

Case Studies of Independent Audits of Police Financial Operations by the Court of Audit of the Republic of Slovenia¹

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Purpose:

This paper presents an overview of audit-case studies of the Slovenian Court of Audit where the audit subjects were Police financial operations. In relation to other state authorities, the Court of Audit of the Republic of Slovenia is an autonomous and independent state authority that supervises the use of public funds. The Court of Audit supervises all bodies and authorities in Slovenia that are users of public funds, including the Police.

Design/Methods/Approach:

Research design of this paper is the set of three research methods used in collecting data and analysing findings. First method is descriptive analysis of legal regulations. Second research method is case-study analysis. Third research method is observational study based on direct interview. Synthesis is presented in the conclusions.

Findings:

The Court of Audit reviews the credibility of the response report of auditee after audit. If the Court of Audit assesses that the remedial actions were not satisfactory and that the user of public funds violated the obligation to ensure operational efficiency, the Court of Audit may issue a call for remedial action and serve such on the competent authority, which can take measures against the auditee. As the Police are a direct user of public funds, the Court of Audit has the power to carry out an audit of the operations of the Police based on the law. The Police as whole have never been the subject of a regularity or performance audit by the Court of Audit.

Research Limitations / Implications:

We have limited analysed in details only those cases where police units were subjects of audit performed by Slovenian Court of Audit.

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Originality/Value:

The Police have been the subject of three audits in time from beginning of Court of Audit operations and today. These cases are presented in the quality analysis. Based on this quality analysis, authors have also addressed some questions directly to the Court of Audit of the Republic of Slovenia, i.e., in the form of a directed interview. The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. Our research results are presented in the end of this article. In conclusion, the standpoints of the Court of Audit in fact support our previous findings presented in this paper.

Keywords: Slovenian Police, Slovenian Court of Audit, mandatory audits, regularity audits, performance audits, legal regulation of the Court of Audit

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Študije primerov neodvisnih revizij finančnega poslovanja Policije s strani Računskega sodišča Republike Slovenije

Namen prispevka:

V prispevku raziskujemo pooblastila in postopke veljavne ureditve Računskega sodišča Republike Slovenije, posebej na področju neodvisnih revizij nad finančnim poslovanjem policije. V primerjavi z drugimi državnimi organi je Računsko sodišče RS avtonomni in neodvisni organ, ki nadzira javno-finančno porabo. Računsko sodišče nadzira druge državne in nedržavne organe in institucije pri zakonitosti ter smotrnosti porabe javnih sredstev, sem pa sodi tudi policija. V prispevku so prikazane tri študije primerov teh revizij.

Metode:

V okviru metodološkega pristopa smo uporabili kombinacijo treh raziskovalnih metod in zbiranje ter analizo in sintezo pridobljenih ugotovitev. Prva metoda je gramatikalna razlaga pravne ureditve delovanja Računskega sodišča, druga metoda je študija primerov nadzora Računskega sodišča nad policijo in tretja metoda je neposredni intervju s predstavniki Računskega sodišča pri nadziranju policije. Sklepi so predstavljeni v sintezi na koncu prispevka.

Ugotovitve:

Računsko sodišče Republike Slovenije je neodvisni državni organ, ki preverja učinkovitost in zakonitost porabe javnih sredstev na vseh področjih. Med drugim lahko preverja tudi finančno poslovanje policije, ki je organ v sestavi Ministrstva za notranje zadeve. Vendar pa policija kot celota ni bila nikdar revidirana.

Omejitve/uporabnost raziskave:

Omejitev raziskave, prikazane v prispevku, je v tem, da lahko podamo ugotovitve le za tiste notranje organizacijske enote v policiji, ki jih je revidiralo Računsko sodišče.

Izvirnost/pomembnost prispevka:

Policija je bila v času od ustanovitve Računskega sodišča do zdaj predmet treh revizij Računskega sodišča. Na podlagi pregleda literature, kvalitativne analize

pravnih virov in pregleda objav Računskega sodišča smo pripravili vprašanja za Računsko sodišče v obliki neposrednega intervjuja. Njihove odgovore v zvezi z revizijskim nadzorom policije in načinom sodelovanja s policijo pri prijavi kaznivih dejanj in prekrškov, zaznanih pri delu Računskega sodišča, smo predstavili v tem prispevku. Prispevek smo zaključili s sintezo svojih ugotovitev in primerjavo le-teh z odgovori Računskega sodišča.

Ključne besede: policija, Računsko sodišče Republike Slovenije, obvezne revizije, redne revizije, revizije učinkovitosti, pravna ureditev Računskega sodišča

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1 INTRODUCTION

The Police, as an authority within the Ministry of the Interior, are a user of public funds. Every year, the Ministry of the Interior proposes the proportion of funds to be allocated to the Police and for what purposes such funds are to be used. As the Police are a direct user of public funds, the Court of Audit has the power to carry out an audit of the operations of the Police based on the law. The Police have never been the subject of a regularity or performance audit by the Court of Audit.

In this paper, the legal regulation of the Court of Audit will be outlined first by applying a quality analysis of the regulations, followed by a presentation of the audit practice of all audits carried out thus far in which the auditee was the Police. Three concrete cases are analysed in detail.

Based on quality analysis and case studies, we have addressed some questions directly to the Court of Audit of the Republic of Slovenia. The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. In letter No. 032-1/2020/28, dated 4 September 2020, the Court of Audit answered the questions (Računsko sodišče Republike Slovenije, 2020b). Our findings are compared with their answers in conclusion of this paper.

