

**LAW ON AUDIT of
INSTRUMENT FOR PRE -ACCESSION ASSISTANCE (IPA)
Editorial consolidated text¹**

I. GENERAL PROVISIONS

Article 1

This Law shall regulate subject-matter of audit, organization and competences of Audit Authority for audit of Instrument for Pre-Accession Assistance (IPA) and manner of performing audit of the implementation of the Instrument for Pre-Accession Assistance (IPA) and EU financed programmes for which budget management tasks have been entrusted to the Republic of Macedonia.

Article 2

Terms used in this Law shall have the following meaning:

1. "Instrument for Pre -Accession Assistance" (hereinafter: IPA) shall be pre-accession financial assistance which the European Union shall provide to the candidate countries and potential candidates for EU membership.
2. "Framework Agreement" shall be Agreement concluded between the Republic of Macedonia and the European Commission on the rules for cooperation concerning EC financial assistance to the Republic of Macedonia in the framework of the implementation of the assistance under the Instrument for Pre-Accession Assistance (IPA), ratified with the Law on Ratification of the Framework Agreement between the Republic of Macedonia and the European Commission on the rules for cooperation concerning EC financial assistance to the Republic of Macedonia in the framework of the implementation of the assistance under the Instrument for Pre-Accession Assistance (IPA) ("Official Gazette of the Republic of Macedonia" No. 18/2008 (hereinafter: IPA Framework Agreement) and Framework Agreement between the Republic of Macedonia represented by the Government of the Republic of Macedonia and the European Commission on the arrangements for implementation of Union financial assistance to the Republic of Macedonia under the instrument for pre-accession assistance (IPA II), ratified with the Law on Ratification of the Framework Agreement between the Republic of Macedonia represented by the Government of the

¹ The editorial consolidated text of the Law on audit of Instrument for Pre-Accession Assistance (IPA) includes: the principal text of the Law published in the "Official Gazette of RM No. 66/10, Law on amending the Law on audit of IPA published in the "Official Gazette of RM No.43/14, Law on amending the Law on audit of IPA published in the "Official Gazette of RM No.154/15, Law on amending the Law on audit of IPA published in the "Official Gazette of RM No.27/16, and Law on amending the Law on audit of IPA published in the "Official Gazette of RM No.190/16, the date for entering into force being stated in each of them.

Republic of Macedonia and the European Commission on the arrangements for implementation of Union financial assistance to the Republic of Macedonia under the instrument for pre-accession assistance (IPA II) (“Official Gazette of the Republic of Macedonia” No. 99/2015) (hereinafter: IPA II Framework Agreement).

3. “Sectoral Agreement” shall be Agreement concluded between the Government of the Republic of Macedonia and the Commission of the European Communities, on the rules for cooperation concerning EC financial assistance to the Republic of Macedonia in the framework of the implementation of the assistance, under Component V (IPARD) of the Instrument for Pre-Accession Assistance ratified with the Law on Ratification of the Agreement between the Government of the Republic of Macedonia and the Commission of European Communities on the rules for cooperation concerning EC financial assistance to the Republic of Macedonia in the framework of the implementation of the assistance under Component V (IPARD) of the instrument for pre-accession assistance (“Official Gazette of the Republic of Macedonia” no. 165/2008) (hereinafter: IPARD Sectoral Agreement) and Sectoral Agreement between the Government of the Republic of Macedonia and the European Commission setting out provisions for the management and implementation of Union financial assistance to the Republic of Macedonia under the instrument for pre-accession assistance in the policy area 'Agriculture and Rural Development' (IPARD) ratified with the Law on Ratification of the Sectoral Agreement between the Government of the Republic of Macedonia and the European Commission setting out provisions for the management and implementation of Union financial assistance to the Republic of Macedonia under the instrument for pre-accession assistance in the policy area 'Agriculture and Rural Development' (IPARD) (“Official Gazette of the Republic of Macedonia” No. 38/16) (hereinafter: IPA II Sectoral Agreement);

