

Government of Montenegro

Ministry of Finance

Questionnaire

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

– ADDITIONAL QUESTIONS –

32 Financial Control

Minister:

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TABLE OF CONTENTS

CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP.. 5

32: Financial Control 6

 I. Public internal financial control and external audit 7

CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

32: Financial Control

I. Public internal financial control and external audit

1. Could you please provide further information regarding the exact legal structure that the Audit Authority will take and any other information regarding its use of SAI resources?

The issue of establishing and locating the Audit Authority for IPA funds in Montenegro has been resolved by signing of the Agreement between the Government of Montenegro and the State Audit Institution on the establishment of the Audit Authority within the decentralized system of managing the Instrument for Pre-Accession Assistance (Official Gazette of Montenegro 05/2010).

Before signing of the Agreement, numerous meetings were held about the role of the State Audit Institution in the project regarding the audit of IPA funds between representatives of Montenegro and the Directorate General for Budget, as well as with SIGMA.

The view of the State Audit Institution of Montenegro was that the most optimum solution was to locate the Audit Authority outside the State Audit Institution. The State Audit Institution was considering a potential conflict of interest from the aspect of independency of the Institution, as well as views of the representatives of the European Commission, primarily the Directorate General for Budget and SIGMA about this issue. With respect to the aforementioned, the Institution would be ready to participate in providing the audit staff and training for the Audit Authority, which would be regulated by relevant agreement between the Government and the Institution.

However, since the decision on the establishment and location of the Audit Authority was not made by the end of the last year, on the initiative of the Government of Montenegro i.e. the Ministry of Finance, the Agreement has been concluded between the Government of Montenegro and the State Audit Institution on the formation of the Audit Authority within the decentralized system of managing the Instrument for Pre-Accession Assistance.

The Agreement envisages that the Audit Authority, as the temporary body, is established and located within the external state audit system, and that it has full functional independence in performing activities and tasks.

In order to comply with the obligations determined by the Law on Ratification of Framework Agreement between the Government of Montenegro and the Commission of the European Communities on the rules for cooperation concerning the European Communities financial assistance to Montenegro, the Audit Authority is functionally independent from the State Audit Institution bodies in performing the audit of IPA funds and fulfilling all obligations on the basis of performed audits of funds of the European funds.

In accordance with the aforementioned, the Audit Authority Manager, who is appointed by the State Audit Institution Senate, has the authorizations and responsibility to make decisions and sign all documents regarding the functions and responsibilities of the Audit Authority, in accordance with the Framework Agreement.

It is envisaged that sections for different IPA components/programmes may be formed within the Audit Authority.

The State Audit Institution has determined the organizational structure of the aforementioned body, systematization of jobs, as well as rights and obligations of employees.

The State Audit Institution has assumed the obligation to employ and/or assign the civil servants-auditors to work in the Audit Authority, based on the number of jobs in accordance with systematization act. The State Audit Institution has assumed also the obligation to perform administrative activities, provide offices and equipment for the operations of this Audit Authority.

The State Audit Institution shall obtain the funds for the activity of the Audit Authority, on the basis of the assumed obligations in accordance with this Agreement, from the funds of the State Budget. The Budget of Montenegro for 2011 will provide the funds through a separate sub-programme - Audit of IPA Funds, within the programme budget of the State Audit Institution.

The Audit Authority is formed as a temporary body. After the opening of the negotiation chapter 32 - Financial Control between the Commission and Montenegro, a separate decision will be adopted on separating the Audit Authority from the system of the organizational structure of the State Audit Institution.

In accordance with the obligation referred to in the Agreement, the Senate of the State Audit Institution adopted the Decision on formation of a separate Audit Authority responsible for the verification of effective and valid functioning of the management and control system of the instrument for pre-accession assistance (Official Gazette of Montenegro 05/2010).

2. (Ref. to Q 3): Which legislation states that PIFC covers income, expenditure, assets, liabilities and recovery of unduly paid amounts? PIFC relates to the internal control of the government. The principles of sound financial management should also apply to independent organisations that use funds from the national budget (like the SAI, parliament, judiciary, etc). Do the laws governing these bodies include references to sound financial management (economy, efficiency and effectiveness)?

