

# L A W

## ON THE STATE AUDIT INSTITUTION\*

### I GENERAL PROVISIONS

#### Scope of the Law

##### Article 1

This Law regulates the establishment and activities, legal status, competencies, organization and the operation of the State Audit Institution (hereinafter: the Institution), and other issues significant for the work of the Institution, as well as the rights and obligations of the subjects of audit.

#### Meaning of Terms

##### Article 2

For the purpose of this Law the following terms shall mean:

1) **Audit of financial statements** is examination of documents, legal documents, reports and other information for the purpose of obtaining sufficient, adequate and reliable evidence to state an opinion whether the financial statements of the subject of audit present truly and fairly its financial position, results of business operation and cash flows, in accordance with the accepted accounting principles and standards;

2) **Audit of the business operation**, in terms of this Law shall mean obtaining sufficient, adequate and reliable evidence to state an opinion regarding proper and appropriate operation of a beneficiary of public funds;

3) **Audit of proper business operation** shall mean examination of financial transactions and decisions regarding revenues and expenditures, for the purpose of establishing whether the relevant transactions were carried out in compliance with law, other regulations, given authorizations and for the planned purposes;

4) **Audit of the expediency of business operations** shall mean the examination of the spending of the budget and other public funds, for the purpose of acquiring sufficient, adequate and reliable evidence for reporting whether the subject of audit used the funds in

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\* The Law was published in the "Official Gazette of the RS", No. 101/05 from 21 November 2005. The law entered into force on 29 November 2005 and it was determined to be applied in the period of six months after its entering into force, e.g. on 29 May 2006. The amendments to the Law were published in the "Official Gazette of the RS", No. 54/07 from 13 June 2007.

accordance with principles of economy, efficiency and effectiveness, as well as in accordance with 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) **Business operation of the subject of audit** in the auditing procedure according to this Law comprises:

(1) **all actions of the subject of audit** having effect on its income or expenditures as well as on assets or liabilities towards the sources of assets (business operation in a narrower sense);

(2) **all actions of the subject of audit** having effect on the state of public property, public debt, safeguarding of public goods or the state of environment (business operation in a wider sense);

9) **Audit finding** denotes a set of established facts and statements based on the assessment of a particular segment of the business operation of the audited subject;

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

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

12) **Irregularity in business operation** denotes incoherence between business operation and regulations or guidelines, which the subject of audit is required to observe in business operation;

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

## **Legal Status of the Institution**

### **Article 3**

The Institution is the supreme government body for auditing of public funds in the Republic of Serbia (hereinafter: the Republic).

The Institution is an autonomous and independent government body.

The Institution is accountable to the National Assembly of the Republic of Serbia for performance of tasks under its competence (hereinafter: the Assembly).

Acts pursuant to which the Institution exercises its auditing competence cannot be challenged before courts or other government 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 of the Institution**

#### **Article 4**

The seat of the Institution is in Belgrade.

The Institution may have organizational units outside its seat.

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

## **II COMPETENCE OF THE INSTITUTION**

### **Tasks Within the Competences of the Institution**

#### **Article 5**

Within its competences, the Institution performs the following tasks:

- 1) plans and performs audits, in accordance with this Law;
- 2) enacts by-laws and other enactments for the purpose of implementing of this Law;
- 3) submits reports in accordance with Art. 43 and 44 of this Law;

- 4) takes standpoints and gives opinions and other forms of public announcements regarding the application and implementation of particular provisions of this Law;
- 5) as necessary and in accordance with its capacities, extends professional assistance to the Assembly, the Government of the Republic of Serbia (hereinafter: the Government) and to other government bodies on particular significant measures and important projects, in a manner that does not diminish the independence of the Institution;
- 6) may provide advice to the beneficiaries of public funds;
- 7) may give comments on working drafts of legal texts and other regulations, and may give opinion on matters related to public finances;
- 8) may give recommendations for amendment of current laws, based on the information it has acquired through performance of audits, which have or may have negative consequences or lead to unforeseen results;
- 9) adopts and publishes auditing standards related to the exercise of auditing competencies of the Institution, auditing manuals and other professional publications significant for the upgrading of the auditing profession;
- 10) establishes training and examination programme for acquiring the titles of state auditor and certified state auditor, organizes and conducts examinations for acquiring the professional titles of state auditor and certified state auditor and keeps the Register of persons who have acquired these professional titles;
- 11) establishes the criteria and validates professional titles acquired abroad that are in the competence of the institution;
- 12) cooperates with international auditing and accounting organizations in the areas related to accounting and auditing within the public sector;
- 13) performs other activities determined by the Law.

## **Rules of Procedure of the Institution**

### **Article 6**

The Institution has its Rules of Procedure, in accordance with this Law, regulating in detail the manner and procedure whereby the Institution exercises its auditing competence, the manner to ensure transparency of the work of the Institution, decision

making and other issues specified by law, which are significant for the Institution's operation.

The Council adopts the Rules of Procedure with previous approval of the Assembly.

The Institution may also regulate the organization and operation of the Institution by other acts.

