

Completion of the Law on State Audit in Vietnam

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Abstract

The Law on State Audit plays a particularly important role in the organization and operation of the State Audit Office. The author analyzes the role of this law in determining the legal status of the institution as an independent constitutional agency. The Law on State Audit defines the functions, tasks, powers and legal validity of the audit reports, the audited entities, the operation principles, the prohibited activities and the organizational system of this agency. On the basis of analyzing the provisions of Vietnam's and foreign laws on the organization and operation of the State Audit Office, the author suggests some recommendations to complete the Law on State Audit so as to enhance the function and operation of this institutional organization.

Key-words: Perfecting the Law, State Audit, Vietnam, Audit Law.

1. Introduction

State Audit Office has been established very early in many countries, for example, in England the Auditor of the Exchequer was set up in 1314, in France the decree of Emperor Napoleon Cour des Comptes (Court of Auditing) was issued on September 16, 1807, Canada in 1867¹. State Audit came into being very early many European countries as well. In those countries, experiences in operation has helped them perfect the laws to control the use of public finances and public assets. In Vietnam, the State Audit Office has been established quite late, it was not until 1994 that the organization was founded. Despite the late establishment, the institution has initially gained great achievements, because it inherits experiences from other countries to develop its own laws to operate more and more effectively. In the period from 2016 to the first quarter of 2021, the State Audit of Vietnam (SAV) has proposed to handle more than VND 353,730 billion, transferred 20 cases with signs of criminal

¹ www.federal-organizations.Canada.CA/profil.php?OrgID=AUD&t; accessed 15/6/21.

offence to the investigation police agency for investigation and handling according to the provisions of law; proposed amendments, supplements, repeal of 786 legal documents that are unreasonable or contrary to the Constitution and the law². The construction of the rule – of - law State in Vietnam, which has been recognized in the Constitution in 2021, has set higher demands on the organization and operation of the State Audit Office. On the other hand, the international integration and globalization requires Vietnam to comply with the regulations of INTOSAI (the International Organization of Supreme Audit Institutions) and ASOSAI (the Asian Organization of Supreme Audit Institutions). For the purpose of building the SAV with characteristics of Independence, Professional Excellence, Objective, Transparency, Integrity, Positive approach and Reliability, it is especially important to do research on the role of law on State Audit. The study will help Vietnam perfect the law and its implementation mechanism, help the SAV to fulfill its functions of evaluating, verifying, concluding, making proposals regarding the management and use of public finance and public assets, becoming an effective tool to prevent corruption, build a society with rich people, a strong country, fair, democratic and civilized society.

2. Discussion

2.1. The Legal Status of the State Audit Office as an Independent Constitutional Institution

With the Constitution in 2013, the State Audit Office has become an independent constitutional institution for the first time in Vietnam's constitutional history. Article 118 of the 2013 Constitution defines the State Audit Office as an agency established by the National Assembly, operating independently and complying with the law, which audits the management and use of public finances and assets. The State Auditor General is elected, relieved of duty or removed by the National Assembly. He is responsible for the audit tasks and reports on audit results and its work to the National Assembly; During the time the National Assembly is in recess, he takes responsibility to report before the National Assembly Standing Committee. Being recognized in the Constitution, the basic law of the State, the highest effect legal document has created the legal basis for the State Audit Office to have a completely independent position, independent from any state agencies when performing their functions and duties. The constitutions of many countries around the world also show that State Audit Office is one of the constitutional state agencies. The recognition of the legal status of the State Audit Office in the Constitution, the basic law of the state is the result of absorbing

² www.Sav.gov.vn/pages/chi-tiet-tin.aspx=38121&l=tintucsukien; accessed 15/6/21.

experiences from other countries and implementing the recommendations of INTOSAI. The provisions on the legal status of the State Audit Office in the Constitution have complied with the principles and standards of audit as recognized in the Lima Declaration (1977), the Mexico Declaration (2007) of INTOSAI. In the world, many countries have recognized the legal status of State Audit Office in the basic law of the State.

The Thai Constitution in 2007, Article 252 stipulates: “The state audit is carried out by the State Audit Committee which is an independent and objective agency. The State Audit Committee consists of the Chairman and 6 members appointed by the King among the auditors with professional competence and experiences in the state audit, accounting, internal audit, finance and other fields. The President of the Senate must countersign the King's Decree appointing the Chairman and the members of the State Audit Committee. “The State Audit Committee has the functions and authority to set standard rules related to state audit, to provide proposals and recommendations to improve the state audit-related deficiencies and has the right to appoint an independent monetary and financial discipline committee responsible for reviewing and giving consultation and disciplinary measures to entities engaged in financial and budgetary activities. Disputed cases related to decisions made by the Finance and Monetary Committee on such matters fall under the jurisdiction of the Administrative Courts (Article 253 of the Constitution of Thailand in 2007) (Hanoi Law University, 2010).