Law on Public Internal Financial Control System (Official Gazette of Montenegro 73/08) covers the system of internal controls (financial management and control and internal audit) of revenues, expenditures, assets, liabilities and recovery of unduly paid amounts

The Law prescribes that financial management and control is internal control system, that is established by and is the responsibility of the head of the entity, and which, together with risk management, provides reasonable assurances that the budget and other public funds will be used economically, efficiently and effectively in the accomplishment of objectives of the entity. Furthermore, this Law defines prior (ex ante) controls as preventive controls established by the head of the entity and are necessary for taking decisions and which relate to the collection and use of funds, assuming of obligations, conducting procedure of public procurement, conclusion of contracts and related payments and recovery of unduly paid amounts.

In accordance with the aforementioned Law, financial management and control are introduced for the purpose of improving financial management and decision-making in attaining the set goals of the entity, and especially for the purpose of: performance of activities in accordance with laws, secondary legislation and internal acts, contracts and prescribed procedures; providing a reliable, comprehensive and timely financial and business reporting; proper, cost-effective, efficient and effective use of funds; protection of assets, obligations and other resources from losses that may occur by inadequate management, unjustifiable spending and use, as well as against irregularities and frauds. In addition, it is prescribed that financial management and control include all financial and other activities in operations of the entity, and that they are implemented in all organizational units, and at all levels of the entity, as well as that they include all assets of the entity, including the funds obtained from the European Union.

The Law on Public Internal Financial Control System relates also to: the Parliament of Montenegro; State Audit Institution; Public Prosecution Office; Constitutional Court; all courts in Montenegro (Supreme Court, Appellate Court, Administrative Court, higher courts, basic courts, and commercial courts); Judicial Council and the Protector of Human Rights and Freedoms (Ombudsman); as well as the users of funds of the Budget of Montenegro.

Competency, organization and other issues of these independent bodies are regulated by separate laws, as follows:

- Law on State Audit Institution (Official Gazette of the Republic of Montenegro 28/04, 27/06, 78/06, Official Gazette of Montenegro 17/07);
- Law on Public Prosecution Office (Official Gazette of the Republic of Montenegro 69/03, Official Gazette of Montenegro 40/08);
- Law on Courts (Official Gazette of the Republic of Montenegro 05/02, 49/04, 22/08);

- Law on Judicial Council (Official Gazette of Montenegro 13/08);
- Law on Constitutional Court of Montenegro (Official Gazette of Montenegro, 64/08);
- Law on Protector of Human Rights and Freedoms (Ombudsman) (Official Gazette of the Republic of Montenegro 41/03);

The aforementioned laws prescribe that the funds for operations of these bodies are provided in the Budget of Montenegro, and they do not contain references regarding the principles of sound financial management (economy, effectiveness and efficiency).

3. (Ref. to Q 6): Please provide a clear table of the salaries of the public control and audit (both internal and external) staff and provide comparison with the salaries in the private sector.

The table below gives a comparative review of **average net salaries** (with accumulated years of service) of employees working on control and audit (internal and external) in the public and the private sector, for February 2010:

Table 1

EMPLOYEES	SALARIES	
	PUBLIC SECTOR	PRIVATE SECTOR
INTERNAL CONTROL AND INTERNAL AUDIT	€439.70	€1,629.00
EXTERNAL AUDIT	€615.96	€1,635.33

The average net salary of employees working on internal control and internal audit in the public sector is determined on the basis of the data on salaries of employees in the Internal Audit Department and in the Central Harmonization Unit (CHU) of the Ministry of Finance; whereas in the private sector, it is determined on the basis of the data of commercial banks and insurance companies. In accordance with the submitted data, salaries of internal auditors in banks and insurance companies are within the range from €805.00 to €4,154.00.

The average net salary of employees working in external audit in the public sector is determined on the basis of the data on salaries of employees in the State Audit Institution; whereas in the private sector, it is determined on the basis of the submitted data of auditing firms that are within the range from €675.00 to €3,547.00.

