

Law no 9720, dated April, 23, 2007

ON INTERNAL AUDIT IN THE PUBLIC SECTOR

Subject to articles 78, 81 item 1, and Article 83 item 1 of the Constitution, at the proposition of the Council of Ministers,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

The Scope of Law

This law rules the internal audit activity in the public sector, determines its scope of activity, objectives, principles, organization, functioning and responsibilities.

Article 2

Law Jurisdiction

This law is implemented by all the institutions of the Public Sector, whose activity depends on public property and benefit funds from the state budget, international organisms or in co-financing fund beneficial ways.

The jurisdiction of such a law comprises all central government institutions, local government bodies, other institutions, central and local, providing public services, the independent institutions and trade companies, or of any other form including the financial ones, where the state's equity participation is above 50 percent.

The entities mentioned in the second paragraph of this article are hereinafter referred to as 'auditees'.

Article 3

Definitions

Follows the meaning of terms in this law:

"Internal Audit" is an independent activity that provides management performance and advice to the management activity, for an efficient use of funds and improvement of the activity of audited entities, assisting them systematically and in a programmed way, for the effective improvement and use of funds and assessing risk, performance, control and governance systems.

"Internal Auditors" hereinafter referred to as "Auditors", are public sector internal audit professionals, qualified according to the requirements defined by this law.

"Internal control" implies the process determining the policies, functioning, procedures and organization of the work, in order to assist and ensure the management, so that programs manage to meet the results aimed at, by using resources and assets which are public property, in compliance with the aims and targets, so that they are safeguarded by unjustifiable

expenditure, mismanagement and abuse and that reliable and contemporary data are being provided, reported, used and administered for the decision-making process.

“Auditee” are bodies mentioned in article 2, paragraph 2 of this law.

“Economy” implies the rational use of resources for a specific activity, by maintaining the quality.

“Benefit (effectiveness)” implies the relation between the outcome, meaning goods and services, or other products (outcomes) and the resources used to produce them.

“Efficiency” is the level of accomplishing the objectives and ratio between the expected outcome and the outcome in-fact of the activity.

Article 4

The main directions of the audit

The main directions of the internal audit are:

- a) The economic, beneficial and efficient use of human and financial resources
- b) Management control risk;
- c) The extent to which the program outcomes of the audited entity meet its objectives.
- d) Compliance of the activities of the audited entity with the existing legislation.
- e) The care to complete the financial and management information, as well as their use to support decision-making processes.
- f) Safeguarding and well-administration of public property assets.

Article 5

General Principles of Audit Functioning

The Internal Audit in the Public Sector relies on the following principles: **Lawfulness, Independence, Impartiality, and Confidentiality.**

The implementation of the principle of lawfulness implies the observation of the Constitution, the Albanian legislation and the International Agreements, which the Republic of Albania adheres to.

The implementation of the principle of independence implies the exertion of the activity for defining, planning, implementing and reporting of the internal audit activity, beyond any influence related to the audited activity or circumstances, that violate or might violate objectivity. The objectivity assessment should be primarily administered by the individual himself, in the role of auditor, and thereafter by the superior structures.

The implementation of the principle of impartiality implies the objective and transparent reflection in the respective documents, of all the facts and circumstances, related to the activity of the auditees (audited entities) without being affected by personal interests or third party viewpoints.

The implementation of the principle of confidentiality implies the treatment as confidential of information and other data obtained during the conduct of the audit, as determined under point 8, of Article 21 of this law.

Article 6

Internal Audit Standards

The activity of the Internal Audit in the public sector is based on this law, the international internal auditing standards, accepted to be implemented in the Republic of Albania. At the proposition of the Internal Audit Committee, the Minister of Finance proclaims the internal audit standards.

Article 7

The object of internal audit

1. The object of the internal audit are all financial decisions related to the incomes, the expenditures, the administration of the assets and debts.
2. The internal audit as a process and an independent activity from the functional point of view, evaluates the functioning of financial management and the internal control system. At the end of the auditing process, recommendations are issued and measures are proposed to improve the functioning and the management of the auditees (audited entities).

