

Consolidated text of the Law on Audit of European Union funds covers the following regulations:

1. **Law on Audit of European Union Funds (“Official Gazette of Montenegro”, no. 014/12 of 07 March 2012);**
2. **Law on Amendments to the Law on Audit of European Union Funds (“Official Gazette of Montenegro”, no. 054/16 of 15 August 2016);**
3. **Law on Amendment to the Law on Audit of European Union Funds (“Official Gazette of Montenegro”, no. 037/17 of 14 June 2017);**
4. **Law on Amendment to the Law on Audit of European Union Funds (“Official Gazette of Montenegro”, no. 070/17 of 27 October 2017) in which the day of their entering into force is indicated.**

LAW ON AUDIT OF EUROPEAN UNION FUNDS

(“Official Gazette of Montenegro”, no. 014/12 of 07 March 2012, 054/16 of 15 August 2016, 037/17 of 14 June 2017, 070/17 of 27 October 2017)

I. BASIC PROVISIONS

Subject Matter

Article 1

Audit of European Union funds, used by Montenegro, shall be conducted in the manner stipulated by this Law.

Subject of Audit

Article 2

Subject of audit are funds of the European Union and functioning of the management and control system of those funds.

Funds of the European Union, within the meaning of this Law, are funds of financial assistance provided by the European Union to Montenegro, including Instruments for Pre-Accession Assistance, structural funds upon the accession of Montenegro to the European Union and other EU funds, as well as funds of Montenegro used for joint financing (hereinafter: EU funds).

Audit Body

Article 3

An independent audit body (hereinafter: Audit Authority) which is functionally and operationally independent of all actors in the management and control system of EU funds is established for the purpose of conducting audit of effectiveness and stability of functioning of the management and control system of EU funds.

Audit Authority shall be solely responsible for audit of EU funds (Instruments for Pre-Accession Assistance, structural funds upon the accession of Montenegro to the European Union, and other EU funds).

Auditees

Article 4

Auditees, within the meaning of this Law, shall be state authorities and organisations, bodies and organisations of local self-government units, natural persons and legal entities receiving, using or managing EU funds.

Meaning of Terms

Article 5

Specific terms used in this Law have the following meaning:

- 1) **Framework Agreement** is the agreement concluded between the Government of Montenegro and the Commission of the European Communities on rules for cooperation regarding financial assistance of the EC to Montenegro within the implementation of Instruments for Pre-Accession Assistance (IPA);
- 2) **Sectoral Agreement** is the agreement concluded between the Government of Montenegro and the Commission of the European Communities for specific policy area or program within the Instrument for Pre-Accession Assistance (IPA), which defines special rules not contained in the Framework Agreement or in financial agreements;
- 3) **Financial Agreement** is the agreement concluded between the Government of Montenegro and the European Commission for specific IPA component, i.e. policy area or program, which defines additional rules not contained in the Framework Agreement;
- 4) **National Authorising Officer (NAO)** is a person responsible for the financial management of EU funds of the European Union, for legality and regularity of underlying transactions and for the efficient functioning of the management and control system of IPA.

II. AUDIT AUTHORITY

Capacity of Legal Entity

Article 6

Audit Authority shall have the capacity of legal entity with headquarters in Podgorica.

Audit Authority shall have a seal containing coat of arms of Montenegro and the following text: "Montenegro – Audit Authority – Podgorica".

Management of Audit Authority

Article 7

Audit Authority shall be managed by an Auditor General.

Auditor General shall have a Deputy.

Auditor General and Deputy Auditor General (hereinafter: Deputy) shall be appointed by the Government of Montenegro (hereinafter: Government), based on the procedure conducted by the public competition.

The procedure of the public competition shall be conducted and a candidate for Auditor General and Deputy shall be proposed by the Commission appointed by the Government.

Auditor General and Deputy shall be appointed for a period of 5 years and they shall not be appointed for those positions to more than two terms of office.