2 THE LEGAL POSITION OF THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA

The Court of Audit is an independent state authority that supervises the use of public funds. It audits all public institutions that receive public funds and all those that receive European funds in Slovenia. The Court of Audit cannot be categorised within any of the three branches of power, which ensures the Court its autonomous and independent position (Računsko sodišče Republike Slovenije, 2018b).

Article 150 of the Constitution of the Republic of Slovenia (Ustava Republike Slovenije [URS], 1991) determines that the Court of Audit is the highest authority for supervising state accounts, the state budget, and all public spending. The Court of Audit is defined as an institution for the supervision of the financial

operations of all users of public funds. These are the following: the ministries and all the units thereof, the municipalities – local self-government, public agencies, public institutions (e.g., kindergartens, schools, primary health care centres), and state-owned commercial companies. This also includes the Police, as an authority within the Ministry of the Interior. Auditors employed at the Court of Audit are independent in selecting subjects to be audited. They are bound only by a few statutory obligations determined in the Court of Audit Act. Based on an audit, which is usually carried out over one year or more, the Court of Audit issues an audit report providing its opinion on the financial operations of the auditee. In audits, compliance with legislation in financial operations as well as the effectiveness and economy of financial operations is supervised. Thus, what is examined is whether an authority is using public funds economically and efficiently. In its report, the Court of Audit may express its opinion and provide advice on how to improve financial operations; therefore, it has an auditing and advisory role (Zakon o računskem sodišču [ZRacS-1], 2001).

The position and operation of the Court of Audit are determined in the Court of Audit Act (ZRacS-1, 2001). The Act determines that the acts under which the Court of Audit exercises its auditing powers may not be challenged before the courts or other state authorities. The independence of the Court of Audit entails that no authority, institution, or other entity may order it to carry out tasks nor give it instructions on how to perform tasks, what sort of audit it should carry out, or what it should audit, except for mandatory audits. The independence of the Court of Audit is also reflected in the fact that it is an independent budget user and receives budget funding under a special part of the budget; the funds must be used in accordance with the provisions of the legislation regulating the implementation of the budget.

According to the Court of Audit Act, the deputies and working bodies of the National Assembly, the Government, ministries, and local community authorities may propose that an audit be carried out. From among these proposals, the Court of Audit selects for its annual work programme at least five proposals from the National Assembly, two of which must come from opposition deputies and at least two from the working bodies of the National Assembly. The Court of Audit can also, at its own discretion, consider proposals for audits from individuals and civil society organisations (ZRacS-1, 2001).

Each year the Court of Audit submits to the National Assembly its annual report concerning its past activities (ZRacS-1, 2001). The Court of Audit audits the financial operations of the users of public funds determined in the Court of Audits Act; it carries out regularity and performance audits.

The users of public funds are the following (ZRacS-1, 2001): any legal entity of public law or a unit thereof; any legal entity of private law if it has received financial support from the budget of the European Union, the state budget, or a local community budget; if it performs public services or provides public goods on a concessionary basis; if it is a commercial company, bank, or insurance company in which the state or a local community holds the majority share; any natural person provided that one of the following applies: he/she has received financial support from the budget of the European Union, the state budget, or a

local community budget; or he/she performs public services or provides public goods on a concessionary basis. The Court of Audit may audit any act concerning past operations as well as any act concerning planned financial operations of any user of public funds. Pursuant to the Court of Audit Act, the auditing of financial operations entails obtaining relevant and sufficient data to issue an opinion on the financial operations of the auditee; regularity audits provide relevant and sufficient data to enable the issuance of an opinion on the compliance of operations with regulations and guidelines that any user of public funds is required to observe in the conduct of financial operations; performance audits provide relevant and sufficient data to enable the issuance of an opinion on the economy, efficiency, and effectiveness of financial operations.

Every state authority, local community, and user of public funds to whose operations the opinion refers must respect an opinion on financial operations issued by the Court of Audit. One of the tasks of the Court of Audit is to provide advice to users of public funds on how to increase the efficiency of operations and to prevent and remedy errors, irregularities, and inefficiencies in financial operations. The Court of Audit also issues views and opinions on public finance, such as a change in the value added tax rate, an increase in the prices of services, and the awarding of in-house contracts (ZRacS-1, 2001).

In addition to the powers determined in the Court of Audit Act, the Act also imposes obligations on the Court of Audit that are determined in certain other statutes and regulations. Other statutes that determine the special powers of the Court of Audit are the following (Računsko sodišče Republike Slovenije, 2018a): Article 97 and the fourth paragraph of Article 100 of the Public Finance Act (Zakon o javnih financah [ZJF], 2011); Articles 29 and 30 of the Election and Referendum Campaign Act (Zakon o volilni in referendumski kampaniji [ZVRK], 2007); Articles 24a and 24b of the Political Parties Act (Zakon o političnih strankah [ZPolS-UPB1], 2005); Article 71 of the Slovenian Sovereign Holding Act (Zakon o Slovenskem državnem holding [ZSDH-1], 2014); Article 19 of the Act Regulating Measures of the Republic of Slovenia to Strengthen the Stability of Banks (Zakon o ukrepih Republike Slovenije za krepitev stabilnosti bank [ZUKSB], 2012); Article 52a of the Bank of Slovenia Act (Zakon o Banki Slovenije [ZBS-1], 2006); Article 6 of the Legal Protection in Public Procurement Procedures Act (Zakon o pravnem varstvu v postopkih javnega naročanja [ZPVPJN], 2011); Articles 45a, 185, and 190 of the Electronic Communications Act (Zakon o elektronskih komunikacijah [ZEKom-1], 2012); and Article 32 of the Management of State Forests Act (Zakon o gospodarjenju z gozdovi v lasti Republike Slovenije [ZGGLRS], 2016).

