

LAW ON STATE AUDIT INSTITUTION

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I. GENERAL PROVISIONS

Subject of regulation

Article 1

This Law regulates the establishment and scope of work, legal status, competence, organization and working method of the State Auditing Institution (hereinafter referred to as: the Institution), and other matters of relevance for the operations of the Institution, including rights and obligations of the auditees.

The meaning of terms

Article 2

Certain terms, used in the context of this Law, have the following meanings:

1) **Audit of financial statements** means the review of documents, official papers, reports and other information, with the aim of obtaining sufficient, adequate and reliable evidence for expressing an opinion as to whether financial statements of the auditee present true and fair view of its financial position, performance and cash flows, in accordance with the accepted accounting principles and standards;

2) **Audit of operations** in terms of this Law shall mean obtaining sufficient, adequate and reliable evidence for expressing an opinion on regularity and performance of operations of the public funds beneficiaries;

3) **Audit of regularity of operation** shall mean the review of financial transactions and decisions regarding revenues and expenditures, with the aim to determine whether respective transactions were executed in compliance with law, other regulations, given authorization, and for the planned purposes;

4) **Audit of performance** shall mean the review of the budget and other public funds spending, with the aim to obtain sufficient, adequate and reliable evidence for reporting whether the funds of the auditee were used in accordance with principles of economy, efficiency and effectiveness, as well as in accordance with the planned objectives;

5) **The principle of economy** shall mean minimum spending of funds for a particular activity, without compromising the expected quality thereby;

6) **The principle of efficiency** shall mean the cost-effectiveness ratio between achieved production results or rendering services and utilised resources for the production or rendering services;

7) **The principle of effectiveness (performance)** means the level of the achievement of the set objectives, as well as the ratio between the planned and achieved effects of a particular activity;

8) **Operations of the auditee** in the audit process, under this Law, comprise:

(1) All actions of the auditee, affecting its earnings or expenditures, as well as assets or liabilities towards the source of funding (operations in narrow terms);

(2) All actions of the auditee, affecting the state of public assets, state of public debt, provision of public goods or the state of environment (operations in wider terms);

9) **Audit findings** mean a set of determined facts and statements on the assessment of particular segment of operations of the auditee;

10) **Authorized person** is any representative authorized in writing by the Institution's President to perform the tasks within his/her authorization or discharge functions;

11) **Rectification measure** refers to a measure taken by the auditee in order to eliminate a particular irregularity or inappropriateness in operations or to reduce the risk of occurrence of a certain irregularity or inappropriateness in its future operations;

12) **Irregularity of operations** refers to incompliance of operations with regulations or guidelines, which the auditee is required to observe in business operations;

13) **Inappropriateness of operations** is a common term for uneconomic, ineffective and non-performing business operation.

Legal status of the Institution

Article 3

The Institution is the supreme state body for auditing public funds in the Republic of Serbia (hereinafter referred to as: the Republic).

The Institution is an autonomous and independent state body.

In execution of operations from its competence, the Institution is accountable to the National Assembly of the Republic of Serbia (hereinafter referred to as: the Assembly).

Enactments by which the Institution performs its auditing competence cannot be a subject of dispute before courts and other state bodies.

The Institution has the status of a legal entity.

The Institution has a stamp, in accordance with the Law.

Seat of the Institution

Organizational units within the Institution

Article 4

Seat of the Institution is in Belgrade.

The Institution may establish organizational units outside its seat.

Organizational units outside the seat of the Institution do not have the status of a legal entity.

II. COMPETENCE OF THE INSTITUTION

Activities within Institution's scope of competence

Article 5

Within its scope of competence, the Institution performs following activities:

- 1) plans and conducts audit, in accordance with this Law;
- 2) enacts by-Laws and other enactments for purpose of implementation of this Law;
- 3) submits reports, in accordance with Art 43 and Art 44 of this Law;
- 4) provides views and opinions and other forms of public announcements regarding application and implementation of specific provisions of this Law;
- 5) when required and in accordance with its capacities, it provides professional assistance to the Assembly, the Government of the Republic of Serbia (hereinafter referred to as: the Government) and other state bodies, with regard to certain significant measures and important projects, in the manner which does not diminish the independence of the Institution;
- 6) may provide advice to the beneficiaries of public funds;
- 7) may comment on working drafts of legal texts and other regulations, and may provide opinions on matters related to public finance;
- 8) may give recommendations for amendments of effective laws, based on information acquired during audit, which have or may have negative consequences or lead to unforeseen results;
- 9) adopts and publishes auditing standards, related to public funds under audit competencies of the Institution, auditing manuals and other professional publications relevant for the improvement of the auditing profession;
- 10) establishes training and examination programme for acquiring titles of State Auditor and Certified State Auditor, organizes the examinations for acquiring auditing titles of State Auditor and Certified State Auditor, and manages the Registry of persons who acquired these titles;
- 11) establishes the criteria and validates professional titles acquired abroad, within the competence of the Institution;
- 12) cooperates with international auditing and accounting organizations in the fields related to the public sector accounting and auditing;
- 13) performs other duties stipulated by the Law.

Rules of Procedure of the Institution

Article 6

The Institution has its Rules of Procedure, which, in accordance with this Law, regulates in more detail the method and procedure, according to which the Institution performs its auditing competence, method of ensuring public transparency of the Institution's work, decision-making and other issues specified by the Law, and relevant for the work of the Institution.

Council adopts the Rules of Procedure with prior consent of the Assembly.

The Institution may arrange organization and working method of the Institution by other enactments.

Appropriate application of other legal provisions

Article 7

If in exercising auditing competencies of the Institution any matter arises not regulated by this Law, relevant provisions of the law governing the administrative procedure shall be applied.