Article 8

The Procedural Manual of Public Sector Internal Audit

The audit procedures and methodology are foreseen under the Internal Audit Procedural Manual, hereinafter referred to as “the Audit manual” It is approved by the Minister of Finances, at the proposition of the Audit General Director, after having consulted the opinion of the internal audit committee.

Article 9

Public Sector Internal Audit bodies

The public sector internal audit is composed of:

1. The Minister of Finance
2. The Internal Audit Committee
3. General Directorate of Audit
4. The Internal Audit Units near the auditees, as determined in Article 2 of this law.

CHAPTER II

RESPONSIBILITIES OF THE MINISTER OF FINANCE AND HEADS OF PUBLIC ENTITIES ON INTERNAL AUDIT

Article 10

Responsibilities of the Minister of Finance on Internal Auditing

The Minister of Finance is responsible for:

- a. The overall coordination of internal audit activity.
- b. Establishment and implementation of the public, financial, internal control system in the public sector by making propositions to the Council of Ministers to issue relevant by-law enactments for this purpose.
- c. Approval of audit policies, manuals, methodologies, procedures, instructions and regulations of internal audit, proposed by the General Director of Audit and approved by the Internal Audit Committee.
- d. Appointment and dismissal from their duty of Internal Audit Committee members, in compliance with paragraph 2, Article 14, of this Law.
- e. Issuing an opinion on the appointment, dismissal and removal from office of Directors to Audit Units in the audited entities, in compliance with the legislation in vigour.
- f. Submission to the Council of Ministers of internal audit annual report for consideration within the first quarter of next year, as well as other reports, if required.
- g. Other tasks as specified by the law.

Article 11

Responsibilities of Public Sector Entity Managers regarding to internal auditing

Ministers and senior managers of public entities are responsible for:

- a. Establishing reliable internal control systems for conducting the activity of audited entities, in conformity with the legislation in vigour, ensuring the necessary capacities required to meet all requirements envisaged under this law and their use with efficiency, effectiveness and economy.
- b. Drafting of the action plan for the follow-up of the recommendations, made at the end of the audit procedures by the General Directorate of Audit or the Head of the Internal Audit Unit in the audited entities, within 30 days from the submission of the final report.
- c. Correcting irregularities spotted by the conducted audits and taking disciplinary or administrative action for the responsible individuals.
- d. Compliance with internal auditors recruitment criteria, drafted in collaboration with the General Directorate of Audit,

CHAPTER III

INTERNAL AUDIT COMMITTEE

Article 12

Status of the Internal Audit Committee

The Internal Audit Committee is an advisory body under the Minister of Finance.

The committee proposes and issues advice on determining the strategies and improving the internal audit performance throughout the public sector.

Article 13

Duties of the Internal Audit Committee

The Internal Audit Committee performs the following functions:

- a) To prepare, make evaluations and give opinions on the internal audit methodologies proposed by General Director of Audit (GDA).
- b) To make evaluations and issue opinions on the legal framework / legal adjustments prepared by GDA in the field of internal audit, in the public sector.
- c) To conduct evaluations and issue an opinion on the quarterly and annual reports on internal audit performance in public sector entities, presented by the General Directorate of Audit.
- d) To provide advice to the Minister of Finance and General Directorate of Audit on all aspects of the internal audit plans and operations, on compliance with international audit practices, quality and functioning of internal audit in the auditees.
- e) To provide advice and recommendations on the revision in methodologies, procedures and comply with the internal audit standards, as proposed by the General Directorate of Audit, before their final approval by the Minister of Finance.
- f) Other tasks as assigned by the Minister of Finance.

