

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Working Party No. 2 on Competition and Regulation**

**ROUNDTABLE ON COMPETITION AND REGULATION IN AUDITING AND RELATED  
PROFESSIONS**

**-- Hungary --**

**8 June 2009**

*The attached document is submitted to Working Party No. 2 of the Competition Committee FOR DISCUSSION under item III of the agenda at its forthcoming meeting on 8 June 2009.*

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1. In Hungary, the following major categories of accountancy services may be distinguished for the purposes of this questionnaire: first, services which are carried out by registered accountants; second, those which are delivered by chartered certified auditors (hereinafter: auditors)<sup>1</sup>; third, tax advising, which is closely linked to the prior services. As, from the perspective of competition policy, only the chartered certified auditors seem to pose concerns, the present contribution will mainly deal with this category.

2. The Act on Accounting<sup>2</sup> and the Act on Auditors<sup>3</sup> contain the majority of rules applicable to auditing services. The latter aims to be in accordance with the relevant EC Directive.<sup>4</sup>

3. As far as the rules applicable to auditors are concerned, the following sets of norms may be identified: first, laws enacted by the State and, second, self-governing rules constituted by the Chamber.

## 1. Concentration in the market

### 1.1 *Which are the major accountancy firms in your country? Are these firms affiliated with the "Big Four" accountancy firms (PricewaterhouseCoopers, Deloitte Touche Tohmatsu, Ernst & Young, and KPMG)?*

*Do you have information about the market shares in your country of each of these companies as regards the provision of statutory audits for publicly traded companies and private companies? Is there any information as to the market shares of accountancy firms in your country regarding other accountancy services such as financial advice, internal audits or tax advice?*

*Have there been any recent mergers between accountancy firms in your country? Has there been any involvement in these mergers by a National Competition Authority or public regulator? If so, please describe.*

*If increased entry would be desired, how could new major accountancy firms develop? Are there any regulatory hurdles to the creation of new firms?*

4. All of the "Big Four" accountancy firms (PWC, Deloitte, Ernst & Young and KPMG) are active in Hungary. In most of the cases the Hungarian affiliation of a multinational firm takes the services of the

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<sup>1</sup> It should also be mentioned that the Act LXXV of 2007 on Auditors defines "professional services other than statutory audits required by law". These services may be provided by auditors, however, they do not enjoy exclusivity in these fields: (i) advisory services and assessment of the operation of economic entities; (ii) expert activities in the fields of finance, taxation and accounting, relevant data processing and organizational matters related to the foundation, transformation, termination without succession, regular operation, management and information systems of economic entities, preparation of expert opinions, including consultation and the activities of auditors in judicial proceedings- under the conditions set out in specific other legislation -; (iii) professional training, advanced training, conducting examinations in accountancy, controlling, finances and auditing; (iv) bookkeeping services (see Section 3 Subsection 2 of Act C on Accounting).

<sup>2</sup> See Act C of 2000 on Accounting.

<sup>3</sup> See Act LXXV of 2007 on Auditors.

<sup>4</sup> See Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts. In several matters a certain margin of appreciation is provided for the Member States as how to implement the Directive.

respective Hungarian branch of one of the “Big Four” which the parent company has chosen to audit its books.<sup>5</sup>

5. In 2007 the “Big Four’s combined annual revenue was ca. 46% of the total revenue of accountancy in Hungary. The same indicator was ca. 9% for the “top 5-25” auditing firms and ca. 45% in the case of the small ones. For the companies in all these categories less than half (ca. 45%) of the revenue comes from auditing and a little bit more than half (ca. 55%) stems from services other than auditing (e.g. financial advice, controlling).

6. Due to the financial crisis, it has been reported that a significant number of companies is likely to switch from the “Big Four” to other auditing firms in order to save costs. Now, the auditing of the books of 2008 is still ongoing, therefore this change is expected to happen when the agreements about auditing the books of 2009 will be negotiated. However, companies listed on the stock exchange are not likely to switch from the “Big Four”. As for the smaller auditing companies, they are also expected to envisage difficulties, because, during the economic crisis, many of their clients are being / have been driven out of the market.

