

On the basis of Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby pass the

ENACTMENT
PROCLAIMING THE LAW ON STATE AUDIT INSTITUTION

(Official Gazette of the Republic of Montenegro, numbers 28/04 of 29th April 2004,
27/06 of 27th April 2006, 78/06, 22nd December 2006)

I hereby proclaim the Law on State Audit Institution, adopted by the Parliament of the Republic of Montenegro at the second meeting of the first regular session in 2004, held on the 21st April 2004.

Number: 01-625/2
Podgorica, 26th April 2004

President of the Republic of Montenegro
Filip Vujanović, signed

LAW ON STATE AUDIT INSTITUTION

I BASIC PROVISIONS

Scope of the Law
Article 1

The State Audit Institution (hereinafter referred to as: the Institution) shall be established by this Law and its rights, responsibilities and manner of operation shall be determined.

Status
Article 2

The Institution shall be an autonomous and independent state body.

No one shall be allowed to influence a member of the Senate of the Institution in performing his/her duties as provided by this Law.

Headquarters
Article 3

The Institution shall be a legal entity with its headquarters in Podgorica.

The Institution shall have a seal containing the coat of arms of the Republic of Montenegro and the text: "Republic of Montenegro – State Audit Institution – Podgorica".

II ACTIVITIES AND TASKS OF THE INSTITUTION

Entities Subject to Audit Article 4

Entities subject to audit shall be bodies and organizations managing the budget and the property of the State and of the local self-government units, the funds, the Central Bank of Montenegro and other legal entities in which the State holds a share (hereinafter referred to as: entity subject to audit).

The Institution shall perform as well the audit of entities which execute parts of the budget, manage state property, receive subsidies or obtain grants or guarantees from the State, or do business with an entity subject to audit.

Task of the Institution

Article 5

The Institution shall examine the regularity, effectiveness and efficiency of the operations of the entity subject to audit.

The examination of regularity includes control of compliance of operations with regulations and general standards on collection of public revenues, financing expenditures, disposition of and managing property, fulfilling commitments, bookkeeping and documenting revenues and expenditures as well as property and management of economic activities.

The examination of effectiveness shall verify to what extent the planned goals have been achieved.

The examination of efficiency shall verify whether the planned goals have been achieved with minimum investment of funds.

Article 6

The audit shall be performed in order to provide essential information concerning budget management, property and economic activities, the legality of actions of the entity subject to audit, the improvement of its ability for successful performance of tasks and the prevention of wrongful actions.

On the occasion of the adoption of the Budget of the Republic and the Year End Financial Statement of the Budget of the Republic, the Institution shall submit to the

Parliament of the Republic of Montenegro (hereinafter referred to as: the Parliament) the overview of its findings on the Budget and state of property, indicate causes and consequences of any major shortcomings and irregularities and proposing measures for their elimination.

The Institution shall, within competences set out by this Law and other regulations, also provide expert assistance to the Parliament, the Government of the Republic of Montenegro (hereinafter referred to as: the Government) and other State bodies in reaching decisions.

Subject Matter of the Audit Article 7

In accordance with the Article 5 of this Law, the Institution shall perform audit of documents and activities of the entity subject to audit, which have or may have financial effect on:

- 1) revenues and expenditures;
- 2) property of the State;
- 3) borrowings, issuing of guarantees and super-guarantees; and
- 4) Rational use of assets allocated for use to the entity subject to audit.

Audit of Entities Outside of the State Administration Article 8

The Institution may examine whether appropriate measures were taken in order to avoid any detrimental consequence to the State, in case when the State has approved loans from budget funds or issued guarantees or provided other securities.

Business operations of legal entities using funds referred to in paragraph 1 of this Article shall be audited in accordance with the law.

Scope, Time and Method of Auditing Article 9

The Institution shall decide independently regarding the entities subject to audit, subject matter, scope and type of audit, time and method of auditing, unless otherwise provided by this Law.

The Institution must perform the audit the Annual Financial Statements of the Budget of the Republic once a year.