4. “Audit Authority for Audit of Instrument for Pre-Accession Assistance” (hereinafter: Audit Authority) shall be an audit authority established pursuant to this Law and the provisions of the Framework Agreement;

5. “Auditee” shall be natural person, sole proprietor and legal entity, using funds from EU financed programmes and structures and authorities responsible within the systems for management, implementation, control, supervision, monitoring, evaluation and reporting on the implementation of EU financed programmes;

6. “National Authorising Officer” shall be authority in the systems for decentralised and indirect management of the funds from the Instrument for Pre-Accession Assistance (IPA), appointed by the Government of the Republic of Macedonia, responsible for financial management and effective functioning of the management and control systems of the funds from the Instrument for Pre-Accession Assistance (IPA) in the Republic of Macedonia;

7. “ISSAI International Standards on Supreme Audit Institutions)” shall be international standards of the Supreme audit institutions issued by the International Organisation of the Supreme Audit Institutions (INTOSAI);

8. “OLAF (European Anti-Fraud Office)” shall be European Office for prevention of fraud.

II. AUIDT AUTHORITY

Article 3

- (1) Audit activities for IPA and other EU financed programmes for which budget management tasks have been entrusted to the Republic of Macedonia shall be performed by Audit Authority.
- (2) Audit Authority shall be functionally independent of all the actors in the system responsible for management, implementation, control, supervision, monitoring, evaluation and reporting on the implementation of EU financed programmes.
- (3) Head Office of Audit Authority shall be in Skopje.

Article 4

- (1) Audit Authority shall be headed by General IPA Auditor.
- (2) General IPA Auditor shall have Deputy.
- (3) General IPA Auditor and his/her Deputy shall be appointed and dismissed by the Government of the Republic of Macedonia.
- (4) Term of office of the General IPA Auditor and his/her Deputy shall be nine years, without the right for re-election.

Article 5

- (1) The appointment of the General IPA Auditor and the Deputy shall be subject to announcement published in at least three daily newspapers with circulation throughout the whole territory of the Republic of Macedonia, one of the newspapers being published in the language spoken by at least 20% of the citizens whose official language is other than the Macedonian language.
- (2) General IPA Auditor and his/her Deputy shall fulfil the following requirements:
 - 1) be citizen of the Republic of Macedonia;
 - 2) have higher education in the field of economic or legal sciences;
 - 3) have at least seven-year experience in the field of economy or law;
 - 4) to possess certificate for acquired title in the field of audit;
 - 5) to possess one of the following internationally recognized certificates or credentials for active knowledge of the English language not older than five years:
 - TOEFL IBT at least 74 points,
 - IELTS at least 6 points,
 - ILEC (Cambridge English: Legal) - at least B2 level,
 - FCE (Cambridge English: First) – passed or
 - BULATS – at least 60 points;
 - 6) has passed the psychological test and integrity test;
 - 7) not perform other public function or profession, not be members of bodies of political party, members of management board, supervisory board or any other body of another legal entity, and

8) not to be pronounced misdemeanour sanction, i.e. prohibition to perform profession, activity or duty.

Article 6

Term of office of General IPA Auditor and his/her Deputy shall cease:

- 1) upon the expiry of the term of office;
- 2) upon his/her request;
- 3) by meeting pension requirements;
- 4) in case of death and
- 5) in case of dismissal.

Article 7

General IPA Auditor and his/her Deputy shall be dismissed when:

- 1) they no longer meet the requirements referred to in Article 5 of this Law;
- 2) they are not able to perform the tasks longer than six months due to disease or other justified reasons.

Article 8

- (1) General IPA Auditor shall represent the Audit Authority, ensure legal and efficient performance of activities and tasks, manage and organize the Audit Authority operations.
- (2) General IPA Auditor and his/her Deputy shall be the only contact persons with the European Commission for all issues related to IPA audit.