The Singapore Constitution in 1965, Article 148F states: “The President shall appoint or re-appoint the Auditor General, depending on the case-by-case, upon the recommendation of the Prime Minister, unless the President, within his/her own discretion, disagree with the proposal (Hanoi Law University, 2011). Before proposing an Auditor General candidate to the President for appointment, the Prime Minister must consult the Chairman of the Public Affairs Committee. The Auditor General is obliged to the audit and reports on the accounts of all government agencies and offices, the Public Affairs Commission, the Legal Affairs Commission, the Supreme Court, all the High Courts. and the Parliament (Point 3 Article 148 F). Pursuant to Article 148G, the Auditor General and the Accountant General are obliged to report to the President on any transactions at the request of the government that the Auditor General and the Accountant General consider to be withdrawn from reserves not accumulated by the Government during its term. In this case the President may not accept the transaction (Clause 2 Article 148G). In the event that the President does not object to any transactions referred to in paragraph 2 of Article 148G, notwithstanding the opinion of the President that the transaction may be drawn from the reserves that not accrued by the Government during his/her current term of office, the President shall require that his decisions and opinions be publicized in the Official Gazette (Clause 3, Article 148G).

The 1997 Polish Constitution, Article 202 stipulates: “The Supreme Audit Office is the highest authority on the state audit. Supreme Audit Office is attached to the House of Commons. It audits the activities of state administrative agencies, the State Bank of Poland, legal entities and organizations and state units on legality, economy and diligence. The Supreme Audit Office also conducts audits of the activities of organizations and other economic entities on the legality and economic viability within the scope of activities using state or local assets or resources or the fulfillment of financial obligations to the state (Clause 2, 3, Article 203 of the Polish Constitution in1997). The Supreme Audit Office takes responsibilities to submit to the House of Representatives: reports analyzing the implementation of the budget and the objectives of the financial and monetary policies; opinions related to the approval of the budget balance for the previous fiscal year submitted by the government; information on audit results, audit conclusions and recommendations as prescribed by law; The Supreme Audit Office is responsible for reporting on its work annually to the National Assembly (Clause 1, 2, Article 204 of the Polish Constitution in1997) (Faculty of Law, Hanoi National University, 2013).

The Indonesian Constitution in 1945, Chapter VIIIA stipulates the legal status of the Supreme Audit Council. According to the provisions of Article 23E to investigate the management and accountability of the state finance, the Supreme Audit Council works independently. The results of the financial investigation are transferred to the House of Representatives (Council of People's Representatives), the Senate (Council of Regional Representatives) or local councils in accordance with its corresponding jurisdiction. The members of the Supreme Audit Council are selected by the House of Representatives in consultation with the Senate. The leaders of the Supreme Audit Council are elected among its members.

The Constitution of the People's Republic of China in1982, Article 91, recognizes the legal status of the audit institution: "The state audit is established by the State Council (Government) to conduct accounting and supervision of the financial revenues and expenditures of the State Council agencies, the local governments, the financial and monetary structure of the state and that of non-business organizations. The audit agency is subject to the leadership of the Prime Minister of the State Council, complies with the provisions of law, has the right to independently audit and supervise, and is not subject to the interference of other administrative agencies and social organizations, associations and individuals”.

The South African Constitution in 1996, Article 188 states: “The Auditor General shall perform audits and reports on the accounts, financial statements and financial management of all state agencies at the national and provincial level, all municipalities and other institutions or audited

entities at the request. In addition to the above tasks, the Auditor General may perform audits and reports on the accounts and financial management of any institutions funded by the National Revenue Fund, Provincial or Municipal Revenue Fund, or any legal entities that receive money for public purposes”. The Auditor General must submit the audit reports to any legislative bodies with a direct interest in audit and to any competent authorities specified in the national law. All reports must be publicized (Clause 3 Article 188 of the South African Constitution in 1996).

Especially in France, Italy and Spain have the Court of Audit (Cour des Comptes). According to Article 47-2 of the French Republic Constitution in 1958, the Court of Audit assists the Parliament in supervising the activities of the Government; assists the Parliament and the Government in monitoring the implementation of laws on the financing of social insurance funds as well as in the evaluation of public policies. Through public reports, the Court of Audit publicizes information available to citizens. Accounts of state agencies must be lawful and for the right purpose. Through these accounts, the results of governance activities, assets and financial status of state agencies are accurately and truthfully viewed.

According to Clause 2, Article 100 of the Italian Constitution in 1947, the Court of Audit exercises preventive controls over the legitimacy of the government measures and audits the implementation of the State Budget. In cases and according to the statutory form, the Court of Audit participates in auditing the financial management activities of the units receiving periodic support from the State budget. The Court of Audit reports the audit results directly to the Parliament. According to Clause 3, Article 100 of the Italian Constitution in 1947, the law ensures that the Court of Audit is independent from the Government. Article 136 of the Spanish Constitution in 1978 stipulates that the Court of Audit is the supreme body responsible for the audits of national accounts and financial management of the State as well as of the public sector. The Court of Audit is accountable to the Parliament and performs the tasks of examining and verifying its joint national accounts through audit teams. National accounts and that of public sector agencies must be submitted to the Court of Audit for audits. Providing that it does not affect its own jurisdiction, the Court of Audit is responsible for submitting the annual reports to the Parliament to inform its opinion on any violations or legal liabilities that may arise.