### **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**

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

### **Subjects to Audit**

#### **Article 9**

Subject to audit in accordance with this Law are:

- 1) revenues and expenditures in accordance with the regulations on the budget system and the regulations on public revenues and expenditures;
- 2) financial statements, financial transactions, accounts, analyses and other records and information of the subjects of audit;
- 3) regularity of business operations of the subjects of audit in accordance with law, other regulations and given powers;
- 4) appropriate use of public funds in whole or in particular part;
- 5) system of financial management and control of the budget system and the systems of other bodies and organizations which are subject to audit by the Institution;

6) the system of internal controls, internal audits, accounting and financial procedures of the subject of audit;

7) acts and actions of the subject of audit that have or may have financial effects on the revenues and expenditures of the beneficiaries of public funds, state property, borrowings and giving guarantees, and the appropriate use of the funds at disposal of the subjects of audit;

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

9) Other areas provided under separate by laws.

The Institution may revise the act on the previous, current and the planned operations of the beneficiary of public funds.

The act specified in the above paragraph may be an act that is provided by law or a special accounting presentation, or report that has to be drawn up by the beneficiary of public funds at the request of the Institution.

### **Subjects of Audit**

#### **Article 10**

Subjects of audit, in accordance with this Law, are:

1) direct and indirect beneficiaries of the budget funds of the Republic, territorial autonomies and local governments in accordance with regulations governing the budget system and the system of public revenue and expenditure;

2) mandatory social insurance organizations;

3) budget funds established by a separate law or by-law;

4) the National Bank of Serbia, in the segment related to use of public funds and to operations with the State budget;

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

6) legal entities where direct or indirect beneficiaries have a share in the capital or management;

7) legal entities established by legal entities in which the state has a share in the capital or management;

8) legal and natural persons receiving subsidies and other grants or guarantees from the Republic, territorial autonomies or local government;

9) subjects responsible for the reception, storage, distribution and use of public reserves;

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

11) beneficiaries of EU funds, donations and aid from international organizations, foreign governments and NGOs;

12) a contracting party in respect of the execution of international contracts, agreements, conventions and other international acts, when so specified by an international act or determined by a competent body; and

13) other subjects using the funds and assets controlled by and at disposal of the Republic, territorial autonomies, local governments or mandatory social insurance organizations.

The subjects of audit specified in paragraph 1 of this Article are deemed beneficiaries of public funds in accordance with this Law.

The subject of audit specified in paragraph 1 of this Article to whose operation audit findings relate is required to take these findings under consideration and undertake measures to eliminate the determined irregularities and inappropriateness.

## **Legal Entities With Relations to the Subjects of Audit**

### **Article 11**

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

The audit of business operations of legal entities referred to in paragraph 1 of this Article shall be conducted only in the part of their business operations with the subjects of audit in accordance with this Law.

By its own enactment the Institution shall specify the auditing methods for legal entities specified in paragraph 1 of this Article so that their rights concerning the activities in the auditing procedure are protected.

### **III ORGANIZATION AND COMPOSITION OF THE INSTITUTION**

#### **Organization and Bodies**

##### **Article 12**

The Institution shall have a president of the Institution, a vice-president, the Council, auditing services and ancillary services.

The purview and manner of operation of the services of the Institution, internal organization and the job classification shall be more specifically regulated by an act of the Institution, which will be adopted by the Council at the proposal of the president of the Institution.

#### **The Council**

##### **Article 13**

The Council is the supreme body of the Institution.

The Council is a collegiate body.

The Council has five members: the chairman, the vice chairman and three members.

The chairman of the Council is also the president of the Institution.

The Council takes decisions at sessions chaired by the chairman of the Council or by the vice chairman, who substitutes for him.

The Council takes decisions by the majority of votes of all members.

In taking decisions the Council members may not compromise their or the Institutions independence.

The Rules of Procedure of the Council of the Institution shall specify issues related to the work of the Council.

The Council issues the act referred in paragraph 8 of this Article.



## **Competencies of the Council**

### **Article 14**

The Council shall perform the following tasks:

- 1) adopts the Rules of Procedure;
- 2) adopts the Annual Auditing Programme;
- 3) adopts the act specifying the auditing procedure;
- 4) adopts the Financial Plan of the Institution;
- 5) establishes the Annual Financial Statement of the Institution;
- 6) decides on objections of the subjects of audit to the draft report on the performed audit;
- 7) adopts annual statements and special reports;
- 8) adopts other acts of the Institution and carries out other tasks specified by this Law and acts of the Institution.

## **Members of the Council**

### **Article 15**

The members of the Council take part in the work and decision-taking of the Council, monitor activities of particular auditing units within the Institution, take part in the work process of the auditing services and perform other tasks delegated by the Chairman of the Council.

## **Requirements for the Election of the Council Members**

### **Article 16**

A citizen of the Republic of Serbia may be elected as a member of the Council who, in addition to general statutory requirements for employment in government bodies, also meets the following requirements: university degree, minimum ten years experience, of which at least five years on tasks related to 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 and bar examination.

## **Incompatibility of Functions**

### **Article 17**

The function of Council member is incompatible with:

- 1) function in government body, in bodies of local government or bodies with delegated administrative authority and function in political parties or trade unions;
- 2) employment in government body, a local government body or with bodies with delegated administrative authorities;
- 3) membership in managing or supervisory body of a business company, public enterprise, fund, mandatory social insurance organization or other legal entity with a state capital share;
- 4) an equity share in legal entities that fall within the competencies of the Institution in accordance with this Law;
- 5) engaging in other tasks that are incompatible with discharge of public office;
- 6) engaging in other tasks that could negatively impact on their autonomy, impartiality and public reputation, as well as on the confidence in and the reputation of the Institution;
- 7) engaging in any other paid duties, except research and educational functions, and only if such duties are not in moral collision with discharge of the duties of Council member.