Table 2 gives a review of **fixed salaries** of employees working on the internal control and audit (internal and external) in the public sector per determined titles, as follows:

Table 2

Title	Qualifications	Coefficient	Net salary (without accumulated years of service)
State Audit Institution			
Head	University degree	11.32	€622.60
Section manager	University degree	10.02	€551.10
State auditor	University degree	9.58	€526.90
Junior auditor	University degree	5.73	€315.15
CHU of the Ministry of Finance			
Authorized officer I	University degree	6.89	€ 378.95
Authorized officer II	University degree	6.63	€364.65
Internal Audit Section			
Superior internal auditor	University degree	6.89	€378.95
Senior internal auditor	University degree	6.63	€364.65
Junior internal auditor	University degree	6.37	€350.35

Fixed salaries are determined by multiplying coefficients for certain titles by the coefficient value (55 €), without increasing salary based on the years of service (accumulated years of service).

Determination and calculation of salaries are done on the basis of the new Law on Salaries on Civil Servants and State Employees (Official Gazette of Montenegro 86/09) that has been applied from January 2010. The amendments to the Law on Personal Income Tax (Official Gazette of the Republic of Montenegro 65/01, 12/02, 37/04, 29/05, 78/06, 04/07, Official Gazette of Montenegro 86/09) and the Law on Contributions for Compulsory Social Insurance (Official Gazette of Montenegro 13/07, 79/08 and 86/09), which have also been applied from January 2010, have had an impact on the level of average salaries.

4. (Ref. to Q 8): One of the objectives of PIFC is that the entire system of internal control in the public sector is covered by easily accessible and harmonised legislation and regulation rather than having fragmented regulations. Please clarify the compatibility between the FMC Directions and the Treasury directions in relation to ex-ante financial control function.

On the basis of the Law on Budget, the Ministry of Finance adopted the Directions on State Treasury Operations in 2001, and the system of the State Treasury has been established in January 2002. In December 2008, new Directions on State Treasury Operations has been adopted.

The Ministry of Finance prepared, with the help provided by SIGMA experts, a new text of the draft Rulebook on the manner and procedure of establishing and implementing financial management and control in the public sector (hereinafter referred to as: FMC Rulebook) and it reviewed the Directions on State Treasury Operations.

We would like to note that the Directorate General for Budget of the European Commission gave certain comments on the basis of the review of the originally submitted text of the draft FMC Rulebook and the Directions on State Treasury Operations. It was pointed out that the Instruction on Treasury Operations was adopted only on the basis of the Law on Budget, and not also on the basis of the Law on Public Internal Financial Control System, and that the Instruction contained only some of the controls (ex-ante controls) that are prescribed by the Law on Public Internal Financial Control System. It was evaluated that the aforementioned might lead to the existence of the same provisions as in the FMC Rulebook, i.e. to scattering of the legal framework for financial management and control, which may lead to confusion of management and employees in the implementation of the financial management and control system.

On the basis of the given suggestions and proposals of the Directorate General for Budget of the European Commission, and for the purpose of adopting clear, understandable and harmonized regulations in the area of financial management and control, the Ministry of Finance, with the help of SIGMA experts, prepared a new text of the draft FMC Rulebook and it reviewed the Instruction on Directions on State Treasury Operations. The Ministry of Finance will submit the aforementioned regulations to the Directorate General for Budget of the European Commission for opinion.

The legal basis for the adoption of the reviewed Directions is the Law on Budget and the Law on Public Internal Financial Control System. Furthermore, certain provisions on responsibilities and authorizations of financial officers from the existing Instruction were incorporated in the text of the draft FMC Rulebook, and certain provisions were deleted. The FMC Rulebook includes the components of financial management and control, i.e. the activities that should be undertaken by public sector entities in order to establish the financial management and control system.

5. Is it the intention of the authorities to bring together the various pieces of secondary legislation on internal audit?

The Central Harmonization Unit (CHU) of the Ministry of Finance finalized the drafting of the Internal Audit Manual in December 2009.

The Internal Audit Manual is a result of joint work of consultants and the employees of the CHU of the Ministry of Finance within the project "First Steps for a Decentralized Implementation System (DIS) in Montenegro", which was financed by EU. This Manual represents an upgrading of the Internal Audit Manual from February 2004 that was developed with the support of USAID consultants.