The Korean Constitution in 1987, Chapter IV (Executive Body), Section 2 (Government), Subsection 4 (Board of Audit and Inspection) stipulates: “Board of Audit and Inspection, directly belonging to the President, inspects and examines the revenues and expenditures of the State, the accounts of the State and other statutory organizations, the performance of the executive bodies and civil servants.” (Article 97). The Chairman of the Board is appointed by the President with the

approval of the National Assembly. The term of office of the Chairman and members is 4 years and can be re-appointed once. The Board will inspect the closing of the revenue and expenditure accounts annually and report the results to the President and the National Assembly in the following year. The organization and functions of the Board, the standards of its members, the scope of the public servants to be inspected and other necessary issues shall be prescribed by law (Article 100, the Korean Constitution in 1987).

According to a study by INTOSAI on the legal status of the Supreme audit agency in 70 countries around the world, the model the Supreme Audit belonging to the legislative body accounts for 40%, the government for 17%, and the independent constitutional bodies for 30%. For European countries, the state audit agency attached to the legislature accounts for 55%, the government for 3.2%, and the independent state audit agencies for 32%. In Asian countries, that belonging to the independent state audit agencies takes 33.3%, the Government 28.5%, and the legislative body 23.8%. The majority of ASEAN countries have an independent constitutional state audit (Vietnam, Thailand, Indonesia, Singapore, Philippines, Malaysia) accounting for 60%. In Africa and Australia, the independent state audit agencies is 37.5%, attached to the Parliament for 25%, and only 12.5% is under the Government (Dang Van Hai, 2014).

In Vietnam, the State Audit Office was established quite late, according to Decree No. 70CP/CP of the Government dated 11/7/1994. And on 24/1/1995 the Prime Minister issued Decision No. Decree No. 61/TTg promulgating the Charter on the organization and operation of the State Audit Office. In this period, the SAV was a government agency, operating under the direction of the Prime Minister (Article 73, Law of the State Budget in 1996) with the tasks of "helping the Prime Minister in checking and verifying the accuracy and legality of accounting documents and data, and financial statements of State agencies, non-business units, state economic units and the public and social organizations using state funds" (Article 1, Decree No. 70/CP). In the early stage, the SAV acted as an effective tool for the Government to perform the state management functions, but its independence was limited because it was an affiliation of the Government. The Constitutional Reform in 2001 took Vietnam to the path of building a socialist rule- of -law state of the people, by the people, for the people. Building a rule of law state requires all state agencies and state officials to be under the supervision of the law, most importantly to build a transparent government, and accountable for its transparency before the National Assembly, the highest representative body of the people, the highest state authority. To meet that requirement, the Law on State Audit in 2005 was issued. On June 14, 2005 it was passed by the 11th National Assembly, the 7th session and took effect on January 1, 2006. This Law has enhanced the legal status of the State Audit Office by

stipulating: “The State Audit Office is a specialized agency in the field of state financial inspection established by the National Assembly, operating independently and only complying with the provisions of law”. The Constitution of Vietnam in 2013 has elevated the legal status of the State Audit Office to an independent constitutional agency for the first time in the constitutional history of Vietnam. The Constitution has dedicated a separate chapter to the National Electoral Council and the State Audit Office. According to Article 118 of the Constitution, the State Audit Office an agency established by the National Assembly, operating independently and only complying with the law, auditing the management and use of public finances and assets. The State Auditor General is the head of the State Audit elected by the National Assembly. The term of office of the State Auditor General is prescribed by law. The State Auditor General takes responsibility, and reports on audit results and its work to the National Assembly; while the National Assembly is in recess, he/she takes responsibility and report on its work to the Standing Committee of the National Assembly. The elevation of the State Audit Office to the legal status of an independent constitutional agency is of particular importance. It enable the State Audit Office to have a constitutional and statutory legal basis to operate independently and only in compliance with the law. Audit is an effective tool for the State to prevent and fight against corruption, to build a transparent, effective and highly efficient state apparatus, to achieve the goal of prosperous people and a strong, democratic, equitable and civilized country.