7. There have not been any mergers on the Hungarian market recently which were notified to the Hungarian Competition Authority (hereinafter: GVH).

8. As for *establishing* an accountancy firm, general rules relating to the foundation of all businesses apply.<sup>6</sup> The same principle is applicable for individuals who would like to provide services as private entrepreneurs.<sup>7</sup> However, particular rules concerning qualifications, registration etc. must be respected in order to be eligible to *provide* accountancy services (see below).

## 2. Regulation of entry

### 2.1 *Quality standards and entry*

2.1.1 *Is a university degree required to practice as an auditor/accountant in your country? Does the requirement of an accountancy degree depend on the type of services provided (for example, providing statutory audits, financial advice, or tax advice)?*

*Is additional training required to practice as an accountant? If yes, for which profession (for example, Certified Public Accountant, Chartered Accountant, Auditor, Tax Advisor)? Who decides the content and form of this additional training: the State or the regulated profession? How long does the additional training last? Is there a concluding examination? Does the government play a role in overseeing the establishment of entry standards or the number of training places available? Is the examination selective? Can the examination be repeated?*

*Are there requirements relating to on-going education for any of the accountancy professions in your country? If yes, who sets the quality standards to be reached and how is it assessed whether professionals satisfy the quality requirements?*

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<sup>5</sup> It should also be noted that, according to the Act on Accounting, if an auditor or an audit firm has not been commissioned to review the company’s consolidated annual report, then auditing the consolidated annual report is to be carried out by the auditor or the audit firm of the parent company. This provision is especially relevant for Hungary as there are many multinational firms which have daughter companies here.

<sup>6</sup> See Act IV of 2006 on Business Associations.

<sup>7</sup> See Act V of 1990 on Private Entrepreneurs.

*Is registration, a license or membership of a professional body required to practice as an accountant (for example, as a Certified Public Accountant, Chartered Accountant, Auditor or Tax Advisor)? Which professional self-regulatory bodies exist in your country?*

*Are there quantitative limits (for example, relating to demographic or territorial criteria) regarding the entry into the accountancy profession(s) in your country? If yes, for which professions and/or accountancy services?*

*For countries outside the EU (for which specific European legislation applies), please also discuss whether there are any barriers for establishment by foreign accountants. Are foreign accountants allowed to provide services? Is establishment or provision of services subject to specific conditions?*

*If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes.*

9. There are no quantitative limits, either geographic or any other, for the entry of auditors / registered accountants / tax advisers onto the markets. However, as it will be explained below, registration is necessary for providing these services.<sup>8</sup>

#### 2.1.2 Registered accountant

10. The bacheloret (secondary school leaving certificate) is required in order to be eligible to start a training program which may be finished by taking an examination. Passing the examination as well as minimum three years of experience in the field of accountancy, finances or controlling is necessary for being eligible to practice as a registered accountant. It must however be added that only those who are enrolled in the Ministry of Finance's registry may provide services as registered accountants.<sup>9</sup>

#### 2.1.3 Chartered certified auditor

11. The qualification as a chartered certified statutory auditor is a state-certified degree of higher education provided outside the school system.<sup>10</sup> Any institution of adult education may hold such training programs provided that it is accredited by the Chamber.<sup>11</sup> In order to be admitted to a chartered certified auditors' training program, the candidate must (i) have a certificate of higher education; (ii) have the necessary qualification as a chartered accountant; (iii) have at least one year of professional experience. The training program's duration is four years, which must be followed by a three-year practical training as an auditor-candidate on the side of a practicing auditor who is member of the Chamber. Subsequently, an aptitude test must be passed in order to be eligible to demand the registration of membership in the Chamber.<sup>12</sup> If the entry requirements are met by the candidate, the Chamber must register him/her. Membership is of relevance as only the Chamber's members may provide auditing services.<sup>13</sup>

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<sup>8</sup> For registered accountants and tax advisers: in the Ministry of Finance's registry; for auditors: in the Chamber's registry.

<sup>9</sup> See Section 151 Subsection 5 of Act C of 2000 on Accounting. It should be noted that, if the entry requirements are met by the candidate, the Ministry of Finance must register him/her.