Article 9

General IPA Auditor shall, within his/her rights and duties determined by this Law, perform the following tasks, in particular:

- 1) propose the Budget of Audit Authority;
 - 2) adopt annual audit work plans and three-year audit strategies (hereinafter: 3-year audit strategy);
 - 3) prescribe the manner of auditing IPA;
 - 4) submit audit reports and opinions pursuant to provisions of the Framework Agreement and Sectoral Agreement;
 - 5) adopt the acts on implementing this Law;
 - 6) prescribe the form and the contents of the official ID card, as well as the manner of its issuance and revoking;
 - 7) adopt the Act on Organization and Work of the Audit Authority and the Act on Systematization of working posts of the Audit Authority;
 - 8) decide on the rights and the obligations of employees in the Audit Authority pursuant to law;
 - 9) adopt act on the manner of conducting disciplinary procedure in the Audit Authority;
 - 10) establish Commissions and other working bodies within the Audit Authority;
 - 11) communicate with the media so as to inform the public on the Audit Authority work;
- and

12) perform other tasks determined by this Law.

Article 10

Deputy shall replace the General IPA Auditor in cases when General IPA Auditor is prevented or absent, with all his/her authorizations and responsibilities and shall perform activities entrusted to him/her by the General IPA Auditor.

Article 11

General IPA Auditor and his/her Deputy may not be called to criminal liability or detained, for presented attitudes, opinions and recommendations regarding the operations.

Article 12

(1) Operating assets of Audit Authority shall be provided from the Budget of the Republic of Macedonia.

2) Budget of Audit Authority shall be prepared within the annual ceilings in line with the determined fiscal strategy and shall be an integral part of the Budget of the Republic of Macedonia.

(3) Parliament of the Republic of Macedonia shall separately vote for the part of the Budget of the Republic of Macedonia allocated for the Audit Authority.

Article 13

(1) Salary of General IPA Auditor and his/her Deputy shall be determined in line with the regulations for salaries of appointed and elected persons.

(2) Salary of IPA auditors shall be determined by General IPA Auditor within the determined Budget of the Audit Authority.

Article 14

(1) Employees in the State Audit Office assigned to perform activities and working tasks in the Audit Authority pursuant to the Law on Modifications and Amendments to the State Audit Law ("Official Gazette of the Republic of Macedonia", no. 133/2007), shall continue to work in the Audit Authority, as of the day this Law enters into force.

(2) Upon termination of working obligations in the Audit Authority, related to IPA realization, employees referred to in paragraph (1) of this Article shall be taken over by the State Audit Office and shall be deployed at respective working position with the same title.

Article 14-a

(1) Employees of the Audit Authority shall have the status of administrative servants or support and technical staff.

(2) The administrative servants referred to in paragraph (1) of this Article may be:

- IPA auditors who perform audit on IPA, or

- civil servants who perform administrative works related to execution of competences of the Audit Authority as laid down by this Law.

(3) For matters relating to the labor relations of the employees referred to in paragraph (2) of this Article which are not regulated by this Law and by Collective Agreement, the provisions of the Law on administrative servants and the general regulations on labor relations shall be applied.

(4) Support and technical staff shall be the employees of the Audit Authority which perform works related to maintenance, transport and other support and technical works. General regulations on labor relations shall be applied for this staff.

Article 14-b

(1) The administrative servants in the Audit Authority who perform IPA audit shall be assigned levels of working posts and title descriptions as follows:

- level B1 Adviser to the General IPA Auditor,
- level B2 Assistant General IPA Auditor,
- level B3 Head of Department for audit development,
- level C1 Principal Senior Auditor,
- level C2 Senior Auditor,
- level C3 Auditor, and
- level C4 Junior Auditor.

Article 14-c

(1) Salaries of the IPA auditors shall be determined on the basis of coefficients, as follows:

- level B1 coefficient 3,50,
- level B2 coefficient 3,30,
- level B3 coefficient 3,12,
- level C1 coefficient 2,92,
- level C2 coefficient 2,74,
- level C3 coefficient 2,55 and
- level C4 coefficient 2,27.

(2) Administrative servants who do not perform IPA audit shall receive salaries according to the Law on Administrative Servants.

III. IPA AUDITORS

Article 15

(1) IPA audit activities in the Republic of Macedonia shall be performed by auditors of the Instrument for Pre-Accession Assistance (hereinafter: IPA auditors) as auditors independent from

the subjects of audit meaning the structures and authorities which implement the EU financed programmes.