The Court of Audit is headed by its President, who is appointed for a term of nine years. The National Assembly elects him/her; the National Assembly also elects two Deputy Presidents. The President of the Court of Audit acts for and represents the Court of Audit; he/she is the State Auditor General and the Head of the Court of Audit. The Deputy Presidents of the Court of Audit carry out the functions of the State Auditor General as authorised by the President of the Court of Audit (ZRacS-1, 2001). Article 12 of the Court of Audit Act determines the powers of the President of the Court of Audit as the State Auditor General. In his/her capacity as State Auditor General, the President of the Court of Audit has

the following responsibilities: to direct and approve the exercise of the powers of the Court of Audit by determining its programme of work and signing the acts of the Court of Audit; to prescribe the rules for the phases of audit activity and to issue guidelines and instructions to that end; to order, as appropriate, official supervision of audit assignments and to issue a supervision order to that end; to convene and conduct the sessions of the panel of the Court of Audit; and to conduct any other business in accordance with the Court of Audit Act (ZRacS-1, 2001).

The powers of the Court of Audit are determined in Articles 20 to 23 of the Court of Audit Act. Article 20 determines that the Court of Audit audits the financial operations of users of public funds; namely: *it may carry out regularity and performance audits; it may audit any act concerning past operations as well as any act concerning the planned financial operations of any user of public funds.* The auditing of financial operations under the Court of Audit Act entails obtaining the relevant and sufficient data to issue an opinion on the financial operations of the auditee. Regularity audits provide relevant and sufficient data to enable an opinion to be issued on the compliance of operations with regulations and guidelines that every user of public funds is required to observe in the conduct of financial operations. Performance audits provide relevant and sufficient data to enable an opinion to be issued on the economy, efficiency, and effectiveness of financial operations (ZRacS-1, 2001). The Court of Audit Act also determines that every state authority, local community authority, and the relevant user of public funds (ZRacS-1, 2001) must respect an opinion issued by the Court of Audit on the financial operations of an auditee.

Article 21 of the Court of Audit Act defines the provision of advisory services to users of public funds. The Court of Audit provides advisory services to users of public funds as follows: it provides recommendations at the time of performing an audit and in the audit report; it may make comments on working drafts of laws and other regulations; it may participate in meetings and seminars on public finance issues; it may put forward proposals in its annual report, which is submitted to the National Assembly; it may express opinions on public finance issues (ZRacS-1, 2001).

The Court of Audit issues by itself or in cooperation with the Slovenian Institute of Auditors, auditing standards for reviewing the financial operations of users of public funds in the Republic of Slovenia; the auditing standards apply to the exercise of the auditing powers of the Court of Audit, including audit manuals and other professional literature important for the development of the audit profession. The Court of Audit is thus not only responsible for carrying out audits, but also for issuing certificates for the titles of State Auditor and Certified State Auditor as well as audit manuals and other professional literature. This indicates that the institution promotes the training and professional competence of its staff and contributes to professional publications in order to assist everyone who is the subject of an audit or is interested in the field of auditing (ZRacS-1, 2001).

Finally, the Court of Audit has the *powers of a minor offence authority*, which decides on minor offences and imposes fines. Minor offence proceedings are conducted and decided on by an official of the Court of Audit who meets the

conditions stipulated by the Act governing minor offences and the regulations adopted on the basis thereof (ZRacS-1, 2001). From the overview of the powers that the Court of Audit exercises pursuant to the Court of Audit Act, it is apparent that, in addition to the above-described powers, it also has the power to carry out supervision of minor offences. Regardless of this fact, the Court of Audit cannot issue binding measures or impose sanctions on auditees. In the event of grave violations, the Court of Audit may propose to the Government the dismissal of an individual official; it may also, the same as other authorities; file a motion for prosecution with the appropriate law enforcement authority.

In 2019, the Court of Audit received 395 proposals to carry out a specific audit; it issued 62 audit reports and 23 post audit reports. It reviewed 112 auditees and issued 85 opinions in total (28 descriptive opinions in performance audit reports, and 56 opinions on the regularity of operations and on financial statements, while in one case it declined to issue an opinion). There were 18 unqualified opinions, 25 qualified opinions, and 13 adverse opinions). The Court of Audit also issued 123 written responses providing guidelines to public fund users (Računsko sodišče Republike Slovenije, 2020a). The Court of Audit, which employs fewer than 100 persons, cannot carry out audits of all users of public funds, of which there are approximately 2,755 (Uprava Republike Slovenije za javna plačila, 2020). Taking into consideration the powers of the Court of Audit, the number of issued audit reports throughout the years, and the average number of employed auditors per year, there is a gap between what the Court of Audit could do (in accordance with the law and the expectations of the public) and what it is actually able to do (given the number of employees).

The Court of Audit must conduct audits in accordance with generally accepted auditing principles and rules and in accordance with international auditing standards published in the Slovenian language. The Court of Audit must protect all obtained information that constitutes a state, official, business, industrial, or military secret (ZRacS-1, 2001).

3 REGULATION OF THE AUDIT PROCESS CARRIED OUT BY THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA

The Court of Audit independently decides which audits it will carry out in a certain period. In determining the audits to be carried out in a certain calendar year, the Court of Audit considers proposals made by deputies and working bodies of the National Assembly, the Government, ministries, and local community authorities. It must include in its annual work programme at least five proposals from the National Assembly, at least two of which must be from opposition deputies and a further two from the working bodies of the National Assembly. An audit process commences by planning the outline of the audit. A proposal to initiate an audit may be either a pre-audit inquiry or a proposal for an audit (Računsko sodišče Republike Slovenije, 2018d).

