



Strategic Goal 1: Capacity Building

SURVEY ON THE INDEPENDENCE OF SUPREME AUDIT INSTITUTIONS

“Take active steps to strengthen and support SAI independence”

(EUROSAI Strategic Plan 2011-2017)

November 2013

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Cour des comptes
FRANCE



STATE AUDIT
OFFICE OF HUNGARY

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PREAMBLE

INTOSAI has highlighted the importance of independence in two key documents: the 1977 Lima Declaration of Guidelines on Auditing Precepts and the 2007 Mexico Declaration on SAI Independence.

Supreme Audit Institutions (SAIs) cannot be absolutely independent because they are part of the state as a whole. However, SAIs can accomplish their tasks objectively and effectively, if they are independent of the audited entity and are protected against outside influence. The independence of SAIs must be laid down in the Constitution or legislation of the given state, and is of primary importance for guaranteeing the transparency and integrity of the public administration, thereby strengthening trust in public institutions.

Auditors must carry out the audits impartially, perform their tasks in full compliance with the relevant professional and ethical rules, and their activities must not be influenced by the auditees. SAIs must be provided with the financial means to enable them to accomplish their tasks.

As enhancing the independence of SAIs is one of the key goals of the EUROSAI Strategic Plan, our Goal Team is seeking to establish a base-line against which future progress can be assessed.

Given the diversity of SAI models in Europe, respondents were invited to provide detailed explanation for questions that did not fit their SAI model.

1. BACKGROUND AND METHODOLOGY

The Strategic Plan of EUROSAI was adopted at the VIII EUROSAI Congress in Lisbon, Portugal in 2011. It sets the goals and focus areas for the work of EUROSAI for the period between 2011 and 2017.

The Strategic Plan contains four goals:

- Goal 1: Capacity Building
- Goal 2: Professional Standards
- Goal 3: Knowledge Sharing
- Goal 4: Governance and Communication

In 2011, four Goal Teams were formed to implement the Goals of the Strategic Plan. Goal Team 1 (Capacity Building) is currently led by the SAI of France, and it has seventeen members including the Chair and two invited experts.

Members of Goal Team 1 are working in four task groups relating to the main tasks detailed in the Strategic Plan:

- Task group 1: Availability of data
- Task group 2: Identification of needs and innovations
- Task group 3: Strategic support

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- Task group 4: Independence

Members of Task group 4 on independence are the SAIs of France, Austria and Hungary. The State Audit Office of Hungary is responsible for this task group.

Task group 4 proposed to conduct a survey on independence of SAIs in the EUROSAI community. The members of Goal Team 1 accepted this proposal so it became part of the operational plan of the Goal Team 1.

The topics of the questionnaire on independence of SAIs are based on:

- “Independence of SAIs project” – Final task force report – INTOSAI 2001;
- Resolution A/66/209 – “Promoting the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions” – UN General Assembly – 2011; and
- Experience of SAO of Hungary on independence.

The questionnaire contains several multiple choice questions. For most of them, there is only one answer. In these cases, the number of responses is equal to the number of SAIs (or the number of Collegial Bodies). There are some questions with the option of selecting more than one response. In such cases, the number of responses may exceed the number of respondents.

According to the accepted time schedule, the questionnaire was sent by EUROSAI Secretariat on 15th February 2013. The survey was addressed to the 50 SAIs of EUROSAI community.

Of the 50 members, 34 SAIs responded. Accordingly, the survey findings were derived from the 34 responses. As 16 SAIs did not respond to the survey, the findings are not generalizable to the whole EUROSAI community. Hence, they are related only to the questionnaires received from the following members:

SAI of Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Israel, Kazakhstan, Latvia, Lithuania, Malta, Monaco, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Spain, Switzerland, the Former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom and the European Court of Auditors (ECA).

2. SURVEY FINDINGS

The questions and findings are classified according to the following four core dimensions of SAI independence:

- organisational independence;
- personal / administrative independence;
- statutory independence; and
- financial independence.

The common aim of these dimensions is to ensure that the SAI's audit activities are free from external influences.

In addition, two questions were added concerning key activity 1.4 (Take active steps to strengthen and support SAI independence) of the EUROSAI Strategic Plan.