2.2. The Functions, Tasks and Powers of the State Audit Office in Vietnam

a. The function of the State Audit Office

According to Article 9 of the Law on State Audit in 2015, the State Audit Office has the function of evaluating, verifying, making conclusions and making recommendations on the management and use of public finance and public assets. Public finance covers the state budget; national reserves, extra-budget state financial funds; finance of state agencies, people’s armed force units, public non-business units, public service and goods suppliers, political organizations, socio-political organizations, socio-politico-professional organizations, social organizations, socio-professional organizations using state budget funds; and state capital in enterprises; and public debts (Law on State Audit in 2015). Public assets include land; water resources; mineral resources; resources in the sea and airspace; other natural resources; state assets in state agencies, people’s armed force units, public non-business units, political organizations, socio-political organizations,

socio-politico-professional organizations, social organizations, socio-professional organizations; public assets assigned to enterprises for management and use; state reserve assets; assets of infrastructure serving public interests and other assets managed and invested in by the State and owned by all the people, and represented and uniformly managed by the State.

b. The tasks of the State Audit Office

Article 10 of the Law on State Audit in 2015, amended and supplemented in 2019, stipulates the State Audit Office to have the following tasks:

- To decide on annual audit plans and report them to the National Assembly before implementation.
- To organize the implementation of annual audit plans and perform audit tasks at the request of the National Assembly, the National Assembly Standing Committee, the President, the Government, or the Prime Minister.
- To consider and decide on audits that are not included in the State Audit Office of Vietnam's annual audit plans when so requested by the Ethnic Council, Committees of the National Assembly, National Assembly deputies' delegations, the Standing Bodies of the People's Councils, or the People's Committees of the provinces or centrally run cities, and agencies and organizations.
- To submit the State Audit Office of Vietnam's opinions to the National Assembly for consideration and decision on the state budget estimates, decision on the allocation of the central budget and investment policies for national target programs and national important projects, and approval of final accounts of the state budget.
- To join National Assembly and Government agencies in considering state budget estimates, plans on allocation of the central budget, adjustment of state budget estimates or arrangement of budgets for national target programs and national important projects which have been decided by the National Assembly, and final accounts of the state budget.
- To join National Assembly agencies, when so requested, in overseeing the implementation of laws and resolutions of the National Assembly, ordinances and resolutions of the National Assembly Standing Committee in the financial and budgetary field, as well as the implementation of the state budget and financial policies.

- To join National Assembly and government agencies and competent agencies, when so requested, in submitting draft laws and ordinances in the formulation and verification of draft laws and ordinances.
- To make summarization reports on annual audit results and results of implementation of audit conclusions and proposals to the National Assembly, the National Assembly Standing Committee; to send such reports to the President, the Government and the Prime Minister, the Ethnic Council and Committees of the National Assembly; to provide audit results to the Ministry of Finance, National Assembly deputies' delegations, and the People's Councils and People's Committees of localities where the audits are conducted, and to other agencies in accordance with law.
- To explain audit results to the National Assembly and National Assembly agencies in accordance with law.
- To publicize audit reports, summarization reports on annual audit results and reports on results of implementation of audit conclusions and proposals in accordance with Articles 50 and 51 of the Law on State Audit in 2015
- To monitor and examine the implementation of the State Audit Office of Vietnam's conclusions and proposals.
- To transfer to investigation agencies, the People's Procuracy and other competent state agencies for examination and handling dossiers of cases showing signs of crime or signs of violation detected through audit activities.
- To manage audit dossiers; to keep secret accounting documents and figures and information about operations of audited entities in accordance with law.
- To implement international cooperation on state audit.
- To organize and manage scientific research, training and development of human resources of the State Audit Office.
- To organize examination for state auditors and grant, revoke and manage state auditor certificates.
- To organize information, communication and education about the Law on state audit.
- To develop the state audit development strategy and submit it to the National Assembly Standing Committee for promulgation.
- To prevent and fight against corruption in the state apparatus, and in socio-political agencies using the state budget.
- To perform other tasks as prescribed by law.

Although the task list of the State Audit Office in Article 10 of the Law on State Audit in 2015 is detailed, it is still incomplete. In our opinion, the tasks should be sub-divided into strategic and specific tasks. The strategic tasks covering the listed tasks of the SAV are to prevent and combat corruption, which should be clearly stated in the Law on State Audit. Tax audit task is also not specified in the Law on State Audit in 2015. Article 20 of the Lima Declaration specifically emphasizes the tax audit task of the national supreme audit body: “The national supreme audit should have the power to audit tax collection to the largest scale if possible. In doing so it must have the power to inspect individual tax records.” (Clause 1, Article 20) (National Assembly, 2015) and “Above all, tax audit is the audit of legality and standardization, however, when auditing the application of the tax law, the supreme audit agency must also examine the tax collection system and its efficiency, the implementation of revenue targets and, if possible, propose improvement measures to the legislature” (Dang Van Hai, 2014). “The reality of state audit shows that through the inspection of tax finalization in non-state enterprises, many tax fraud cases have been detected, causing thousands of VND billions loss to the state budget. However, because the Law on State Audit has not yet stipulated the tasks of auditing the tax payment obligations of non-state enterprises, the inspection of tax finalization in these organizations encounters difficulty and confusion.”

c. The power of the State Audit Office

Power of the State Audit Office is stipulated in Article 11 of the Law on State Audit in 2015 as the followings:

1. To present draft laws, ordinances and resolutions before the National Assembly and the National Assembly Standing Committee in accordance with law.
2. To request audited entities and related organizations and individuals to fully, accurately and promptly provide information and documents to serve audits.
3. To request audited entities to implement the State Audit Office of Vietnam’s conclusions and proposals regarding violations in financial statements and in the observance of law; to propose measures to redress shortcomings in operations of entities which it has detected.
4. To propose competent agencies and persons to request audited entities to fully and promptly implement conclusions and proposals regarding violations in financial statements and in the observance of law; to propose the handling in accordance with law of cases of failure to implement its audit conclusions and proposals or to fully or timely implement them.