A pre-audit inquiry is determined in Article 26 of the Court of Audit Act, which stipulates that the Court of Audit may, prior to the commencement of the audit, demand that the user of public funds provide all information it considers relevant

to the audit, including bookkeeping documents, data, and other documentation, and make other enquiries necessary for the planning or performance of the audit. A request for the submission of data must be fulfilled within eight days from the service thereof. If a user of public funds who has received a request fails to satisfy the request in due time, the responsible person of the user of public funds shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

A pre-audit enquiry is not a condition for the commencement of an audit but a procedure in which an auditor collects information required for an assessment of the risks in the financial operations of a user of public funds. Based on the information gathered, it is decided whether to include the audit in the annual work programme of the Court of Audit. If the proposal is approved, a plan for the implementation of a pre-audit is drawn up. When a report on the pre-audit has been compiled, a proposal as regards whether to commence an audit is issued (Računsko sodišče Republike Slovenije, 2018d).

The audit process begins with the preparation of a detailed plan. After it is approved, a decision is issued to carry out an audit, which is included in the annual work programme of the Court of Audit. This is followed by carrying out the audit at the auditee, a draft audit report is issued, and disputed audit findings are cleared up with the auditee in a clearance meeting. Thereafter, a proposed audit report is compiled, the auditee has the opportunity to object to the findings of the audit, and the Panel of the Court of Audit performs its work. The audit process is concluded with the issuance of an audit report (Računsko sodišče Republike Slovenije, 2018d). A post-audit process is initiated if any material irregularities or inefficiencies were disclosed at the user of public funds and it is not stated in the audit report that appropriate measures were taken during the audit to remedy those irregularities or inefficiencies.

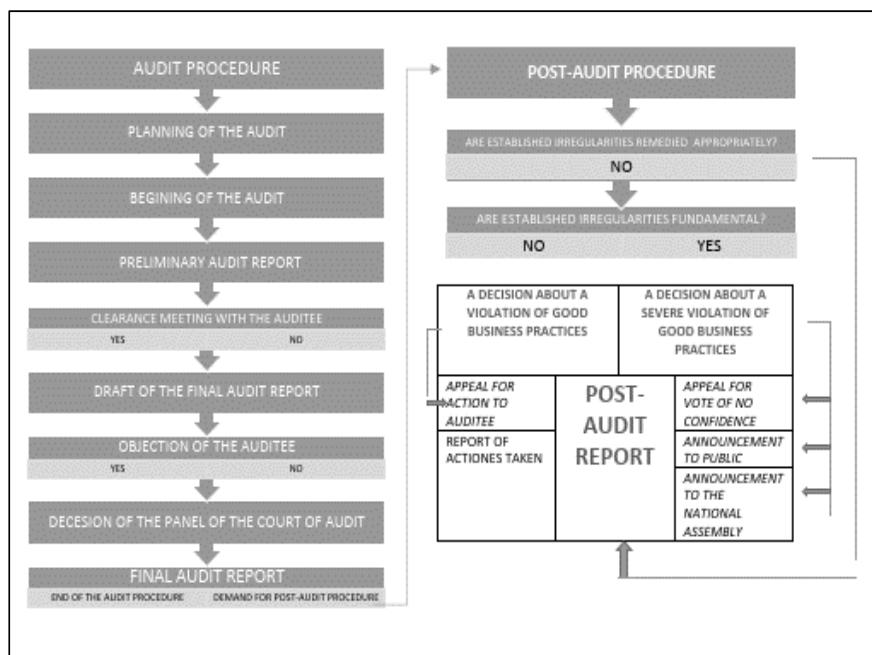
The auditee must submit a response report to the Court of Audit, where the corrective actions undertaken must be presented. Should the auditee fail to submit a response report to the Court of Audit in due time, the responsible person of the user of public funds shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

The Court of Audit reviews the credibility of the response report. If the Court of Audit assesses that the remedial actions were not satisfactory and that the user of public funds violated the obligation to ensure operational efficiency, the Court of Audit may issue a call for remedial action and serve such on the competent authority, which can take measures against the auditee. The competent authority must decide on the necessary measures and report its decision to the Court of Audit within 30 days. If an authority on which a call for action has been served fails to submit to the Court of Audit a report on the actions taken or an explanation of the omission of an action in due time, the responsible person of the authority shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

If a user of public funds commits a severe violation of the obligation to ensure operational efficiency, the Court of Audit notifies the National Assembly. The relevant committee of the National Assembly reviews any severe violations in the presence of the auditee and adopts a decree on measures to be taken in such cases (ZRacS-1, 2001).

In cases of severe violations of the obligation to ensure operational efficiency, or if an auditee prevents or hinders the implementation of the audit, the Court of Audit may issue to the competent authority a call for the dismissal of the responsible person and inform the media thereof (Računsko sodišče Republike Slovenije, 2018d). If during an audit, process there is a suspicion that an offence has been committed; the Court of Audit proposes the initiation of minor offence proceedings or files a motion for prosecution with the relevant law enforcement authority (ZRacS-1, 2001).

Figure 1:
Audit Process of the Court of Audit (Računsko sodišče Republike Slovenije, 2018d)



In the opinion of the Ministry of Finance and the Court of Audit, the Court of Audit Act currently in force no longer provides a sufficient legal basis for the effective performance of the Court of Audit's tasks; therefore, both institutions jointly prepared a draft of a new act whose main objective is to accelerate and increase the effectiveness of regularity and performance audits of public funds. On 9 January 2020, the Government approved the draft of the new Court of Audit Act (Slovenska tiskovna agencija [STA], 2020).