<sup>10</sup> See Section 79 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>11</sup> See Section 81 of Act LXXV of 2007 on Auditors.

<sup>12</sup> See Section 104 of Act LXXV of 2007 on Auditors.

<sup>13</sup> See Section 10 Subsection 1 and Section 34 Subsection 1 of Act LXXV of 2007 on Auditors.

12. Within the category of chartered certified auditors a further division may be identified: the statutory audits of certain economic entities may only be carried out by *qualified* registered statutory auditors or audit firms.<sup>14</sup> This *professional qualification* may be obtained from the Chamber by fulfilling certain requirements defined in the Act on Auditors (e.g. individuals must make proof of professional experience; audit firms must have at least one registered statutory auditor with the appropriate qualification, who carries out statutory audits in the name and on behalf of the audit firm; also, these audit firms must provide guarantees that the registered statutory auditor – who carries out statutory audits of a business entity (in the name and on behalf of the audit firm) and for whom the professional qualification in question is mandatory – has the appropriate professional qualification).<sup>15</sup>

13. It should also be mentioned that the Act on Accounting provides a strong protection for statutory auditors by stipulating that they may only be dismissed where there are proper grounds. Divergence of opinions on accounting treatments or audit procedures may not be considered to be proper grounds for dismissal.<sup>16</sup>

#### 2.1.4 *Tax adviser / certified tax expert*

14. In order to be admitted to the tax advisors' training program, the candidate must possess a certificate of higher education as well as one year of professional experience in, for example, the field of finance. As far as the enrollment to the certified tax experts' training program is concerned, the candidate must have a tax advisory certificate as well as five years of practical training. Those who intend to practice as a tax adviser / certified tax expert must be enrolled in the registry of the Ministry of Finance.<sup>17</sup>

## 2.2 ***Exclusive rights***

2.2.1 *Do regulated accountancy professions enjoy exclusive rights? Please specify which rights and indicate the regulated accountancy profession which performs these reserved tasks. The following division may be helpful in answering this question:*

- a. *providing statutory audits to publicly traded companies;*
- b. *providing statutory audits to private companies;*
- c. *other accountancy services, such as internal audit, insolvency, corporate finance work, due diligence, etc.;*
- d. *tax advice.*

*Have exclusive rights associated with the accountancy professions ever been reviewed?*

*If your country is considering changes in the near future, which affect the answers to the above questions, please give a brief overview of the envisaged changes and reasons for them.*

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<sup>14</sup> See Section 49 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>15</sup> See Section 50 of Act LXXV of 2007 on Auditors.

<sup>16</sup> See Section 155/A of Act C on Auditing.

<sup>17</sup> It should be noted that, if the entry requirements are met by the candidate, the Ministry of Finance must register him/her.

15. As it has been mentioned above, only those individuals who are admitted to the Chamber may engage in carrying out statutory audits required by law in Hungary.<sup>18</sup> Similarly, only those business entities may provide statutory audits in Hungary, which are authorized to do so by the Chamber.<sup>19</sup> (Statutory audit required by law includes the following: (i) for business entities, review of the annual accounts specified in the Accounting Act, certification of its compliance with the regulations, its reliability and authenticity in the interest of providing a true and fair view of the business entity's assets and liabilities, financial position and profit or loss; (ii) carrying out the statutory evaluation, review, assessment and certification required upon the business entity's foundation, transformation and termination without succession; (iii) all other duties conferred upon auditors by law.)<sup>20</sup>

16. A further field of exclusivity is provided by the Act on Auditors, which stipulates that only *qualified* registered statutory auditors<sup>21</sup> may conduct the statutory audits of certain economic entities<sup>22</sup> (e.g. financial institutions, insurance companies).

17. Those who are participating in the quality assurance of the statutory audit of a business entity that may only be audited by a qualified registered statutory auditor or audit firm, must also be qualified as registered statutory auditors. In such cases, the quality controller in question may only participate in the quality control procedures three years after the requisite qualification was obtained.<sup>23</sup>

18. As far as registered accountants and tax advisers / certified tax experts are concerned, as mentioned above, only those who have the necessary qualifications and who are enrolled in the Ministry of Finance's registry may provide such services.