Publication

Article 8

Rules of Procedure and other enactments of the Institution shall be published in the "Official Gazette of the Republic of Serbia" in accordance with this Law.

Subjects to audit

Article 9

Subjects to audit, in accordance with this Law include:

- 1) revenues and expenditures in accordance with regulations on the budget system and regulations on public revenues and expenditures;
- 2) financial statements, financial transactions, accounts, analyses and other records and information of the auditees;
- 3) regularity of operations of auditees, in accordance with the Law, other regulations and given authorizations;
- 4) appropriate use of public funds as a whole or in particular part;
- 5) system of financial management system and control of budget system and the systems of other bodies and organizations, which are the auditees of the Institution;
- 6) system of internal controls, internal audits, accounting and financial procedures of the auditees;
- 7) enactments and actions of the auditees, which have or may have financial effects on the revenues and expenditures of the public funds beneficiaries,

state assets, borrowings and issuing guarantees, as well as the appropriate use of the funds at disposal of the auditees;

8) the regularity of operations of the managing and governing bodies, and other persons responsible for planning, execution and supervision of operations of the public funds beneficiaries;

9) other areas envisaged by specific laws.

The Institution may revise an enactment on past, present, as well as planned operations of beneficiary of public funds.

Enactment from the previous Paragraph may be an enactment prescribed by the Law or a special accounting statement, that is, a report, which a beneficiary of public funds is obliged to prepare, upon the Institution's request.

Auditees

Article 10

The auditees, in accordance with this Law, include:

1) Direct and indirect beneficiaries of budget funds of the Republic, territorial autonomies and local authorities, in accordance with regulations governing budget system and system of public revenues and spending;

2) Organizations of mandatory social insurance;

3) Budget funds, established by special Law or by-law;

4) National Bank of Serbia, in the part relating to public assets utilization and transactions with the state budget;

5) Public enterprises, business associations, and other legal entities, established by direct or indirect beneficiary of public funds;

6) Legal entities, within which direct or indirect beneficiaries, participate in capital or in management;

7) Legal entities, established by legal entities, in which the state participates in capital or in management;

8) Legal and physical entities, receiving subsidies and other grants or guarantees from the Republic, territorial autonomies and local authorities;

9) Subjects responsible for acceptance, maintenance, issuing and use of public reserves;

10) Political parties, in accordance with the Law governing financing of political parties;

11) Beneficiaries of the EU funds, donations and assistance of international organizations, foreign governments and non-governmental organizations;

12) Contracting party in relation to execution of international treaties, agreements, conventions and other international enactments, when stipulated by an international enactment or decision of authorized body; and

13) Other subjects using assets and property under supervision and at disposal of the Republic, territorial autonomies, local authorities, or organizations for mandatory social insurance;

The auditees from Paragraph 1 of this Article are considered beneficiaries of public funds, in accordance with this Law.

The auditees from Paragraph 1 of this Article, to whose operations audit findings refers to, shall be required to take these findings under consideration and take measures to eliminate identified irregularities and inappropriateness.

Legal entities related to the auditees

Article 11

The Institution may, in accordance with this Law, conduct audit of operations of the legal entities having business dealings with the auditees, specified in Article 10 of this Law.

Audit of operations of the legal entities referred to in Paragraph 1 of this Article, shall be conducted only in respect to their business operations with the auditees, as stipulated by this Law.

By its own enactment the Institution shall determine more precisely a method for conducting the audit of legal entities from Paragraph 1 of this Article, so that their rights relating to activities in the audit process are protected.

III. ORGANIZATION AND COMPOSITION OF THE INSTITUTION

Organization and bodies

Article 12

The Institution shall have a President of the Institution, Vice-President, Council, auditing services, and support services.

Scope of competence and working method of the Institution's services, internal organization and job systemization are more precisely determined by the Institution's enactment, which is adopted by the Council, upon proposal of President of the Institution.

The Council

Article 13

The Council is the supreme body of the Institution.

The Council is a collegial body.

The Council has five members, which include: President, Vice-President, and three members.

President of the Council is at the same time the President of the Institution.

The Council decides in sessions presided by the President of the Council, or the Vice-President, who acts on his/her behalf.

Council passes decisions by majority vote of all members.

Members of the Council cannot put in question independence in the course of decision making, or independence of the Institution.

Rules of Procedure of the Institution's Council shall more precisely determine issues in respect to Council's work.

An enactment from Paragraph 8 of this Article is adopted by the Council.

Competencies of the Council

Article 14

The Council shall perform the following duties:

- 1) Adopts Rules of Procedure;
- 2) Adopts Annual Audit Programme
- 3) Adopts enactment, which more precisely determines audit process;
- 4) Adopts Financial Plan of the Institution;
- 5) Establishes the final statement of accounts of the Institution;
- 6) Decides on objection of the auditee, upon report proposal on conducted audit process;
- 7) Adopts annual report and special reports;
- 8) Adopts other enactments of the Institution, and performs other duties stipulated by this Law and enactments of the Institution.

Members of the Council

Article 15

Members of the Council participate in the work and decision making of the Council, monitor the activities of certain auditing services in the Institution, participate in the working process of auditing services and perform other duties, entrusted by President of the Council.

Criteria for election of Council members

Article 16

A citizen of the Republic of Serbia may be elected a member of the Council, if he/she fulfils the following criteria (beyond general criteria stipulated by the Law on public administration employment): holds a University degree, minimum 10 years of work experience, out of which, minimum five years are on a position related to the competencies of the Institution.

At least two members of the Council shall have a university degree in economics, with relevant auditing or accounting titles.

At least one of the members of the Council shall have a university degree in law, with passed Bar Exam.