2.1. Organisational independence

The survey respondents derived their mandate from constitutional provisions (13 SAIs), from a specific organisational law (8 SAIs), or a combination of both (12 SAIs). The only exception is the European Court of Auditors, the mandate of which is derived from the Treaty on the Functioning of the EU of 2009 (TFEU) having regard to the special role of this organisation within the European Union.

Each respondent works as an autonomous organisation, not as a part of any other legal entity. Most of the respondents SAIs (25) are subordinated and accountable to the Legislature (Parliament, National Assembly, and European Parliament). Two SAIs are subordinated to the Head of State. One SAI is subordinated to the Public Accounts Committee (its members are appointed by the Legislature). Five respondents did not indicate whether their SAIs are subordinated to any organization. One stated that the SAI is accountable to citizens.

Each SAI is independent from any other organisation during its audit activity.

The SAIs who filled in the questionnaires have various organisational structures. Seventeen SAIs have a "Single Head" structure, for example Auditor General, Comptroller and Auditor General, Auditor General's Office, President, or State Comptroller and Ombudsman. One respondent indicated that the management of the SAI "...consists of a President and two Vice-Presidents. Audit reports are issued by the President. Decisions with a principle character including such related to the audit activity are adopted by the three with a consensus". Seventeen SAIs have a "Collegial Body" – for example a Court, Chamber of Accounts, or Board or Commission of Audit. The composition of these Collegial Bodies varies.

The Heads (Single Head or Collegial Body) of most of the respondents (33 SAIs) have a broad mandate to set up the organisational structure. The Single Head or Collegial Body itself can decide upon the organisational structure of his/her SAI independently without any influence from other people or organisations, for example the Legislature. For one respondent, the statutes of the SAI are granted by the President of the lower house of the Parliament upon request of the President of the SAI.

2.2. Personal / administrative independence

Absolute conflict of interests

First, we examined whether members of the Government or elected functionaries of political parties can be appointed as Heads of SAIs. For one SAI, it is *“not possible, nor after a certain period”*. For nine SAIs, there is a time limit (between two and five years) after leaving the mentioned positions. For 16 SAIs, Heads of SAI cannot fulfil these positions, as Heads of SAI should resign from their former position after appointment. For five SAIs, there are some other restrictions (such as requiring permission from Parliament). For three SAIs, there are no such restrictions.

We also evaluated if the Head and Deputy Head of SAIs, members of Collegial Body and auditors are allowed to be:

- (1) Functionaries of organisations financed from the national budget;
- (2) Members of the Legislature;
- (3) Members of a local government/municipality; or
- (4) Leaders of a trade union.

For most SAIs, None of these positions are allowed. The responses are summarized in the following table:

Are the leaders and auditors allowed to be?	Head and Deputy Head *		Members of Collegial Body **		Auditors	
	YES	NO	YES	NO	YES	NO
(1) Functionaries of an organisation financed from the national budget	1	33	1	17	2	32
(2) Members of the Legislature	0	34	1	17	2	32
(3) Members of local government / municipality	3	31	2	16	6	28
(4) Leaders of trade union *	2	31	2	16	8	26

Notes:

* One respondent did not answer whether the Head and Deputy Head are allowed to be leaders of a trade union, because *“there is no reference concerning this special topic in ... legal basis”*.

** For one SAI, the Collegial Body consists of external and internal members. The external members are allowed, but the internal members are NOT allowed to have any of these positions.

According to our next question, there are no SAIs among the respondents where the Head and Deputy Head, members of Collegial Body and/or auditors may have another profession (or may be engaged in any other assignment or employment) without any restrictions. For one SAI, where the Collegial Body consists of external and internal members, there are no restrictions for the external members.

With restrictions, Head and Deputy Head may be engaged in any other assignment or employment at 16 SAIs, members of Collegial Body may be engaged in any other assignment or employment at 10 SAIs and auditors may be engaged in any other assignment or employment at 26 SAIs. These positions are varied, but in most cases they relate to the pursuit of intellectual activities such as teaching or lecturing.

