



**GOVERNMENT OF MONTENEGRO  
MINISTRY OF EUROPEAN AFFAIRS**

**CONTRIBUTION TO THE EUROPEAN COMMISSION REPORT ON MONTENEGRO  
for the period  
1 October 2016 - 20 October 2017**

Podgorica, October 2017

## Introduction

### Relations between Montenegro and the EU

At the twelfth Inter-Governmental Conference held Brussels on 13 December 2016, Montenegro opened negotiations in **Chapter 11 – Agriculture and Rural Development and Chapter 19 – Social Policy and Employment and at the thirteenth Inter-Governmental Conference held in Luxembourg on 20 June 2017 Chapter 1 – Free Movement of Goods and 22 – Regional Policy and Coordination of Structural Instruments and it provisionally closed Chapter 30 – External Relations.**

The Programme of Accession of Montenegro to the EU 2017-2018 was adopted by the Government on 27 January 2017. The Government adopted the Third Quarterly Report on the Implementation of Obligations from the Programme of Accession of Montenegro to the EU on 12 October 2017.

Effective implementation of obligations from the SAA is ensured in line with the defined timeline. Seven regular annual meetings of sectoral subcommittees were held between Montenegro and the European Union (EU). In Brussels the following meetings were held: 21 November 2016, the ninth meeting of the Sub-committee for economic and financial affairs and statistics; 24-25 April 2017, the seventh meeting of the Sub-committee for innovation, human resources, information society and social policy; 3 October 2017, the tenth meeting of the Sub-committee for industry, trade, customs and taxes and cooperation with other candidate countries. In Podgorica the following meetings were held: on 21 September 2016, the ninth meeting of the Sub-committee for agriculture and fishery; 14-15 March 2017, the seventh meeting of the Sub-committee for justice, freedom and security; 8 June 2017, the seventh meeting of the Subcommittee for internal market and competition; 7 June 2017, the tenth meeting of the Sub-committee for transportation, energy, environment and regional policy. **The eighth meeting of the EU-Montenegro Civil Society Joint Consultative Committee was held on 8 November 2016 in Budva and IX meeting of this Committee was held from 8 to 9 June 2017 in Bečići. The eight meeting of the Joint Consultative Committee (JCC) between the EU Committee of the Regions and Montenegro was held in Brussels from 31 May to 1 June 2017.**

Fifth meeting of the *Special Group for Public Administration Reform* was held in Podgorica from 28 to 29 September 2017.

The fifth meeting of the Stabilisation and Association Committee was held in Brussels on 19 December 2017.

Thirteenth meeting of the European Union - Montenegro Stabilisation and Association Parliamentary Committee was held on 14 June 2017 in Strasbourg.

The fourth semi-annual report on the implementation of adapted Action Plans for Chapters 23 and 24 and the First semi-annual report on the implementation of the Operational Document for the Prevention of Corruption in the Areas of Special Risks were adopted on 19 January 2017. The fifth semi-annual report on the implementation of adapted action plans for Chapters 23 and 24 as well the second semi-annual report on the implementation of the Operational Document for the Prevention of Corruption in the Areas of Special Risks were adopted on 27 July 2017.

Taking into consideration Article 15 of the Stabilisation and Association Agreement, Agreement on Cooperation between the Government of Montenegro and the Council of Ministers of Bosnia and Herzegovina in the process of European Union accession which was signed on 14 February 2017 and it came into force in Montenegro on 23 March 2017. II meeting of the Joint Committee between Montenegro and the Republic of Serbia for the implementation of the Cooperation Agreement between the Government of Montenegro and the Government of the Republic of Serbia in the context of European Union accession was held in Belgrade on 4 November 2016. The second meeting of the Joint Committee between Montenegro and the Republic of Albania for the implementation of the Cooperation Agreement between the Government of Montenegro and the Council of Ministers of the Republic of Albania in the context of European Union accession was held in Tirana on 7 April 2017. In addition, the third meeting of the Joint Committee between Montenegro and the FYR Macedonia for the implementation of the Cooperation Agreement between the Government of Montenegro and the Government of the Republic of Macedonia in the context of European Union accession was held on 19 September 2017.