Inconsistency of function

Article 17

Function of a member of the Council is not consistent with:

1) function in government bodies, in bodies of local authority, or elected official and function in political parties or unions;

2) employment in government bodies, body of local authority or with elected official;

3) membership in management or supervisory body of business association, public enterprise, fund, organization of mandatory social insurance or other legal entity with the share of state capital;

4) an equity share in legal entities, under jurisdiction of the Institution, in accordance with this Law;

5) performance of other duties, which, according to the Law, are not consistent with performance of the public function;

6) performance of other duties, which might have adverse affect on their autonomy, impartiality and social reputation, as well as on confidence and reputation of the Institution;

7) performance of any other paid duties, except scientific and education functions, and only if such functions are not in ethical collision with performance of duties of Council's members.

Members of the Council are subject to obligations and restrictions stipulated by the law governing prevention of the conflict of interest in discharging of public office.

Member of the Council is required to inform the Council about the facts from Paragraph 1 of this Article.

Prohibited mutual relations between the holders of office in the Institution and the auditee

Article 18

Members of the Council must not be blood related in a straight line or collaterally up to fourth degree of kinship, spouse, relatives from the wife's side, up to the second degree of kinship, even if the marriage had terminated, legal guardians, adoptee, adoptive parents and foster parents.

Member of the Council cannot participate and make decisions in the audit process, if he/she was professionally engaged with the auditee, or performed certain tasks for the auditee, if the period of five years since the termination of such employment, or termination of tasks, has not expired.

Member of the Council is obliged to inform the Council in a timely manner about the facts from Paragraphs 1 and 2 of this Article.

Election of President, Vice-President and members of the Council

Article 19

President, Vice-President and members of the Council are elected and dismissed by the Assembly, by a majority vote of members of Parliament, at the motion of the competent working body of the Assembly. The competent working body reviews candidatures, determines fulfilment of criteria stipulated by this Law and decides on the list of candidates, which it submits to the Assembly. Proposal of candidatures shall be elaborated, with the enclosed written statement of the candidate declaring that he/she accepts the candidacy.

If a candidate proposed for President, Vice-President and members of the Council does not receive the necessary majority vote of the members of Parliament, the competent working body of the Assembly shall decide upon a proposal of the new candidate.

After the election, President, Vice-President and members of the Council take an oath before the Assembly, by which they assume their office. The oath reads: „I do swear to loyalty to the Republic of Serbia. I promise to respect the Constitution and laws. I swear on my honour to do my duty independently, honestly and impartially, and that I shall not abuse my competencies“.

Term of office of the members of the Council

Article 20

Members of the Council are elected for a term of five years.

Elected members of the Council may be elected no more than two times.

The President of the Council shall notify the president of the competent working body of the Assembly on expiry of the term of office of a member of the Council no later than six months prior to the expiry of the term of office.

A Member of the Council, whose term of office expired for other reasons than those stipulated by Article 22 of this Law, may discharge the office until election of a new member of the Council.

Termination of the term of office of the member of the Council

Article 21

Term of office of a member of the Council shall terminate prior to expiry of the term to which he/she has been elected, by resignation, fulfilment of retirement conditions, or dismissal.

Reasons for dismissal

Article 22

Member of the Council is dismissed from:

- 1) if legally binding decision sentences him to unconditional prison sentence in duration of minimum six months, or a misdemeanour of shorter duration, which makes him/her unworthy of office;
- 2) is declared incompetent by final court decision;
- 3) by assuming duty or office, incompatible with the function of member of the Council;
- 4) if he/she fails to act in accordance with Constitution and laws.

Procedure to establish grounds for dismissal

Article 23

The Council shall notify the Assembly without delay of the existence of grounds for termination of office or dismissal.

The motion for dismissal of a member of the Council may be submitted by minimum 20 members of Parliament.

The motion shall be submitted in written form, with reasoning and evidence of the existence of grounds specified in Article 22 of this Law.

The motion shall be taken under consideration by competent working body of the Assembly.

Member of the Council, whose dismissal is proposed, has a right to address the members of the competent working body of the Assembly, orally or in writing, on the session on which his/her dismissal is being considered.

After discussion and voting, the competent working body of the Assembly shall submit a report to the Assembly, with the proposal for the Assembly to pass a decision on dismissal or to reject the motion.

The term of office of the member of the Council and all pertaining rights shall cease as of the day of issuing of the decision on dismissal at the session of the Assembly.

Article 24

Competent working body may initiate the proposition for the Assembly to dismiss a member of the Council, when, based on continuous monitoring of the Council's work, in accordance with the Law, or on the grounds of other information, it concludes that there are grounds for dismissal specified in Article 22 of this Law.

In the procedure when competent body of the Assembly initiates the proposition for the Assembly to dismiss a member of the Council, the provisions from Article 23, Paragraph 5 of this Law are applied.

President of the Institution

Article 25

The President of the Institution is General State Auditor and executive in the Institution.

As General State Auditor, President of the Institution shall have the following competencies:

- 1) Approving and directing the assignments of the tasks within the competencies of the Institution, by establishing and implementing the work programme and signing enactments of the Institution;
- 2) Proscribing rules and adopting guidelines and instruction for the implementation of individual phases of auditing;
- 3) He may prescribe official monitoring over implementation of auditing tasks, and with regard to that, make a decision on monitoring;
- 4) Proposing members of examination committee;
- 5) Signing the certificates for auditing titles of State Auditor and Certified State Auditor;
- 6) holding other competencies and performing other duties, in accordance with this Law.

As an executive, President of the Institution holds following competencies:

- 1) proposing to the Council Annual Financial Plan of the Institution;
- 2) submitting to the Council, Annual Report and special reports on the work of the Institution;
- 3) acting as executive authority for funds of the Institution;
- 4) deciding on labour law issues in the Institution, and makes decision, respectively;
- 5) determining work assignments in the Institution, and making decisions, respectively;
- 6) holding other competencies and performing other duties stipulated by the Law.