The last question about absolute conflict of interest relates to whether the Head and Deputy Head, the members of Collegial Body, and/or the auditors may have familial relationship with (or may be relatives of) any:

- (1) Leader or auditor of SAI;
- (2) Member of the government; or
- (3) Member of the financial committee of the legislature.

According to the answers, these kinds of relationships are excluded at only some SAIs as follows:

Familial relationship	Head and Deputy Head		Members of Collegial Body **		Auditors	
	YES *	NO	YES *	NO	YES *	NO
(1) Leader or auditor of SAI	25	9	12	5	26	8
(2) Member of government	27	7	14	3	29	5
(3) Member of financial committee (if any) of the Legislature	28	6	14	3	29	5

Notes:

* Eighteen SAIs stated that there are regulations to exclude this type of conflict of interest such as “Head of SAI is required to declare if there is a private interest, which can cause a conflict of interest”, “Permission from the Council of Ministers is required”, “provisions of conflict of interests in the Code of Conduct and Ethical Guidelines must be respected”, “this relationship must be declared and determine restrictions”.

Relative conflict of interest

We evaluated if an **auditor** might participate in the audit of an organisation provided he or she:

- (1) worked for the auditee;
- (2) has had any contractual connection with the auditee (such as subcontractor);
- (3) has performed any activity for the auditee; or
- (4) has a familial relationship (relative) with any member of the management of the auditee.

According to the answers, for most SAIs these relationships are excluded, or there are strict restrictions.

Auditor's participation in an audit of an organisation provided that he or she ...	Yes without restriction	Yes with restrictions		NO
		Time	Other *	
(1) worked for auditee	5	13	6	10
(2) has had any contractual connection with auditee	4	6	6	18
(3) has performed any activity for auditee	4	6	6	18
(4) has familial relationship with any member of the management of the auditee *	3	2	5	23

Notes:

* Laws or Code of ethics consist of rules to exclude conflict of interest; such as, "auditors are required to declare before each audit if there is a private interest, which can cause a conflict of interest", "if there is a risk of conflict of interest, the auditor is obliged to inform his/her supervisor".

Nomination, election, appointment, removal

Heads of SAIs are nominated by the Legislature (14 SAIs), or by a committee (subcommittee, nominating committee) of the Legislature (7 SAIs). For seven SAIs, the Head of State nominates the Head of the SAI. For other SAIs: the applicant nominates himself or herself (1 SAI); candidatures of the ECA members (1 SAI); Head of Executive office of The Head of State (1 SAI), Collegial Body (1 SAI); appointed by government, to be confirmed by parliament (1 SAI). In case of one SAI more bodies (Legislature, Committee of Legislature, the Head of State) are involved: the nomination is made by the Head of the Public Accounts Committee (from the Opposition) and seconded by the Government, after a public recruitment process. Once proposed, the Lower House votes on the appointment.

Heads of SAI are mostly elected by simple majority of the Legislature (20 SAIs). For five SAIs, the election needs qualified majority (two-thirds of the votes). For five SAIs, the Head of SAI is nominated and appointed without an election procedure. For other SAIs: the Head of SAI is elected by the Public Accounts Committee (1 SAI); the Committee of the Legislature (1 SAI); members of the ECA (1 SAI); and the Collegial Body (1 SAI).

The Heads of SAI are appointed by the Legislature for 19 SAIs. Eleven Heads of SAI are appointed by the Head of State. The Head of the SAI are appointed by the Speaker of the Legislature (1 SAI), members of the ECA (1 SAI), or the government (1 SAI) with confirmation of the Legislature. One SAI stated that following the election, upon assuming office, the Head of SAI "shall swear an oath to the National Assembly".

Members of the Collegial Body are nominated by the Legislature or committee of the Legislature (7 SAIs), and the Head of State (2 SAIs), and the Heads of the SAI (5 SAIs). For three SAIs, members of the Collegial Body are nominated by other forms.

Members of the Collegial Body are elected by the Legislature (8 SAIs). In case of nine SAIs, members of the Collegial Body are not elected.

Members of Collegial Body are appointed by the Legislature (11 SAIs), the Head of State (1 SAI), or different bodies (5 SAIs).