## **1. POLITICAL CRITERIA**

### **1.1. Democracy**

#### **1.1.1 Elections**

Parliamentary elections held on 16 October 2016 were held in competitive environment with the respect for fundamental freedoms and the Election Day itself passed calmly and regularly according to the assessments of the international observation missions of ODIHR, OSCE Parliamentary Assembly and the Council of Europe. 17 electoral lists took part in the election. Elections were observed by 2 613 accredited observers, 2 003 of which were national and 521 international observers. Electoral administration consisted of 1 206 electoral committees with 12 060 permanent members, 23 municipal election commissions with the total of 230 permanent members as well as several thousand authorised representatives. On 16 October, the State Election Commission provided for all the

necessary normative, organisational and technical preconditions for the citizens to express their free will and exercise their constitutionally guaranteed voting right with the implementation of new solutions in the electoral legislation, such as the electronic identification of voters. During the entire election procedure, 22 complaints were submitted, 8 of which were adopted and 14 rejected as unfounded by the State Election Commission. 9 complaints were submitted to the Constitutional Court which were dismissed or rejected.

All of the electoral lists were defined pursuant to the Law on the Election of Councillors and Members of Parliament meaning that each of the electoral list had one woman per four candidates and that there were at least 30% candidate of the less represented gender. Among the 17 electoral lists for parliamentary elections in 2016, there were no women leaders of electoral lists.

During the elections held on 16 October 2016, there was a total of 528 817 voters in the voters' register, 388 220 of which voted.

According to the results of elections, mandates have been divided as follows: DPS 36 mandates, Coalition DF 18, Coalition Key 9, Democratic Montenegro 8, SDP 4, Social Democrats 2, Bosniak Party 2, Croatian Civic Initiative 1 and Coalition "Albanians Decisively" 1.

During the reporting period, elections were held for the election of councillors of the Municipal Assembly of Nikšić on 12 March 2017 and the elections for the election of councillors of the Municipal Assembly of Herceg Novi on 7 May 2017.

Elections were carried out pursuant to the election legislation of Montenegro, secondary legislation and the procedural rules of the authority for carrying out elections.

State Election Commission continuously cooperates with the OSCE mission to Montenegro. Memorandum on Cooperation was signed on 5 May 2016 which was extended to 2017 and 2018 aimed at providing technical and expert assistance and financial assistance for significant projects nominated by the State Election Commission at OSCE. Technical and expert assistance is continuously provided to the State Election Commission by OSCE through missions of experts and organising seminars for the members of the State Election Commission, municipal election commissions and members of the Technical Service.

The Commission began its activities in terms of investing into additional human resources and operational capacities. Proposal of the budget for 2018 included funds aimed at increasing the number of employees. In the period to follow, analysis of administrative capacities will be conducted in line with the needs defined and the Rulebook on Job Descriptions in the Service might be amended.

Based on the proposal of the DPS MP Group, Commission reviewed and submitted suggestions regarding possible amendments of the Law on Election of Councillors and Members of Parliament in the areas indicated as problematic during the course of their implementation.

The Commission began reviewing amendments and preparations for adoption of secondary legislation aligned with the Law on Election of the President of Montenegro. As a consequence, the secondary legislation will be harmonised before the elections for the President of Montenegro are scheduled.

In terms of **reviewing ODIHR recommendations** following parliamentary elections held and improvement of the framework for organising elections, the Collegium of the Speaker of the Parliament adopted, on 10 October 2017, the Conclusion on establishing a Working Group tasked with analysing the implementation of electoral legislation and on the basis of the Final report of the OSCE/ODIHR Election Observation Mission regarding parliamentary elections held on 16 October 2016, review and propose the method of implementation of recommendations from the abovementioned report. Working Group chairman is Mrs Marta Šćepanović and it consists of MPs Miodrag Vuković, Predrag Sekulić, Željko Aprcović, Jovanka Laličić, Miloš Nikolić, Danijel Živković, Mićo Orlandić and Genci Nimanbegu. It is envisaged that the Working Group uses the OSCE/ODIHR and other relevant international organisations' expertise and consult representatives of the State Election Commission, Agency for Prevention of Corruption, Agency for Personal Data Protection and Free Access to Information, Agency for Electronic Media, universities, non-governmental sector and other organisations and institutions which can provide contribution in its work, as needed. Working Group is open to the representatives of the parliamentary opposition which have not appointed their representatives in the Working Group so far. The first, constitutive session of the Working Group was held on 19 October 2017 during which the work methodology and the manner in which the public will be included in its work were defined. In this regard, Working Group defined the Public Invitation for interested members of the public and entities following its work. Working Group analysed the recommendation from the Final report of the OSCE/ODIHR Election Observation Mission and identified the laws to be amended or institutions responsible for the implementation of these laws.