Vice-President of the Institution

Article 26

Vice-President of the Institution:

- 1) performs duties of the General State Auditor, on the grounds of authorization of the President of the Institution;
- 2) substitutes the President of the Institution, in case of his temporary absence;

3) in case of early termination of office of the President of the Institution, discharges the office of the President until election of the new President;

4) performs other duties, entrusted to him//her by the President of the Institution;

In case of absence or deterrence, Vice-President of the Institution is substituted by the eldest member of the Council.

Supreme State Auditors

Article 27

A person fulfilling general conditions for employment in public administration, holding University education and title of Certified State Auditor, may be appointed a Supreme State Auditor in accordance with this Law. Relevant experience of a person is considered to be 10 years of working experience, out of which, at least eight years in posts connected with competencies of the Institution.

A supreme state auditor is appointed and dismissed by decision of the Council following the proposal of the president of the Institution, to a term of six years and may be re-appointed.

Supreme State Auditor assumes his/her duties, after taking an oath from Article 19, Paragraph 3 of this Law, before the Council of the Institution.

Supreme State Auditor administers auditing service and performs auditing tasks of the Institution, in accordance with this Law, and in accordance with the powers granted by the President of the Institution.

Supreme State Auditor is accountable for his work to the President of the Institution.

Enactment of the Institution determines the number of Supreme State Auditors, which the Institution has.

State Auditors – Auditing titles

Article 28

Auditing tasks are carried out by State Auditors.

Auditing titles are: State Auditor and Certified State Auditor.

Auditing titles are acquired in accordance with this Law, as well as international practice of auditors' education.

State Auditor and Certified State Auditor are independent qualified persons possessing a certificate for the title of State Auditor or Certified State Auditor, and fulfilling other criteria stipulated by this Law.

Candidate for passing the exam for acquiring the title of State Auditor and Certified State Auditor, prior to taking the exam, shall have passed examination of vocational

ability for public administration employment, unless excused by provisions of the Law, pertaining to public servants.

Certificate for auditing title of State Auditor may be acquired by a person fulfilling the following criteria:

- 1) Holds professional knowledge for performing auditing duties, in accordance with this Law;
- 2) Possesses relevant work experience;
- 3) Passed the exam for the title of State Auditor.

Certificate for the auditing title of Certified State Auditor may be acquired by a person fulfilling criteria from items 1 - 3, Paragraph 6 of this Article, and who passed the examination for the title of Certified State Auditor.

Certificates on acquisition of auditing titles from Paragraph 1 of this Article are public documents.

The Council prescribes criteria for acquiring and revocation of auditing titles, organization and implementation of examinations for auditing titles and issuing certificates for auditing titles.

Document from Paragraph 9 of this Article is published in „Official Gazette of the Republic of Serbia“.

Acquiring auditor titles

Article 29

Examination for acquiring auditor title of State Auditor or Certified State Auditor, is passed according to the examination programme, adopted by the Council, and published in the „Official Gazette of the Republic of Serbia“.

Ministry competent for financial matters, Ministry competent for public administration affairs and other subjects, estimated by the Council as interested parties for the drafting of examination programme, may participate in drafting of the curricula from Paragraph 1 of this Article.

The Institution may entrust the realization of the education curricula for acquiring auditor titles to another professionally qualified organization.

Examination for acquiring auditor titles of State Auditor and Certified State Auditor is passed before the Committee, appointed by the Council, upon proposal of the President of the Institution.

The person who passes examination from Paragraph 4 of this Article, acquires an auditor title of State Auditor or Certified State Auditor and is enlisted in the Register of titles, managed by the Institution.

The Institution issues certificates for auditor titles of State Auditor and Certified State Auditor.

Exemption

Article 30

Provisions from Articles 17 and 18 of this Law are accordingly applied on Supreme State Auditor, Certified State Auditor and State Auditor.

Decision on exemption of persons from Paragraph 1 of this Article is adopted by the Council.

Services of the Institution

Article 31

The Institution has auditing and support services.

The heads of services from Paragraph 1 of this Article are appointed by the President of the Institution.

Method of performing duties, competence, organizational structure of services, job systemization, and other rights and obligations of staff employed with the Institution's services from Paragraph 1 of this Article are more closely regulated by the Institution's enactment.

Secretary General

Article 32

The Institution has a Secretary General, who coordinates the work of support services of the Institution, manages the Institution's activities, and performs other duties, according to the provisions and in accordance with authorizations of the President of the Institution.

Secretary General of the Institution is appointed and resolved by the President of the Institution, by means of a decision, for the period of six years, upon public competition, with the possibility of re-appointment.

A person may be appointed the Secretary General of the Institution if he/she fulfils general criteria for public administration employment, if he/she is a graduate Lawyer or Economist, if he/she passed examination of vocational ability for public administration employment, and has minimum eight years of professional experience.

Secretary General of the Institution is accountable for his/her work to the President of the Institution.

Secretary General of the Institution participates in sessions of the Council, without voting right.

External experts

Article 33

The Institution, in the course of audit process, may engage external experts, with the aim of performing specific tasks from its scope of competence, if auditing requires particular specialized knowledge, which is not at the disposal of the Institution.

External expert of the Institution ought to possess relevant professional knowledge and experience.

External expert may be a physical or legal entity.

A foreign national may also be appointed as an external expert of the Institution if he/she is a renowned expert in the field of relevance for performance of duties within Institution's scope of competence.

Status of the Institution's external expert is acquired by entering in the Register of external experts of the Institution, on the grounds of the Council's decision.

Entire working documentation, drafted by an external expert, shall remain at the disposal and belong to the Institution.

The Institution is accountable for auditing statements, even if built upon opinion and findings of external experts.