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

A Council member is required to notify the Council of the facts specified in paragraph 1 of this Article.

## **Disallowed Relations Between Holders of Office in the Institution and the Subject of Audit**

### **Article 18**

Members of the Council may not be lineal blood relatives, lateral relatives to fourth degree of kinship, spouses, or affine to the second degree inclusive even when the marriage has been dissolved, a guardian, adoptee, adoptive parent or foster parent.

A member of the Council may not participate and take decisions in the process of audit, if s/he has been employed by the person being the subject of the audit or if s/he has performed certain tasks for the subject of audit, unless a period of five years has elapsed from termination of such employment or from the completion of the tasks.

A member of the Council is obliged to notify in due time the Council of the facts referred to in paragraphs 1 and 2 of this Article.

## **Election of the Chairman, the Vice-Chairman and members of the Council**

### **Article 19**

The chairman, the vice-chairman 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 body of the Assembly. The competent working body shall consider the candidatures, establish whether requirements set by this Law have been met and draw up a list of candidates to be presented to the Assembly. The nominations shall be reasoned, with attached written statement of the candidate that s/he accepts the nomination.

If a candidate proposed for chairmanship, the vice chairmanship or member of the Council fails to obtain the required majority of votes, the competent working body of the Assembly shall propose a new candidate.

Following election the chairman, the vice chairman and the members of the Council shall take an oath before the Assembly and thereby take office. The oath reads: "I do swear allegiance to the Republic of Serbia. I promise to respect the Constitution and laws. I swear on my honour that I shall discharge 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 at most twice.

The chairman of the Council shall notify the chairman of the competent working body of the Assembly of expiry of the term of office of a member of the Council not later than six months prior to expiry of the term of office.

A member of the Council whose term of office has been terminated for reasons other than those specified in Article 22 of this Law may discharge the office until election of a new Council member.

### **Termination of the Term of Office of a Member of the Council**

#### **Article 21**

The term of office of a member of the Council shall terminate prior to expiry of the term to which s/he has been elected by resignation, fulfilling the requirements for retirement or by dismissal.

### **Reasons for Dismissal**

#### **Article 22**

A member of the Council is dismissed from office:

- 1) if sentenced by a final court decision to unconditional prison sentence of minimum six months or for a punishable offence of shorter duration making him/her unworthy of office;
- 2) if declared incompetent by final court decision;
- 3) by assuming engagement or office that are incompatible with the function of member of the Council;
- 4) if failing to act in accordance with the Constitution and law.

### **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 Council member may be filed by minimum 20 MPs.

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

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

A member of the Council whose dismissal is proposed is entitled to address the members of the competent working body of the Assembly, orally or in writing, at the session on which his/her dismissal is being considered.

Upon conclusion of the debate and voting, the competent working body of the Assembly shall submit a report to the Assembly with a proposal to take the 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**

The competent working body of the Assembly may by own initiative propose to the Assembly to dismiss a Council member when it establishes, on basis of continuous monitoring of the work of the Council in accordance with law or based on other findings, that grounds for dismissal specified in Article 22 of this Law exist.

The provisions of Article 23, paragraph 5 of this Law shall apply in the procedure when the competent working body of the Assembly proposes at own initiative to dismiss a Council member.

### **President of the Institution**

#### **Article 25**

The president of the Institution is the general state auditor and the managing officer of the Institution.

As the general state auditor the president of the Institution has the following competencies:

1) approves and directs the assignment of the tasks within the competencies of the Institution by establishing and implementing the work programme and signing the acts of the Institution;

2) prescribes rules and issues guidelines and instructions for implementing particular phases of audit;

3) may order official supervision of the performance of audit activities and, related thereto, issue supervision order;

4) nominates members of the Board of Examiners;

5) signs certificates for auditor titles of state auditor and certified state auditor;

6) has other competencies and performs other tasks in accordance with this Law.

The President of the Institution, as the managing officer, has the following competencies:

1) proposes to the Council the annual financial plan of the Institution;

2) submits to the Council annual reports and special reports on the work of the Institution;

3) is the ordering authority for the Institution's funds;

4) decides on the employment legal issues in the Institution and issues relevant decisions;

5) defines tasking within the Institution and may issue decisions related thereto;

6) has other competencies and performs other tasks provided by the Law.

### **Vice-President of the Institution**

#### **Article 26**

The vice-president of the Institution:

1) performs duties of the general state auditor on basis authorization of the president of the Institution;

2) substitutes for the president of the Institution in case of his/her temporary absence;

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

4) performs other tasks assigned him/her by the president of the Institution.

In case of absence of the vice-president of the Institution, s/he is substituted for by the eldest member of the Council.

## **Supreme State Auditors**

### **Article 27**

A person who meets the general requirements for employment in government bodies, holds university degree and the title of certified state auditor in accordance with this Law may be appointed supreme state auditor. A person with minimum 10 years experience shall be deemed to have appropriate experience for the office of supreme state auditor, of which eight years on tasks related to the 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.

A supreme state auditor assumes office after taking the oath specified in Article 19, paragraph 3 of this Law before the Council of the Institution.

The supreme state auditor shall manage the Auditing Service and discharge the auditing tasks of the Institution in accordance with this Law and in accordance with the powers assigned him/her by the president of the Institution.