Competences of Auditor General

Article 8

Auditor General shall:

- 1) adopt and implement Annual Audit Plan;
- 2) submit Annual Audit Plan to the National Authorising Officer (NAO) and to the European Commission before the beginning of the referring year;
- 3) deliver Annual Audit Activity Report pursuant to the Framework Agreement and related Sectoral Agreement;
- 4) submit Annual Audit Opinion pursuant to the Framework Agreement and related Sectoral Agreement;
- 5) submit an opinion on the final account pursuant to the Framework Agreement and related Sectoral Agreement;
- 6) prepare reports, documents and materials for the European Commission;
- 7) provide implementation of Annual Audit Plan pursuant to the international audit standards;
- 8) closely define procedure, manner of work and conduct of tasks of the Audit Authority;
- 9) adopt Act on Internal Organisation and Job Scheme of Audit Authority, with the prior approval of the Government;
- 10) determine blank form, issue and revoke official ID card;
- 11) establish commissions and other working bodies or groups for the purpose of conducting activities and tasks of the Audit Authority;
- 12) provide transparency of work of the Audit Authority;
- 13) have rights and duties of the head of the state authority;
- 14) propose budget of the Audit Authority to the public administration authority responsible for financial affairs (hereinafter: Ministry);
- 15) conduct other activities stipulated by law and other regulations.

The Act referred to in Paragraph 1 Item 8 of this Article shall be published in the “Official Gazette of Montenegro”.

Filing Criminal Charges

Article 9

Auditor General or Deputy shall file a criminal charge without delay if he/she in the procedure of EU funds audit determines that there are grounds for suspicion that a criminal offense has been committed.

Conditions for Auditor General and Deputy

Article 10

A person may be appointed Auditor General and Deputy if he or she:

- 1) meets requirements defined by law regulating rights and obligations of civil servants and state employees;
- 2) has VIII education qualification level in the field of economics, finances or law, or another equivalent level of education in those fields;
- 3) has at least 7 years of work experience on audit works;
- 4) has a licence for audit conduct;
- 5) has an active knowledge of English language.

Interference with Appointment

Article 11

A person may not be appointed Auditor General and Deputy if he or she:

- 1) is a member of the Parliament or local MP;
- 2) is a member of the Government;
- 3) professionally conducts another activity;
- 4) is a member of a company or legal entity managing body;
- 5) has managed activities of EU funds management and control within 5 years prior to appointment of Auditor General or Deputy;
- 6) is a political party official (a president, member of presidency, their deputy, member of the executive or main board or another party official);
- 7) is convicted by a final judgement of a criminal offense prosecuted ex officio regardless of the sanction imposed or he/she is sentenced of another criminal offense to prison longer than 6 months, within a period of legal consequences of conviction;
- 8) is a spouse of a person referred to in Item 1 and 2 of this Paragraph or they are straight blood line relatives.

Auditor General or Deputy candidate shall deliver to the authority responsible for human resources (hereinafter: Agency) a written statement that there is no interference with the appointment stipulated by this Law.

Dismissal of Auditor General and Deputy

Article 12

Auditor General or Deputy may be dismissed before the expiry of term of office:

- 1) upon a personal request;
- 2) by circumstances referred to in Article 11 of this Law;
- 3) by meeting retirement pension requirements;

- 4) due to permanent loss of work ability for conducting the office;
- 5) due to unprofessional or negligent conduct of the office.

In cases referred to in Paragraph 1 of this Article Auditor General and Deputy shall be dismissed by the Government.

Auditor General and Deputy

Article 13

Auditor General shall:

- 1) act for and on behalf of the Audit Authority;
- 2) organise and manage work of the Audit Authority;
- 3) be responsible for lawful and efficient work conduct.

Deputy shall replace Auditor General in case of absence or inability and conduct other activities entrusted to him/her by Auditor General.

Auditor General and Deputy shall be solely responsible for cooperation with the European Commission with regards to EU funds audit.

Vocations of Auditors

Article 13a

Authorised auditors and auditors shall conduct activities of EU funds audit.

Vocations of authorised auditors shall be:

- authorised auditor, head of audit organisational unit and
- authorised auditor.

Vocations of auditors shall be:

- senior auditor and
- junior auditor.

Conditions for Conducting Activities of Auditor

Article 14

A person who may be appointed authorised auditor, head of audit organisational unit shall:

- 1) meet requirements defined by law regulating rights and obligations of civil servants and state employees;
- 2) have VIII education qualification level or another equivalent education level;
- 3) have at least six years of professional work experience;
- 4) have licence for audit conduct;

5) have active English language knowledge.