Article 16

(1) IPA auditors shall meet the following requirements:

- 1) to be citizens of the Republic of Macedonia;
- 2) to possess a certificate for acquired title in the field of audit;
- 3) to have higher education in the field of economic or legal sciences, information technology, or other appropriate education and
- 4) to give statement that they shall, during their operations, apply the rules set in the Code of Ethics of the Internationally Accepted Auditing Standards.

(2) IPA auditors shall have ID card, proving their official capacity and they shall, when performing audit, be obliged to show it.

(3) IPA auditors shall be obliged to perform IPA audit pursuant to Article 18 of this Law.

(4) IPA auditors may not be called liable for the given opinion regarding the execution of official authorizations.

Article 17

IPA auditors shall not perform audit if:

- 1) they were previously employed or were legal representatives of the auditee at least five years prior to performing the audit;
- 2) participated in book keeping or prepared the annual account and financial reports of the auditee at least five years prior to performing the audit;
- 3) they are spouses or are in common law marriage, straight blood line relatives up to third generation with the owner or the legal representative of the auditee; and
- 4) they are founders, shareholders or members in the auditee.

III-a. PROMOTION, APPRAISAL AND PROFESSIONAL UPGRADE OF THE IPA AUDITORS

Article 17-a

(1) The purpose of the promotion procedure is to ensure the IPA auditors career advancement i.e. transfer from lower-ranked to higher-ranked working posts.

(2) IPA auditor can be promoted to higher-ranked title, if he/she:

- 1) in the last two assessments has been appraised with “outstanding“;
- 2) has been working at least two years under the current title, and
- 3) has not being pronounced a disciplinary measure over the last year prior to submission of proposal for promotion by the Assistant General IPA Auditor.

(3) In order to start the promotion procedure, the Assistant General IPA Auditor / Head of Department for audit development, shall submit to the General IPA Auditor a proposal for

promotion of the respective IPA auditor, stating the lower ranked title at which the IPA auditor performs the working tasks as well as the proposed higher ranked title and the reasons for promotion of the IPA auditor to a higher ranked title.

(4) The General IPA Auditor, in the frame of the fixed budget of the Audit Authority and based on the proposal made by the Assistant, General IPA Auditor and the opinion of the Department for audit development, shall decide to accept or reject the proposal.

(5) The Decision for promotion is subject to approval by the Ministry of Finance which should be provided by the General IPA Auditor.

Article 17-b

(1) IPA auditors, except for the General IPA Auditor, shall be appraised once a year, no later than by the end of January in the current year for previous year.

(2) The IPA auditors shall be appraised by their immediate superior managerial auditor.

(3) The annual marks given to the IPA auditors may be as follows:

- 1) "outstanding";
- 2) "satisfactory" and
- 3) "unsatisfactory".

(4) The criteria which are the basis for appraisal shall be laid down by the General IPA Auditor , enacting a special internal act.

Article 17- c

(1) The IPA auditor shall professionally develop in the course of the year.

(2) General IPA Auditor shall adopt an annual training plan for professional development of the IPA auditors.

(3) Audit Authority shall keep records of the type and number of performed trainings, with the purpose of preparing the annual training plan.

IV. PERFORMING IPA AUDIT

Article 18

Audit Authority shall perform IPA audit in line with the International Standards on Auditing.

Article 19

(1) Audit Authority shall carry out audits on the management and control system, on actions, transactions and on the annual accounts in line with the ISSAI and in accordance with a three-year audit strategy.

(2) Audit activity shall include audit of sample of respective activities or transactions and examination of procedures.

(3) Types of IPA audit shall be the following:

- 1) system audit;
- 2) audit of transactions /operations;
- 3) financial audit and
- 4) audit of information technology (IT audit).

Article 20

- 1) Audit Authority may, prior to performing audit, require the auditee to provide all information, necessary for the audit performance, including documents, data or other information, necessary for the audit planning and performance.
- (2) Auditee shall be obliged to provide the requested information referred to in paragraph (1) of this Article within five working days from the day the request is received.