Nine SAIs reported that they do not have a Deputy Head. As for the others, Deputy Heads are appointed by the Legislature (10 SAIs); by the Head of State (5 SAIs); by peers who are members of the SAI (2 SAIs) (as in a collegial organisation); and by Heads of the SAI (5 SAIs). In two cases, other forms are used (respondent did not specify).

The term of office of the Head of SAI and members of Collegial Body is fixed by law for all SAIs. Terms of office can take the form of a fixed number of years and can have an age limit (the retirement age) or a combination of both. In most cases, the number of years is fixed (33 – Heads of SAIs, 13 – members of the Collegial Body).

SAIs were asked who could remove the Heads of SAIs and members of the Collegial Body. The following categories were mentioned:

Removal of leaders	Head of SAI	Members of the Collegial Body
Legislative	23	7
The Head of State	6	3
Judiciary branch	2	2
Head of SAI	-	2
Government	1	0
None of above	2	3

In addition, SAIs were asked to indicate the circumstances under which Heads of SAIs and members of the Collegial Body could be removed. Respondents often stated multiple reasons under each category. The survey results are as follows:

Reasons for removal of leaders	Head of SAI	Members of the Collegial Body
Conflict of interest	6	3
Inability to perform duties	16	6
Misbehaviour (misconduct or convicted crime)	25	12
Other reasons	1	-
There is no specified reasons in law, or not responded	7	4

The authorities that determine the terms and condition of the remuneration of the Heads and Deputy Heads of SAIs are indicated as follows:

Remuneration of leaders	Head of SAI	Members of the Collegial Body
Constitutional or statutory provisions	18	9
Legislature	10	4
Head of State	2	1
Others in executive branch	2	2
Others	2	1

Legal immunity

SAIs were asked whether the Head and Deputy Head and members of the Collegial Body have legal immunity as regards their official activity. Survey results are as follows:

Legal immunity of leaders	Head of SAI	Deputy Head of SAI *	Members of the Collegial Body **
Yes (similarly to the members of the Legislature)	17	11	7
Yes with restrictions	5	4	3
No	12	10	8

Notes:

* Nine SAIs do not have Deputy Head.

One SAI added that the legal immunity refers only to the Head of the institution.

One respondent added that the current Head and Deputy Head of the SAI were elected by Legislature, according to the former Constitution and former organisational act; therefore, they have legal immunity. The next Head of the SAI will be elected by the Legislature, and he/she will have legal immunity; however, the next Deputy Head will be appointed by Head of SAI and he or she will not have legal immunity according to the new Constitution and organisational Law.

** For one SAI, the Collegial Body consists of internal and external members. The internal members have legal immunity but external members do not have it.

2.3. Statutory independence

Mandate on audits

Thirty-two SAIs stated that the tasks of the SAI are determined only by its organisational and other laws, or constitution. Amongst them, one SAI added that the powers of the SAI are also determined by the Constitution and organisational law. One respondent stated that *“the SAI is free to develop additional tasks over time such as advisory work”*. One SAI reported that in addition to audits legally prescribed, the Parliament and other bodies including the SAI itself may request audits.

The annual audit plan of the SAI is approved by the Head of the SAI (18 SAIs), Collegial Bodies (13 SAIs) and other bodies (3 SAIs: President and Vice-Presidents with unanimous decision; the so-called large senate of SAI; or the Board of Auditing, Planning and Coordination). Although two SAIs are led by Collegial Bodies, their annual audit plans are approved by the Head of SAI.

Most SAIs (28 SAIs) stated that they have full discretion (or the freedom) to select issues for audit and determine the scope of their work within their mandate. Among them, one SAI added that they have such a right beside tasks regulated in the organisational act. Six SAIs specified restrictions such as request from the Legislature or Presidential Committee and limitations determined by law.

All SAIs have full discretion in the choice of audit approaches and methods used in their work. (Among them one SAI added that they consider international standards.)

Within their audit mandate, twenty-eight SAIs have the right to audit any specific entities. Five SAIs reported limitations in the audit of some entities such as the Legislature, National Bank, Financial and Capital Market Commission, Accident Insurance Bank, National Radio and TV, and National Security. One SAI specified that there are limitations in the audit scope for some institutions, but this restriction does not apply for audits ordered by the Legislature.