Provisions from Articles 17 and 18 of this Law are accordingly applied on external experts.

IV. AUDIT PROCESS

Auditing standards

Article 34

The Institution shall perform the auditing activities in accordance with the generally accepted auditing principles and rules and in accordance with the selected internationally accepted standards on auditing.

The Institution shall publish the translation of standards under paragraph 1 of this Article and other professional regulations into Serbian language in the "Official Gazette of the Republic of Serbia".

The Institution is authorised for translation of standards under paragraph 1 of this Article and other professional regulations and for their publishing in the "Official Gazette of the Republic of Serbia".

Audit programme

Article 35

The Institution shall perform auditing activities on basis of annual audit programme, which shall be adopted by the end of the year for the following calendar year.

Within the legally established framework, the Institution shall independently determine the auditees, subject, scope and type of auditing, outset and duration of auditing, unless otherwise foreseen by this law.

Every year, the audit programme shall include:

- 1) budget of the Republic of Serbia;
- 2) organisations for mandatory social insurance;
- 3) appropriate number of local self-government units;
- 4) business operation of the National Bank of Serbia pertaining to the use of public funds;
- 5) appropriate number of public companies, business organisations and other legal entities established by direct i.e. indirect beneficiary of public funds with a share in capital i.e. management.

During one calendar year, the Institution may amend and modify the audit programme under paragraph 1 of this Article.

For the purpose of implementation of audit programme, the Institution may engage auditors from foreign state audit institutions, as well as commercial audit companies.

For the purpose of implementation of its audit programme, the Institution may use the audit reports of the commercial audit companies i.e. it may plan additional procedures in the auditees based on these reports.

The Institution shall be accountable for the statements when they refer to the reports under paragraph 6 of this Article.

Auditors' free access to the documents of the auditees

Article 36.

The auditee shall provide the auditors with all requested data and documents, including confidential data and documents that are necessary for the audit planning and audit activity. The auditee shall submit the data to the Institution throughout the year i.e. according to the dynamics determined by the detailed auditing plan and within the timeframe determined by the authorized person of the Institution.

The auditee shall enable the Institution and the authorized person the access to confidential documents, or documents that are considered a business secret, in accordance with the law.

On the request of the auditor of the Institution, the auditee shall submit a copy of the database.

Collection of information prior to audit process

Article 37

The Institution may, before the outset of audit process request from the beneficiaries of public funds all information that it deems necessary i.e. accounting documentation

and data, as well as other documents, and to conduct other researches necessary for audit planning and audit execution.

The request for submission of data under previous paragraph of this Article must be fulfilled within eight days after it was submitted.

Commencement of audit process

Article 38

The Institution shall begin the audit process by passing the decision on the conduct of audit.

The decision on the conduct of audit is subject to complaint. The receiver of the decision shall file the complaint within eight days after the submission of the decision.

The Council shall decide upon the complaint and pass the decision rejecting, refusing or accepting the complaint as founded.

The complaint is founded if it appears that the audit is not within the Institution competence.

The rejecting decision is not subject to complaint.

The beneficiary of public funds who received the decision on conducting an audit (hereinafter: the auditee) shall enable the authorised persons from the Institution to conduct the examination necessary for achieving the aims of the audit (hereinafter: conducting an audit).

Conducting an audit includes:

- 1) Examination of the system and certain sub-systems of operation, as well as the internal control and accounting systems;
- 2) Examination of accounting documentation and other business operation documents, as well as financial statements of the auditee;
- 3) Insight into the premises, facilities and operation assets, used by the auditee for business operation;
- 4) Other audit examinations and activities required for achieving the aims of the audit and evaluation of the appropriateness of operation.

In case of detecting a material action or documentation with the auditee, which indicates the existence of criminal offence, the authorised person from the Institution shall make a list of such documentation, to seize it and secure it, but no longer than eight days. The seizure shall be accompanied by a receipt.

The Institution shall immediately inform the competent authorities on activities and documentation under previous paragraph of this Article.

If the Institution's authorised persons are not enabled by the auditee for starting the audit within 15 days after the submission of decision on conducting an audit, or if the Institution's authorised persons estimate during the audit that the auditee does not

demonstrate appropriate readiness to cooperate in audit process, the Institution shall pass the order for submission of documentation that the auditee has to submit. The Institution may pass several amendments to the order for submission of documents.

The order for document submission shall be enacted within eight days from the day of submission.

Completion of auditing

Article 39

After completion of audit processs with the auditee, the Institution makes a draft report on the conducted audit, and submits it to the auditee and responsible persons that were in charge for the operation in the audit reference period (hereinafter: responsible persons). In the audit report, the Institution gives its opinion on the auditee's operation.

The auditee i.e. responsible person shall be entitled to filing a rationalised complaint to the draft audit report within 15 days after the day of draft submission.

The Institution shall consider the justifiability of comments contained in complaints and it shall, within 15 days after the receipt of complaint, invite the responsible person from the auditee to debate on the draft audit report, during which these persons may provide additional evidence.

The debate under paragraph 3 of this Article is not necessary if the auditee informed the Institution in writing and within 15 days after the day of draft audit report submission that he did not contest any of the findings contained in the draft.

There may be several debates on the draft audit report. The first debate shall be held at least eight, and the last no later than 30 days after the date of submission of draft audit report.

The meeting for discussing the draft audit report shall be chaired by the responsible person from the Institution and it shall be held at the premises of the auditee.

If the legal representative of the auditee fails to take part in the debate, it is deemed that he/she does not disapprove of any finding from the draft audit report, unless the legal representative proves within three days from the established date of debate that he/she failed to take part in the debate for justified reasons.

During the debate, the legal representative of the auditee may:

- 1) Deny individual findings of the draft audit report;
- 2) Provide explanations and additional evidence denying the audit findings.