### **3. Regulation of conduct**

#### **3.1 Advertising restrictions**

##### **3.1.1 *Is advertising allowed subject to the same constraints as in any other business (prohibition of misleading advertising contained in fair trade laws)?***

*Does the state restrict advertising with respect to accountancy services? If yes, specify the restrictions and the services to which they apply.*

*Do the regulatory bodies restrict advertising? If yes, specify the restrictions and the services to which they apply.*

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<sup>18</sup> See Section 10 Subsection 1 of Act LXXV of 2007 on Auditors. See also the Act on Accounting, which stipulates that, when an audit is compulsory, the company must commission a registered auditor or audit firm to review the undertaking's annual report or simplified annual report on the financial year from the point of view of legitimacy and authenticity. These tasks may only be carried out by an auditor (audit firm) who is registered by the Chamber (see Section 155 Subsections 6-7 of Act C on Accounting).

<sup>19</sup> See Section 34 Subsection 1 of Act LXXV of 2007 on Auditors. The requirement of authorisation is of course closely linked to the Chamber's admittance of individuals as a business entity may only receive authorisation from the Chamber if it has a registered statutory auditor or auditors in its employ to carry out audits required in its name and on its behalf (see Section 35 of Act LXXV of 2007 on Auditors).

<sup>20</sup> See Section 3 Subsection 1 of Act C of 2000 on Accounting.

<sup>21</sup> For the particularity of this category of auditors see answer in paragraph 12.

<sup>22</sup> See Section 49 of Act LXXV of 2007 on Auditors.

<sup>23</sup> See Section 160 Subsection 2 of Act LXXV of 2007 on Auditors.

*If there are advertising restrictions, please specify their contents. The following questions may be indicative: Is there a total advertising ban, excluding only name plates, official registers and phone books? Can special expertise be advertised? Can the fee level be advertised? Is comparative advertising allowed? Are there other restrictions, for example related to the ethical standards of the profession?*

*If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

19. General rules on advertising – like the prohibition of misleading advertisements – are applicable to registered accountants, auditors and tax advisers (i.e. no specific legislation is applicable for these professions): As the GVH’s cases principally concern the advertising restrictions of the Chamber’s Code of Ethics, these issues will be dealt with below.<sup>24</sup>

### **3.2 Price regulation**

3.2.1 *Are prices freely negotiated? Does the government set prices? If yes, indicate for which services (for example, statutory audits for publicly traded companies). Also specify whether these are maximum prices, minimum prices or fixed prices. How does the government pay for auditing services it uses?*

*Do the self-regulatory bodies set prices? If yes, specify whether these are maximum prices, minimum prices or fixed prices and for which services. Is use made of recommended prices?*

*Specify the criteria upon which the price can be based: number of hours worked, complexity of the audit, contingency fees, etc.*

*If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

20. According to the Act on Auditors, registered statutory auditors “are entitled to appropriate remuneration”.<sup>25</sup> The fees for statutory audits may be negotiated freely (between provider and client).<sup>26</sup> Further issues are discussed below in the section concerning competition law enforcement.<sup>27</sup>

### **3.3 Inter-professional co-operation and business structure**

3.3.1 *Is the formation of multi-disciplinary partnerships allowed? Are accountants allowed to incorporate? If yes, are there any restrictions with respect to the legal form of incorporation (for example limited liability partnership, public limited company)?*

*Do accounting firms provide consulting services? If so, of what type? Are there conflicts of interest with other professions (for example, lawyers) that may be necessary to avoid?*

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<sup>24</sup> See Chapter 4.1.

<sup>25</sup> See Section 54 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>26</sup> See Section 54 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>27</sup> See Chapter 4.1.