The survey found that all SAIs may audit central ministries and/or departments, and other government agencies. Thirty-three SAIs may audit state corporations and public enterprises as well. The mandate of 29 SAIs also includes the audit of entities at the regional and/or local level (private sector, or non-government, civil society financed partly from public sources).

All SAIs are mandated to carry out a broad range of audit work. These types of work are presented in the following table:

Type of audit work	Mandated	Performed
Financial audit	34	34
Performance audit	34	33
Legislative compliance / regularity audit	33	33
Jurisdictional control	5	5
Investigation type work	6	6

Furthermore, ten SAIs stated that they conduct other activities such as review of draft laws and regulations, analyses and studies (for example Fiscal Council), technical audits of projects, evaluation of public policy, advisory role, IT audit, *a priori* audits concerning contracts and the control of privatization.

Thirty-one SAIs stated that there are no restrictions on their access to the information needed to conduct their audits. Two SAIs reported that they do not have access to full tax, customs or statistical information.

Reports of SAIs

Fifteen SAIs reported that the auditees do not have the right to dispute (or contest) the reports, the findings and the conclusions of SAI reports at court or any other authorities.

All SAIs reported that they decide alone on the content of their report.

All SAIs stated that they present their annual and/or audit reports to the legislature (or a committee thereof), and at the same time six SAIs present them to the Head of State. Six SAIs present their reports to bodies of the Executive branch. All SAIs report audit findings, and they also make recommendations for improvements in their audit report.

Thirty-three SAIs reported that they have freedom to make their audit reports available to auditees, the media and general public. One SAI reported this right only in connection with the general public. One SAI added that publishing all the reports is mandatory according to their organisational law.

The SAIs make their reports (audit and annual) public as follows:

Time of publication	Number of SAIs
When produced (issued by Head of SAI)	16
When considered by the Legislature	4
When sent or presented to the Legislature (any Leader or committee)	7
Other *	7

Notes:

* For other SAIs, the exact time of publication is varied (such as “only after communicated to the auditee”, “when the Head of SAI and Collegial Body decides”, “when the audit and contradictory procedure have been concluded”, “when they have come into force”, “after approval by the Board of the Accounting Chamber”, or “quarterly”). There is one SAI which publishes only the annual report of their audit activity.

Auditing of accounts and/or performance of SAIs

In most cases, an SAI’s accounts and/or performance are audited by independent non-government auditing organisations (13 SAIs), or an auditor appointed by the Legislative branch (11 SAIs). Other cases include appointment by the Executive branch (2 SAIs). Eight SAIs stated that other organisations audit them such as a

voluntary peer review, internal audit body, or Public Accounts Committee. Four SAIs indicated that no one audits the accounts and/or their performance. Two SAIs indicated more than one choice.

SAIs were asked how often they are audited and what kind of audits are carried out. Survey results are as follows:

Frequency by audit type	Financial audit	Performance audit
Not audited	4	
Annual	26	1
2-5 years	3	2
6 years or more	1	5

Note:

Each respondent could indicate more than one possibility and/or frequency.

2.4. Financial independence

The budget of 33 SAIs is determined within the State Budget as an independent chapter. The budget of one SAI is a part of the budget of the Legislature. All SAIs are financed directly from the national budget (or EU budget in respect of ECA) while five SAIs reported that their budget is financed partly by income for services rendered.

The annual budget of 31 SAIs is approved by the Legislature; however, the government is involved in the process for one SAI (controls the validity of calculations), also the Head of State is involved for one SAI. The budget of the SAI is approved by the Public Accounts Committee of Parliament for one SAI and the Council of Ministers or Ministry of Finance for one SAI.

Thirty SAIs have the opportunity to assemble their own budget. One SAI also added that they compile the implementation of their budget. The annual budget appropriation of 17 SAIs cannot be changed by the government (or other authority). The annual budget of 16 SAIs can be modified by the Legislature. One SAI stated that any change must be confirmed by the SAI. One SAI did not give an answer to this question.

Only one SAI stated that the annual budget shall be drawn up in a way that it should not be less than the amount laid down in the central budget for the previous year.

Eighteen SAIs reported that the corresponding resources also guaranteed (such as by law) to cover any additional task while 16 SAIs do not have such a guarantee.