If the Institution establishes that the findings were justifiably denied, such finding shall be omitted from the audit report, whereas additional audit checks may be previously undertaken.

Explanations under item 2, paragraph 8 of this Article may be included in audit reports.

Following the debate, the authorised person from the Institution shall submit to a Council member or responsible Supreme State Auditor the draft audit report with possible comments of the auditee. The Council member or responsible Supreme State Auditor shall examine the audit reports and establish the justifiability of complaints and whether the conclusions are based on the evidence from the documentation i.e. whether the procedure was conducted in accordance with the audit standards. After assessing the comments and conclusions, the Council member or responsible Supreme State Auditor shall establish the proposal audit report which is submitted to the auditee and responsible persons, within 30 days after the date of debate finalisation.

If the debate on draft audit report is not necessary (paragraph 4 of this Article), the Council member or responsible Supreme State Auditor shall establish the proposal audit report within the period not exceeding 15 days after the receipt of the auditee's notification that it did not disapprove of any finding from the draft audit report.

The auditee i.e. responsible person from the auditee in the reference period for the completed audit, may complain against the finding of the report contained in the proposal audit report. The complaint shall be filed to the Institution within 15 days after the delivery of the proposal audit report to the auditee i.e. responsible person from the auditee in the reference period analysed in the report on the completed audit.

President of the Institution may obtain the opinion of an external expert on certain proposal parts or on the entire proposal audit report.

If the findings from the proposal audit report are contested (the complaint under paragraph 13 of this Article) or if the expert opinion referred to in the previous paragraph doubted the correctness of the findings, such findings are deemed disputable.

The disputable findings in the proposal audit report shall be decided upon by the Council decision, within 30 days following the receipt of complaint under paragraph 13 of this Article. The Council may decide:

- to omit the disputable findings from the audit report;
- to keep the disputable findings in the audit report in unchanged form;
- to include the disputable findings in the audit report in the form as decided by the Council.

The audit report shall be submitted to:

1. the auditee;
2. responsible person in the auditee in the reference period for the completed audit;
3. Assembly;

4. other bodies that in the opinion of the Council should be informed about the audit findings.

If the auditee i.e. responsible person in the auditee in the reference period for the completed audit filed a complaint against the findings contained in the proposal audit report, the submitted audit report shall be accompanied by the reply to complaint. The reply to complaint shall be established by the Council.

The reply to complaint under paragraph 18 of this Article is not subject to legal redress.

The draft and proposal audit reports shall be confidential.

Procedure following the realised audit

Article 40

The auditee, whose business operation demonstrated certain irregularities or inappropriateness that were not eliminated during the audit, shall submit to the Institution the report on elimination of detected irregularities or inappropriateness (hereinafter: response to the audit report), with the exception of cases under paragraph 3 of this Article. This report shall be submitted by the auditee within the timeframe determined by the Institution, between 30 and 90 days, starting from the day following the delivery of the audit report.

The response to the audit report shall be furnished in writing, signed and verified by the responsible person in the auditee. When necessary, this document is subject to verification by the Institution. The response to the audit report is a public document.

The response to the audit report shall not be required if the audit report contains the statement that relevant measures and activities were already taken during the audit procedure for elimination of the detected irregularities and inappropriateness.

The Institution may verify the response to the audit report by comparing it with the audit results.

If the Institution estimates that the response to the audit report does not indicate the adequate elimination of the detected irregularities or inappropriateness, it shall be deemed that the beneficiary of public funds violates the obligation of good business practice. If the elimination of significant irregularities or significant inappropriateness is not adequate, it shall be deemed that there is a severe violation of the obligation of good business practice.

The violation i.e. severe form of violation of good business practice by the auditee shall be estimated in accordance with the guidelines passed by the Council.

In case of violation of good business practice, the Institution may request the undertaking of appropriate measures. Such request shall be addressed to the authority that it deems competent for undertaking measures against the beneficiary of public funds that violated the good business practice.

The authority to which the request for undertaking the measures under the previous paragraph was addressed shall, within 30 days after the receipt of the request, inform

the Institution on the measures i.e. provide the rationale for failing to take appropriate measures.

In case of serious violation of good business practice, the Institution shall inform the Assembly thereof.

The Assembly working body, competent for supervision of budget and other public funds, following the realised hearing whereto the beneficiary of public funds is invited as well, passes the decision on recommendations and measures that ought to be undertaken due to severe violation of good business behaviour.

In case of severe violation of good business practice or in case of violation of paragraph 9 and 10 of Article 38 of this Law, the Institution shall also:

- 1) issue the request for dismissal of the responsible person;
- 2) inform the public.

The Institution's request under item 1, paragraph 11 of this Article shall also contain the name of the person or several persons that should be dismissed. The request for their dismissal shall be submitted to the body which is assessed as competent for implementing or instituting the dismissal procedure.

The body which was submitted the request for dismissal of the responsible person shall pass the decision and inform the Institution thereupon within 15 days after the submission of the request.

Initiation of misdemeanour of criminal proceedings and notification of the public prosecutor

Article 41

The Institution is required to submit without delay a request for instituting misdemeanour proceedings or criminal charges to the competent body if during the audit it uncovers materially significant actions indicating the existence of the elements of a misdemeanour or a criminal offence.

The Institution is required to notify the public prosecutor of cases where damages were done to public property by an action of the subject of audit or a legal entity doing business with the subject of audit.

The bodies referred to on paragraphs 1 and 2 of this Article are required to notify the Institution of their decisions.

Confidentiality of information

Article 42

Council members, employed in the Institution and the engaged external experts shall keep all data and documents that they obtain as evidence during auditing and which are labelled as confidential or secret, in accordance with the law. Such data shall be deemed official secret and may be used only during the report drafting.