The Manual defines the internal audit requirements and procedures, gives the general review of the approach to auditing, establishes the internal audit framework, and provides the guidelines for performing good auditing practice. The Manual elaborates the provisions of the Law on Public Internal Financial Control System that relate to the internal audit and the provisions of the Rulebook on the Internal Audit Method and Procedure.

The Manual, in some of its chapters, describes in details the procedures for internal audit planning, the process for implementing individual internal audits, responsibilities within the internal audit, reporting on the work of internal audit, professional education and training of internal auditors, as well as the programme for providing and improving the quality of work of internal audit.

Applicable regulations governing internal audit, as well as the International Standards for Professional Practice of Internal Auditing (IIA), Code of Ethics (IIA), copy of the text of Internal

Audit Charter, as well as relevant forms that should be used by internal auditors in the process of implementing individual audits, are the integral part of the Manual.

6. (Ref. to Q 9): Please explain the double signature system for commitments as well.

A head of the spending unit is responsible for a lawful use of funds allocated to that spending unit from the Budget. It means that a spending unit may initiate the process of contracting its obligations (commitments) based on the approval of the head of the body.

Contracting of obligations in accordance with the approved dynamic spending plan is implemented through public procurement procedures defined by the Law on Public Procurements.

Upon the termination of a public procurement procedure, a certifying officer verifies whether the goods are delivered or services provided, and whether there is relevant accounting documentation that clearly shows the nature of the request for funds from the State Budget. If these requirements are met, the certifying officer makes the documentation (invoice, bill of lading, etc.) complete, fills in the Payment Request and confirms by his signature that the requirements for the payment of incurred obligation are met. The Payment Request, signed in such a manner, is submitted to an approving officer (the head of the body or person authorized by him), who signs the Payment Request confirming that the expenditure is approved and that the payment request is properly certified.

In accordance with the aforementioned, the procedure for contracting obligations requires the implementation of double signature system, which implies that no obligation may be assumed or payment made without signing of the Payment Request by financial officers of the spending unit, more precisely by certifying officer and approving officer (authorized by the head of the body).

Signatures of the certifying officer and approving officer of spending units are specimen authorized signatures submitted to the State Treasury, which keeps a separate registry of specimen authorized signatures.

7. (Ref. to Q 10): The question is not answered.

Ex ante control of accounting documents is carried out by an authorized person in a spending unit. This control verifies whether a certain transaction is properly approved, lawful and regular, and whether there is sufficient amount of funds for it in the budget. The control includes every accounting document from the aspect of true and actual recognition of accounting change, i.e. transaction.

Person, authorized to carry out control of accuracy of accounting documents, controls and confirms every single accounting document prior to entering data in the General Treasury Ledger.

After entering data in the General Treasury Ledger, a Payment Request is formed that is controlled by software with respect to its compliance with the planned and approved funds by the annual State Budget.

Such the Payment Request is signed by an authorized officer who submits it to the head of the body for approval.

Upon forming the Payment Request and implementing the control by authorized persons in the spending unit, its final realization occurs upon implemented control and after it is signed by a responsible person (authorizing officer) in the State Treasury.

Bearing in mind the described system of the prior control applied in the execution of the State Budget, at this moment sampling on the basis of risk assessment by application of the scientific

method is not applied. In the following period, activities will be undertaken to develop techniques for risk assessment and management.

8. (Ref. to Q 11): Please describe the system for nomination, appointment and dismissal of internal auditors.

The Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08 and 86/09) regulates the issues regarding the position of civil servants and state employees, inter alia, with respect to the following: entering employment, titles, rights and obligations, responsibility, assignment, termination of employment, etc. Since internal auditors are civil servants, the provisions of this Law apply to them as well.

In order to enter employment, internal auditor must meet the general requirements prescribed by the Law on Civil Servants and State Employees, and special requirements prescribed by the Law on Public Internal Financial Control System (Official Gazette of Montenegro 73/08).

General requirements for entering employment that a civil servant and state employee, including internal auditor, must meet are the following ones: to be a national of Montenegro; to be of the legal age; to be medically fit; to meet prescribed qualification requirements; not to be convicted of a criminal offence making him unworthy to be employed by a state body, and that a criminal procedure for a criminal offence that is prosecuted ex officio is not conducted against him; to meet other requirements determined by law and other regulations.