5. To propose competent agencies and persons to handle violations committed by agencies, organizations or individuals which have been clarified through audit activities.
6. To request competent agencies and persons to handle in accordance with law agencies, organizations and individuals that obstruct its audit activities or provide untruthful information and documents to it and state auditors.
7. To solicit professional assessment when necessary.
8. To entrust or hire audit enterprises to audit agencies or organizations managing and using public finance and public assets; to take responsibility for the accuracy of audit data, documents, conclusions and proposals provided by audit enterprises.
9. To propose the National Assembly, the National Assembly Standing Committee, the Government, the Prime Minister and other state agencies to amend and supplement mechanisms, policies and laws (National Assembly 2015).

In our opinion, the above listed powers of the State Audit are quite detailed and complete, however, it is necessary to supplement the authority of the State Audit Office to request the Provincial People's Procuracy or the Supreme Court to initiate criminal cases when the audit results show that the audited entities have committed criminal offenses and these are sufficient evidence to prove the audited entity's criminal act.

d. The Audit Contents

Article 32 of the Law on State Audit in 2015 stipulates the contents of the State Audit in the three following forms:

1. Financial audit, which is an audit to evaluate and verify the accuracy and truthfulness of financial information and financial statements of audited entities;
2. Compliance audit, which is an audit to evaluate and verify the observance of applicable law, rules and regulations by audited entities;
3. Operational audit, which is an audit to evaluate the economic nature, efficiency and effectiveness in the management and use of public finance and public assets.

Pursuant to requirements of each audit, the State Auditor General shall decide on its contents.

e. The Audit Objects of the State Audit Office

Article 4 of the Law on State Audit in 2015 defines the audit objects of the State Audit Office as the management and use of public finance, public property and activities related to the management and use of finance. public assets of the audited entities. These audit objects identified in Article 4, in our opinion, is still incomplete. Tax audits in state-owned and non-state enterprises should be supplemented because the audit in this area is aimed at dealing with tax evasion which causes losses to the state budget.

g. The Principles of Audit Activities of the State Audit Office

The Law on State Audit in 2015 has identified two principles of the State Audit Office, which are:

- Independence and compliance with the law only
- Honesty, objectivity, openness and transparency.

With the first principle to ensure the independence of the State Audit Office, a constitutional agency established by the National Assembly, all agencies, organizations and individuals are prohibited from unlawfully interfering in audit activities and results of the SAV, state auditors and state audit collaborators (Clause 3, Article 8 of the Law on State Audit in 2015).

With the principles of honesty, objectivity, openness and transparency, the Law on State Audit in 2015 stipulates that one of the most important among the five criteria of an auditor is to have good moral qualities, a sense of responsibility, being uncorrupt, honesty and objectivity (National Assembly, 2015). In order to implement the above principle, Article 8 of the Law on State Audit in 2015 stipulates the acts that the State Audit, State Auditors, and State collaborators cannot do. They are:

- a. Harassing, causing difficulties or troubles to audited entities;
- b. Unlawfully interfering in normal activities of audited entities;
- c. Offering, taking and mediating bribes;
- d. Reporting false and incomplete audit results;
- e. Abusing their positions and powers for self-seeking purposes;
- f. Disclosing state secrets and professional secrets of audited entities;
- g. Disclosing information on audit situation and results which have not yet been publicized officially.

In addition, in order to create conditions for the State Auditor to fulfill its functions, the law also prohibits the following acts against the audited entities and related individuals and organizations:

- Refusing to provide information and documents serving an audit at the request of the State Audit Office of Vietnam and state auditors;
- Obstructing the work of the State Audit Office of Vietnam and state auditors;
- Reporting false, untruthful, incomplete, untimely or unobjective information on an audit conducted by the State Audit Office of Vietnam;
- Buying off, offering bribes to state auditors and state audit collaborators;
- Covering up violations of the law on public finance and public assets.
- Illegally interfering in the audit activities and audit results of the SAV and the State Auditors and State Auditor collaborators (Article 8, the Law on State Audit in 2015).