OSCE Office for Democratic Institutions and Human Rights accepted the invitation of the Government to provide technical and expert assistance related to meeting the recommendations which refer to elections, through expert opinions and assessment of draft laws.

**State Election Commission** reviewed the OESC/ ODIHR recommendations which directly or indirectly relate to the Commission and election administration bodies. In the first session to follow, upon the request of the Working Group for analysing the implementation

of the new legislation established by the Parliament, Commission will continue to review recommendations and submit its findings to the Working Group.

Taking into consideration that one of the recommendations referred to political advertising, **Agency for Electronic Media** asked the OSCE mission to Montenegro to develop a study with comparative experiences of European countries in terms of regulating political advertising and media campaigns before and during elections. This Study was completed and presented to the public on 28 September 2017 in Podgorica and is available in Montenegrin and English language. Document was submitted to the Working Group in October 2017. The Study was also submitted to the Working Group in the Parliament.

Efforts are continuously invested in strengthening capacities of the **Agency for Prevention of Corruption** aimed at enforcing its competences in this area. In this regard, Agency adopted the new Rulebook on Internal Organisational and Job Descriptions increasing the number of employees for 5 positions – the total number of posts is now 60 and the number in the competent Division is 6. All of the positions in this Division have been filled and training of employees is organised continuously (ODIHR, CoE, EC, UK and USA Embassy support). Work plan, needs plan and training plan are regularly developed and implemented. Enhancement of the Agency IT system is carried out regularly, aimed at providing support in the work of the Agency and to provide transparency and easier availability and reference of information published on the Agency's website.

In terms of the **financing of political parties**, control of financing of political entities and election campaigns was carried out – 7 elections (for MPs –(2016), for councillors- MA Kotor, Budva, Andrijevića and Gusinje (2016); MA Nikšić and MA Herceg Novi (2017). Control of financing of political entities and election campaign for local elections scheduled for 26 November 2017 to be held in MA Petnjica, Mojkovac, Tuzi and historical capital of Cetinje is ongoing.

### **1.1.2 Parliament**

#### **General**

Pursuant to the Constitution, the legislative power is entrusted to the Parliament. There is a clear separation of powers, delimited by the Constitution and laws and the relationship between powers is based on balance and mutual control.

Rules of Procedure of the Parliament regulate, in detail, the procedures and rules in the process of adopting laws, process of discussing the proposals for laws in three stages or three readings. Discussion of the proposal for a law in committees, i.e. the first reading, discussion of the proposal for a law at the session of the Parliament in general i.e. second reading and the discussion of the proposal for a law in detail i.e. third reading. In addition, it contains provisions regulating the institute of short procedure for law adoption. This

institute can be used exceptionally, in precisely stated cases. The work of the Parliament is public.

The right to propose a law belongs to the Government, an MP and six thousand voters through their authorised MP. The Rules of Procedure contain a provision regulating that if the Parliament receives an initiative for adoption of a law, the Speaker of the Parliament submits it to the MPs and Government, for possible submission of the proposal for a law.

Representatives of the civil society can follow the work of committees as their activities are public, apart for special circumstances and the Agreement on Cooperation between the Parliament of Montenegro and the NGOs in Montenegro was signed on 29 July 2016.

At the time the proposal for a law is submitted to the Parliament, the Government, among other things, submits the report on the regulatory impact assessment.