*Is the ownership and reimbursement structure of accounting firms transparent? To the extent that accounting firms have a major public role to protect investors, are potential conflicts of interest sufficiently revealed? Does competition have an impact on potential conflicts of interest?*

*If your country is considering changes in the near future, which affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

21. As a principle, the Act on Auditors stipulates that registered statutory auditors „may not engage in any activity outside the realm of statutory audits that is or could be an affront to their prestige, integrity and objectivity, independence or good repute, and that is therefore incompatible with their professional activities and function.”<sup>28</sup> Incompatibility with auditing activities (audit function) means the provision of any professional auditing service and the performance of any activity that is unrelated to these professional auditing services if it interferes with the ability of the registered statutory auditor to maintain good audit quality when carrying out statutory audits.<sup>29</sup>

22. As far as the definition of incompatibility is concerned, the Act on Auditors provides wide margin of appreciation for the Chamber’s statutes as well as for its’ code of ethics (CE).<sup>30</sup> According to the Chamber’s CE, it must be defined in each case individually whether the other types of services, which are provided by the auditor (audit firm) are compatible with auditing activities (audit function).<sup>31</sup>

23. The Act on Auditing also adds that the concurrent provision of different professional services does not in itself impede the integrity, objectivity or independence of auditing.<sup>32</sup>

24. In order to determine whether the CE’s provisions concerning incompatibility have been respected, disciplinary proceedings may be conducted by the Chamber’s Disciplinary Committee against the auditor.<sup>33</sup> The decision of the Disciplinary Committee may be appealed to the Presidency of the Chamber. The latter’s decision may be reviewed by the administrative court.<sup>34</sup>

25. It must be added that, according to the Act on Attorneys at Law<sup>35</sup>, only attorneys are entitled, unless otherwise stipulated by law, to regularly provide legal counsel in return for remuneration.<sup>36</sup> This means that where the service of an auditing firm amounts to legal counselling, a lawyer will have to be solicited to provide these services. There is indeed cooperation between auditing firms and lawyers, however, not within the same business structure (e.g. PWC has a cooperation agreement with a law firm).

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<sup>28</sup> See Section 53 of Act LXXV of 2007 on Auditors.

<sup>29</sup> See Section 53 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>30</sup> See Section 53 Subsection 4 of Act LXXV of 2007 on Auditors.

<sup>31</sup> See Section B Subsection 4 of the Chamber’s CE.

<sup>32</sup> See Section 53 Subsection 2 of Act LXXV of 2007 on Auditors.

<sup>33</sup> See Section 176 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>34</sup> See Section 178 Subsection 1 of Act LXXV of 2007 on Auditors.

<sup>35</sup> See Act XI of 1998 on Attorneys at Law.

<sup>36</sup> See Section 5 Subsection 2 of the Act XI of 1998 on Attorneys at Law.



#### 4. Institutional framework of self-regulation

##### 4.1 Application of competition law.

4.1.1 *Are rules enacted by self-regulatory bodies (on advertising, prices and business structure) covered by the prohibitions of anti-competitive practices in competition law?*

*Is there an exemption for (certain types of) self-regulatory rules which are considered necessary for the proper practice of the accountancy profession?*

*Which have been the main effects of competition law enforcement (for example, removal of fixed prices and advertising restrictions)?*

*If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

26. The GVH's<sup>37</sup> first case against the Chamber was initiated in 1998<sup>38</sup>. In its decision the GVH established that several provisions of the Chamber's CE were contrary to the Competition Act's prohibition of agreements restricting competition. The GVH established that the CE's provision prohibiting the members to make price offers that are significantly lower than those recommended by the Chamber is unlawful under the Competition Act. The GVH also ruled that the CE's mere reference to the Chamber's price recommendations, which were not yet issued by the Chamber, constituted an infringement within the meaning of the Competition Act (i.e. the CE's given provision was considered to be illegal in spite of the fact that the Chamber had not in effect issued any price recommendations towards its members).

27. Furthermore, the GVH established that certain provisions in the CE concerning the advertisement by auditors also infringed the Competition Act. The GVH considered advertisements as an effective mean to foster competition, therefore, the following rules were held to be unlawful:

- full prohibition of comparison with other competitors and that of persuasion in advertisements;
- restriction on what the auditor may indicate on his/her name plate, letter heading;
- full prohibition of information on prices in advertisements;
- full prohibition of praising the promptness and quality of the service;
- in case of an auditor's publication in a periodical or journal only his/her name and affiliation may be indicated, however, this may not be used for advertisement purposes;
- full prohibition of organising events for the purpose of acquiring clients – at events organised for other professionals the auditor must refrain from advertising and praising its own business.