Article 21

- (1) During the audit, IPA auditors shall have free access to official premises and property, right to insight into books, forms and other documentation, electronic data and information systems, as well as right to require explanations from auditee representatives for all issues of relevance to audit performing.
- (2) Legal representative of the auditee shall be obliged to make available and provide to the IPA auditor, copies of the necessary documentation, papers, reports and other records and provide him/her other information necessary for audit performing.
- (3) Auditee shall not limit the scope of examination or prevent application of certain audit procedures. Audit Authority shall be obliged to both appropriately emphasize this in the report, in line with the auditing standards and forthwith inform the competent body, supervising the auditee, thereof.

Article 22

During the IPA audit, General IPA Auditor may, if necessary, also engage professionals and experts from competent institutions.

Article 23

Audit Authority shall, free of charge, have full access to all information and documents of natural persons and legal entities, related to projects or programmes, being fully or partially financed with IPA funds in the Republic of Macedonia.

Article 24

- (1) Legal representative of the auditee shall be obliged to make available the documents labelled as classified information to the IPA auditor, in a manner determined by Law.
- (2) IPA auditors shall be obliged to treat classified information in line with the provisions of the Law on Classified Information.

(3) IPA auditors shall not use the information they obtained during the audit, for the purpose of acquiring property or other benefit for themselves or for another entity.

(4) Provisions referred to in paragraphs (2) and (3) of this Article shall also apply to professionals and experts referred to in Article 22 of this Law.

V. ANNUAL AUDIT WORK PLAN, AUDIT REPORTS AND OPINIONS

Article 25

(1) IPA audit shall be performed according to Annual Audit Work Plan and an audit strategy on three-annual basis which shall set out the audit methodology and the planned audit activities.

(2) the annual audit work plan shall be submitted to both the National Authorising Officer and the European Commission, by 30th September in the current year at the latest for the reference period from 1 October of the current year until 30 September of the next year, according to the IPA Framework Agreement.

(3) the three-annual audit strategy shall be submitted to the European Commission with a copy to the National Authorising Office by end of November each year at latest for the next year in line with the IPA II Framework Agreement.

Article 26

Audit Authority shall submit reports and opinions according to Annex A point 7 of the IPA Framework Agreement, and Annex A clause 5 of the IPA II Framework Agreement and the IPARD Sectoral Agreement and IPARD II Sectoral Agreement.

Article 27

(1) For the purpose of informing the public, Audit Authority shall have its own Internet (web) site.

(2) Reports and opinions of the Audit Authority shall not be published on the Internet (web) site.

VI. COOPERATION

Article 28

If IPA auditors, when performing audit, identify that there is justified doubt that misdemeanour or crime has been committed, they shall forthwith inform the competent bodies thereof, in line with OLAF bilateral agreements and rulebooks.

Article 29

Entities keeping administrative records, registries and databases and performers of payment operations shall be obliged to submit the data on the auditees of IPA auditors, in a manner determined by Law.

Article 30

(1) Audit Authority shall, for the purpose of realizing its activities, cooperate with the government bodies and institutions in the Republic of Macedonia, the EU Member States and the EU candidate countries.

(2) Audit Authority may perform joint audits with audit authorities of other countries, the European Commission and the European Court of Auditors.

VII. AUDIT OF THE WORK OF THE AUDIT AUTHORITY

Article 31

(1) Audit of Audit Authority's work shall be performed by an audit firm, licensed to perform audit activities, the European Commission and the European Court of Auditors.

(2) Report from the audit performed by the audit firm referred to in paragraph (1) of this Article, shall be submitted to the Government of the Republic of Macedonia, by 30th June in the current year at the latest.

VIII. MISDEMEANOUR PROVISIONS

Article 32

(1) Legal entity i.e. sole proprietor –auditee – shall be fined EUR 6.000 in denar equivalent for misdemeanour, if:

- 1) it fails to make available the necessary documentation, papers, reports and other information to the auditor, necessary for the performance of the audit pursuant to Article 21 paragraph (2) and
- 2) it limits the scope of examination to the IPA auditors or prevents them from applying certain audit procedures pursuant to Article 21 paragraph (3).