In our opinion, the above principles are appropriate but incomplete. It is necessary to supplement a particularly important principle of the State Audit Office namely ‘integrity’. Only with integrity can cadres and civil servants of the State Audit Office of Vietnam have other qualities such as honesty, objectivity, transparency, etc. Only with integrity can the auditors avoid the temptations of bribery, bargaining or intimidation.

h. The Legal Validity of Audit Reports

The legal validity of audit reports is stipulated in Article 7 of the Law on State Audit as the followings:

1. Audit reports of SAV shall, after being issued and publicized, be valid for compulsory implementation by audited entities that commit violations in the management and use of public finance and public assets.
2. Audit reports of SAV shall be used as one of the bases for:
 - The National Assembly to consider and decide on and oversee the implementation of objectives, targets, policies and key tasks of the country’s long-term and annual socio-economic development; investment policies for national target programs and important national projects; fundamental national financial and monetary policies; imposing, modifying and abolishing taxes; decision to divide revenues and expenditures between central and local budgets; safe limits of national debts, public debts and government debts; state budget estimates and allocation of the central budget; and ratification of final accounts of the state budget;

- The Government, state management agencies and other state organizations and agencies to use in their management and administration work and perform their tasks and exercise their powers;
- The People’s Councils to consider and decide on local budget estimates and allocation; ratify final accounts of local budgets; supervise the management and use of public finance and public assets and perform their tasks and exercise their powers;
- Audited entities to exercise their right to complaint.

In our opinion, it is advisable to supplement the validity of the audit report as reliable evidence to charge and issue penalties in cases related to the corruption of the state assets, socio-political organizations, associations, cooperatives and other types of enterprises associated with public assets.

i. The Organizational Structure of the State Audit Office

The State Audit organizational system defined in Section 2, Chapter 2 of the Law on State Audit in 2015 includes the State Auditor General, Deputy State Auditor General, State Audit Office, and specialized State Auditors, Regional and public non-business units State Auditors. The State Auditor General is the head of the State Audit Office who takes responsibility for the organization and operation of the State Audit Office of Vietnam before the National Assembly and the National Assembly Standing Committee. The State Auditor General is elected, relieved of duty and removed from office by the National Assembly at the proposal of the National Assembly Standing Committee. The term of the State Auditor General is 5 years according to the term of the National Assembly. The Auditor General may be re-elected twice at the maximum (National Assembly, 2015).

Responsibilities of the State Auditor General

1. To lead and direct the State Audit Office of Vietnam to perform its tasks and exercise its powers prescribed in Articles 10 and 11 of the Law on State Audit in 2015.
2. To present reports on annual audit results and its work before the National Assembly; when the National Assembly is in recess, to report before the National Assembly Standing Committee; to answer National Assembly deputies’ questions before the National Assembly or the National Assembly Standing Committee.
3. To take responsibility before law for the contents of audit reports of the State Audit Office of Vietnam.

4. To decide on, and organize the implementation of specific measures to enhance discipline in state audit activities; to prevent and combat corruption, practice thrift and combat wastefulness and all manifestations of bureaucracy, arrogance and authoritarianism of civil servants and public employees of SAV
5. To define functions, tasks, powers and organizational structure of units attached to SAV
6. To submit to the National Assembly Standing Committee for decision the payroll, establishment, consolidation and dissolution of units attached to SAV.
7. To implement measures to ensure the State Audit Office of Vietnam's independence and audit quality in audit activities.
8. To settle complaints and denunciations related to SAV audit activities.
9. To perform other tasks as prescribed by law.

Along with the regulations on responsibility are regulations on the powers of the State Auditor

General:

1. To issue audit decisions.
2. To be invited to plenary sessions of the National Assembly, sessions of the National Assembly Standing Committee and the Government's meetings on relevant matters.
3. To promulgate legal documents in accordance with the Law on Promulgation of Legal Documents.
4. To propose ministers, heads of ministerial-level agencies and government-attached agencies and other central agencies, chairpersons of provincial-level People's Committees, heads of immediate superior agencies of audited entities to handle according to their competence agencies, organizations or individuals that commit acts of obstructing audit activities of the State Audit Office; providing untruthful information or documents to the State Audit Office; failing to implement or incompletely and untimely implement conclusions and proposals of the State Audit Office. In cases where conclusions or proposals of the State Audit Office are not complied with or incompletely complied with, the State Auditor General shall propose competent persons to consider and handle these cases in accordance with law.
5. To decide on audit at the request of agencies and organizations defined in Clause 3, Article 10 of the Law on State Audit in 2015.
6. To decide on the sealing up of documents, inspect accounts of audited entities or related individuals.

7. To propose the National Assembly Standing Committee to appoint, relieve of duty or remove from office the Deputy State Auditors General.

Decree 93/2003/ND-CP stipulating the organizational structure of the State Audit Office has 19 units, of which 16 assisting the State Auditor General in performing their functions and tasks and 3 non-business units.

- The Department of Audit and Inspection is responsible for formulating, guiding and inspecting the implementation of professional criteria, processes, methods, and forms of audit dossiers; assisting the State Auditor General to examine and appraise the audit reports submitted to the State Auditor General; inspecting and checking audit quality and professional ethics of auditors, helping the State Auditor General to settle complaints and denunciations in the field of state audit.

The Legal Department has the task of assisting the State Auditor General to manage the State Audit field by law: organize the drafting of projects and draft legal documents on the State Audit to submit to competent authorities for promulgation; appraise, review and systematize legal documents; law dissemination and education; inspect the implementation of legal documents and perform other tasks as prescribed by law for legal organizations in ministries, ministerial-level agencies and agencies attached to the Government.