The annual audit plan shall be adopted by the 10th January for the current year.

The Institution shall initiate the audit procedure by informing the entity subject to audit on the subject matter, scope, type and time of audit. Exceptionally the Institution may start the audit without prior announcement.

The Institution shall inform the entity subject to audit on completion of the audit.

Providing Access to Documentation and Provision of Information

Article 10

Upon request of the Institution, the entity subject to audit shall be obliged to make available, without delay, all documents, financial statements, reports, financial records, findings of the internal audit and other records (hereinafter referred to as: the documentation) to the Institution, or authorized person who is carrying out the audit.

The entity subject to audit shall be obliged to make available to the Institution or its authorized person the documents or information of confidential nature or documents which are classified as confidential or other secrets, according to the law of the Republic.

Confidentiality of Information

Article 11

Information and findings gathered during the audit procedure shall be confidential, unless otherwise provided by the law of the Republic.

Information considered official or other secrets shall be treated according to the law of the Republic.

Audit Report

Article 12

The Institution shall present the results of the audit in an audit report. The audit report shall include the findings, evaluation, conclusions and recommendations for the elimination of irregularities, which may possibly be found.

Recipients of the Audit Report

Article 13

The audit report shall be submitted to the entity subject to audit and, if appropriate, to other bodies in cases the Institution deems for that to be necessary.

Should the audit report referred to in paragraph 1 of this Article include findings, which are of particular importance or have significant financial effect, it shall also be submitted to the ministry in charge of finances.

Article 14

The audit report shall represent the documentation basis for issuing annual and special report and for giving expert opinions and suggestions according to the provisions of this Law.

Opinion of the Entity Subject to Audit **Article 15**

The entity subject to audit shall have the right to express its opinion about the audit report, within the deadline set by the Institution.

The Institution shall provide report to the Parliament and the Government, as a rule, after the entity subject to audit has expressed its opinion on the findings of the audit.

The Institution may inform the Parliament or the Government about the results of the audit to which the entity subject to audit has not expressed its opinion, in cases where a delayed submission of the report would cause damage, or if it has been prematurely disclosed to the public, or if the entity subject to audit has not expressed its opinion within set time frame.

Damage, for the purpose of paragraph 3 of this Article, shall be considered to be reduction of the State property or prevention of its increase.

Political Decisions **Article 16**

Should the audit affect a political decision, the Institution shall be obliged to refrain from making evaluation of such a decision and limit itself to informing and advising the recipient of the report on important facts and possible harmful consequences.

Third Parties Rights **Article 17**

The Institution shall determine the method of audit in a way that are protected the rights of third parties to which the activities in the procedure of audit relate to.

Parties referred to in paragraph 1 of this Article are physical persons or legal entities, which are not subject to audit pursuant to this Law, but do business with an entity subject to audit.

The Institution shall be obliged to allow parties referred to in paragraph 2 of this Article to express their opinion on the audit findings, if the audit report contains or may give a pretext for harmful evaluation and may be used in the procedure of public reporting.

Reporting to the Parliament and Government Article 18

The Institution shall report to the Parliament and the Government by:

- 1) submitting the Annual Report;
- 2) submitting special reports;
- 3) providing advice based on the knowledge gained through the audit.

Annual Report Article 19

The annual report shall particularly contain:

- 1) an evaluation on whether the amounts provided in the year end financial statements of the Budget correspond to the amounts quoted in the records, and whether the controlled revenues, expenditures and property were correctly documented in accordance with the regulations and general standards;
- 2) an evaluation on which important instances the rules and regulations on the Budget and economic activities of the State were not observed;
- 3) important remarks regarding the noticed shortcomings of the entity subject to audit;
- 4) Recommended measures.

The Annual Report may as well present conclusions on previous and proposals for future budget years.

The Annual Report shall be submitted to the Parliament and the Government by the end of October.

The President of the Republic, the Chairmen of the Parliament and the Prime Minister shall be informed on circumstances of confidential nature, which have caused or may cause financial or other damage of larger extent.