28. However, the GVH held that the CE's provision, which prohibited the auditors to make references to being "well connected" (e.g. to public authorities) does not violate the Competition Act. Such a statement by a firm is by its nature misleading as public authorities must be neutral and independent by law.

<sup>37</sup> It should be noted that decisions are made by the Competition Council acting as the decision-making body within the GVH.

<sup>38</sup> See GVH's decision Vj-148/1998.

29. Also, the GVH found that CE's prohibition of auditors' statements that arouse unreasonable expectations does not infringe the Competition Act either. The reason for this is that such an assertion qualifies by itself as misleading within the meaning of the Competition Act because the firm's services are praised on unrealistic grounds.

30. For those CE provisions which were held to violate the Competition Act, the GVH saw no reason to apply the Competition Act's rules on exemption.<sup>39</sup> The GVH stated that the prohibition of advertisements is capable of hindering efficient firms that provide high quality services to transmit information about themselves towards potential customers. This does not serve the improvement of competitiveness on the market, because it impedes the communication of differences in terms of quality, price and other features. The application of minimum prices is capable, first, to drive small market players out of the market and, second, to obstruct entry, as the companies are *de facto* prohibited to compete on the price.

31. The GVH forbade the continuation of the application of those CE provisions which violated the Competition Act and imposed a fine of HUF 5 million (ca. EUR 20,000) onto the Chamber.

32. The GVH's decision was upheld on appeal by the Metropolitan Court of Budapest, however, the amount of the fine was reduced. Subsequently, the judgement at first instance was upheld by the Supreme Court of Hungary.

33. As a consequence, the Chamber indeed modified certain provisions in its CE, however, the competition concerns articulated in the previous case<sup>40</sup> remained substantially the same. That is why the GVH launched a new case against the Chamber for similar reasons as above<sup>41</sup>. Therefore, the *ratio decidendi* of this GVH decision was similar as in the previous proceedings.

34. The Chamber, in the course of the proceedings, decided to bring its CE's provisions fully in line with the requirements of the previous GVH decision, therefore, no fine was imposed.<sup>42</sup>

#### 4.1.2 Further competition law issues

35. Despite these cases against the Chamber, there still remain some competition law concerns of the above type. *In concreto*:

- According to the Act on Auditors, the Chamber may publish recommendations about the *principles* and *main considerations* of setting the fees for statutory audits.<sup>43</sup> The GVH has learnt that the Chamber now attempts to interpret this as an empowerment to issue *detailed recommendations* on prices.
- A further problem in the legislation concerning fees is posed by the Act on Public Procurement which stipulates that the professional associations competent for the sector in question must frequently inform the Advisory Committee for Public Contracts concerning the level of wages as well as the cost of materials and equipment that are considered reasonable for the given sector.<sup>44</sup>

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<sup>39</sup> See Section 17 of the Competition Act (equivalent of Art. 81 (3) EC Treaty).

<sup>40</sup> See GVH's decision Vj-148/1998.

<sup>41</sup> See GVH's decision Vj-16/2005.

<sup>42</sup> The GVH's decision was not appealed.

<sup>43</sup> See Section 54 Subsection 6 of Act LXXV of 2007 on Auditors.

<sup>44</sup> See Section 86 Subsection 8 of the Act CXXIX of 2003 on Public Procurement.

The GVH is concerned that professional associations, like the Chamber of Auditors, may interpret this provision as an empowerment to issue guidance on fees.

