

THE ROLE OF THE SUPREME AUDIT INSTITUTIONS IN COUNTERACTING VAT GAP IN THE EUROPEAN STATES. A CROSS-COUNTRY COMPARATIVE STUDY

DOI: 10.33141/po.2022.09.02

Organization Review, No. 9(992), 2022, pp. 13-19

www.przegladorganizacji.pl

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Introduction

The Value Added Tax (VAT) gap is enormously dangerous in all European Union Member States. These countries are losing revenues due to tax fraud and inadequate tax collection systems. The VAT gap, understood as the difference between expected VAT revenues and VAT collected is caused by tax fraud, tax evasion, bankruptcies, financial insolvencies, or miscalculations (the European Commission, 2021; Center For Social and Economic Research, 2022). This issue is crucial for the proper functioning of the macrostructure – the state. The reduction of tax incomes may reduce the scope of public tasks. However, one should consider tax fraud's negative influence much wider. An ineffective tax collection system shows the limited potential of the state (Fukuyama, 2014). It, in turn, affects the erosion of public trust – a necessary component of social capital, without which it is difficult to achieve a competitive advantage. Considering the role of supreme audit institutions (SAIs) in ensuring the proper functioning of the public sector, one needs to determine the SAIs' role in combating VAT fraud, which is part of a broader phenomenon – tax fraud.

In all EU Member States, supreme audit institutions (SAIs) are subordinate to parliaments. They are not part of the executive branch of the State (European Court of Auditors, 2019). Such a SAIs' position in the State structure and broadest audit rights should enable SAIs to play a crucial role in VAT fraud prevention.

Little is known about SAIs' role in VAT fraud prevention. The research aims to eliminate this research gap. The study does not discuss the main types of VAT fraud. Equally, there is no attempt to summarise the main features of these respective fraudulent schemes. This

preliminary study focuses on SAIs – public organisations and how they fulfil their public tasks. Therefore, the study intends to resolve the following research question – RQ1: how do SAIs deal with the VAT gap issues?

To resolve the research problem, the author first explored the literature on SAIs. Subsequently, SAIs' activity to reduce the VAT gap were examined through an analysis of SAIs' documents published by SAIs on their Webpages. Finally, the author presents and discusses the findings, derives directions to advance the research further, and provides practical tips for SAIs activities, which may increase their influence on the public sector and improve its activities.

Literature review

VAT revenues play a significant role in public funding. Funds from VAT account for around 13 per cent of total revenues. This revenue covers EU expenditure in 2014–2020 and amounts to over 900 billion euros. For example, in 2018, the EU member states' tax revenue (including social contributions) stood at 40.3 per cent of Gross Domestic Product and accounted for 89.4 per cent of total government revenue. In 2018 EU spending totalled 156.7 billion euros. It amounts to 1 per cent of EU gross national income and represents approximately 2 per cent of total public spending in the EU Member States (The European Court of Auditors, 2015; Center for Social and Economic Research, 2018, 2022; Lamensch, Ceci, 2018; Taxback International; Eurostat, 2019; The European Commission, 2021).

Lost VAT revenues have a multifaceted negative impact on EU citizens: 1) It reduces government spending on



public goods and services necessary to meet public needs adequately; 2) It undermines the rule of law and the tax trust, which we define as taxpayer belief that all individuals and organisations obliged to pay the same taxes realise tax obligations in the same manner; 3) The missing VAT may be unable to sustain development and recover from the COVID-19 pandemic (The European Commission, 2021).

Causes of the VAT gap may include, for example, tax evasion and bankruptcies but also maladministration. Inefficient administration facilitates VAT evasion by taxpayers, and the reasons for its incorrect operation may include inappropriate human resource management, unclear organisational structure or corruption. (The European Court of Auditors, 2015; Center for Social and Economic Research, 2018, 2022; Lamensch, Ceci, 2018; Taxback International; Eurostat, 2019; The European Commission, 2021).

The minor VAT Gaps were observed in Croatia (1 per cent), Sweden (1.4 per cent), Cyprus (2.7 per cent), and the largest – in Romania (34.9 per cent), Greece (25.8 per cent), and Malta (23.5 per cent). Half of the EU-28 Member States recorded a Gap above 8.6 per cent (Center for Social and Economic Research, 2022).