(2) Fine in the amount of 30% of the fixed fine for the legal entity, i.e. the sole proprietor – subject to audit, shall be charged to the responsible person of the legal entity, i.e. the sole proprietor – subject to audit for misdemeanours referred to in paragraph (1) of this Article.

Article 33

(1) Natural person –auditee shall be fined EUR 600 to EUR 900 in denar equivalent for misdemeanour, if:

- 1) it fails to make available the necessary documentation, papers, reports and other information to the auditor, necessary for the performance of the audit pursuant to Article 21 paragraph (2) and
- 2) it limits the scope of examination to the IPA auditors or prevents them from applying certain audit procedures pursuant to Article 21 paragraph (3).

Article 34

Natural person - IPA auditor shall be fined EUR 500 to 1000 in denar equivalent for misdemeanour, if he/she fails to perform the audit pursuant to Article 16 paragraph (3) of this Law.

Article 35

For misdemeanors determined by this Law, the misdemeanor procedure shall be referred to- and sanctions pronounced by the competent court-of-law.

Article 35-a

Determining of the amount of the fine for a legal entity, i.e. for a sole proprietor shall be done in accordance with the Law on Misdemeanours.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 36

(1) Government of the Republic of Macedonia shall appoint the General IPA Auditor and the Deputy of the Audit Authority, within one month from the day this Law enters into force.

(2) Head of Audit Authority, appointed pursuant to the Law on Modifications and Amendments to the State Audit Law ("Official Gazette of the Republic of Macedonia", no. 133/07) shall continue to perform the function until the appointment of General IPA Auditor.

Article 37

(1) General IPA Auditor shall, within two months from the day this Law enters into force, prescribe the manner of performing IPA audit and shall adopt the acts determined by this Law.

(2) Existing regulations shall be applied until the day of entering into force of the regulations referred to in paragraph (1) of this Article.

Article 38

Audit Authority shall take over the assets, and documentation on IPA operations and archives from the State Audit Office on the day this Law enters into force.

Article 39

This Law shall enter into force on the eighth day from the day it is published in the "Official Gazette of the Republic of Macedonia".

TRANSITIONAL AND FINAL PROVISIONS

of the Law amending the Law on audit of instrument for pre-accession assistance (IPA) ("Official Gazette of the RM" No. 43/14)

Article 6

General IPA Auditor and its Deputy appointed by the date of enforcement of Article 2 of this Law, shall continue to exercise the function until expiry of the term of office to which they were appointed.

Article 7

Provisions of Article 2 paragraph 1 of this Law shall be applied one year after this Law has entered into force, except for the provisions which refer to the requirements for knowledge of a foreign language which shall start to be applied two years after the date of entering into force of this Law.

Article 8

This Law shall enter into force on the eighth from the day it is published in the “Official Gazette of the Republic of Macedonia” except for the provisions referred to in Articles 3 and 5 of this Law which shall be applied from the date of enforcement of this Law on Administrative Servants (“Official Gazette of the Republic of Macedonia“ No.27/14).

FINAL PROVISION

***of the Law amending the Law on audit of instrument for pre-accession assistance (IPA)
 (“Official Gazette of the RM” No. 154/15)***

Article 6

This Law shall enter into force on the eighth from the day it is published in the “Official Gazette of the Republic of Macedonia”.

FINAL PROVISION

***of the Law amending the Law on audit of instrument for pre-accession assistance (IPA)
 (“Official Gazette of the RM” No. 27/16)***

Article 2

This Law shall enter into force on the eighth from the day it is published in the “Official Gazette of the Republic of Macedonia”.

FINAL PROVISION

***of the Law amending the Law on audit of instrument for pre-accession assistance (IPA)
 (“Official Gazette of the RM” No. 190/16)***

Article 11

This Law shall enter into force on the eighth from the day it is published in the “Official Gazette of the Republic of Macedonia”.