#### 4.2 *Regulatory oversight*

4.2.1 *Are decisions of self-regulatory bodies subject to approval by the State? If yes, which kind of decisions and who is the supervisory authority (competent Minister)?*

*Are decisions by self-regulatory bodies subject to antitrust scrutiny?*

*Is there an independent Complaints Office which handles malpractice cases? Or is the imposition of sanctions for malpractice left to ordinary courts (tort liability) and the self-regulatory body (disciplinary sanctions, eventually including expulsion)?*

*Is there an independent Regulatory Authority for the accountancy professions?*

*If your country is considering changes in the near future that affect the answers to the above questions, please give a brief overview of the envisaged changes and the reasons for them.*

*Apart from professional standards of ethics and company reputation, are there any government laws or regulations that enhance incentives to provide full and complete auditing conclusions?*

36. There are two types of oversights of the activities of statutory auditors:

- The Public Oversight Committee for Auditors is a consultative body, which takes part in ensuring that statutory audits are conducted under transparent, controlled and prudent conditions in order to ensure properly the public-interest function of auditing.<sup>45</sup>
- The legal supervision, exercised by the minister of finance, is carried out in order to monitor whether the Chamber's statutes and other rules of self-governance are in conformity with the various laws.<sup>46</sup>

Public oversight by the Public Oversight Committee for Auditors

37. Public oversight is carried out by the Public Oversight Committee for Auditors (hereinafter: Committee) In order to secure the objectivity and independence of the system the majority of the Committee's members must be, during their membership, non-practicing auditors.<sup>47</sup>

38. The Committee monitors and evaluates:

- the procedures for the granting of authorizations to carry out statutory audits, the records and registers of the Chamber;
- the drafting and approval of Hungarian national accounting standards adopted by the Chamber, the code of ethics of the Chamber and the national standards relating to quality control set up by the Chamber;

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<sup>45</sup> See Section 184 Subsection 2 of Act LXXV of 2007 on Auditors.

<sup>46</sup> See Sections 198-200 of Act LXXV of 2007 on Auditors.

<sup>47</sup> See Section 191 of Act LXXV of 2007 on Auditors.

- the functioning of the system of continuous professional training and that of the quality assurance system adopted by the Chamber;
- the disciplinary proceedings of the Chamber; and
- cooperation with the competent authorities of third countries.

39. Furthermore, the Committee may issue recommendations towards the minister regarding new legislation or specific measures.<sup>48</sup> Also, the Committee, at the minister's request, issues opinions on the draft bills of legislation affecting statutory audits.<sup>49</sup>

40. The Committee, if noticing any situation where the interests of entities audited by statutory auditors are jeopardized, must

- present recommendations to the Chamber or the minister concerning potential solutions to eliminate situations where the interests of entities audited by statutory auditors are jeopardized;
- initiate proceedings at the Chamber's relevant bodies;
- initiate, towards the minister, legal supervision proceedings.

#### The minister's legal supervision

41. Legal supervision is carried out by the minister of finance. The minister monitors whether the Chamber's statutes and other rules of self-governance are in conformity with the law and whether the resolutions adopted by the bodies of the Chamber violate any laws, any statutes of the Chamber or any other rules of self-governance. Also, the minister carries out the supervision of the implementation of the chartered certified auditors' training programs and the examination procedures.<sup>50</sup>

42. In case the minister finds any irregularities regarding the Chamber's statutes and other rules of self-governance, the president of the Chamber is requested by the minister to restore compliance with the law within thirty days following the date of the finding of the said irregularities. If the legality of operations of the Chamber cannot be restored in another manner, the minister must initiate an action before the court within thirty days following the date when the irregularity is detected. The court may:

- reverse any unlawful resolution adopted by the body of the Chamber and may order the adoption of a new resolution;
- suspend the operation of the bodies and officers of the Chamber and appoint a supervisory commissioner to manage the Chamber during the period of suspension.<sup>51</sup>

43. As for the relationship between the minister's legal supervision and the GVH's competition law enforcement, the minister's legal supervision does not affect cases in which court or administrative proceedings (such as those exercised by the GVH) may otherwise be initiated.<sup>52</sup> In practice, this means that

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<sup>48</sup> See Section 189 of Act LXXV of 2007 on Auditors.

<sup>49</sup> See Section 197 of Act LXXV of 2007 on Auditors.

<sup>50</sup> See Section 199 of Act LXXV of 2007 on Auditors.

<sup>51</sup> See Section 198 Subsection 4 of Act LXXV of 2007 on Auditors.