Special requirements for entering employment as internal auditor shall be: to have a university degree; to have at least two (2) years of working experience in the activities of auditing, financial control or accounting and financial activities; and to have the examination for authorized internal auditor passed. A person who has not passed the examination for the authorized internal auditor in accordance with the Law on Public Internal Financial Control System (Official Gazette of Montenegro 73/08), but meets the general and special requirements for entering employment as internal auditor, may perform the activities of internal auditing without passing the examination for the authorized internal auditor at the most for the period of two (2) years from the effective day of the Programme for Taking the Examination for Authorized Internal Auditor.

Decision on filling a vacancy of civil servant and state employee, i.e. internal auditor, may be adopted if: the job is determined by the internal organization and systematization act; if the job is vacant; and if the state body has provided the funds for it.

A job of internal auditor in a state body may be filled by assigning a civil servant or state employee from the same body to that job; by taking over a civil servant or state employee from another state body; through internal advertisement; or by implementing the procedure of public advertisement.

If it is not possible to fill internal auditor vacancy from the internal resources, a state body, prior to initiating the new employment procedure, must verify whether it is possible to fill a vacancy by taking over a civil servant or state employee from another state body. In the aforementioned case, the head of the state body submits a completed form for announcing a vacancy to the Human Resources Administration (the administration body in charge of human resources management) that then publishes internal advertisement. Only employees in state bodies and services that meet the employment requirements for the announced vacancy may apply to the internal advertisement. If it is not possible to fill the vacancy from the internal human resources, the Human Resources Administration will initiate the procedure of public advertisement. The state administration body or service, that has the need to fill the vacancy, contacts the Human Resources Administration to announce the vacancy in the mass media (print media and electronic media).

All persons who believe that they meet the prescribed requirements to fill the vacancy (both general and special) may apply to the published public advertisement. The deadline for submission of the application by interested parties to the public advertisement cannot be shorter than eight (8) and longer than fifteen (15) days from the day of publishing the public advertisement. The Human

Resources Administration makes the list of candidates, on the basis of the applications, that meet the requirements of the advertisement.

Persons from the list of candidates are subject to obligatory testing that verify their capacities to perform the tasks related to the job. The testing of candidates is carried out by a commission appointed by the head of the state body that submitted the completed form for publication of a vacancy. The testing procedure may be done through a written test, verbal interview or in another adequate manner.

The Human Resources Administration makes a list of candidates who achieved satisfactory results in the testing procedure. The list for selection is submitted to the head of the state body. The head of the state body decides on the selection of the civil servant and state employee, i.e. the internal auditor.

Internal auditor enters employment and acquires a certain title by a decision of the head of the state body. In accordance with the Decree on Titles of Internal Auditor (Official Gazette of Montenegro 23/09), the internal auditor titles are: superior internal auditor, senior internal auditor and junior internal auditor.

In accordance with Article 44 of the Law on Civil Servants and State Employees, title of civil servant and state employee, including internal auditor, shall terminate: by assigning him another title; termination of employment; in case of determined incapacity; and in other cases determined by law.

Civil servant and state employee, i.e. internal auditor, shall be obliged to perform his activities with due care, in accordance with law, other regulations and rules of the profession, and to comply with regulations on official duty, and to respect the rules of the service; and he shall be disciplinary liable for violations of the duties arising from the employment that may represent less and more severe disciplinary offences.

In accordance with the Law on Civil Servants and State Employees, the head of the state body may, at the proposal of the disciplinary commission, impose on a civil servant and state employee, i.e. internal auditor, a disciplinary measure regarding the termination of employment for a more severe disciplinary offence, such as: misuse of official position or exceeding authorizations while performing the duties of the position, improper disposition with entrusted funds, disclosure of business, official or another secret determined by law or another regulation, giving false data that affect decision-making process, failure to perform, or failure to perform with due care, or untimely or negligent performance of official obligations, etc.

Employment of civil servant and state employee, including internal auditor, may terminate by operation of law in accordance with general regulations on labour; agreement between the internal auditor and head of the state body; and resignation of the state internal auditor given in writing; and dismissal by the head of the state body.

Termination of employment in the cases envisaged by law is determined by a decision of the head of the body.

9. (Ref. to Q 19): Please provide information on the financial independence of SAI.