The phenomenon of tax evasion, which employs the use of illegal methods to avoid paying proper taxes, is broadly described in the literature (e.g. Alstadsaeter et al., 2019; Nygård et al., 2019; Sarnowski, Selera, 2019). All these authors underline the illegality of such processes in which a person or entity deliberately avoids paying an actual tax liability. Carousel fraud is realised by collecting the VAT for themselves rather than remitting it to the tax authorities. For example, the Eurojust showed that the fraud in Italy consisted of the fabrication of many invoices for non-existent transactions, amounting to almost 500 million euros. For these activities, figureheads created and administered bogus companies (European Union Agency for Criminal Justice Cooperation, 2019).

Fraud tax catalyses corruption and reduces public trust (Dobrowolski, 2017). The importance of trust in organisations is well recognised in the literature. Trust has been defined, among other things, as an element of social capital (Tansley, Newell, 2007; Choudhury, 2008); an organisational resource (Tzafrir, 2005); the foundation of social interactions in organisations (Berg et al., 1995; Weber et al., 2004), which creates the willingness of individuals to invest and trade (Natalier, Willis, 2008; Styles et al., 2008). This literature review shows that trust plays a unique role in organisations, including businesses. Without trust, they could not exist (Ennew, Harjit, 2007). State institutions influence cooperation by passing laws and regulations that create a predictable environment (Fukuyama, 2014). While State policies can foster trust, the inefficient actions of the representatives of public organisations in implementing the laws and regulations, legal loopholes, fraud and corruption can also erode trust. This statement leads to a generalisation that SAI's role is to prevent the erosion of public trust (Dobrowolski et al., 2022).

Trust is necessary to create social capital, which belongs to the most important values that constitute society's cohesion. Researchers point out that organisations with sizeable social capital may achieve planned goals more easily and benefit their stakeholders, achieving competitive advantage (e.g. Burt, 2000, 2017; Lin, 2017). Over the past few decades, social capital has become one of the most influential ideas to explain organisational behaviour at different levels (Lin, 2017). Coleman (1988, p. 98) defined social capital as “a variety of entities with two elements in common: they all consist of some aspect of social structure, and they facilitate certain actions of actors.” Bourdieu (1986) perceives social capital as the aggregate of the actual or potential resources linked to possession of a durable network of more or less institutionalised relationships of mutual acquaintance and recognition. Putnam (2000, p. 19) perceives social capital as “connections among individuals and social networks and the norms of reciprocity and trustworthiness that arise from them.” For this study, one may understand social capital as public trust, connections, and social networks that facilitate cooperation and reciprocity. One may generalise that SAI's role is to create an environment that strengthens social capital (Dobrowolski et al., 2022).

There are no differences of opinion among scholars about the SAI's role in modern societies (e.g. Dye, Stapenhurst, 1998; Pollitt et al., 2002; Corderoy, Hay, 2019). Authors emphasize that SAIs have broad audit rights and may review the functioning of a whole government system.

The SAIs, like law enforcement agencies, may play two partly interrelated roles in the fight against VAT fraud: They may prevent or detect this pathology. Dobrowolski (2012) argues that SAI's fighting against organisational pathologies in which VAT fraud is included should be multifaceted. It includes: 1) Incorporating VAT fraud issues in SAI's routine audit work; 2) Heightening public awareness of SAIs' preventive role through timely and public disclosure of SAIs' audit findings; 3) Improving methods and tools for combating VAT fraud; 4) Providing a means for whistle-blowers to report cases of VAT fraud; 5) Cooperating with other national and international intuitions in the fight against VAT fraud. Through such a multifaceted audit approach, SAI strives to create a preventive environment that will bring integrity, transparency and accountability necessary to proper organisational functioning (Dobrowolski, 2017).