The supreme state auditor is accountable for his/her work to the president of the Institution.

The number of supreme state auditors is defined by act of the Institution.

## **State Auditors – Auditor Titles**

### **Article 28**

Auditing tasks are carried out by state auditors.

Auditor titles are: state auditor and certified state auditor.

The auditor titles shall be acquired in accordance with this Law and the international practices for education of auditors.

A state auditor and a certified state auditor are independent experts who hold a certificate for the title of state auditor or certified state auditor and meet the other requirements set forth under this Law.

Prior to sitting for the exam to acquire the title of state auditor or certified state auditor a candidate shall have passed the exam for employment in government bodies, unless exempted according to the provisions of the civil servants law.

The certificate of the auditor title of state auditor may be acquired by a person who meets the following requirements:

- 1) has professional knowledge to perform audits in accordance with this Law;
- 2) has appropriate experience;
- 3) has passed the examination for the title of state auditor.

The certificate for auditor title of certified state auditor may be acquired by a person who meets the requirements specified in points 1) – 3), paragraph 6, of this Article and who has passed the examination for certified state auditors.

Certificates of acquired auditor titles from paragraph 1 of this Article are public documents.

The Council shall specify requirements for acquiring or revocation of auditor titles, organization and conducting of examinations for auditor titles and the issuing of certificates for auditor titles.

The act referred in paragraph 9 of this Article shall be published in the “Official Gazette of the Republic of Serbia”.

## **Acquiring Auditor Titles**

### **Article 29**

The examination for acquiring the auditor title of state auditor or certified state auditor shall be taken in accordance with the programme issued by the Council, which shall be published in the “Official Gazette of the Republic of Serbia”.

The ministry competent for financial affairs, the ministry responsible for the government administration affairs and other subjects that in the Council’s assessment could contribute to the drafting of the programme may participate in the drafting of the programme referred to in the paragraph 1 of this Article.

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



The examination for acquiring the auditor title of state auditor and certified state auditor is taken before the Board of Examiners appointed by the Council at the proposal of the president of the Institution.

A person who passes the examination specified in paragraph 4 of this Article shall acquire the title of state auditor or certified state auditor and shall be registered in the Register of Professional Titles kept by the Institution.

The Institution issues certificates of the auditor titles of state auditor and certified state auditor.

### **Exemption**

#### **Article 30**

The provisions of Art. 17 and 18 of this Law shall be applied accordingly to supreme state auditor, certified state auditor and state auditor.

The Council shall take decision on the exemption of persons specified in paragraph 1 of this Article.

### **Institution's Services**

#### **Article 31**

The Institution has auditing and ancillary services.

The president of the Institution appoints the managing officers of the services referred to in paragraph 1 of this Article.

Operation, competencies, organizational structure, job classification and other rights and obligations of the staff of the Institution's services referred to in paragraph 1 of this Article shall be specified by an act of the Institution.

### **Secretary**

#### **Article 32**

The Institution shall have a secretary who coordinates the work of the ancillary services of the Institution, manages the operation of the Institution and carries out other

tasks according to the provisions and the powers assigned by the president of the Institution.

The secretary of the Institution is appointed and dismissed by the president of the Institution by decision for a period of six years, following a public vacancy announcement, with the possibility of re-appointment.

A person may be appointed secretary of the Institution who meets the general requirements for employment in government bodies, who has a university degree in law or economics, who has passed the professional exam for employment in government bodies and who has minimum eight years of professional experience.

The secretary of the Institution is accountable for his/her work to the president of the Institution.

The secretary attends the Council sessions, without the voting right.

## **External Experts**

### **Article 33**

The Institution may in the process of audits engage external experts for the purpose of carrying out certain tasks within its competencies if the auditing requires particular specialist expertise that is not available within the Institution.

External experts engaged by the Institution must have appropriate professional expertise and experience.

External experts may be a natural or legal persons.

The Institution may also appoint a foreign citizen as an external expert, who is a recognized expert in an area significant for the carrying out the tasks under the competence of the Institution.

The status of external expert of the Institution is acquired by registry in the Register of Experts of the Institution, on the basis of the Council's decision.

All working documents drawn up by an external expert shall be placed at the disposal of and shall belong to the Institution.

The Institution is responsible for audit statements even when these are based on the opinion of and the examination by external experts.

The provisions of the Articles 18 and 19 of this Law shall appropriately apply to external experts.

## **IV CONDUCTING AUDIT**

### **Auditing Standards**

#### **Article 34**

The Institution exercises its auditing powers in accordance with the generally-accepted auditing principles and rules and in accordance with selected internationally-accepted auditing standards.

The Institution publishes the Serbian translation of the standards referred to in the paragraph 1 of this Article and other professional regulations in the “Official Gazette of the Republic of Serbia”.

The Institution is authorized to translate selected internationally-accepted auditing standards from paragraph 1 of this Article and other professional regulations and to publish the same in the “Official Gazette of the Republic of Serbia”.

### **Auditing Programme**

#### **Article 35**

The Institution conducts audits on the basis of annual programme of audits, which it shall adopt before the end of the current year for the forthcoming calendar year.

Within the framework set by law, the Institution decides autonomously on the subjects of audit, the subject matter, the scope and type of audit, the time of the beginning and duration of the audit, unless otherwise provided by this Law.