In accordance with Article 51 of the Law on State Audit Institution, funds for the operations of the Institution are provided in the Budget of Montenegro. The State Audit Institution is a spending unit in the state budget system.

Request for allocation of the budget funds to the Institution is submitted by a working body of the Parliament competent for financial affairs, at the proposal of the Institution.

It is the obligation, as well as the practice, that the Senate of the State Audit Institution determines the proposal for the required funds, with the explanation, and submits it to the Committee on Economy, Finances and Budget of the Parliament of Montenegro for consideration and

determination. The Committee for Economy, Finances and Budget, after consideration and approval (determination), submits the request to the Ministry of Finance.

On the basis of the submitted request, the Ministry of Finance determines the proposal for the funds for the operations of the Institution that the Committee gives its opinion on in the process of adoption of the budget for the following year. Usually, in accordance with the constitutional system, the Parliament, through the adoption of the State Budget, adopts a final decision on the amount of funds for the operations of the Institution.

10. Have the authorities checked whether the management and control provisions in the Local Government Finance Act are in conformity with the PIFC law?

The Law on Local Self-Government Financing (Official Gazette of the Republic of Montenegro 42/03, 44/03, Official Gazette of Montenegro 05/08 and 51/08) contains the provisions regarding the sources of funds, method for financial equalisation and use of conditional grants, as well as method of financing the reserved affairs of local self-government stipulated by the Constitution, law and other regulations, as well as treasury activities of local self-government.

The Law on Local Self-Government Financing contains some provisions on management and control in Articles 66 and 67, which prescribe treasury activities of local self-government.

Article 66 of the Law on Local Self-Government Financing prescribes that local administration body in charge of financial affairs: shall open a consolidated treasury account at which budget monetary funds shall be deposited, and that no payment shall be made from the consolidated treasury account without being appropriated in the budget; it shall approve opening of sub-accounts and/or of other accounts as the integral part of the consolidated treasury account; it shall regulate in details the method of using the accounts; it shall manage the consolidated treasury account, as well as sub-accounts and other accounts; it shall keep the general treasury ledger and separate records for every beneficiary of the budget funds; transactions and events recorded in the ledger of beneficiaries of budget funds must, at any moment, be in accordance with the transactions in the general treasury ledger and adjusted to the local consolidated bank account.

Article 67 of the Law prescribes that treasury activities are performed by a local administration body in charge of financial affairs by executing the following functions:

- 1) Financial planning, which includes:
 - projection and monitoring of inflow in the consolidated treasury account, as well as expenditure payment requests that include the analysis of cash flow, budget execution plan and debt servicing;
 - definition of quarterly, monthly and daily quotas of payment commitments;
- 2) Cash management, which includes:
 - consolidated treasury account management that records all inflows in and all outflows from the budget related to opening and control of bank accounts and sub-accounts and banking relations management;
 - liquidity management;
 - further elaboration of procedures with regard to receiving payments through the banking system;
 - financial sources management, including investment of unallocated funds;
- 3) Expenditures control, which includes managing the processes of approval of commitments, checking received goods and services and approving payments from appropriated funds;
- 4) Debt management, which includes:

- management of new loan negotiations and agreements;
 - keeping records on outstanding debt;
 - management of inflows from borrowing;
- 5) Budget accounting and reporting, which includes:
- accounting activities for payment processing and inflow recording, keeping daybook, general treasury ledger, and selected auxiliary books for all inflows and outflows, and international donations and other types of support;
 - financial reporting;
 - o accounting methodology, which includes: maintenance of the classification system, prescribing rules for budget accounting, and prescribing requirements with regard to internal and external reporting;
- 6) Managing financial information system.

In accordance with our understanding of PIFC concept, the abovementioned provisions of the Law on Local Self-Government Financing regarding treasury activities of local self-government are not contrary to the Law on Public Internal Financial Control System.

We would like to point out that competent bodies in local self-governments have adopted the Instruction on Local Self-Government Treasury Operations on the basis of Article 57 of the Law on Local Self-Government (Official Gazette 42/03, 28/04, 75/05, 13/06 and 88/09) and Articles 66 and 67 of the Law on Local Self-Government Financing. This Instruction prescribes more detailed manner of execution of the local self-government budget, control of financial transactions, provision of liquidity of consolidated treasury account, management of municipality's debt, as well as the form and contents of the forms for general treasury ledger.