In terms of gender equality, one of the permanent Parliamentary committees is also the Committee for Gender Equality which considers proposals for laws, other regulations and general acts related to the achievement of principles of gender equality; follows the exercising of these rights through implementation of laws and enhancement of principles of gender equality, especially in the field of rights of the child, family relations, employment, economic activity, decision-making process, education, health care system, social policy and information; participates in preparation, drafting and harmonisation of laws and other acts with the standards of European legislation and European Union programmes relating to gender equality; affirms signing of international documents dealing with this issue and follows their implementation; cooperates with competent working bodies of other parliaments and NGOs from this field. Committee, within its competences, monitors and makes assessments to the effect of harmonisation of Montenegrin legislation with the European Union acquis and, based on the Government reports, monitors and assesses law implementation, particularly laws containing obligations aligned with the European Union acquis.

**In terms of international obligations,** in accordance with the Constitution, Parliament ratifies international agreements by law. Proposals of laws before discussion in plenum are submitted to the Legislative Committee and the Committee for International Relations and Emigrants.

#### Supervisory role

Parliament can perform, through various mechanisms including MPs questions, parliamentary investigation, interpellation, voting on Government's confidence, control and consultative hearings, visit to other institutions and bodies, holding thematic sessions, discussing reports delivered by individual authorities, reviewing strategies, plans and other acts, reviewing interpretation of conclusions.

According to the Rules of Procedure, a member of the Parliament has the right to access any official materials, documents and data prepared or collected in the committees or Parliamentary Service, Government, ministries and other state administration authorities, related to issues of significance for exercise of MP duties. A member of the Parliament has the right to demand notifications and explanations from the Speaker of the Parliament, the chair of the working body, minister or other official with regard to activities under the scope of rights and duties of such officials, or activities under the responsibility of authorities they manage, which are required for exercise of MP duties. A member of the Parliament has the right to, for the purpose of obtaining necessary information about certain issues concerning the Government's performance, i.e. concerning the planned policy implementation, put a parliamentary question to the Government or a responsible minister and be responded to. The chair or the authorised representative of the chair of an MP Group is entitled to put a question to the Prime Minister and be responded to on issues related to the work of the Government

A parliamentary question is put at a special sitting of the Parliament held no less than once in a two-month period during an ordinary session. A question to the Prime Minister is put at the beginning of the special sitting and in the month when such sitting is not held, at a special sitting dedicated to the Prime Minister's Hour – Premier's Hour.

An MP is entitled to propose laws and other acts. A candidate for the President of the Parliament may be nominated by at least 10 MPs (Article 9 of the Rules of Procedure), as well as one or several candidates for a Deputy Speaker of the Parliament, but not exceeding the number of seats to be filled. (Article 19 of the Rules of Procedure)

At least 25 Members of the Parliament may submit the proposal to call for a national referendum and proposal for amendments to the Constitution while at least 27 members of the Parliament can submit an interpellation for examining certain issues regarding the work of the Government, proposal for no confidence ballot as well as the proposal for initiating a parliamentary investigation and establishing a Fact-finding Commission.

In order to obtain information or professional opinions on specific issues under its competence and specific issues related to establishing and implementing policy and law or other activities of the Government, public administration authorities and other bodies and organisation which, in accordance with the law, report to the Parliament on the work and state in certain areas, the competent Committee can hold a control hearing and invite the responsible representative of these bodies and organisations and ask them to express the position with regard to such issues. In addition, for the purpose of obtaining required information and professional opinions, particularly on proposals of solutions and other issues of special interest for citizens and the public, a committee may, as needed for a specific period, hold a consultative hearing and engage scientific and professional workers



for specific areas, representatives of state authorities and non-governmental organisations, having no decision-making right.

Rules of Procedure define that the Parliament has 14 standing committees which, within their competences, perform supervisory activities and oversee the implementation of policies, measures and other activities through review of reports, holding hearings, considering conclusion implementation, organising thematic sessions and visits to relevant institutions as follows: 1) Constitutional Committee; 2) Legislative Committee; 3) Committee on Political System, Judiciary and Administration; 4) Security and Defence Committee; 5) Committee on International Relations and Emigrants; 6) European Integration Committee; 7) Committee on Economy, Finance and Budget; 8) Committee on Human Rights and Freedoms; 9) Gender Equality Committee; 10) Committee on Tourism, Agriculture, Ecology and Spatial Planning; 11) Committee on Education, Science, Culture and Sports; 12) Committee on Health, Labour and Social Welfare; 13) Anti-Corruption Committee; 14) Administrative Committee.