Research methods

The analysis focused on SAIs perceived as public organisations, influenced by social and political factors. Therefore, the study used methods belonging to social sciences. It also means, that the study is not to be reflected in the formalised language of mathematical logic and does not lead to the creation of unchanging theories but remains socially and historically limited (Sułkowski, 2013, p. 269). The methodological triangulation enabled a broader context of the studied issues (Campbell, Fiske, 1959; Greene et al., 1989). Following Czakon's assumptions about the

literature review (2013, p. 47–67), the author used the databases of Scopus, Web of Science and Google Scholar, and focused on the research problem (Snyder, 2019). The literature review consisted of a deliberate selection of literature and its quantitative analysis with specific stages. The procedure included the following stages: defining the research goal, selecting basic literature using databases, selecting publications, and bibliographic and content analyses. In the selection of publications, several keywords were used to exclude random texts that do not fit the research goal. After verification of abstracts, 106 publications were selected for further analysis. The biographical analysis included a citation analysis. The chosen and analysed literature is included in the part of the article – references.

This study aimed to determine how the SAI deals with the VAT gap, including the fraud problem. Therefore, besides SAI's audit reports, the author also analysed information provided on the webpage of the International Organisation of Supreme Audit Institutions – INTOSAI, established by SAIs. Based on ISSAI 100 – Fundamental Principles of Public-Sector Auditing (INTOSAI, ISSAI 100), it was assumed that all SAIs' data classified as restricted information could be unavailable to the public. Other data should be provided to the public.

From among 28 EU Member States in 2019, the countries with the highest VAT gap (€ Mil.) were selected for further analysis, namely Great Britain, Germany and Italy. Next, those countries with the most significant 2019 percentage of VAT Gap were selected for further study: Greece, Romania, and Malta (Center For Social and Economic Research, 2022). The study included all data published by SAIs from the countries mentioned above (Great Britain, Germany, Italy, Greece, Romania and Malta) on their websites from 2012 to 2018.

In sum, the research methodology is based on the literature study and the analysis of SAIs' websites (selected for the study). All SAIs' VAT fraud reports published on SAIs' websites have been analysed. The methodology did not include interviews with SAIs representatives due to audit secrecy. Besides, such interviews would not bring any additional data beyond what was published in SAIs reports. This research methodology enabled the author to determine whether and to what extent the research published so far has included the issue of the role of SAIs in combating VAT fraud and to what extent SAIs analysed VAT problems fraud.

Results and discussion

The International Organisation of Supreme Audit Institutions (INTOSAI), which consists of more than 190 SAIs, did not focus SAIs activities on eliminating the tax gap, including VAT fraud. The INTOSAI Strategic Plan references the fraud problem generally. INTOSAI states that SAI should „review national transparency, risk management, anti-fraud protection, and internal control processes to contribute to corruption prevention efforts consistent with the United Nations Convention Against Corruption” (INTOSAI Strategic Plan 2017–2022, p. 13).

This remark may indicate that INTOSAI did not recognise tax fraud as a crucial threat destabilising the public sector. Also, the analysis of the EUROSAI strategic plan, which brings together SAIs from all over Europe, showed that this organisation did not see the need to include the fight against VAT fraud among its strategic goals (EUROSAI, Strategic Plan 2017–2024). INTOSAI Development Initiative stated a need to detect fraud during the audit (IDI, 2022a). However, INTOSAI Development Initiative (responsible for SAI's training), which focused on strengthening SAIs audit capacity, did not present a detailed audit methodology and training focused on detecting VAT fraud (IDI, 2022b). The analysis of the information from the Webpages of the studied SAIs is presented in Table 1.

SAI's recommendations should be realistic. Meanwhile, the British SAI has formulated an audit of recommendations, which seems to be proper, but their implementation does not only depend on the audited organisations. As a result, such recommendations are challenging to implement. The British SAI pointed out that cases successfully prosecuted took more than two years to complete, from investigation to prosecution. Therefore, SAI has highlighted the need to speed up criminal proceedings (NAO, 2004). It is worth noting that the length of court trials depends not only on the quality of the evidence collected by law enforcement agencies. The defence of the accused has the right to submit motions to present new evidence in the case, which may significantly extend the course of the trial. The reform of the adjudication system must take into account the full right of defendants to defend themselves and the court to act under the principle of the presumption of innocence.