Article 14

Composition and Functioning of the Internal Audit Committee

1. The Internal Audit Committee is composed by 9 members, who are elected and appointed by the Minister of Finance as follows:
 - a. General Director of Audit.
 - b. Three professionals from the public internal audit realm, of which one should be a representative of a local government audit structures.
 - c. Two representatives of the academic body relevant to internal auditing
 - d. A legal representative from the respective structures.
 - e. A representative of Financial Management Control units.
 - f. A representative, by a professional of senior qualifications, selected from Professional Organisations relevant to Internal Auditing.
2. The members of the Internal Audit Committee are nominated for a period of not less than two years and shall not exceed the four years. The General Directorate of Internal Audit provides technical assistance, through the secretariat of such Committee.
3. In their first meeting, the members of the Internal Audit Committee elect the Chairman. The Chairman of the Internal Audit Committee should not be an employee of internal audit units. His mandate lasts 2 years, with the right to re-appointment.
4. The Council of Ministers, by proposition of the Minister of Finances, approves the remuneration extent to be allocated to the members of the Internal Audit Committee.
5. Minister of Finances approves the regulation on the functioning of the Internal Audit Committee.

CHAPTER IV GENERAL DIRECTORATE OF AUDIT

Article 15

Dependency of General Directorate of Audit

The General Directorate of Audit is part of the structure of the Ministry of Finances. It administers and manages the internal audit activity of the public sector in the Republic of Albania.

The organisational structure and number of employees of the General Directorate of Audit are approved by the Prime Minister, at the proposition of the Minister of Finance.

The General Directorate of Audit is headed by the General Director, who is a civil servant.

Article 16

Competences of the General Directorate of Audit

The competences exercised by the General Directorate of Audit are as follows:

- a. To develop, manage and implement a harmonized strategy in the field of public internal audit, as well as to monitor it on national plane.
- b. To make recommendations for the improvement of main and develop and improve main and secondary legislation on public internal audit, in cooperation with other units of this ministry.
- c. To develop audit methodologies for risk and performance definition and assessment.
- d. To propose to the Internal Auditing Committee and the Minister of Finance for reviewing the audit manual, the orders, the directives and the audit procedures in order to bring them in compliance and approach with the requirements of EU member countries legislation and the agreed upon internal audit standards.

- e. To define and develop a contemporary reporting system of all results for the whole internal audit activity in the public sector, to the function of preparing periodical reports, the annual one included;
- f. To conduct auditing missions in special cases, on sector scale, when observed and demanded from the superior management. The conduct of missions in the independent institutions and local government bodies is effected only in collaboration with their own audit units and, in their absence, by the General Audit Directorate.
- g. To oversee and evaluate the activity of auditing units in all the audited entities (auditees), in compliance with manual standards and requirements, the methods and the directives approved by the Minister of Finances.
- h. To follow up the given corrective measures, in collaboration with the audit directors of the auditees (audited entities), according to the order of the General Director of Audit.
- i. To draft and develop national strategies and policies on the daily educational system, pursuant and obligatory training and auditors' employment procedures;
- j. To approve the methods drafted in support of the auditing manual, on specific fields of internal audit, presented by the audit units of the auditees (audited entities).
- k. To cooperate with the human resources divisions of institutions for determining the criteria for the recruitment of auditors.
- l. To collaborate with the Director of the Internal Audit Unit of auditees and, in compliance with the legislation in vigour, to issue opinions on the appointment/dismissal of internal auditors in central institutions and appointment, dismissal and movement of auditors in the central institutions and appointment, dismissal and movement of Directors of Auditing Units in dependant units.
- m. To determine the registration form of evidencing the recommendations made by the internal audit units for the auditees.

CHAPTER V

Article 17

Internal Audit Units

The internal audit units are established to accomplish the internal audit activity within the auditees. The criteria for creating such units are approved by the Council of Ministers, upon proposition of the Minister of Finance.

The internal audit units within the auditees report directly to their entity and to the General Directorate of Audit, in compliance with this law and the procedures defined by the Minister of Finance. Under no circumstance can these units can be used of the operational necessities of the entities.