#### Rules and Standards of Ethics:

Immunity of an MP is regulated by the Constitution and the Rules of Procedure. Member of the Parliament enjoys immunity and cannot be called to criminal or other account or detained because of the expressed opinion or vote in the performance of his/her duty as a Member of the Parliament and no penal action can be taken against and no detention can be assigned to a him/her, without the consent of the Parliament, unless they have been caught performing a criminal offense for which there is a prescribed sentence of over five years of imprisonment. Request for approving the initiation of a criminal proceeding or determination of detention for an MP is submitted to the Administrative Committee by the Speaker of the Parliament. The Committee is obliged to submit its report including the proposal, by rule, on the first following sitting of the Parliament.

Parliament adopted the Code of Ethics for Members of Parliament on 9 December 2014 which defines the ethical principles and standards of conduct expected of all MPs in undertaking their duties. Oversight over implementation and monitoring of compliance with the Code is under the competence of the Committee on Human Rights and Freedoms. Deputy Chairperson of the Committee calls the Committee meeting and proposes the agenda with the acts relating to breaches of the Code. The Parliament may consider the Committee's Report once a year. The Code of Ethics regulates the conduct of MPs. It also defines rules of conduct in the performance of the MP duties and rules of conduct at the session. Amendments to the Code from July 2017 regulate, in more detail, the provision related to maintaining the order during Parliament's session as well as session of the working bodies of the Parliament. It regulates in detail the measures the Speaker of the Parliament or the chairman of the working body can impose in case the order during the

session is violated. Duration of the measures imposed is defined as well as the amounts of fines and the competence of the Administrative Committee for making decisions on fines for an MP, based on the measure imposed.

In terms of conflict of interest and prohibition of corruption, the Code of Ethics for MPs prescribes that the MP is obliged to comply with the provisions relating to prevention of conflict of public and private interests and that in undertaking their duties, he/she are obliged to comply with provisions relating to the prohibition of corruption and avoid any behaviour that, according to the current or international law, could be characterised as acts of corruption or breaching the rules of the Code. This area is regulated in more detailed in the Law on Prevention of Corruption (Official Gazette of Montenegro 53/14 and 42/17). Rules of attendance and voting are regulated by the Rules of Procedure which prescribe that an MP who is not able to attend a sitting of the Parliament, or a committee, is obliged to inform the Speaker of the Parliament, or the chair of the committee on the reasons of absence no later than one day prior to the beginning of a scheduled or resumed sitting, unless he/she are in no position to do so for the reasons beyond their influence. It also defines that the attendance register is kept on the presence of MPs to the sittings of the Parliament and meetings of committees and this attendance is established and verified on a daily basis at the beginning of the sitting. Quorum for the sitting of the Parliament is defined through the application of the electronic voting system, in the way that each MP is obliged to personally identify himself (register) by inserting his ID card in the slot of the device on his MP seat or based on the records of the Secretary General of the Parliament. An MP has the right and duty to cast a vote with regard to each motion to be decided on by the Parliament.

Employment prior to and following the elections is regulated in Article 33 of the Law on Financing of Political Entities and Election Campaigns (Official Gazette of Montenegro 52/14, 76/15 and 83/16).

#### Representation:

Parliament consists of 81 MP. As per the current convocation, there are 62 male and 19 female MPs, i.e. 76.54% are male MPs and 23.46% female MP. No MP is obliged to state his beliefs nor are there records on nationality.

An MP may be a member in three standing committees at most. The Chair and members of the Committee are elected based on the candidate list. The candidate list includes: number of members to be elected, name and surname of chair candidates and member candidates in the number to be elected, for each committee separately. Candidate list for the Chair and members of the Administrative Committee is submitted by the President of the Parliament, based on the proposal of MP Groups. The Parliament decides on the candidate list for the

Chair and members of a committee as a single unit by open voting. The Chair or individual members of the committee are elected subsequently based on individual proposals.