Special Reports Article 20

The Institution shall inform the Parliament and the Government on particularly significant and important issues through special reports.

Advising Article 21

Based on the findings gained obtained through the audit, the Institution may advise the Parliament and the Government on single financially significant measures and important projects.

The Institution may, in case it has found out that the existing laws produce or may produce negative consequences, or that they do not lead to expected results, give recommendations for their changes.

Damage Compensation Claim **Article 22**

The Institution shall be obliged, without delay, to inform the entity subject to audit if it considers that grounds for initiating procedure for damage compensation exist.

If any activity of the entity subject to audit has caused damage to state property, the Institution shall, without delay, inform the state prosecutor.

The state prosecutor shall inform the Institution in case of the withdrawal of the damage compensation claim.

The Institution shall inform the Parliament and the Government on reasons for not initiating procedure for damage compensation.

Bringing Criminal Charges **Article 23**

The Institution shall be obliged, without delay, to bring criminal charges, if during the audit procedure it determines that there are grounds to suspect that criminal offence has been committed.

Acting upon Request **Article 24**

The Institution shall decide independently on requests for submission of information or making documents available, in accordance with the law.

Informing the Institution **Article 25**

The entity subject to audit shall, without delay, inform the Institution about:

- 1) The proposals of laws, other regulations, general acts, rulebooks, orders and instructions, adopted pursuant to the law, which relate to the management and use of budget funds or which may have consequences for the revenues and expenditures of the Republic's budget or of the municipal budget;
- 2) The establishment or significant change in the organization form or the termination of operation of an entity subject to audit;
- 3) The conclusion of a contract on use of budget funds and state property between the entity subject to audit and a legal or physical person for amount exceeding 15,000 Euros.

Consideration of the Annual Report

Article 26

The Institution shall report to the Parliament on the audit of the year-end financial statement during the procedure of the adoption of the Year-End Financial Statements of the Budget of the Republic.

The Parliament shall decide on proposed measures and deadline for their implementation on the basis of substantial facts and circumstances pointed out in the Annual Report of the Institution.

The Parliament may request from the Institution additional clarification of specific facts and circumstances.

Article 27

Findings from existing reports of the Institution shall also represent an integral part of the documentation in the procedure of the adoption of laws, other regulations and general acts which relate to the management and use of budget funds and state property.

Financial Statement of the Institution

Article 28

The Parliament may, through a special act, entrust an appropriate professional organization with the audit of the year end financial statements of the Institution.

III ORGANIZATION AND BODIES OF THE INSTITUTION

Organization

Article 29

The Institution shall be organized in departments.

Divisions shall be organized as parts of a department.

A special unit shall be organized for carrying out administrative and support services.

Bodies of the Institution

Article 30

The Institution shall have a Senate and collegia.

Senate

Article 31 (Official Gazette of the RoM, number 78/06)

The Senate shall have five members.

A member of the Senate shall be the head of a department.

Requirements for Appointment of a Member of the Senate

Article 32 (Official Gazette of the RoM, number 78/06)

A Montenegrin citizen, graduate lawyer or graduate citizen, may be appointed as a member of the Senate, who, in addition to the general requirements determined by the law, meets one of the following requirements:

- 1) has passed the bar examination and has at least 10 years of work experience in the legal profession or at least 10 years of work experience in performing responsible legal affairs in the state administration;
- 2) has passed the professional exam for performing auditing or accounting tasks and has at least 10 years of work experience or at least 10 years of work experience in performing responsible legal affairs in the public finances.

At least two members of the Senate must be graduate lawyers.

Appointment of the Members of Senate and the President

Article 33

The Parliament shall appoint and revoke members of the Senate pursuant to the proposal of the competent working body of the Parliament.

The Parliament shall appoint the President of the Senate from the rank of its members for a period of nine years, and the same person cannot be reappointed as President of the Senate.

Permanency of Office

Article 34

The office of a member of the Senate shall be permanent.