Article 18

Tasks of the Public Audit Unit

The tasks of Internal Audit Unit are as follows:

- 1) To draft methods or regulations on specific fields of internal audit, in compliance with Audit Manual or with other provisions of Ministry of Finance and their dispatch to the General Directorate of Internal Audit for approval.
- 2) To prepare annual and strategic plans on the internal audit activity.
- 3) To conduct internal audit activities with the aim of assessing whether the internal control systems and financial management, as well as the performance of the audited

- public entity are transparent and compliant to the norms of legitimacy, regularity, effectiveness, efficiency and economy;
- 4) To follow-up and report periodically on findings, conclusions and recommendations arising from their auditing work, and to provide information to the General Directorate of Internal Audit on the unimplemented recommendations by managers of audited entity and for the consequences of failing to implement these recommendations;
 - 5) To prepare reports, periodical or annual, and their dispatch to the General Directorate of Audit, in accordance with the terms and requirements defined by the GDA and approved by the Minister of Finance. Conclusive reports, in all cases, must be accompanied by the reporting evidences for the reporting period in a progressive way and a final assessment on the auditing activity for the reporting period.
 - 6) Reporting, after consulting the respective legal unit, to the manager of the audited entity, and of the inspection unit, in case of irregularities or actions, constituting a criminal offence are found.
- In case opposite opinions exist between the heads of auditees and internal auditors, notice is given to the Directorate of Methodology and Information for settlement.

CHAPTER VI THE INTERNAL AUDITOR

Article 19 Recruitment

1. The auditors' recruitment is done in compliance with procedures determined in Law No. 8549, dated 11.11.1999 "On the Civil Servant Status", for institutions with employees who have been awarded the civil servant status.
2. Except the general terms and conditions, defined in the laws in vigour, the auditors are selected among the individuals who:
 - a. Have completed university studies in one of the following branches as economy, finance, accounting, law or other subject matters that will be deemed as necessary by the General Director of Audit for the audited sector.
 - b. Have a job experience not less than 3 (three) years in auditing or other fields, such as finance, accounting, and other subject matters as specified in letter "a", of the paragraph of this article.
 - c. For the categories "Head of the audit unit" and "High audit inspector" it is a must for the selected candidates to have completed the studies in one of the economic sciences.
3. Until the end of the 2-year period from the law becomes effective, the auditors must be issued the certificate "Internal Audit in public sector". This Certificate is issued by the Qualification Commission.

Article 20 Training of Auditors

According to the criteria foreseen by article 18, of such a law, the on-job auditors will be subject to updated education and continuous mandatory training courses as scheduled and managed by the General Directorate of Audit.

The Qualification Commission, as responsible unit for qualification and certification of internal auditors is established by decision of the Council of Ministers, at the proposition of the Minister of Finance. This decision comprises the rules of functioning and remuneration of the members of such a unit.

Article 21

Responsibilities of Internal Auditors

The responsibilities of auditors are:

1. To have an understanding of, comply with and exercise their activity in conformity with the laws and by-laws in vigour and the internal audit standards in the public sector;
2. To exercise their functions objectively, professionally and in compliance with the definitions on this law, according to specific norms and procedures of the public sector internal audit work.
3. To operate in compliance with requirements envisaged in the Code of Ethics and the Rules on Confidentiality for the auditor, which are approved by the Minister of Finance, and signed by each auditor.
4. To conduct audits independently from the professional viewpoint, guided by the public interest, to strengthen the faith in honesty, impartiality and service effectiveness;
5. To exercise their work in compliance with the approved annual audit programme, with exception to the cases when unexpected changes are approved by the top chief executive officer;
6. To propose to the head of audit unit, and through him to the senior executives of the entity , the suspension, until a further consideration by the respective authority, of actions that might gravely damage the interests of the entity and/or are substantiated to constitute a criminal offence;
7. To give recommendations to the audited entity for the adjustment of irregularities and action to be undertaken in the cases of economic and financial loss, for their indemnification, as well as to propose actions which aim to reduce the possibility for future repetition of these cases;
8. Not to reveal any data, fact or finding in the course of or relevant to the audit, as well as to conserve the documents for each auditing activity performed, based on liabilities deriving from the effective laws on the rights of using and archiving official information;
9. To regularly update their knowledge and professional skills in order to use them efficiently and guarantee quality of service.