The audit programme includes each year as mandatory:

- 1) the budget of the Republic of Serbia;
- 2) mandatory social insurance organizations;
- 3) relevant number local self-governments;
- 4) operation of the National Bank of Serbia related to the use of public funds;

- 5) a relevant number of public enterprises, business companies and other legal entities established by direct or indirect budget spending unit and where the state has a share in equity managing.

During a calendar year the Institution may change and amend the programme of audits specified in paragraph 1 of this Article.

In order to implement the audit programme the Institution may engage auditors of state audit institutions of other countries, as well as commercial auditing firms.

To implement its programme of audits the Institution may use audit reports of commercial auditing firms or it may, on the basis on such reports, plan additional procedures for the relevant subjects of audit.

The Institution shall is responsible for audit statements also when using reports referred to in paragraph 6 of this Article.

### **Auditors' Free Access to Documents of Subjects of Audit**

#### **Article 36**

The subject of audit is obliged to place at the disposal of the auditors all the requested data and documents, including also confidential data and documents that are necessary for planning and conducting the audit. The subject of audit is obliged to submit the requested data to the Institution during the year as well, i.e. according to the time schedule established by the programme of the audit and within the deadlines determined by the authorized person of the Institution.

The subject of audit is obliged to make available to the Institution or the authorized person the confidential documents, or documents that are considered a business secret, in accordance with law.

At the request of the auditor of the Institution the subject of audit is obliged to submit a copy of the database.

### **Collecting Information Prior to Commencement of Audit**

#### **Article 37**

The Institution may also prior to commencing of the audit request from the beneficiary of public funds all information that is considered necessary, bookkeeping documentation, data and other documentation, and may conduct other examinations that are required for planning and conducting the audit.

The request for the submission of the information specified in the above paragraph of this Article must be complied with within a period of eight days from the date of delivery of the request.

### **Commencement of Audit Procedure**

#### **Article 38**

The Institution shall start an audit procedure by adopting the conclusion on conducting the audit.

A complaint may be filed against the conclusion on conducting an audit. The party receiving the conclusion may file a complaint within a period of eight days from the day of delivery of the conclusion.

The Council shall decide on the complaint by a conclusion, and may dismiss it, reject or accept it as founded.

The complaint shall be founded if demonstrated that audit is not under the competence of the Institution.

No complaint is allowed against the conclusion on the dismissal.

A beneficiary of public funds that has received a conclusion on conducting an audit (hereinafter: the audited party) is required to enable the authorized persons of the Institution to carry out the examination required for the purpose of achieving the objectives of an audit (hereinafter: conducting an audit).

Conducting an audit includes:

1) examination of the system and certain sub-systems of the business operation and the internal control and accounting systems;

2) examination of accounting documents and other business operation documents and financial statements of the subject of audit;

3) inspection of the premises, buildings and capital goods used by the subject of audit for its business operation;

4) other auditing examinations and activities required for the purpose of achieving the objectives of the audit and the evaluation of the appropriateness of the business operation.

Should the authorized person of the Institution detect a materially significant actions, or documentation with the subject of audit indicating the existence of a criminal

offence, s/he is required to list of such documentations, confiscate and secure it, but for a maximum period of eight days. A receipt on confiscation is issued.

The Institution shall immediately advise the competent authorities on the actions and documentation from the previous paragraph of this Article.

If, within a period of 15 days as from the delivery of the conclusion on conducting the audit, the authorized persons of the Institution are prevented by the audited party to start the audit or if, during the audit, the persons authorized by the Institution assess that the audited party does not display appropriate readiness to cooperate in conducting the audit, the Institution shall issue an order for the submission of documents that have to be submitted by the audited party. The Institution may bring a number of amendments to the order for the submission of documents.

The order for the submission of documents must be complied with within a period of eight days as from its delivery.

### **Audit Concluding Procedure**

#### **Article 39**

After completion of the auditing procedure with the audited party, the Institution shall make a draft report on the conducted audit, and submit it to the audited subject and the responsible persons who were responsible for the covered operation in the period for which the audit was conducted (hereinafter: the responsible persons). The Institution shall in the audit report express its opinion on the business operation of the audited party.

The audited subject and the responsible persons have the right to submit a reasoned complaint on the draft report of the conducted audit within a period of 15 days from the date of receiving the draft report.

The Institution shall consider the justification of the remarks from the complaint and, within 15 days from the receipt of the complaint, call the responsible persons of the audited subject to hearing on the draft audit report, wherein the responsible persons shall be able to also submit new evidence.

The hearing referred to in paragraph 3 of this Article is not essential if the audited subject notifies the Institution in writing within 15 days from the delivery of the draft audit report that it does not dispute any of the findings contained in the draft.

There may be more than one hearing on the draft audit report. The first one shall be held at least after eight days, and the last one at most 30 days from the date of the delivery of the draft audit report.

The meeting to review the draft audit report is conducted by the authorized person of the Institution and is held, as a rule, at the seat of the audited subject.

If the representative of the audited subject does not take part in the hearing, it shall be deemed that s/he does not dispute any of the findings from the draft audit report, unless the representative proves, within a period of three days from the date scheduled for the hearing, that s/he did not take part in the debate for justified reasons.

During the hearing the representative of the audited subject may:

- 1) challenge particular findings in the draft audit report;
- 2) give explanations and additional evidence contesting the audit findings.

If the Institution is satisfied that the contestation of an audit finding is founded, then such a finding shall be excluded from the audit report, providing that additional auditing checks may be conducted before that.