<sup>52</sup> See Section 198 Subsection 4 of Act LXXV of 2007 on Auditors.

the GVH may, provided that the legal requirements set by the Competition Act<sup>53</sup> are present, launch a case when the Chamber acts without legal empowerment or goes beyond the scope of this empowerment.<sup>54</sup>

#### 4.2.2 *Malpractice cases*

44. According to the Act on Auditors an auditor may only become a member of the Chamber, and may thus provide auditing services, if it has concluded a liability insurance contract.<sup>55</sup>

45. Registered statutory auditors are subject to disciplinary liability in accordance with the relevant provisions of the Act on Auditors in their activities for carrying out statutory audits (professional liability). Moreover, the auditors are subject to liability in accordance with the relevant provisions of the Civil Code for damages caused in connection with carrying out statutory audits (financial liability). The financial liability of a registered statutory auditor engaged in carrying out statutory audits in the name and on behalf of an audit firm *vis-à-vis* the audit firm is governed by the contract concluded between the registered statutory auditor and the audit firm.<sup>56</sup>

## 5. Accounting standards

### 5.1 *Which specific accounting standards apply in your country? Do these rules differ substantially from the International Financial Reporting Standards (IFRS) or the Generally Accepted Accounting Principles? If yes, are there plans to reduce these differences?*

*Who is involved in drafting and enforcing these accounting standards? Is there any public intervention or are these standards a result of self-regulation by professional bodies?*

46. The accounting standards applicable by members of the Chamber are in harmony with the requirements set by international standards and with those set by the legislation of the European Union.<sup>57</sup>

47. According to the Act on Auditors, the Chamber is responsible for drawing up and regularly updating the national standards for audits, advisory services, assurance services, and other related services, as well as internal quality control.<sup>58</sup> It is considered to be a disciplinary infraction if the auditor does not provide, from professional deficiencies or willful or gross negligence, professional services that are in compliance with the relevant statutory provisions and the national standards set by the Chamber.

48. Within the Chamber, the Committee of Experts is in charge of arranging these standards<sup>59</sup>, which is subsequently adopted via the Presidency's decision.<sup>60</sup>

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<sup>53</sup> See Section 70 Subsection 1 of the Competition Act according to which the GVH must issue an order opening an investigation upon observation of an activity, conduct or situation which may violate the provisions of the Competition Act, provided that the GVH has the power to proceed in the case and the proceeding is necessary to safeguard the public interest.

<sup>54</sup> It should be noted that the GVH's competences only cover the Chamber's „general” rules (i.e. code of ethics, statutes), thus the Chamber's individual decisions are exceptionally subject to antitrust scrutiny (for example if they reflect the general behaviour of the Chamber).

<sup>55</sup> See Section 11 Subsection 1(g) of Act LXXV of 2007 on Auditors.

<sup>56</sup> See Section 60 of Act LXXV of 2007 on Auditors.

<sup>57</sup> See Section 116(f) of Act LXXV of 2007 on Auditors.

<sup>58</sup> See Section 4 Subsection 5(b) of Act LXXV of 2007 on Auditors.

<sup>59</sup> See Section 138 Subsection 1(b) of Act LXXV of 2007 on Auditors.

49. There are three types of oversights of the above standards:

- The Public Oversight Committee for Auditors is responsible for monitoring and evaluating the drafting and approval of the Hungarian national accounting standards and the national standards relating to quality control.
- The Chamber's Quality Control Committee functions as an internal body of the Chamber and therefore monitors and evaluates that the Hungarian national accounting standards and the national standards relating to internal quality control are given effect.<sup>61</sup>
- The Chamber's Committee of Experts also monitors these standards' application in practice.<sup>62</sup>

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<sup>60</sup> See Section 11 Subsection 1(g) of Act LXXV of 2007 on Auditors n 116(f) of Act LXXV of 2007 on Auditors.

<sup>61</sup> See Section 150 and Section 152 Subsection 1(b) of Act LXXV of 2007 on Auditors.

<sup>62</sup> See Section 138 Subsection 1(b) of Act LXXV of 2007 on Auditors.