Article 22

Rights of Auditors

In the course of their mission, auditors enjoy the rights as follows:

1. To exercise independently the audit function, without leaving space for intervention from colleagues, supervisors, heads of the audit unit, or the audited entity, with the exception to mutual advisory relations.
2. To ask for all data of technical, economic, financial and management nature of the public entity under auditing process, undertaking the confidentiality of the data in compliance with legislation in force;
3. To get from the employees of the audited entity, if deemed necessary, explanations, declarations and photocopies of documents, which carry the note “true to the original” put by the senior official of the entity, as well as materials transportable in electronic versions related to Internal Audit of the entity.
4. To periodically attend the updated education and mandatory continuous training as specified in the requirements of Article 20, paragraph 1 of this law, relevant to specific functions that he exercises and in other areas, within the public service.
5. To submit to the head of audit unit his resignation from an audit activity in case of sustainable reasons that both audit credibility and quality are compromised.

Article 23
Restrictions in auditor's activity

Auditors are prohibited to:

- a) Be elected in leading functions in the structures of political parties
- b) Perform operational duties within the audited entity, not related to the internal audit function in the public sector;
- c) Exercise any activity or other job against payment, or that cause other benefits, of nature and form, that is in conflict of interest with the exertion of audit.

Article 24
Conflict of interest for Auditors

1. The Auditor shall notify in advance, in writing, the Head of Internal Audit Unit about any potential conflict of interest arising from their participation in the audit of a given entity. By conflict of interest, it is implied:
 - a) When during the last 3 (three) years the auditor has been employed as such by the entity to be audited;
 - b) If over the last 3 (three) years, the auditor, the spouse, relatives down to second generation in line with the definitions made in the Civil Code, have been employed in a senior position in the public entity to be audited;
 - c) If the auditor, the spouse, or relatives down to third generation in line with the definitions made in the Civil Code, possess shares or capital shares in public entity to be audited;
 - d) Other circumstances that may bear potential conflict of interest, when deemed as such and substantiated in writing by the General Director of Audit or the Head of Audit Unit.
2. If the participation of one or more auditors being implicated in conflict of interest as provided by paragraph 1 of this Article, is verified, the General Director or the Head of the Internal Audit unit shall take action against the auditors, as envisaged by this and other laws, he shall declare the audit null and void and demand its repetition.

CHAPTER VII
RELATIONS BETWEEN GENERAL DIRECTORATE OF AUDIT AND OTHER
INSTITUTIONS

Article 25
Relations with Assembly, Presidency and Independent Institutions

The General Directorate of Audit cooperates in formal way with the Assembly, the Presidency and Independent Institutions, in order to guarantee the accomplishment of internal audit service in these institutions. The audit structures of these institutions are duty-bound to send the annual and strategic audit schedules and to report to the General Directorate of Audit, in accordance with requirements of this law and procedures approved by the Finance Minister.

The Independent Institutions that does not meet the criteria for setting up their own audit units are audited by the relevant unit of the General Directorate of Audit.

Article 26

Relations with the Supreme State Audit of Albania and/or other audit related bodies

The General Directorate of Audit cooperates with the Supreme State Audit of Albania and/or other audit related bodies. This cooperation aims at exchanging any valid information related to the audit system, at sending the annual audit schedules in order to avoid overlapping in audit process as well as at sending annual and periodic summarized reports, if requested by the parties.

Article 27

Relations with connected Ministries, central institutions and local government authorities

The General Directorate of Audit cooperates in formal way with the audit units in the related ministries, central institutions and local government authorities.

The audit structures of these institutions are duty-bound to send their annual and strategic audits schedules and to report to the General Directorate of Audit, according to the provisions of this law and the procedures approved by the Finance Minister.

Article 28

Preparation of by-laws

1. Within six months from the date this law becomes effective, the Council of Ministers is entitled to issue the by-laws, in implementation of articles 14 and 20.
2. Within eight months from the date this law becomes effective, the Council of Ministers is entitled to approve the by-laws, in implementation of articles 10 and 17.

Article 29

Abrogation

Law No. 9009, dated 13.02.2003 “On Internal Audit in the Public Sector” is abrogated.

Article 30

This law becomes effective 15 days after its publication in the “Official Gazette”.

**SPEAKER
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