4 CASE STUDIES: SUPERVISION OF THE FINANCIAL OPERATIONS OF THE POLICE BY THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA

From 1996 until the present, the Court of Audit carried out the audits listed below, which deal with the operations of the Ministry of the Interior as a whole; however, in certain parts they refer to the Police or individual organisational units within

the Police as an authority within the Ministry of the Interior. These are (Računsko sodišče Republike Slovenije, 2018c):

- 1) 1996 – a selective audit of inventory consumption for 1995 at the Slovenj Gradec Internal Affairs Administration, with an emphasis on the documentation trail;
 - 2) 1996 – an audit at the Ministry of the Interior.
 - 3) 1996 – an audit at the Ministry of the Interior, Koper Internal Affairs Administration
 - 4) 1997 – an audit of the investment maintenance of buildings in 1996 – budget heading 5311, at the Ministry of the Interior.
 - 5) 1998 – an audit of the financial operations of the Postojna Internal Affairs Administration in 1996 at the Ministry of the Interior.
 - 6) 1998 – an audit at the Ministry of the Interior to the extent of the selective audit of the enforcement of fines imposed by authorised officers at the Ministry of the Interior.
 - 7) 1999 – an audit of the purchases and maintenance of vehicles in 1997 and 1998 at the Ministry of the Interior.
 - 8) 2000 – a regularity audit of the Ministry of the Interior in 1999.
 - 9) 2001 – a regularity audit of the implementation of the financial plan of the Ministry of the Interior in 2000.
 - 10) 2003 – a regularity and performance audit of the investments of the Ministry of the Interior, Ptuj and Vrhnika Police Stations.
 - 11) 2003 – a regularity audit of the use of the service vehicles of the Ministry of the Interior in 2002.
 - 12) 2006 – a regularity audit of the Celje Police Administration in 2003 and 2004.
 - 13) 2007 – a regularity and performance audit of confidential procurement at the Ministry of Defence and the Ministry of the Interior in 2005 and in the first half of 2006.
 - 14) 2008 – an audit of the management of apartments owned by the Republic of Slovenia in 2006 and in the first half of 2007.
 - 15) 2011 – a regularity and performance audit of the acquisition of business premises for the needs of the Ministry of the Interior.
 - 16) 2014 – a performance assessment of the implementation of the goals- and results-oriented budget process of the ministries in planning, monitoring, and reporting on the performance of tasks and on achieving set goals at selected sub-programmes within the framework of the state budget.
 - 17) 2014 – the transboundary movement of waste; and
 - 18) 2017 – a regularity audit of real estate management in the period from 1 January 2014 until 30 September 2015. On the website of the Court of Audit, three reports can be found that refer to audits of the Police carried out by the Court of Audit.
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4.1 Case 1: Report on the regularity and performance audit of construction investments of the Ministry of the Interior, Ptuj and Vrhnika Police Stations (2003)

The first case is chronologically the oldest. The objective of the audit was to provide an opinion on the regularity and performance of construction investments at the Vrhnika and Ptuj Police Stations. An inspection of the business premises and basic design documentation was carried out and the Court of Audit established that both buildings were adapted to the needs of the Police in terms of their functionality. In the case of the Vrhnika Police Station, the norms were complied with in accordance with the objective possibilities of the reconstruction of the existing building. In the case of the construction of the Ptuj Police Station, essential non-compliance with the norms was not established. The Court of Audit did not establish irregularities in the audit of the eligible use of funds. The audit did not reveal any important irregularities. In addition, public procurement procedures were carried out without irregularities (Računsko sodišče Republike Slovenije, 2003). The opinion was positive. As the recommendations of the Court of Audit were fully observed during the audit, a response report was not necessary.

4.2 Case 2: Report on the regularity and performance audit of the Ministry of the Interior, i.e., the Police, in the part that referred to the operations of the Celje Police Administration (2006)

In the second case, in the report on the regularity audit of the operations of the Ministry of the Interior, i.e., the Police, in the part that referred to the operations of the Celje Police Administration in 2003 and 2004, the Court of Audit issued a qualified opinion. As the irregularities and inefficiencies identified were not remedied during the audit, the Court of Audit required the auditee to submit a response report. The irregularities were as follows: the Celje Police Administration did not select suppliers of goods and providers of services in compliance with the public procurement regulations in force, as it used funds for goods that were not included in a contract concluded on the basis of the public procurement procedure; it did not check the price and quality of the subject of a tender by acquiring, as a general rule, three offers; subsequently it acquired offers, but a contract had already been awarded; it awarded a contract to a supplier on the basis of an issued purchase order whereby it cumulatively exceeded the sum under which goods and services may be ordered by a purchase order; in collecting offers it stated a desired brand and thereby restricted competition between suppliers; in an invitation for the submission of tenders it did not provide a correct technical description, i.e., a list of services and goods, and thereby insufficiently defined the subject of public procurement; it increased the value of the main procurement which was not a result of additional works due to unforeseeable circumstances; and it concluded annexes to a contract following a negotiating procedure without prior publication of the contract notice (Računsko sodišče Republike Slovenije, 2006a, 2006b).

The Celje Police Administration adopted and implemented measures for setting up internal controls and thereby it fully complied with a requirement to improve the control environment, which the Court of Audit assessed as a satisfactory corrective measure. The Ministry of the Interior, i.e. the Police, set up corrective measures in order to remedy irregularities in the field of public procurement, assuming obligations (i.e. concluding a contract for an indefinite duration), ensuring the right of workers to rest, and planned budget use (i.e. the reimbursement of the costs of training). The Court of Audit assessed that the corrective measures taken by the Ministry of the Interior and the Police, as an authority within the Ministry, to remedy irregularities in the operations of the Ministry of the Interior and the Police in the part which referred to the operations of the Celje Police Administration in 2003 and 2004 were satisfactory (Računsko sodišče Republike Slovenije, 2006a, 2006b).