- Specialized State Audit Office: Decree 93/2003/ND-CP on the basis of specialized state audit has been grouped into 7 specialized state audit organizations in the direction of specialization of audited entities with a more appropriate scale than before:
- State Audit Office of Budget No.1;
- State Audit Office of Budget No.2;
- State Audit Office of Investment – Project No.1;
- State Audit Office of Investment – Project No.2;
- State Audit Office of state-owned enterprises;
- State Audit Office of financial and banking institutions;
- State Audit Office of special programs (audited entities in the field of security and defence have their own secrets and management requirements).

For regional state auditors, according to Resolution No. 916/2005/NQ-UBTVQH11 dated September 15, 2005, the names have been changed to be more appropriate:

- State Audit Office of the Northern region has been changed into Regional State Audit Office I (the headquarter in Hanoi);

- State Audit Office of the North Central region has been changed into Regional State Audit Office II (the headquarter in Vinh city);
- State Audit Office of Central region has been changed into Regional State Audit Office III (the headquarter in Da Nang city);
- State Audit Office of the South region has been changed into Regional State Audit Office IV (the headquarter in Ho Chi Minh City);
- State Audit Office of the Southwest region has been changed into Regional State Audit Office V (the headquarters in Can Tho city).

Each Regional State Audit Office has a Chief Auditor, Deputy Chief Auditor, and an organizational structure of no more than 5 units. Regional State Audit Office has its own legal status, seal, head office and account.

"Department of Audit Assessment and Quality Control" which has been renamed to "Department of Audit Regime and Quality Control", performs the function of building and submitting to the State Auditor General the system of State Audit criteria, issuing decisions, regulations, directives, working regimes, regulations, processes and professional methods of audit, audit dossiers applied in state audit and internal audit activities, and at the same time performs the function of audit quality control. Resolution No. 916/2005/NQ-UBTVQH11 established a number of units suitable for new functions and tasks: establishing the General Department with the function of advising the State Auditor General on audit activities; developing audit plans of the whole system, assign audit tasks to specialized auditors and regional auditors, monitor the implementation of audit plans of the whole state audit, appraise and approve audit reports before submitting to the State Auditor General to sign for announcement; synthesize and prepare annual audit reports, report on the implementation of audit conclusions and recommendations; organize the public announcement of the audit reports in accordance with the Law on State Audit. Department of International Relations has been established to perform the function of advising the State Auditor General to organize the implementation and management of international cooperation in the field of state audit, and manage the international audit assistance for projects and organizations.

On May 28, 2007 the National Assembly Standing Committee issued Resolution No. 1123/NQ-UBTVQH11 on the establishment of 4 more Regional State Audit Offices:

- Regional State Audit Office VI, the headquarter in Ha Long city, Quang Ninh province;
- Regional State Audit Office VII, the headquarter in Yen Bai city, Yen Bai province;
- Regional State Audit Office VIII, the headquarter in Nha Trang city, Khanh Hoa province;
- Regional State Audit Office IX, the headquarter in My Tho city, Tien Giang province.

On April 29, 2011, the National Assembly Standing Committee issued Resolution No. 1064/NQ-UBTVQH12 establishing 4 more Regional State Audit Office and 1 more Specialized State Office

- Regional State Audit Office X, the headquarter in Thai Nguyen city, Thai Nguyen province;
- Regional State Audit Office XI, the headquarter in Thanh Hoa city, Thanh Hoa province;
- Regional State Audit Office XII, the headquarter in Buon Ma Thuot city, Dak Lak province;
- Regional State Audit Office XIII, the headquarter in Vung Tau city, Ba Ria-Vung Tau province.

One more Specialized State Audit Office has been established on the basis of dividing Specialized State Audit Office 1 into Specialized State Audit Office 1a and Specialized State Audit Office 1b for audited entities in the security and defense sector.

Up to now, the State Audit Office has built a centralized apparatus with 31 attached units, including 7 advisory state audit units, 8 specialized, 13 regional and 3 non-business units. The fact that there are more and more specialized and regional state audit units shows that the organization and operation of SAV in our country has been improved. We are making effort in building and developing an audit team of the State Audit Office to be qualified enough to conduct annual audits of all units operating on the state budget.