11. (Ref. to Q 29): Please confirm whether the credit institutions (not the employees dealing with cash) are obliged by the national legislation to withdraw coins and banknotes suspected of being counterfeited?

We confirm that credit institutions are obliged, in accordance with the national regulations to withdraw from circulation coins and banknotes which they suspect to be counterfeit. The Criminal Code of Montenegro prescribes the obligation of withdrawal of counterfeit currency and the currency suspected to be counterfeited. In addition, by adopting the Decision on Supplying Banks with Banknotes and Coins (Official Gazette of the Republic of Montenegro 82/04 and 39/05), the Central Bank of Montenegro has envisaged the obligation of employees dealing with cash in commercial banks that when noticing a sample of currency suspected to be counterfeited, such sample will be sent to the Central Bank of Montenegro, with the letter attached that includes all the important characteristics of the banknote or coin indicated, for the purposes of expert evaluation (Article 17 of the Decision). In accordance with the Law on Criminal Liability of Legal Persons (Official Gazette of the Republic of Montenegro 02/07 and 13/07), a legal person is liable for a criminal offence committed by a responsible person, who while acting in the name of the legal person and within his authorizations, committed such criminal offence. For the abovementioned criminal offence, in accordance with the provisions of Article 15 of the Law on Criminal Liability of Legal Persons, a fine may be imposed on a credit institution in the amount from two-fold to five-fold of the amount of incurred damage or acquired illegal material gain or from thousand to ten thousand euro.

12. Do the Members of the SAI benefit from legal immunity to any prosecution for acts that result from the normal discharge of their duties?

Article 86 of the Constitution of Montenegro prescribes that a Member of Parliament has immunity, as well as: President of Montenegro, Prime Minister and members of the Government, President of the Supreme Court, President and judges of the Constitutional Court, and Supreme Public Prosecutor.

Articles 122 and 137 of the Constitution of Montenegro determine that judge and lay judge and public prosecutor and deputy public prosecutor have the functional immunity.

Based on the aforementioned, members of the Senate do not have functional immunity from criminal prosecution for offences that are the result of performing the function.

Article 144 of the Constitution of Montenegro determines the position, competency and management of the State Audit Institution, but it does not envisage functional immunity for members of the Senate of the State Audit Institution.

13. Is the SAI in the process of developing a strategic audit plan (3-years or longer term basis) that may assure that all budget entities be subject to regular audit?

The State Audit Institution is relatively new institution, introduced in the legal and economic system of Montenegro five years ago, as part of the devised strategy to reform public finances and create independent economic system.

The development of the Institution has a positive course, which is also confirmed by relevant international authorities, as well as the support of the Parliament of Montenegro in considering reports of the Institution and accepting its recommendations.

However, besides that, and for the purpose of further development, the Institution is realizing the initiated activities on the development of the Institution Development Strategy, through which it will trace the future development directions and priorities of the Institution. The Senate of the Institution has determined the guidelines for the development of the Institution Development Strategy, with the support of foreign experts in this area. The integral part of the aforementioned Strategy is the public relations strategy. In addition to the general issues regarding the development of the Institution, the Strategy, as well as instruction on methodology, envisages, as one of the main goals, the obligation to develop the mid-term audit plan methodology, in order to achieve, at the same time and in accordance with the human resources development, that all entities subject to audit are covered by external audit within a certain time interval (auditing cycle that would last three or four years) by the State Audit Institution.

Through the development of the Strategy, the Institution will analyze the needs to harmonize the legal framework with the strategic directions of the Institution development.

The state audit is not able to carry out annual audit of all entities from the public sector, especially of local self-government. However, these entities are obliged to have their operations audited on annual basis. Audit is mostly done by commercial auditing firms.

Therefore, we believe it is necessary to consider the possibility to engage and use findings of commercial audits for the needs of the state audit, with a prior introduction of clear criteria, procedures, and specifying the obligation that a representative of the Institution participates in performance of audits by commercial auditing firms of operations of municipalities, business organizations and other entities whose sources of financing are public or they are generated by the use of the state property.