4.3 Case 3: The efficiency of the operations of state authorities, including the police, in the implementation of procedures for the transboundary shipment of waste (2014)

The Court of Audit audited the efficiency of the operations of the competent ministries and the Police in the transboundary shipment of waste. The audit objective was to issue an opinion on the efficiency of the operations of the Ministry, the Customs Administration, and the Police in the implementation of procedures for the transboundary shipment of waste in the period from 2009 until 2011. The Court of Audit also assessed the efficiency of the operations of the Police, in that it sought to answer the question of whether the Police had ensured efficient control over the shipment of waste across the borders of the Republic of Slovenia (Računsko sodišče Republike Slovenije, 2014).

In most states, the transboundary movement of waste is a result of insufficient capacity for the recovery and disposal of waste, as well as a search for economically more advantageous options for the recovery or disposal of waste, particularly in less developed states. As these more favourable options are often found to be environmentally inadequate or harmful, Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste was adopted for the Member States of the European Union on 14 June 2006 (Uredba (ES) št. 1013/2006 Evropskega parlamenta in sveta z dne 14. junija 2006 o pošiljkah odpadkov, 2006), which determines detailed conditions and procedures that must be complied with and implemented by consignors and consignees regarding the import, export, or transit of waste. For the implementation of the principles of and procedures for the transboundary shipment of waste to be efficient, the Member States are obliged to provide several data and facilitate the exchange of data between the institutions responsible for the implementation of individual procedures. It can be seen from the data of the Statistical Office of the Republic of Slovenia that 12% more waste was processed and disposed of in 2011 than the amount of waste produced that year in the territory of the Republic of Slovenia, while the Ministry did not provide an explanation for that. The data on the transboundary streams

of waste can be established from the records of the Customs Administration, the Slovenian Environment Agency, and the Statistical Office.

The institutions responsible for monitoring the transboundary shipment of waste, including the Police, did not perform monitoring thereof based on the conducted common risk analysis. The competent inspection services, the Customs Administration, and the Police planned their monitoring of the transboundary shipment of waste within the scope of their powers, based on a partial risk analysis, notably based on the findings of the previous inspections and the analyses of the waste shipment notifiers. In order to eliminate the established inefficiencies, the Court of Audit of the Republic of Slovenia demanded that the Ministry implement corrective measures pertaining to the establishment of the regular monitoring of data on the transboundary shipment of waste, the adoption of operational waste management programmes, the preparation of proposals for the supplementation and amendment of regulations to determine all the conditions for the issuance of consents, as well as proportionate, dissuasive, and efficient penalties for violations of the regulations on the transboundary shipment of waste, the adoption of proposals regarding the criteria for imposing penalties due to violations of the Environmental Protection Act and regulations adopted on the basis thereof, a review of all procedures for the transboundary shipment of waste, together with a definition of the time and human resources needed for the implementation of all the prescribed procedures and the efficient transboundary shipment of waste.

The Court of Audit provided *recommendations* to the above-mentioned state institutions and the Police to improve the efficiency of their monitoring of data on transboundary streams of waste, the procedures performed, and the monitoring exercised regarding the transboundary shipment of waste as well as to enable the real-time exchange of data between the competent institutions (Računsko sodišče Republike Slovenije, 2014).

5 SOME STANDPOINTS OF THE COURT OF AUDIT REGARDING AUDITS OF THE FINANCIAL OPERATIONS OF THE POLICE AND REGARDING COOPERATION OF THE COURT OF AUDIT WITH THE POLICE IN CRIMINAL INVESTIGATIONS

Based on the quality analysis presented in this paper, we addressed some questions to the Court of Audit of the Republic of Slovenia (i.e., in the form of a directed interview). The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. In letter No. 032-1/2020/28, dated 4 September 2020, the Court of Audit answered the questions (Računsko sodišče Republike Slovenije, 2020b). The standpoints of the Court of Audit, which in fact support the findings presented in this paper, are summarised below.

The Court of Audit stated that the current normative framework is sufficient to conduct effective regularity and performance audits of Police operations. The Court of Audit assessed that its key power lies in its statutory power to access all documentation of the auditee. This also applies to documentation that is protected

under other statutes (e.g., personal data, classified information under the Classified Information Act) (Zakon o tajnih podatkih [ZTP-UPB2], 2006). The Court of Audit believes that certain amendments to the Court of Audit Act are necessary and therefore it has proposed specific amendments to the Act currently in force, which mostly relate to exercise of its auditing powers in general. Amendments concerning the Court's competence to conduct audits of the business operations of the Police are not envisaged. Within the framework of regulatory audits, the Court of Audit may express an opinion on the compliance of the auditee's operations with the regulations and guidelines that every user of public funds is required to observe in conducting its business operations. Regulatory audits also encompass reviewing the compliance of operations with the required standards as to the observation of fundamental rights. The decision on which segments of the business operations of the user of public funds the Court of Audit reviews is based on a prior risk analysis. The risk analysis provides data regarding which business operations or parts thereof entail a greater risk or an inappropriately managed risk of irregularities or inefficiencies, so that the Court of Audit can focus the audit on more risk-prone operations (Računsko sodišče Republike Slovenije, 2020b).

The business operations of the Police, as an authority within the Ministry of the Interior, are subject to an annual compulsory audit of the regularity of the implementation of the state budget. Within the framework of such audit, as a rule, a review of the regularity of all prior procedures that lead to individual expenditures from the state budget is carried out. The review typically focuses on the regularity of payroll accounting and the administration of the payment of salaries, public procurement, planning and carrying out investments, etc. As already established in the paper, the Court of Audit also stated that hitherto audits were not directed at the performance of Police operations or the exercise of police powers but were mostly focused on the financial operations of the Police. The primary reasons that in-depth audits of the Police by the Court of Audit are fairly rare lies in the limited human and financial resources of the Court of Audit, the large number of users of public funds that the Court of Audit must supervise, frequent legislative changes, and the obligation of the Court of Audit – despite in principle being independent – to carry out compulsory audits (e.g., audits of the operations of political parties, of election and referendum campaigns, etc. (Računsko sodišče Republike Slovenije, 2020b).

