

Seminar on Independence of SAIs

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The consequences of independence in terms of real 'capabilities' NAO (Malta) Experience

Brian Vella, Assistant Auditor General
National Audit Office (Malta)



N A O
National Audit Office
MALTA

Legislative Independence

- Changes in Constitution and enactment of Auditor General and National Audit Office Act, 1997 strengthened Independence of NAO
- Pre 1997, Office was a government department, and audit reports were transmitted to Minister of Finance, for onward referral to House of Representatives
- Since 1997 legislative changes, NAO is an autonomous body from Government set up by law
- Since 1997, Auditor General transmits his reports to Speaker of House, who forwards them to House of Representatives in following House Sitting

Legislative Independence (cont.)

- Auditor General appointed by two-thirds Parliamentary majority (may be removed likewise, only for specific grave reasons)
- Auditor General appointed for 5 years, appointment may be renewed for further 5 years in same way
- Deputy Auditor General likewise appointed and all provisions applying to AG apply also to DAG
- Recruitment of staff done directly by NAO

Legislative Independence (cont.)

- NAO autonomous from Executive branch
- All public sector sphere covered, i.e. central government, local government. Public entities and organisations with over 50% shareholding fall within mandate of NAO
- All public funds and activities are subject to NAO audit
- Performance and Investigative audits, apart from financial and compliance auditing, covered by NAO legislation

Legislative Independence (cont.)

- Auditor General and his staff not subject to authority of any other person or entity
- Has access to all information and documents necessary for conduct of audit
- NAO legislation stipulates reporting deadline for statutory audit. Content and timing of reporting is, otherwise, within NAO's discretion
- Setting up of PAC in 1994 gave more clout to NAO reporting
- NAO Accounts Committee - Auditor General prepares estimate of sum he deems necessary to run Office; Sum examined by this Parliamentary Committee; Committee recommends NAO estimates for Parliamentary Approval; NAO Accounts audited by private sector audit firm appointed by Committee

Functional and Organisational Independence

- Legislation does not interfere in **audit planning**
- Auditor General decides what subject areas to audit, within parameters of NAO legislation
- Auditor General adheres to PAC and Minister of Finance requests for audits and investigations
- Auditor General may take into account other requests, though final selection of audit areas rests with Office
- To tackle special requests, especially by PAC and Finance, separate Special Audits and Investigations Unit was set up
- Selection of audits and audit planning is strictly an internal function within the Office without outside interference, except for PAC and Finance requests

Functional and Organisational Independence (cont.)

- NAO can effectively **audit all public sector financial management and operations** including the Office of the President and the House of Representatives
- Legislation not very clear when it concerns audit of private persons (or retired public servants) i.c.w. public funds. In practice, this has never caused a real problem
- Limitation arises as to how much one can audit, taking into account the number of staff available, expertise, and prioritisation of audit assignments

Functional and Organisational Independence (cont.)

- NAO engages private sector auditors for conduct of local government auditing, in terms of local government legislation. However, responsibility for audits rests with Office
- NAO may also engage experts to assist in auditing
 - Experts would be expected to sign declaration stipulating that they have no conflict of interest
 - Not always easy to find experts in certain areas who would not be involved in specific specialised government activities

Functional and Organisational Independence (cont.)

- Office usually does not encounter problems when it comes to **access to information** it requires for conduct of audit work, though some issues have, and do, occur
 - One problem relates to confidential and sensitive data in view of Data Protection legislation. However, issues arising have always been solved – though sometimes final solution was somewhat time consuming
 - On rare occasions, auditees take an unduly long time to submit replies or forward required information

Functional and Organisational Independence (cont.)

- **Auditees have full right to answer to all audit findings** prior to finalisation of audit/report
- Management letters are submitted to auditees at end of audit. They are entitled to reply to NAO draft reports and their comments may be included in final audit report
- Exit Meetings are held at the conclusion of a number of audits (in addition to management letters or draft reports sent to auditees). Comments by auditees in these meetings are taken into account in final audit report
- Final say in audit reports however rests with NAO. Any factual inaccuracies in report are rectified but matters of opinion are prerogative of NAO, though auditee's arguments would be considered

Functional and Organisational Independence (cont.)

- **No interference in fieldwork and reporting of audits.** These stages of audit are internal matters for the Office. PAC or Ministry of Finance, in effect, however, may request deadlines in reporting for audit requests made by them
- Type of audit tools and techniques used by Office is an internal issue with no outside interference. There have, however, been rare instances when an explanation for methodology used was requested and questioned by PAC
- Office decides content and structure of audit reports. Again this is strictly an internal matter with no outside interference
- Terms of reference for special audits requested by PAC or Ministry of Finance are agreed with NAO
- NAO staff members adhere to Professional Code of Ethics, with independence being a key requirement to effective planning, fieldwork and reporting

Functional and Organisational Independence (cont.)

- **Communication of audit results** is, in terms of NAO legislation, made to Speaker of House who presents report to House of Representatives
- NAO then communicates report to public through Press Release. Copies of reports are sent to a number of media sources and authorities
- Reports are uploaded on NAO website and may be viewed by anyone
- Publicity of Audit Reports sometimes depends on political inclinations of media reporting the audit results. However, there is no outside pressure or interference on what, how and when to report
- Follow-up of audit reports made in terms of internal policy of NAO. However, PAC occasionally does request NAO to carry out follow-ups on specific audits

Functional and Organisational Independence (cont.)

- There is currently a process to **strengthen further the role and functions of the NAO** by giving it more powers and effective ways in carrying out its audits
- This will result in revised NAO legislation giving more powers, and possibly more independence, to the NAO

Audit of NAO Accounts and Financial Independence

- **NAO Accounts are audited** by private sector auditors appointed by NAO Accounts Committee, in terms of NAO Act. Such audit provides independent assurance on the accounts and related activities of the NAO
- NAO, in terms of NAO legislation, also yearly publishes a **work and activities report** to explain its full activities throughout the year

Audit of NAO Accounts and Financial Independence (cont.)

- Performance of NAO is not audited by private sector auditors. Quality of **performance in NAO work** is considered as an internal matter for the Office
 - The **NAO Accounts Committee**, however, reviews the NAO certified accounts, its estimates, and work and activities
 - It may also discuss the performance of NAO's work during Committee Meetings
- NAO is able to **determine its own budget and to manage it freely** once budget is approved by the House of Representatives, following examination of such sum by the NAO Accounts Committee
- If budget is eventually considered insufficient, supplementary estimates may be made and considered by House of Representatives, again following examination of such sum by Committee

Conclusions

Legislative independence not sufficient. This is to be complemented with functional and organisational independence

Over the years, NAO supplemented its legislative independence with the necessary changes in organisation and work practices

While maintaining our independence, we have improved cooperation with the Executive, the Parliamentary Public Accounts Committee and other stakeholders

Recent years' results show that, in stakeholders and citizens' perspective, the credibility of Office has increased through its objective and independent reporting



Thank you for your Attention