Explanations from point 2, paragraph 8, of this Article may be included in the audit report.

After the hearing the authorized person of the Institution shall submit to the Council or to the responsible supreme state auditor the draft audit report with any remarks of the audited subject. A member of the Council or the responsible supreme state auditor shall examine the audit report and establish if the remarks are founded and if the conclusions are based on documented evidence, and if the procedure has been conducted in accordance with the auditing standards. After the evaluation of the remarks and the conclusions, the member of the Council or the responsible supreme state auditor shall define the draft audit report which shall be delivered to the audited subject and the responsible persons within a period of 30 days as from the conclusion of the hearing.

If the hearing on the draft audit report is not necessary (paragraph 4 of this Article), the member of the Council or the responsible supreme state auditor shall draw up the proposed audit report within a period of 15 days from the day of receipt of the notification from the audited subject that it does not dispute any of the findings from the draft audit report.

The audited subject, or the responsible person of the audited subject from the period covered by the conducted audit, may file a complaint on the findings of the audit contained in the proposed audit report. A complaint is filed with the Institution within a period of 15 days which starts running from the next day upon the delivery of the proposed audit report to the audited subject or to the responsible person from the period covered by the report on the conducted audit.

The president of the Institution may decide that an opinion of an external expert of the Institution should be obtained on certain part/s of the draft or on the entire proposed audit report.

If a finding of the audit from the proposed audit report has been successfully challenged (objection from paragraph 13 of this Article), or if doubt in its correctness has been expressed in the opinion of the external expert from the previous paragraph, that finding shall be considered disputable.

The Council shall decide about the disputable finding in the proposed audit report by conclusion within a period of 30 days as from the receipt of the complaint from paragraph 13 of this Article. The Council may decide:

- that the disputable finding be omitted from the audit report;
- that the disputable finding remains unchanged as an integral part of the audit report;
- that the disputable finding be included in the audit report in an amended form as determined by the Council.

The audit report is delivered to:

1. the audited subject;
2. the responsible person of the audited subject from the time covered by the conducted audit;
3. the Assembly;
4. other bodies that in the opinion of the Council should be advised about the audit findings.

If the audited subject or the responsible person of the audited subject from the time covered by the conducted audit has filed a complaint against the audit finding contained in the proposed audit report, the reply to the complaint shall be delivered together with the audit report. The reply to the complaint is defined by the Council.

There is no legal remedy against the reply from paragraph 18 of this Article.

The draft and the proposal of the audit report are confidential.

## **Procedure Following the Completion of Audit**

### **Article 40**

An audited subject in whose business operation irregularities or inappropriateness have been detected but not eliminated during the conduction of the audit shall be required,



except in case from paragraph 3 of this Article, to submit to the Institution a report on the elimination of the detected irregularities or inappropriateness (hereinafter: the response report). The audited subject must submit this report within the period designated by the Institution, ranging from 30 to 90 days, starting from the following day upon the date of the delivery of the audit report.

A response report is submitted in writing, signed and certified by the seal of the responsible person of the audited subject. When necessary, this document shall be subject to the verification of its credibility by the Institution. The response report is a public document.

No response report shall be required if it is stated in the audit report that the necessary measures and activities had already been taken for the purpose of the elimination of the irregularities and inappropriateness.

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

If the Institution finds that the response report does not show that the detected irregularities or inappropriateness have been eliminated in a satisfactory way, it is considered that the beneficiary of public funds violates the obligation of due diligence. If unsatisfactory elimination of a significant irregularity or significant inappropriateness is in question, it is considered that there is a serious form of the violation of the obligation of due diligence.

A violation or a serious violation of the duty of due diligence by an audited subject is evaluated in accordance with the guidelines issued by the Council.

If there is a violation of the duty of due diligence, the Institution may make a request taking measures. Such a request is sent to the body which is considered able to take measures within its competence against the beneficiary of public funds violating the duty of due diligence.

The body to which the request for taking measures from the previous paragraph of this Article has been sent shall, within a period of 30 days upon the receipt of the request, notify the Institution on the measures taken or send an explanation why the same have not been taken.

If there is a serious violation of the duty of due diligence the Institution shall so notify the Assembly.

The working body of the Assembly responsible for the supervision of the budget and other public funds shall, within its competence, after the conducted hearing referred to by the beneficiary of public funds, bring a conclusion with recommendation and measures to be taken due to the serious violation of the duty of due diligence.

In case of violation of the duty of due diligence or in case of a breach from paragraph 9 and 10 of Article 38 of this Law, the Institution shall also:

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

In the request from point 1, paragraph 11 of this Article, the Institution shall state the name of the person/s to be dismissed. The request for their dismissal is sent to the body deemed to be able to enforce or initiate the dismissal procedure.

The body to which the request for the dismissal of the responsible person/s has been sent, must decide and notify the Institution about its decision within a period of 15 days as from the delivery of the request.

### **Initiation of Misdemeanour or Criminal Proceedings and Notification of the Attorney-General**

#### **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 Attorney-General 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 Data**

#### **Article 42**

The members of the Council, the employees of the Institution and the engaged external experts have the duty of confidentiality regarding all the data and the documents gathered as evidence during the audit that are designated as confidential or secret, in accordance with law. Such data are considered an official secret and may be used only for the purpose of drafting reports.

Exceptionally, the data or documents from paragraph 1 of this Article may be disclosed to the public based on order of the competent court, in accordance with law.