With reference to the cooperation of the Court of Audit with the Police in criminal investigations, the Court of Audit stated that the legislation in force does not contain any provisions limiting cooperation between the two authorities, i.e. the Court of Audit notifying the Police of audit findings. Throughout the procedure – while carrying out audits – the Court of Audit is attentive to whether a specific established irregularity (or, rarely, inefficiency) also constitutes the objective elements of a criminal offence. If the authorised representative of the Court of Audit performing the audit believes that there exists a suspicion that a criminal offence has been committed, he or she notifies the Police thereof.

Established irregularities that are also determined to constitute minor offences in the areas in which the Police are a minor offence authority are very rare; the

Court of Audit more often notifies other minor offence authorities (mostly various inspection services) of established violations of legislation (Računsko sodišče Republike Slovenije, 2020b).

In the opinion of the Court of Audit, cooperation between the Court of Audit and the Police has been exemplarily and no criticism has been noted in this regard. Such cooperation is carried out in the form of notifications as to findings, meetings of contact persons, participation in training courses organised by the respective authorities, etc. (Računsko sodišče Republike Slovenije, 2020b).

Similarly, as for other state authorities, the declaration of the pandemic has had a great impact also on the operations of the Court of Audit. The Court of Audit reorganised its operations in a manner to enable its employees to work from home to the greatest extent possible and reduced the number of face-to-face meetings and other gatherings of a larger number of persons in order to lower the risk of the spread of Covid-19. Due to similar changes in the operations of the auditees, the Court of Audit has been facing delays in preparing and obtaining the required documentation. The Court of Audit expects that its operations will continue to be slower, which will also be reflected in a delay in completing pending audits. This could particularly affect audits that are not compulsory. Regardless of the aforementioned, the Court of Audit believes that the current cooperation with the Police is satisfactory and it does not expect that the Covid-19 crisis will significantly affect such (Računsko sodišče Republike Slovenije, 2020b).

6 DISCUSSION AND CONCLUSIONS

The Court of Audit has a formal legal basis to supervise the financial operations of the Police; however, regularity and performance audits of the operations of the Police or the organisational units thereof have been the subject of an audit in total only three times. The Police as a whole have never been the subject of an audit. Furthermore, an overview of the case law indicates that neither the Supreme Court of the Republic of Slovenia nor the Constitutional Court of the Republic of Slovenia has ever reviewed the supervision of the financial operations of the Police performed by the Court of Audit.

Attention must also be drawn to *The Agreement on Periodic Notifications on Audit Findings* (Ministrstvo za notranje zadeve, Policija, 2013). The Court of Audit and the Police signed the Agreement in 2013; the Agreement was a result of criticism of the Court of Audit for not notifying the Police of audit findings often enough. The Agreement contains the commitment of the Court of Audit to hand over to the Police certain parts of audit reports and relevant documentation. This cooperation is intended to contribute to the greater efficiency of both authorities, as all types of abuses carried out against the financial interests of Slovenia and the European Union would thereby be uncovered and investigated more easily and faster. Such entails uncovering and investigating the unlawful use of state budget funds and local community funds as well as European funds (Ministrstvo za notranje zadeve, Policija, 2013).

The objective of The Agreement on Periodic Notifications on Audit Findings is to strengthen the cooperation between the Court of Audit and the Police, which

would contribute to even stronger cooperation and consequently to the greater efficiency of both authorities in carrying out their tasks.

The stated mission of the Court of Audit is as follows: "The Court of Audit informs the public of important audit findings concerning the operations of state authorities and other users of public funds in a timely and objective manner. It provides recommendations to state authorities and other users of public funds for the improvement of their operations." While it is true that the main objective of the operations of the Court of Audit is to carry out performance audits of authorities and bodies that use public funds, the Court of Audit does not, however, have a great influence on the future operations of the auditees and their criminal accountability for grave violations of the law.

REFERENCES

- Ministrstvo za notranje zadeve, Policija. (2013). *Policija in Računsko sodišče podpisala sporazum o sodelovanju* [The Police and the Court of Audit signed a co-operation agreement]. <https://www.policija.si/index.php/component/content/article/35-sporocila-za-javnost/70959-policija-in-raunsko-sodie-podpisala-sporazum-o-sodelovanju>
- Računsko sodišče Republike Slovenije. (2003). *Revizijsko poročilo o pravilnosti in smotrnosti izvajanja investicij Ministrstva za notranje zadeve, policijski postaji Ptuj in Vrhnika* [Report on the regularity and performance audit of construction investments of the Ministry of the Interior, Ptuj and Vrhnika Police Stations. Ljubljana]. <http://www.rs-rs.si/revizije-in-revidiranje/archiv-revizij/revizija/revizija-pravilnosti-in-smotrnosti-izvajanja-investicij-ministrstva-za-notranje-zadeve-policijski-p/>
- Računsko sodišče Republike Slovenije. (2006a). *Porevizijsko poročilo o popravljalnih ukrepih Ministrstva za notranje zadeve, Policije, v delu, ki se nanaša na poslovanje Policijske uprave Celje* [Report on the regularity and performance audit of the Ministry of the Interior, i.e. the Police, in the part that referred to the operations of the Celje Police Administration]. http://www.rs-rs.si/fileadmin/user_upload/revizija/512/PUCelje_porev.pdf
- Računsko sodišče Republike Slovenije. (2006b). *Revizijsko poročilo o pravilnosti poslovanja Ministrstva za notranje zadeve, Policije v delu, ki se nanaša na poslovanje Policijske uprave Celje v letih 2003 in 2004* [Report on the regularity and performance audit of the Ministry of the Interior, i.e. the Police, in the part that refers to the financial operations of the Celje Police Administration in 2003 and 2004]. http://www.rs-rs.si/fileadmin/user_upload/revizija/513/PUCelje_PP03-04.pdf
- Računsko sodišče Republike Slovenije. (2014). *Popravljalni ukrepi pri čezmejnem prometu z odpadki* [Corrective measures in cross-border waste traffic]. <http://www.rs-rs.si/revizije-in-revidiranje/archiv-revizij/revizija/posiljke-odpadkov-prek-meja-republike-slovenije-117/>
- Računsko sodišče Republike Slovenije. (2018a). *Drugi zakoni* [Other laws]. <http://www.rs-rs.si/o-racunskem-sodiscu/pravna-podlaga/drugi-zakoni/>