Based on the literature review and analysis of SAI's audit reports (listed in References), one may formulate the following universal audit questions, which may help to assess the administrative efforts in fighting the VAT gap. First, there is a need to identify the stakeholders responsible for this task. One of them is the prosecutor's office. However, SAIs do not have the authority to verify the correctness of ongoing investigations. Therefore, the audit of this critical institution should be limited to the analysis of financial issues. The audit should answer whether the budgetary resources allocated to the functioning of the prosecutor's office are sufficient to meet its needs, including those resulting from the appointment of experts in cases of VAT fraud.

The key player in reducing the VAT gap is the Ministry of Finance, tax and customs authorities. SAIs audits in this area should be multifaceted. Tax regulations should be an important area of SAI analysis, and their result should be the identification of legal loopholes. Such an analysis should also make it possible to diagnose the division of tasks between individual entities, mainly whether there are gaps in the division of tasks or a situation of overlapping powers of individual authorities. Besides, the training system for the employees of these offices should be examined. SAIs should verify: 1) To what extent does the training cover issues related to VAT fraud, including identification of taxpayers suspected of VAT fraud attempts and carousel crimes? 2) What is the scope of anti-corruption training for these employees?



Table 1. The SAI's analysis of VAT gap

Analysed SAI	Findings
from Romania, Great Britain, Germany and Italy	<p>They often analysed the issue of the VAT gap, revealing administrative irregularities or, as in Romania, weaknesses of the IT system supporting the fight against the VAT gap. The German SAI pointed out some systemic constraints in VAT tax. Some firms deliberately planned their insolvencies to avoid tax obligations. Therefore, the German SAI proposed restoring a legal provision (revoked effective 1 January 1999). SAI proposed to give the tax authorities the status of a preferential creditor in insolvency proceedings.</p> <p>There is no information on the websites of SAIs on whether these institutions analysed the correctness of human resource management in the audited organisations. Meanwhile, the success in detecting and reducing the VAT gap depends on the motivation of employees from tax offices and other public organisations. Besides, there is a lack of information on whether SAIs analysed anti-corruption prevention in tax offices.</p>
from Malta and Greece	There is no information on SAIs audits regarding the VAT gap. In addition, in the Greece SAI audit plan, SAI did not plan audits to determine how obliged public institutions detect and prevent VAT fraud.

Source: National Audit Office, Search Results for VAT Fraud; NAO, 2004; Romanian Court of Accounts, 2014, 2017, 2019, 2020, 2022; Bundesrechnungshof, *Tax Revenue Losses in the Field of Value-added Tax*, 2022; Bundesrechnungshof, *Taxes - Audit Findings before 2020*; Corte dei Conti, *Frode IVA*; National Audit Office Malta, 2022; Hellenic Court of Audit, *Products*; Hellenic Court of Audit, *Work Program 2021*

It is known that the corruption of public officials facilitates the implementation of criminal activities. SAIs should evaluate: 1) What is the verification system for candidates for work in tax and customs offices? 2) Does it allow for identifying persons with a conflict of interest and links with criminal groups? 3) Does the remuneration system for tax and customs administration employees encourage these employees to identify VAT fraud? 4) Is job rotation applied in these offices to counteract a potential conflict of interest? (this needs results from INTOSAI, *GUID 5270*) 5) What are the whistle-blower protections in the tax and customs administration? 6) Is there anonymisation of employees dealing with combating VAT fraud to protect them and their families?

From the processing perspective, one needs to determine: 1) How is access to tax and customs information protected? 2) Is the tax and customs administration equipped with an IT system that effectively identifies VAT fraud? 3) After disclosure of VAT fraud, is the collected evidence immediately forwarded to the competent law enforcement authorities? 4) Whether and with what effect do the tax and customs authorities cooperate with FIU to disclose illegal income? 5) How effective is the cooperation of tax and customs authorities with their counterparts from other countries? Besides, SAI should determine whether any identified financial, legal, administrative and human resource management constraints are reported to the senior supervisor? What is the effect of these reports?

