/court-of-audit/>
2. Department for International Development Briefing. See more on: <http://webarchive.nationalarchives.gov.uk/+http://www.dfid.gov.uk/aboutDFID/organisation/pfma/pfma-externalaudit-briefing.pdf>
3. Department for International Development Briefing. See more on: <http://webarchive.nationalarchives.gov.uk/+http://www.dfid.gov.uk/aboutDFID/organisation/pfma/pfma-externalaudit-briefing.pdf>
4. Development strategy of SAO See more on: http://www.dzr.mk/Uploads/Strategija_razvoj_2013_2017_001.pdf
5. Development strategy of SAO. See more on: http://www.dzr.mk/Uploads/Strategija_razvoj_2013_2017_001.pdf
6. Ethic Codex, State Audit Office. See more on: http://www.dzr.mk/Uploads/ISSAI_30_%20Kodeks_etika_INTOSAI.pdf
7. Ethic Codex, State Audit Office. See more on: http://www.dzr.mk/Uploads/ISSAI_30_%20Kodeks_etika_INTOSAI.pdf
8. International Budget Partnership - Open Budget Survey. See more on: <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=mk>
9. International Budget Partnership- Open Budget Survey. See more on: <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=mk>
10. Law on Public Internal Financial Control. See more: http://finance.gov.mk/files/u249/JVFK_%D0%90%D0%BA%D0%B0%D0%B4%D0%B5%D0%BC%D0%B8%D0%BA%D0%B0_1.pdf.
11. Legal regulations of the Supreme Audits Institutions can be found on: <http://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx>
12. Official Gazette of the Republic of Macedonia no. 90/2009 See more on : <http://www.slvesnik.com.mk/Issues/DB2C5103AB40DE4FBB7509FFF219D147.pdf>
13. Overview and comparison of public accounting and auditing practices in the 27 EU Member States <http://ec.europa.eu/eurostat/documents/1015035/4261806/study-on-public-accounting-and-auditing-2012.pdf/5ad43e2b-2ba7-4b05-afab-d690fc2ad9dd>
14. PEFA Assessment on FYR Macedonia, By John Wiggins, Jean-Marc Philip, Bojan Pogačar and Anto Bajo. See more at: <https://pefa.org/sites/default/files/assements/comments/MK-Dec15-PFMPR-Public.pdf>
15. Protocol on cooperation for prevention and repression of corruption and conflict of interest. See more on: http://www.dksk.org.mk/index.php?option=com_content&task=view&id=188.

16. Rules of Procedure of the Parliament and the Government of RM. See more on <http://www.sobranie.mk/delovnik-na-sobranieto-na-republika-makedonija-precisten-tekst.nspix>
17. Rules of the Government of RM. See more on:
http://arhiva.vlada.mk/files/delovnik_za_rabota.pdf
18. SAO's Annual Report 2015. See more on http://www.dzr.mk/Uploads/3_Godisen_izvestaj_DZR_2015_WEB.pdf
19. SAO's Annual Report 2015. See more on http://www.dzr.mk/Uploads/3_Godisen_izvestaj_DZR_2015_WEB.pdf
20. See more on State Audit Office web site
<http://dzr.mk/en/DesktopDefault.aspx?tabindex=0&tabid=1088>
21. SIGMA Paper No.33 [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma\(2002\)1](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=ccnm/gov/sigma(2002)1)
22. State Audit Office web site <http://dzr.mk/en/DesktopDefault.aspx?tabindex=0&tabid=1088>
23. The FYR Macedonia 2010 Progress Report. European Commission. See more at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf .
24. Urgent Reform Priorities for FYR Macedonia. European Commission. See more at: http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf

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