Exceptionally, the data i.e. documents under paragraph 1 of this Article may be placed to public insight, pursuant to the order of the competent court and in accordance with the law.

The data and documents labelled as confidential or secret shall be kept by the Institution in a secure place, in accordance with the Rules of Procedure.

The facts and findings representing business secret shall be omitted by the Institution's report on realised auditing, which is accessible to public.

V. REPORTING

Reporting to the Assembly

Article 43

The Institution shall inform the Assembly by submitting:

- 1) the annual activity report;
- 2) special reports during the year;
- 3) audit report on annual balance sheet of the Republican budget, annual balance sheets of the financial plans of mandatory insurance organisations and consolidated financial statements of the Republic.

The content of reports under paragraph 1 of this Article shall be more closely defined by the Rules of Procedure.

Reporting to the assemblies and local authorities

Article 44

The Institution shall report to the local assemblies on audits pertaining to the auditee which are within their competence.

The reports under paragraph 1 of this Article shall be submitted to the Assembly at the same time.

Annual activity reports of the Institution

Article 45

By 31 March of the current year, the Institution shall submit to the Assembly the annual activity report of the Institution for the previous year.

Special reports

Article 46

The Institution may, during the year, submit to the Assembly the special reports on particularly important or urgent matters, which, according to the Council, should not be postponed until the next regular report.

The Institution shall, at the Assembly request, submit the reports containing the requested information and data, in accordance with the law.

**Reports on the audit of the final accounts of the Republican budget,
annual balance sheets of financial plans of mandatory social insurance
organizations and consolidated financial statements of the Republic of
Serbia**

Article 47

In the procedure for passing of the final accounts of the Republic, the Institution shall report to the Assembly on realised audit of the final accounts of Republican budget, annual balance sheets of financial plans of mandatory social insurance organisation and consolidated financial statements of the Republic in accordance with the law regulating the budget system.

Reviewing the report

Article 48

The competent Assembly body shall, following the review of the Institution report, submit its opinions and recommendations to the Assembly in form of report.

On basis of significant facts and circumstances which were indicated in the reports under paragraph 1 of this Article, the Assembly shall decide upon the proposed recommendations, measures and timeframes for their implementation.

The Assembly may request from the Institution additional clarifications of certain facts and circumstances.

Publicity of work

Article 49

The Institution work is public and compliant with the law and Rules of Procedure.

The Institution shall submit its activity report to the Assembly for consideration at least once a year.

Ensuring quality of work of the Institution

Article 50

The Institution shall ensure a quality control system for its operation in accordance with effective international auditing standards for quality control.

VI. OPERATING CONDITIONS OF THE INSTITUTION

Operating funds

Article 51

The operating funds for the Institution shall be ensured from the budget of the Republic of Serbia within special budget line.

The Council shall establish the proposal financial plan of the Institution and submit it to the relevant working body of the Assembly for approval.

Following the obtained approval from the relevant working body of the Assembly, the Institution shall submit the proposal financial plan to the ministry responsible for budget operations.

The business premises, equipment and funds necessary for Institution operation shall be ensured by the Government.

The outset of Institution's operation may be funded from the donations granted by domestic legal entity that is not the auditee in accordance with this law, as well as from international donations intended exclusively for the development of independent public sector audit.

Annual statement of the Institution

Article 52

The Assembly may, by special enactment, entrust an audit company with the audit of the annual statement of the Institution, in accordance with the law regulating accounting and auditing.

VII. LABOUR LAW PROVISIONS

Labour Law status of the Council members

Article 53

Council member is a functionary of the Institution.

The Act on taking and termination of the term of office of the Council member shall be passed by the Assembly.

President of the Council shall be entitled to a basic salary amounting to the basic salary of the certified state auditor, increased by 30 percent.

The Vice-President and the Council members shall be entitled to a basic salary amounting to 90 percent of the basic salary of the President.

Other rights, duties and liabilities of the Council members shall be subject to provisions of regulations that apply to the rights of elected persons.

Council members may not be held responsible for opinion expressed in the audit report in the procedure instituted for punishable deed committed during the execution of his duty and he/she may not be put in detention without Assembly approval.

Labour law status of Supreme State Auditors

Article 54

Supreme State Auditor is a functionary of the Institution.

The decision on taking and termination of the term of office of the Supreme State Auditor shall be passed by the president of the Institution.

Supreme State Auditor is entitled to basic salary amounting to 90 percent of the salary established for Vice-president of the Institution and Council members.

Other earnings and rights of the Supreme State Auditor shall be subject to the provisions of the law regulating these rights for officials in state institutions.

Labour law status of the Institution Secretary General

Article 55

Secretary General a functionary of the Institution.

The decision on taking and termination of the term of office of the Secretary General of the Institution shall be passed by the President of the Institution.

Institution Secretary General shall be entitled to basic salary amounting to 90 percent of the salary entitled to the Supreme State Auditor.

Other earnings and rights of the Secretary General shall be subject to the provisions of the law regulating these rights for the officials in state institutions.

Labour law status of the state auditors

Article 55a

Number of state auditors shall be stipulated by the Institution act.

A state auditor shall establish employment relation at the Institution upon announcement of the public vacancy in accordance with the Institution act.

The President of the Institution shall, upon closure of the public vacancy from paragraph 2 of this Article, make decision on the appointment of a state auditor.

Decision from paragraph 3 of this Article is final.

The state auditor with title of a certified state auditor shall be entitled to a basic salary determined by multiplying the basis for salary accounting and payment and the coefficient belonging to the civil servant in the first grade positions – 9.00.

The state auditor with title of a state auditor shall be entitled to a basic salary determined by multiplying the basis for salary accounting and payment and the coefficient belonging to the civil servant in the first grade positions – 8.00.