Implementing this proposed audit methodology should allow SAIs to perform a multifaceted analysis of the effectiveness of the state system for counteracting VAT fraud and analyse the activities of individual organisations included in this system. Focusing attention not only on legal issues but above all on management issues, particularly the correctness of human resources management and cooperation between organisations creating a barrier against VAT fraud, has one more effect. Such audits analyse risk management but also create conditions that facilitate building trust and a culture of integrity, without which even the best legal solutions will not bring the expected results. In this regard, the research confirms the previous conclusions (e.g. Pollitt et al., 2002; Kożuch, Dobrowolski, 2014).

Conclusions

This study brings several interesting conclusions, setting the framework for further research on SAI's role in enhancing accountability, transparency and integrity in public life. First, the study has shown that the SAIs have audited the tax system and focused on VAT fraud issues. However, there were no analyses of the effectiveness of the human resources management system in audited fiscal offices. Meanwhile, fiscal offices need motivated employees to reduce the VAT gap effectively. There is a need to include human resource management issues during SAI's audits. Second, only the German SAI analysed legal solutions that increase the cost of criminal activity. Meanwhile, it is necessary to specify all solutions that increase the effectiveness of detecting VAT crimes and simultaneously increase the risk of criminal activity, which increases its cost. Third, SAI's audit recommendations should be realistic. Otherwise, they can be attractive only to the readers of audit reports but not helpful in reducing the VAT gap.

The study has also shown that INTOSAI Development Initiative should try to develop an audit methodology for organisations responsible for eliminating VAT fraud. Training activities need coordination. They should improve SAIs' international cooperation in the fight against VAT fraud, as carousel activities that constitute a problem in the EU are transnational. Besides, SAIs' international organisations, including the INTOSAI, should determine clear SAIs' direction focused on strengthening social capital through creating public trust in governments and their institutions. Reducing VAT fraud, also by SAIs' audits, can positively influence the public sector and its partners.

Further research should focus on the role of SAIs from the other EU Member States in the fight against the VAT gap to determine why these SAIs were ineffective in their audit activities. Their ineffectiveness is evidenced by the very high level of VAT gap and the large scale of negative social capital in the whole EU. Besides, the proposed audit methodology needs to be verified during the SAIs' audits to determine whether it helped in the comprehensive assessment of audited organisations.

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Rola najwyższych organów kontroli państwowej w eliminowaniu luki w podatku VAT w krajach europejskich. Analiza komparatywna

Streszczenie

Niniejsze opracowanie jest kontynuacją dotychczasowych badań dotyczących wielopłaszczyznowej roli najwyższych organów kontroli państwowej (NOK) we wzmacnianiu kapitału społecznego i usprawnianiu funkcjonowania organizacji publicznych. Stwierdzono, że organizacje międzynarodowe utworzone przez NOK powinny uwzględniać problem luki VAT w swoich strategiach kontroli. Ponadto powinny zacieśniać współpracę międzynarodową, w tym szkoleniową, biorąc pod uwagę, że nieprawidłowościom w rozliczeniach VAT występujących we

wszystkich państwach członkowskich Unii Europejskiej sprzyja specyfika transakcji wewnątrzspółnotowych. Słabości instytucjonalne w ściąganiu podatków świadczą o niskim potencjale państwa. Ze względu na brak publicznie dostępnych informacji nie ustalono, czy NOK z badanych krajów o największych rozmiarach luki w podatku VAT – Malty i Grecji – przeanalizowały przyczyny jej powstania. Badane NOK z innych krajów – Wielkiej Brytanii, Niemiec, Rumunii i Włoch – przeanalizowały przyczyny nieskutecznego zmniejszania rozmiarów luki podatkowej. Ich badania nie obejmowały jednakże sposobu zarządzania zasobami ludzkimi w instytucjach podatkowych.

Tymczasem kwestia ta jest kluczowa nie tylko z punktu widzenia skuteczności prewencji podatkowej, ale szerzej z perspektywy wzmocnienia kapitału społecznego. Sformułowane kierunkowe propozycje kontroli skuteczności ograniczania luki w podatku VAT, ze względu na swoją uniwersalność, mogą znaleźć zastosowanie w różnych krajach.

Słowa kluczowe

luka w podatku VAT, oszustwa podatkowe, zarządzanie publiczne, najwyższe organy kontroli państwowej