The Institution shall keep the data and documents designated as confidential or secret in a safe place, in accordance with the Rules of Procedure.

The Institution shall omit the facts or findings representing a business secret in the report on the conducted audit which is open to the public.

## **V REPORTING**

### **Reporting to the Assembly**

#### **Article 43**

The Institution reports to the Assembly by submitting:

- 1) an annual report on its work;
- 2) particular reports during the year;
- 3) an audit report on the audit of the annual statement of the budget of the Republic, the annual financial statements of the financial plans of the mandatory social insurance organizations and the consolidated financial statements of the Republic.

The contents of the reports from paragraph 1 of this Article shall be regulated more specifically by the Rules of Procedure.

### **Reporting to the Assemblies and Local Authorities**

#### **Article 44**

The Institution shall report to the assemblies of the local authorities on audits related to their subjects of audit within their competence.

The reports from the paragraph 1 of this Article are at the same time submitted to the Assembly.

### **Annual Report on the Work of the Institution**

#### **Article 45**

The Institution is obliged to submit to the Assembly an annual report on the work of the Institution by 31<sup>st</sup> March of the current year for the previous year.

### **Particular Reports**

#### **Article 46**

Throughout the year the Institution may submit to the Assembly particular reports on specially important or urgent matters which, according to the assessment of the Council, should not be postponed till the submission of the next regular report.

At the request of the Assembly the Institution is obliged to submit reports with the requested information and data in accordance with the law.

#### **Report on Conducted Audit of the Annual Statement of the Budget of the Republic, the Annual Financial Statements of the Mandatory Social Insurance Organizations and the Consolidated Financial Statements of the Republic of Serbia**

#### **Article 47**

In the procedure of the adoption of the annual statement of the Republic, the Institution shall report to the Assembly on the conducted audit of the annual statement of the budget of the Republic, the annual financial statements of the mandatory social insurance organizations and consolidated financial statements of the Republic in accordance with the Law regulating the budget system.

#### **Review of Reports**

#### **Article 48**

After the review of the report of the Institution, the competent working body of the Assembly shall submit to the Assembly its standpoints and recommendations in the form of a report.

On the basis of the determining facts and circumstances underlined in the reports from paragraph 1 of this Article, the Assembly shall decide on the proposed recommendations, measures and deadlines for their implementation.

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

#### **Publicity of Work**

#### **Article 49**

The work of the Institution is public in accordance with the Law and the Rules of Procedure.

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

### **Ensuring Quality of Work of the Institution**

#### **Article 50**

The Institution is required to ensure a system of quality control of its work in accordance with the applicable international auditing quality control standards.

## **VI REQUIREMENTS FOR OPERATION OF THE INSTITUTION**

### **Operating funds**

#### **Article 51**

Funds for work of the Institution are provided in the budget of the Republic of Serbia within a separate budgetary appropriation.

The Council defines a proposal of the financial plan of the Institution and submits it to the relevant working body of the Assembly for approval.

Upon the approval by the relevant working body of the Assembly, the Institution submits the proposal of the financial plan to the Ministry responsible for the budgetary affairs.

The Government provides premises, equipment and other means required for the work of the Institution.

The commencement of the work of the Institution may be financed from the funds donated by a domestic legal entity which is not a subject of audit in accordance with this Law, as well as from international donations intended exclusively for the development of independent auditing of the public sector.

### **Annual Statement of the Institution**

#### **Article 52**

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

## **VII. LABOUR LAW PROVISIONS**

### **Employment Status of Members of the Council**

#### **Article 53**

A member of the Council is an official of the Institution.

The Assembly issues the act on the appointment to and dismissal from Institution of a member of the Council.

The chairman of the Council is entitled to a salary amounting to 90% of the salary of the Speaker of the Assembly.

The vice chairman and the members of the Council are entitled to a salary amounting to 90% of the salary of the deputy Speaker of the Assembly.

Insofar as other rights, duties and responsibilities of the members of the Council are concerned, provisions of regulations governing the rights of the elected officials shall accordingly apply.

A member of the Council may not be held accountable for an opinion expressed in an audit report and in proceedings initiated for a punishable offence committed while discharging office, s/he may not be detained without an approval by the Assembly.

### **Employment Status of Supreme State Auditors**

#### **Article 54**

A budget auditor general is an official of the Institution.

The president of the Institution brings decisions on the appointment to and release from Institution of a budget auditor general.

A budget auditor general is entitled to a basic salary amounting to 90% of the salary foreseen for the vice-chairman of the Institution and members of the Council.

As to the other income and rights of a budget auditor general, provisions of the Law regulating the rights of the officials working for government bodies shall be applied.

### **Employment Status of the Secretary of the Institution**

#### **Article 55**

The secretary of the Institution is an official of the Institution.

The president of the Institution issues decisions on the appointment and dismissal from office of the secretary of the Institution.

The secretary of the Institution is entitled to a base salary amounting to 90% of the salary of the supreme state auditor.

Regarding other emoluments and rights of the secretary provisions of the law regulating these rights for the officials in government bodies shall apply.

### **Employment Status of Staff in Services of the Institution**

#### **Article 56**

An employee of the services of the Institution has the employment status as staff in government bodies.

The president of the Institution issues the decision on employment and termination thereof.

A person employed in the services of the Institution is entitled to a salary amounting to no less than the salary pursuant to regulations defining salaries in government bodies.