Apart from requirement referred to in Paragraph 1 Item 1, 2, 4 and 5 of this Article, a person who may be appointed authorised auditor shall have at least five years of professional work experience.

A person who may be appointed senior auditor shall:

- 1) meet requirements defined by law regulating rights and obligations of civil servants and state employees;
- 2) have VIII education qualification level;
- 3) have at least three years of professional work experience;
- 4) have active English language knowledge.

Apart from requirement referred to in Paragraph 3 Item 1, 2 and 4 of this Article, a person who may be appointed junior auditor shall have at least one year of work experience.

Exemption of Auditor

Article 15

Auditor General, Deputy, authorised auditor and auditor shall not conduct audit if they:

- 1) were previously employed by the auditee at least two years prior to conducting the audit;
- 2) were involved in keeping business books or preparing the annual accounts and financial statements of the auditee at least two years prior to conducting the audit;
- 3) or the member of their family are spouses, in common-law marriage or a straight blood line relative up to the third generation with a managing person in the auditee;
- 4) or the member of their family are founders, shareholders or co-owners of the auditee.

Deputy, authorised auditor and auditor shall inform Auditor General on the conflict of interest and Auditor General shall make a decision on the exemption from the audit.

Auditor General shall inform the Government of his or her conflict of interest, which, based on that notice, shall adopt the decision on the exemption from the audit.

Protection

Article 16

Auditor General, Deputy, authorised auditor and auditor shall not be called liable for presented professional positions, given opinions or recommendations in conducting activities and tasks within their competences, in accordance with the international audit standards.

Obligation of Protecting Data Confidentiality

Article 17

Auditor General, Deputy, authorised auditor, auditor and employees in the Audit Authority shall keep data they obtained conducting activities and tasks confidential, in accordance with regulations on confidentiality and protection of data and international audit standards.

Auditor General, Deputy, authorised auditor, auditor and employees in the Audit Authority shall keep the confidentiality of data referred to in Paragraph 1 of this Article also after their dismissal, i.e. termination of employment in the Audit Authority, as long as information is marked as confidential or until they become free of the obligation of keeping it confidential, in accordance with regulations on confidentiality and protection of data and international audit standards.

Official Identity Cards

Article 18

Auditor General, Deputy, authorised auditor and auditor shall have official identity cards. Persons referred to in Paragraph 1 of this Article shall show their identity cards before the start of the audit. Persons referred to in Paragraph 1 of this Article shall return their identity cards on the day of dismissal or termination of employment.

Salaries of Auditors and Assignment to Job Groups

Article 19

Vocations of auditors referred to in Article 13a of this Law shall be assigned pursuant to the Law to the following job groups and shall be expressed in coefficients as follows:

Subgroup	Vocations	Coefficient
Job group C		
9	Authorised auditor – head of audit organisational unit	13,83
11	Authorised auditor	12,53
Job group D		
5	Senior auditor	8.0
13	Junior auditor	7.0

Professional Service of Audit Authority

Article 20

Professional, financial-material and administrative-technical activities of the Audit Authority shall be conducted by the professional service of Audit Authority.

Closer requirements for entering into employment of employees in the professional service shall be regulated by the Act of Internal Organisation and Job Scheme of the Audit Authority.

Rights and Obligations of Employees

Article 21

Regulations on civil servants and state employees shall be applied to the rights and obligations of employees in the Audit Authority.

III. AUDIT CONDUCTING

International Standards

Article 22

EU funds audit shall be conducted in the manner stipulated by this Law, Rules of the European Commission for use of EU funds and international audit standards.

Method of Audit Conduct

Article 23

Audit Authority shall conduct audit of EU funds in accordance with the Framework Agreement, financial and sectoral agreements concluded between the European Commission and the Government.

Types of EU Funds Audit

Article 24

Audit of EU funds shall be conducted as:

- 1) system audit of EU funds (system audit);
- 2) audit of operation;
- 3) financial audit.

Notifying the Auditee

Article 25

Audit Authority shall notify the auditee on the subject, scope, type and time of audit of EU funds, as well as on the procedures and activities to be conducted in the audit procedure.

Obligations of the Auditee

Article 26

Auditee shall, upon the request of the Audit Authority, provide all the information, data, including documents, reports, financial and other records and other information necessary for EU funds audit planning and conduct.