The office of a member of the Senate shall be terminated upon his/her request or when he/she meets the requirements for old age retirement or if he/she is sentenced to unconditional imprisonment.

The Member of the Senate shall be relieved of the office if he/she is sentenced for an offence which makes him/her unworthy of holding the office, if he/she exercises the office in an unprofessional or negligent manner or if he/she permanently loses the ability to exercise the office.

The Senate shall inform the Parliament of circumstances described in paragraphs 2 and 3 of this Article.

Restrictions Connected to the Office

Article 35

A Member of the Senate cannot perform the office of a member of the Parliament or any other public office, nor can be engaged in any other professional activity.

Article 36

A Member of the Senate cannot be a member of any body of a political party.

Decision-Making in the Senate

Article 37

The Senate shall decide by majority of votes of the total number of all Members thereof.

The Competencies of the Senate

Article 38

The Senate shall:

- 1) adopt the Annual Report and special reports;
- 2) adopt the annual audit plan;
- 3) adopt decision, in case where no decision is made in accordance with Article 44, paragraph 3 of this Law;
- 4) adopt instruction on the work methodology (audit standards);
- 5) review, upon request of a collegium, previously adopted decisions of the Senate and decisions adopted by the collegium;
- 6) adopt the Rules of Procedure of the Institution;
- 7) adopt the Act on Internal Organization and Systematization;
- 8) define the year end financial statement of the Institution;
- 9) carry out other activities determined by this Law and by general acts of the Institution.

The Rules of Procedure referred to in paragraph 1 item 6 of this Article shall regulate in detail the work method, carrying out of activities and decision-making.

Acts referred to in paragraph 1 items 4 and 6 of this Article shall be published in the "Official Gazette of the Republic of Montenegro".

President of the Senate

Article 39

The President of the Senate shall chair the Senate and represent and act on behalf of the Institution.

The eldest member of the Senate shall replace the President in the event that he/she is absent or impeded.

Schedule of Duties

Article 40

The schedule of duties within the Institution shall be determined by the President in agreement with the members of the Senate.

Prohibition of Membership in Managing Bodies and Disqualification

Article 41

A Member of the Senate cannot be a member of a managing body of a business organization or any other legal entity.

A Member of the Senate cannot participate in the operation and decision making nor can perform activities provided in this Law in cases where he/she or his/her family members were directly involved in decision making about the matter therein.

In the event of reasons which question or could question the objectivity or impartiality of a member of the Senate, the Senate shall make a decision on disqualification.

A Member of the Senate shall inform the President of the Senate of circumstances described in paragraph 2 and 3 of this Article.

Obligation to Keep Secret

Article 42

Members of the Senate and employees of the Institution shall be obliged to keep business and other secrets regardless of the manner in which they learnt about them.

Secretary of the Institution

Article 43

The Institution shall have a Secretary who is in charge of managing unit for administrative and support services.

The Secretary shall be appointed and dismissed by the Senate for an open ended period, based on a public announcement.

A graduate lawyer or a graduate economist who has passed the official exam for public administration and has at least five years of work experience may be appointed as a Secretary.

The Secretary shall be accountable for his/her work to the Senate.

Collegium Article 44

The Collegium shall manage and supervise a certain audit, and shall be responsible for the results of the audit.

The Collegium shall consist of two Members of the Senate, one of which is the Head of the department conducting the audit.

In the event that the Collegium does not reach a decision, the decision shall be made by the Senate.

State Auditor Article 45

The audit activities shall be performed by the State Auditor (hereinafter referred to as: the Auditor).

The Auditor shall be employed on the basis of public announcement.

A person, who in addition to the general requirements set by the law, meets the following requirements as well: university degree, minimum of five years of relevant experience and passed the State Auditor Exam; may be appointed as the Auditor.

The exam for the state auditor shall be taken on the basis of a program to be adopted by the ministry in charge of public administration, based on the proposal of the Senate.