- Računsko sodišče Republike Slovenije. (2018b). *O nas* [About us]. <http://www.rs-rs.si/o-racunskem-sodiscu/o-racunskem-sodiscu/o-nas/>
- Računsko sodišče Republike Slovenije. (2018c). *Revizije in revidiranje* [Audits and auditing]. <http://www.rs-rs.si/revizije-in-revidiranje/arhiv-revizij/>
- Računsko sodišče Republike Slovenije. (2018d). *Revizijski process* [Audit process]. <http://www.rs-rs.si/revizije-in-revidiranje/revizijski-proces/>
- Računsko sodišče Republike Slovenije. (2020a). *Letno poročilo 2019* [Annual report 2019]. http://www.rs-rs.si/fileadmin/user_upload/Datoteke/Letna_porocila/Porocilo_o_delu_2019-Racunsko_sodisce_RS.pdf
- Računsko sodišče Republike Slovenije. (2020b). *Pismo Računskemu sodišču št. 032-1/2020/28* [Letter to the Court of Audit No. 032-1/2020/28].
- Slovenska tiskovna agencija (STA). (9. 1. 2020). *Vlada sprejela predlog novega Zakona o računskem sodišču* [The Government approved the draft of the new Court of audit Act]. <https://www.sta.si/2715404/vlada-sprejela-predlog-novega-zakona-o-racunskem-sodiscu>
- Uprava Republike Slovenije za javna plačila. (2020). *Seznam registriranih proračunskih uporabnikov (RPU)* [List of registered users (LRU)]. <https://www.ujp.gov.si/dokumenti/dokument.asp?id=127>
- Uredba (ES) št. 1013/2006 Evropskega parlamenta in sveta z dne 14. 6. 2006 o pošiljkah odpadkov [Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste]. (2006). *Official Journal of the European Union*, (190/1).
- Ustava Republike Slovenije [Constitution of the Republic of Slovenia] (URS). (1991, 1997, 2000, 2003, 2004, 2006, 2013, 2016). *Uradni list RS*, (33/91-I, 42/97, 66/00, 24/03, 69/04, 68/06, 47/13, 75/16).
- Zakon o Banki Slovenije [Bank of Slovenia act] (ZBS-1-UPB1). (2006, 2011, 2017). *Uradni list RS*, (72/06, 59/11, 55/17).
- Zakon o elektronskih komunikacijah [Electronic communications act] (ZEKom-1). (2012, 2013, 2014, 2015, 2017). *Uradni list RS*, (109/12, 110/13, 40/14, 54/14, 81/15, 40/17).
- Zakon o gospodarjenju z gozdovi v lasti Republike Slovenije [Management of state forests act] (ZGGLRS). (2016, 2021). *Uradni list RS*, (9/16, 36/21).
- Zakon o javnih financah [Public finance act] (ZJF). (2011, 2013, 2015, 2018, 2020). *Uradni list RS*, (11/11, 14/13, 101/13, 55/15, 96/15, 13/18, 195/20).
- Zakon o političnih strankah [Political parties act] (ZPolS-UPB1). (2005, 2007, 2013, 2014). *Uradni list RS*, (100/05, 103/07, 99/13, 46/14).
- Zakon o pravnem varstvu v postopkih javnega naročanja [Legal protection in public procurement procedures act] (ZPVPJN). (2011, 2013, 2014, 2017, 2019). *Uradni list RS*, (43/11, 60/11, 63/13, 90/14, 60/17, 72/19).
- Zakon o Računskem sodišču [Court of Audit act] (ZRacS-1). (2001, 2012). *Uradni list RS*, (11/01, 109/12).
- Zakon o Slovenskem državnem holdingu [Slovenian sovereign holding act] (ZSDH-1). (2014). *Uradni list RS*, (25/14).
- Zakon o tajnih podatkih [Classified information act] (ZTP-UPB2). (2006, 2010, 2011, 2020). *Uradni list RS*, (50/06, 9/10, 60/11, 8/20).

Zakon o ukrepih Republike Slovenije za krepitev stabilnosti bank [Act regulating measures of the Republic of Slovenia to strengthen the stability of banks] (ZUKSB). (2012, 2013, 2014, 2015, 2017, 2020). *Uradni list RS*, (105/12, 63/13, 23/14, 104/15, 26/17, 27/17, 174/20).

Zakon o volilni in referendumski kampanji [Election and referendum campaign act] (ZVRK). (2007, 2011, 2013). *Uradni list RS*, (41/07, 103/07, 11/11, 28/11, 98/13).

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