3. Research Results and Conclusion

In recent years, State Audit Office of Vietnam has achieved certain achievements recognized by the society. In 2019, 212 audits were carried out, by December 31, 2019 the financial settlement was 72,837 billion VND, of which increased state budget revenue by VND 10,276 billion, and reduced the expenditure by VND 16,829 billion, recommendations for others were VND 45,732 billion; proposed to amend, supplement, or cancel, replacing 154 documents in order to close gaps in the mechanisms and policies, to avoid loss and waste. By December 31, 2019, the audited entities and related units had implemented VND 63,102 billion, accounting for 70.4% of the total number of recommendations for financial settlement³. In 2019, 100% of financial statements were issued before December 31, 2019, a very large amount of money were proposed to be handled, which contributed to tightening the disciplines in the management and use of state budget, public finance, public assets, thrift practice, anti-waste and anti-corruption. In the period from 2016 to the first quarter of 2021, SAV has proposed to handle more than VND 353,730 billion, transferred 20 cases with signs of

³ www.Sav.gov.vn/pages/chi-tiet-tin.aspx?ItemID=381218&l=tintucsukien, Accessed 10/6/2021

crime to the Investigation police agency for investigation, clarification and handling according to regulations provided by law, provided 498 audit reports and related dossiers to agencies of the National Assembly, Central Inspection Commission, investigation agencies and other competent state agencies; proposed to amend, supplement, replace and annul 786 legal documents that are unreasonable or inconsistent with the provisions of the Constitution and the law. During this period (from 2016 to the first quarter of 2021), the recommendations on financial settlement by the State Audit Office were implemented by agencies with VND 237,570 billion, accounting for 73.6% of the total number of recommendations⁴. Within the framework of ASOSAI, the SAV successfully hosted and organized the XIV ASOSAI Congress 2018 in Hanoi, currently is a member of the ASOSAI Executive Board for the period 2015-2024 and the Chairman of ASOSAI for the period 2018-2021.

Since 2018, the State Audit has digitized all audit dossiers, more than 7 million pages of documents of all kinds have been digitized to serve audit work. On September 16, 2020, the National Assembly Standing Committee issued Resolution No. 999/2020/UBTVQH on the development strategies of Vietnam's audit to 2030, aiming to perfect and enhance the socialist rule-of-law state, building long-term, medium-term and annual plans to overcome inadequacies and better fulfill the audit function entrusted by the State and the people. The State Audit Office has developed 39 state audit criteria according to the international standard of ISSAI and suitable to the characteristics of Vietnam. During this period, SAV has issued 32 legal documents and 57 internal management documents. There have been 136/786 documents amended and supplemented by the Government, ministries, branches and localities at the recommendations of SAV. According to the 2020 work report of SAV at the 10th session of the XIV National Assembly, by September 30, 2020, the State Audit Office proposed to handle of VND 52,970 billion, of which increased the state budget revenue by VND 3,074.5 billion, reduced the expenditure by VND 10,700 billion, other proposals of VND 39,195.5 billion⁵.

Besides these achievements, it can also be seen that the law and implementation mechanism of the State Audit of Vietnam have still remained certain limitations.

First of all, the capacity of the State Audit has not been fully promoted in the fight against corruption. During the period from 2016 to the first quarter of 2021, only 20 files were transferred to the police investigation agency, which is much fewer compared to the actual corruption situation. In the condition of building a rule-of-law and anti-corruption state with no forbidden zones that the Government and the ruling Party have agreed upon, it is imperative to further enhance the role of the

⁴ www.Taichinhdoanhngiep.net.vn/bao-cao-cong-tac-nam-2020-cua-kiem-toan-nha-nuoc-d16178.html

⁵ www.Taichinhdoanhngiep.net.vn/bao-cao-cong-tac-nam-2020-cua-kiem-toan-nha-nuoc-d16178.html , accessed 10/6/2021.

State Audit in anti-corruption. Regarding the appointment and the promotion of ranks of auditors, in addition to professional qualification, the ethical standards and integrity of the auditors should also be enhanced. Learning from India in developing the criteria of the audit and supplement to the Law on State Audit in 2015, the principle standards of the State Audit Office of Vietnam are:

1. Independence;
 2. Professional Excellence;
 3. Objectivity;
 4. Transparency;
 5. Integrity;
 6. Positive approach;
 7. Reliability (Fe Bureau, 2010).
- Reviewing and comparing the Vietnam's audit model with other audit models in the world, we can see that Vietnam's is similar to either the General Auditor model or the Westminster model, but to increase the efficiency of the present model, it is necessary to establish an additional so-called standing committee of the National Assembly namely the Audit Committee of the National Assembly. This committee consists of experts in finance, accounting and audit who can use the audit results of the State Audit to question the Government. Thus, the questioning activities of the National Assembly will be more effective and efficient;
 - In the court system of Vietnam, there is no Audit court, the trial of cases related to finance, accounting and audit has been assigned to the Economic Court. These requires the judges to be good experts in the fields of finance, accounting and audit to meet the requirements of ensuring fairness and justice in this field. For this reason, we recommend the establishment of the Audit Court within the People's Court system;
 - Supplement the tax audit task to Article 10 of the Law on State Audit in 2015 in order to limit tax evasion, or the situation of paying taxes not in accordance with the norm prescribed by law, causing loss to the state budget; supplement the audit of public debt, government debt and national debt.
 - Supplement Article 7- The legal validity of the audit reports is of the reliable evidence to accuse or exonerate in criminal corruption crimes and is the legal basis for decision-making in civil trials in determining the liability of the disputing parties.

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