The provisions of the Article 41 of this Law relating to Members of the Senate shall be applied accordingly to the Auditor as well, and the Collegium shall make a decision on disqualification from the audit procedure.

Engagement of External Expert Article 46

The Institution may also engage an external expert during the audit procedure if the audit requires specific specialized knowledge.

Person referred to in paragraph 1 of this Article shall be obliged to keep business and other secrets.

Civil Servants and Employees

Article 47

Civil servants and employees shall perform administrative, support and other tasks in the Institution.

Article 48

More detailed requirements for employment shall be regulated by the act on internal organization and systematization.

Rights, Duties and Disciplinary Responsibility of the Employees

Article 49

The provisions of the law regulating the status of civil servants and employees shall apply accordingly to the rights, duties and disciplinary responsibility of the employees.

IV INFORMING THE PUBLIC

Article 50

The Institution shall be obliged to make the Annual Report available to the public.

The Rules of Procedure of the Institution shall describe in more details the manner of informing the public.

V FINANCING

Article 51

The funds for the operation of the Institution shall be provided in the Budget of the Republic.

The request for allocation of budget funds to the Institution shall be submitted by the working body of the Parliament in charge of financial activities, upon request of the Institution.

VI PUNITIVE PROVISIONS

Article 52

A pecuniary fine in the amount of twenty-fold to three-hundred fold of the minimum wage in the Republic shall be imposed for an offence on the entity subject to audit that fails to make available the documentation or does not provide requested notifications, information and clarifications or provides incorrect data to the Institution or its authorized person (Article 10).

A pecuniary fine in the amount of half-fold to twenty-fold of the minimum wage in the Republic shall also be imposed on the responsible person in the entity subject to audit for the offence referred to in paragraph 1 of this Article.

Article 53

A pecuniary fine in the amount of twenty-fold to three-hundred fold of the minimum wage in the Republic shall be imposed for an offence on the entity subject to audit that fails to inform the Institution on facts referred to in Article 25 of this Law.

A pecuniary fine in the amount of half-fold to twenty-fold of the minimum wage in the Republic shall also be imposed on the responsible person in the entity subject to audit for the offence referred to in paragraph 1 of this Article.

Article 54

A pecuniary fine in the amount of twenty-fold to three-hundred fold of the minimum wage in the Republic shall be imposed for an offence on the auditor that makes public data of the confidential character prior the completion of the audit procedure (Article 11).

A pecuniary fine in the amount of half-fold to twenty-fold of the minimum wage in the Republic shall also be imposed on the responsible person in the Institution for the offence referred to in paragraph 1 of this Article.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 55

The appointment of the members of the Senate shall be made within three months from the effective day of this Law.

Article 56

The regulations for the implementation of this Law shall be adopted within three months from the day of the appointment of the members of the Senate.

Article 57

The selection of the Auditor shall be made within three months from the expiry of the period referred to in Article 56 of this Law.

Until the adoption of the program referred to in Article 45, paragraph 4 of this Law, the Auditor may be appointed from the rank among those who did not pass the State Auditors Exam, if he/she meets the other requirements and if he/she has passed the state exam for public administration or the state exam accounting or auditing profession in accordance with the law.

The employee referred to in paragraph 2 of this Article shall be obliged to pass the State Auditors Exam within two years from the day of the adoption of the program referred to in Article 45, paragraph 4 of this Law.

In case that the employee does not pass the State Auditors Exam within the deadline referred to in paragraph 3 of this Article, his/her employment shall be terminated.

Article 58

Until the adoption of a new or the amendment of the existing law, which regulates the salaries of state officials, the President of the Senate shall be entitled to a wage in the amount set for the President of the Constitutional Court, and the member of the Senate as the judge of the Constitutional Court.

Article 59

On the day of the submission of the first Annual Report of the Institution, provisions of the item 1, paragraph 2 of the Article 51 of the Law on Budget ("Official Gazette of the Republic of Montenegro", No. 40/01) shall cease to be valid.

Article 60

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of the Republic of Montenegro".