The basis for salary accounting and payment from paragraphs 5 and 6 of this Article shall be stipulated in accordance with the law regulating salaries of civil servants and state employees.

As regards other income and rights of the state auditors, regulations stipulating the rights of the employees in the Institution shall be applied.

Labour law status of the Institution service employees

Article 56

The person working in an Institution service is in the labour law position as applied to the employees in state bodies.

The decision on starting and terminating the employment in the Institution shall be passed by the President of the Institution.

The person working in the Institution services shall be entitled to the salary amounting minimum to the salary prescribed by regulations prescribing the salaries in state bodies.

Other earnings and rights of Institution employees shall be subject to regulations that regulate the rights of employees in state bodies.

Institutional benefit

Article 56a

The basic salary stipulated by Article 53 paragraphs 3 and 4, Article 54 paragraph 3, Article 55 paragraph 3, Article 55a paragraphs 5 and 6, and Article 56 paragraph 3 may, due to particularly complex work at the Institution, be increased up to 30 percent (hereinafter: institutional benefit).

The criteria and the amount of the institutional benefit shall be determined by the President of the Institution.’’

VIII. PENALTY PROVISIONS

Offence of the responsible person

Article 57

Responsible person in the auditee shall be fined for offence from 5.000 to 50.000 RSD:

1) If the auditee, which was submitted the request for provision of data, fails to fulfil this request within the prescribed timeframe (para. 2, Article 37) ;

2) If the auditee, which was submitted the request for provision of documents, fails to provide the Institution with all documents enlisted in the request or annex to the request for provision of documents (para. 10 and 11 of Article 38);

3) If the auditee, whose operation demonstrated irregularities or inappropriateness, fails to timely submit to the Institution the response to the audit report (para. 1, Article 40) as approved by the responsible person (para. 2, Article 40);

4) If the auditee which was submitted the request of the Institution to undertake appropriate measures, fails to duly submit to the Institution the report on their undertaking or the rationale for such failure (para. 8, Article 40);

5) If the auditee, which was submitted the request for dismissal of the responsible person, fails to pass the decision within the prescribed period in relation to the request or if it fails to duly inform the Institution on the decision (para. 13, Article 40)

IX. TRANSITORY AND FINAL PROVISIONS

Selection of Council members

Article 58

The selection of the president, vice president and members of the Council shall be realised within six months after the day this law has entered into force.

Adoption of the Rules of Procedure

Article 59

The Institution shall, within three months after the Council election, adopt the Rules of Procedure and submit it to the Assembly for approval.

The Assembly shall approve the Rules of Procedure within three months after the submission of the Rules of Procedure to the Assembly.

Approval of the financial plan of the Institution

Article 60

The Institution shall submit to the relevant working body of the Assembly the first annual financial plan of the Institution within three months after the Council constitution.

The responsible body of the Assembly shall consider the financial statement under paragraph 1 of this Article no later than within 30 days after the receipt.

Adoption of the training programme for obtaining the auditor titles

Article 61

The Institution shall pass the training programme for obtaining the title of State Auditor and Certified State Auditor and appoint the Examination Committee in accordance with this law, no later than two years after the Council election.

The training programme under paragraph 1 of this Article should be in accordance with international standards, guidelines and documents for education of State Auditors.

Election of Supreme Auditors and State Auditors

Article 62

The election of Supreme State Auditors under Article 27 of this Law and State Auditors under Article 28 of this Law shall be realised within six months after the Council election.

Until the adoption of the programme and appointment of Examination Committee under Article 61 of this law, the person who has not passed the exam for Certified State Auditor may be appointed the Supreme State Auditor if he/she meets other conditions under paragraph 1, Article 27 of this law and if such person has passed the professional exam for working in state institutions or professional exam for obtaining the title of Certified Auditor or Certified Accountant, in accordance with the law regulating accounting and auditing.

At Institution establishment, before the adoption of the examination programme and appointment of the Committee under Article 61 of this law, a person without the passed exam for State Auditor may be appointed at this position if such person, beside the general conditions for work in state institutions, meets the following special conditions: university degree, good knowledge of at least one foreign language, minimum five-year experience in the jobs related to the Institution competencies and passed the professional exam for working in state institutions or professional exam for obtaining the title of certified auditor or certified accountant, in accordance with the law regulating accounting and auditing.

In the first mandate, at election of Council members under paragraph 3, Article 16 of this law, the title of certified auditor or certified accountant, obtained in accordance with law regulating accounting and auditing, shall be acknowledged.

The employees performing the duties of Supreme State Auditor under paragraph 2 of this article, the duties of State Auditor under paragraph 3 of this article and Council members under paragraph 4 of this article shall, within 18 months after the passing of examination programme under article 61 of this law, pass the exam for State Auditor.

If an employee under paragraph 5 of this article fails to pass the State Auditor exam within the timeframe under paragraph 5 of this article, the mandate of such person shall be terminated i.e. the employment in the position requiring this auditor title.

Initial work programme of the Institution

Article 63

The Institution shall submit to the insight of the relevant working body of the Assembly the Initial work programme of the Institution, within 90 days after the Council election.

The Initial work programme of the Institution shall particularly contain: provision of funds for Institution operation; cooperation with authorised international professional and financial organisations for implementation of this law; selection of consultants for audit training and other activities necessary for initiating the Institution operation.

Training consultant

Article 64

The Council may engage consultants who would, in accordance with the adopted programme and plan for audit training, realise the training of State Auditors.

Within the framework of realisation of auditor training, the training consultants under paragraph 1 of this article may perform the audit of annual balance sheet of the Republican budget and audit of operation of other auditees on behalf of Institution.

Entry into force

Article 65

This Law shall enter into force on the eighth day after its publishing in the "Official Gazette of the Republic of Serbia", and it shall be applied six months after its entry into force.