The base salary may be increased up to 30 percent (hereinafter: the institutional allowance) due to particularly complex work at the Institution.

The amount of the institutional allowance and the method of its calculation for staff entitled to the allowance is regulated by an act of the Institution issued by the president of the Institution.

In respect of other emoluments and rights of the employees in the services of the institution regulations governing such rights of employees in government bodies shall apply.

## **VIII PENALTY PROVISIONS**

## **Offenses of Responsible Officers**

### **Article 57**

The responsible officer of the subject of audit shall be fined from 5,000 to 50,000 dinars for an offense if:

1) the subject of audit served with a writ to submit information fails to comply within the set deadline (paragraph 2, Article 37);

2) the audited party served with a writ to submit documents fails to submit to the Institution within the set deadline all documents listed in the writ or amendment to the writ for submission of documents (paragraphs 10 and 11, Article 38);

3) the subject of audit in whose business operations irregularities or inappropriateness have been detected fails to submit to the Institution a response report (paragraph 1, Article 40) certified by the responsible officer (paragraph 2, Article 40);

4) the body served with the request of the Institution to undertake measures fails to file a report within the set deadline in respect of measures undertaken or an explanation for failure to act (paragraph 8, Article 40);

5) the body served with the request to dismiss a responsible officer fails to take decision on the request within the set deadline or fails to notify the Institution within the set deadline of its decision (paragraph 13, Article 40).

## **IX. TRANSITIONAL AND FINAL PROVISIONS**

### **Election of Members of the Council**

#### **Article 58**

The election of the chairman, the vice-chairman and the members of the Council shall be completed within six months from the date of coming into force of this Law.

### **Adoption of the Rules of Procedure**

#### **Article 59**

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



The Assembly shall approve the Rules of Procedure within a period of three months from its submission to the Assembly.

### **Approval of the Financial Plan of the Institution**

#### **Article 60**

The Institution shall submit the first annual financial plan of the Institution to the competent working body of the Assembly for the approval within a period of three months as from the date of the constitution of the Council.

The competent working body of the Assembly shall consider the financial plan from paragraph 1 of this Article not later than 30 days from date of receipt thereof.

### **Adoption of a Training Programme for Acquiring Auditor Titles**

#### **Article 61**

The Institution is required to adopt a training and examination programme for acquiring the titles of state auditor and certified state auditor and appoint a Board of Examiners in accordance with this Law within a period of two years from the date of the election of the Council.

The examination programme from paragraph 1 of this Article should be in compliance with international standards, guidelines and documents for training of state auditors.

### **Election of Supreme Auditors and State Auditors**

#### **Article 62**

The election of supreme state auditors from Article 27 of this Law and state auditors from Article 28 of this Law shall be completed within a period of six months as from the election of the Council.

Until the adoption of the programme and the appointment of the board of examiners from Article 61 of this Law, a person may be appointed supreme state auditor who has not passed the exam for certified state auditors if s/he meets the other requirements from paragraph 1, Article 27 of this Law and has passed the professional examination for employment in government bodies or the professional examination whereby s/he has

acquired the professional title of certified auditor or certified accountant, in accordance with the law regulating accounting and auditing.

In establishing the Institution, until the adoption of an examination programme and the appointment of the board of examiners from Article 61 of this Law, a person may be appointed a state auditor who has not passed the examination for state auditors if, in addition to the general requirements, s/he meets the following special requirements: holds university degree, speaks minimum one major foreign language, has minimum five years of experience in jobs related to the competencies of the Institution and who has passed the professional examination for employment in government bodies or has passed the examination whereby s/he has acquired the professional title of certified auditor or certified accountant, in accordance with the law regulating accounting and auditing.

The title of certified auditor or certified accountant acquired in accordance with the law regulating accounting and auditing shall be recognized for the election of the Council members from paragraph 3 of this Article for the first term of office.

The employees performing the duties of supreme state auditor from paragraph 2 of this Article, the duties of the state auditor from paragraph 3 of this Article and the members of the Council from paragraph 4 of this Article, are required to pass the examination for state auditors within a period of 18 months from the date of the adoption of the examination programme from Article 61 of this Law.

If an employee from paragraph 5 of this Article fails to pass the examination for state auditors within the period from paragraph 5 of this Article, his/her term of office or the employment on the position requiring this auditor title shall be terminated.

## **The Initial Plan of Work of the Institution**

### **Article 63**

The Institution shall submit to the competent working body of the Assembly the Initial Plan of Work of the Institution for consideration within a period of 90 days from the date of the election of the Council.

The Initial Plan of Work of the Institution shall include especially the following: provision of funds for the work of the Institution; cooperation with certified international professional and financial organizations on the implementation of this Law, the selection of a consultant for training of auditors and other activities required for the commencement of the work of the Institution.

### **Training Consultant**

### **Article 64**

Unofficial translation  
OSCE Mission to Serbia  
June 2008

The Council may engage consultants to carry out the training of state auditors in accordance with the adopted plan and programme for the training of auditors.

Training consultants from paragraph 1 of this Article may also conduct on behalf of the Institution, within the course of auditor training, audits of the annual statement of the budget of the Republic and audits of the business operation of other subjects of audit.

### **Coming into Force of the Law**

#### **Article 65**

This Law shall come into force on the eighth day of its publication in the “Official Gazette of the Republic of Serbia” and shall commence to apply within a period of six months from the date of its coming into force.