During conduct of EU funds audit, auditee shall provide auditors with free access to the official premises and property, insight into business books and other documents in electronic and paper form, information systems and give all the requested explanations to all issues of relevance to EU funds audit conducting.

By way of exception from Paragraph 1 and 2 of this Article, auditee shall provide Audit Authority or auditor with confidential documents or notifications or documents representing confidential data, in accordance with regulations on confidentiality and data protection.

Third Parties

Article 27

Audit Authority may access to all the information, data and documents of natural persons and legal entities related to the auditee by a contract, project or program financed from EU funds, and referring to those funds.

Engagement of Experts

Article 28

In EU funds audit conduct, Auditor General may engage experts, if audit requires special expert knowledge.

The expert referred to in Paragraph 1 of this Article shall keep data they obtained conducting activities and tasks referred to in Paragraph 1 of this Article confidential, in accordance with regulations on confidentiality and protection of data and international audit standards.

IV. COOPERATION

Cooperation with Other Authorities

Article 29

Audit Authority, in conducting activities defined by this Law, may cooperate with authorities and institutions of Montenegro, member states of the European Union and candidate states for the European Union membership.

Audit Authority may conduct joint audits of the European Union funds with audit organisations of other states, with the European Commission and the European Court of Auditors.

V. TRANSPARENCY OF WORK

Publishing Audit Report

Article 30

Audit Authority shall publish on its website the Annual Audit Activity Report and information and data regarding work of Audit Authority.

Audit reports and audit opinions shall not be published on the website of Audit Authority.

Auditor General shall establish the method of informing the public on Audit Authority work.

VI. FINANCING

Operating Assets

Article 31

Operating assets of Audit Authority shall be provided from the budget of Montenegro, at the proposal of Auditor General.

VII. PENAL PROVISIONS

Article 32

Legal entity as an auditee shall be fined from EUR 1,000 to 20,000 for misdemeanour if:

- 1) it fails to make available all the information necessary for conducting EU funds audit, including documents, reports, financial and other records, data and other information necessary for planning and conducting of EU funds audit (Article 26, Paragraph 1);
- 2) it fails to provide auditor with free access to the official premises and property, right to insight into books, other documents in electronic and paper form, and information systems, as well as explanations by representatives of auditee of all issues of relevance to EU funds audit conducting (Article 26 Paragraph 2).

A natural person and person responsible for a legal entity as auditee shall be fined from EUR 50 to 1,000 for misdemeanour referred to in Paragraph 1 of this Article.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Deadline for Appointment

Article 33

The Government shall appoint Auditor General and Deputy within 60 days from the day of entering into force of this Law.

Deputy referred to in Paragraph 1 of this Article shall be appointed for a period of two years and six months.

The Head of Audit Authority and Deputy appointed according to the Decision on the Establishment of the Special Audit Authority Responsible for the Verification of the Effective and Valid Functioning of the Management and Control System of the Instrument for Pre-Accession Assistance (“Official Gazette of Montenegro”, no 5/10) shall conduct his or her duty until the appointment of Auditor General and Deputy.

Deadline for Adoption of Acts

Article 34

Act on Internal Organisation and Job Scheme of Audit Authority and other acts defined by this Law shall be adopted within 60 days from the day of appointment of Auditor General.

Takeover

Article 35

Audit Authority shall take over employees who performed tasks taken over, equipment and official documentation from the State Audit Institution within 30 days from the day of adoption of the Act on Internal Organisation and Job Scheme of Audit Authority.

Assets for Start of Work

Article 36

Assets for establishment and start of work of Audit Authority shall be provided from the budget of Montenegro within 60 days from the day of adoption of the Act of Internal Organisation and Job Scheme of Audit Authority.

Termination of the Agreement

Article 37

Agreement on establishment of the Audit Authority within decentralized system of Instrument for Pre-Accession Assistance management (“Official Gazette of Montenegro”, no. 5/10 and 46/10) shall cease to be effective on the expiry of thirtieth day from the day of the adoption of the Act of Internal Organisation and Job Scheme of Audit Authority.

Entering into Force

Article 38

This Law shall enter into force on the eighth day following the day of its publication in the “Official Gazette of Montenegro”.