Thirty-two SAIs reported that they fully manage their own budget once approved and make decisions about how to spend it. One SAI stated that they manage their own budget "to a very great or great extent". However, one SAI stated that they only manage their budget "to little or no extent".

Finally, the remuneration system of 16 SAIs is independent of the remuneration system of the public sector employees.

2.5. Issues on independence of the EUROSAI Strategic Plan

We added two questions to the survey based on EUROSAI Strategic Plan Part 1.4.

Twelve SAI stated that they have done self-assessment (or gap analysis) or went under peer review for compliance with the provisions of the Declarations of Lima and Mexico on SAIs' independence using available tools, e.g. from the INTOSAI Working Group on Value and Benefits of SAIs.

We also evaluated whether SAIs promoted or organised joint activities with national and/or regional stakeholders to raise awareness of the value and benefits of SAIs, their role and of the importance of SAIs' independence. Twenty-one SAIs stated that they have done such activities such as seminars, best practice conferences, sharing knowledge, multilateral meeting, workshops, open houses, roundtable meetings, and news-portal.

3. CONCLUSION AND RECOMMENDATIONS

As several documents (Declarations of Lima and Mexico, UN Resolution) emphasised, the independence of SAIs has great importance. Without independence, the products of SAIs cannot be exempt from external influence. The methods as to how independence can be provided to SAIs are varied. In this report, we evaluated four main types of independence: organisational, personal (administrative), statutory, and financial. During the evaluation process, we stated that the Legislatures of respondent SAIs made efforts to provide them independence.

All the SAIs derived their mandate from constitutional provisions, a specific organisational law, or a combination of these. The mandate of the ECA is derived from the TFEU (2009) having regard to its special role. All the SAIs are autonomous entities and are independent from any other organisation during their audit activity.

The regulation of most SAIs strives to eliminate or at least reduce the opportunity of conflict of interest (both relative and absolute). More than half of Heads and Collegial Bodies (where it exists) of SAIs have legal immunity as regards their official activity. Nomination, election, appointment, and the removal process of Heads and Collegial Bodies of SAIs are regulated by law.

In our opinion, it is very important that the tasks of most SAIs are determined by their organisation and other laws. In most cases, the annual audit plans of SAIs are approved by Heads or Collegial Bodies of SAIs. All SAIs reported that they have full discretion in the choice of audit approaches and methods used in their work, and they decide alone on the content of their report. In addition, all SAIs report audit findings, and they also make recommendations for improvements in their audit reports.

Most SAIs reported that they have freedom to make their audit reports available to auditees, the media and the general public. Most SAIs stated that there are no restrictions on their access to the information needed to conduct their audits. The budget of most SAIs is determined within the State Budget as an independent chapter. All SAIs are financed directly by the national (or European Union) budget.

Most SAIs have the right to assemble their budget, and their budget is approved by the Legislature. Only one SAI stated that the annual budget shall be drawn up in a way that it should not be less than the amount laid down in the central budget for the previous year. Finally, the remuneration system of half of the respondent SAIs (remuneration system of auditors) is independent of the remuneration system of the public sector.

Considering the above, we can conclude that SAIs of the EUROSAI community are in a position to fulfil their mandates in a manner consistent with the requirements of the Lima and Mexico Declaration and UN General Assembly Resolution A/66/209 on "Promoting the efficiency, accountability, effectiveness and transparency of public administration by strengthening supreme audit institutions".

We recommend to consider the main findings such as conflicts of interest, legal immunity, audit mandate, and planning and implementation of the budget so as to improve the level of independence of members of EUROSAI community where it is necessary.

The issue of independence is not an end in itself but it serves to strengthen the use of public funds and suggests further tasks for the more efficient organisation of audits. The aim is that the result of the audit has an influence on the establishment and development of good governance, which opens the path to innovations.

The survey results confirmed that European SAIs are independent in all of the core dimensions we examined. Independence gives opportunities to SAIs, which can be exploited when facing the challenges of the twenty-first century (such as financial crisis) and it allows for the elaboration of new innovative ideas.

We would like to emphasise that a seminar on independence of SAIs would be a great opportunity to share any thoughts and experiences with each other on this topic.

Notes

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