Pursuant to Article 11 of the Law on Election of Councillors and Members of Parliament, a voter who has turned 18 years of age, with business capacity and permanent residence in Montenegro for no less than two years prior to the polling day is entitled to elect and be elected a MP.

Pursuant to Article 101 of the Law on Election of Councillors and Members of Parliament, the term of office of councillor or a member of the Parliament is terminated before its expiry provided that: they resign; they have been convicted, by a finally-binding court decision, to an unconditional prison sentence of not less than six months, or to a prison sentence for a criminal act rendering them unworthy of their office; they have been stripped of their business capacity by a finally-binding court decision; they take over a position that is incompatible with the position of councillor or a member of the Parliament, in conformity with the Constitution and this Law; revoking Montenegrin citizenship; death occurs; the work of the political party on whose list of candidates they have been elected is banned.

The termination of the term of office is stated by the competent assembly at its first session following the receipt of notification of reasons for the termination of the term of office of a councillor or a member of the Parliament. If the term of office of a councillor or a member of the Parliament has been terminated for the above-mentioned reasons, the seat shall be awarded to a new councillor or a member of the Parliament, in the manner pursuant to Article 104 of the Law on Election of Councillors and Member of Parliament. If a larger number of candidates remains on the list of candidates from which a councillor or a member of the Parliament has been elected than the number of councillors or a member of the Parliament whose term of office has been terminated, the next councillor or a member of the Parliament will be elected according to the order in the candidate list.

Exceptionally, provided that the term of office of a councillor or an MP from a less represented gender terminates, the candidate of the less represented gender coming next according to the order of the constituent list he/she belongs to is elected. If the list of candidates from which a councillor or an MP has been elected has no other candidates of a less represented gender, the candidate coming next according to the order of the constituent list will be elected. If the term of office of a councillor or MP elected from a coalition list terminates, the candidate coming next according to the order of the constituent list he belongs to is elected as the councillor or MP. If the list of candidates from which a councillor or MP has been elected has no other candidates, the candidates from the list having the next largest quotient is deemed elected a councillor or an MP. The term of

office of a new councillor or an MP lasts until the expiry of the term of office of a councillor or an MP whose term of office has been terminated.

#### Financing of political parties:

Law on Financing Political Parties and Law on Financing Political Entities and Election Campaigns (Official Gazette of Montenegro 52/14, 76/15 and 83/16) constitute the legislative framework regulating this area. In addition, within the horizontal facility of the Council of Europe, document under the title *“Assessment of the regulatory framework for financing of political entities and electoral campaigns in Montenegro”* was developed containing the analysis and recommendations for amendments of the legislative framework in this area.

Pursuant to the Law on Financing of Political Entities and Election Campaigns the sources of financing political entities could be public and private. Public sources are funds allocated from the Budget for regular operation and election campaign the records of which is kept and public regularly informed by the Agency. Private sources, in terms of this Law, are: membership fees, contributions, income from the activities of political parties, income from property and legacies and borrowing from banks and other financial institutions. A natural person may pay a maximum of EUR 2 000, while a legal entity may pay a maximum of EUR 10 000 for the financing of a political entity, per annum.

Reporting mechanisms on private sources are “Fifteen-day reports on contributions in the course of an election campaign” and “Report on origin, amount and structure of funds collected and spent from public and private sources in the election campaign” – electronic submission (form developed by the Agency) and Annual consolidated financial statement and final statement – form defined by the Ministry of Finance.

#### **Information Related to the Reporting Period**

The 26<sup>th</sup> convocation of the Parliament was constituted by the submission of the Report of the State Election Commission on the results of election of members of Parliament at the sitting of the Parliament held on 7 November 2016.

In the period from 7 November 2016 to 20 October 2017 there were 20 ordinary sittings, six of which were special sittings and three extraordinary sittings.

At the first, constitutive sitting held on 7 and 24 November 2016, Speaker and Deputy Speakers of the Parliament and chairman and members of the Administrative Committee were elected.

MP groups and established standing committees of the Parliament were established on 16 December 2016. MP groups are as follows: MP Group of the Democratic Party of Socialists, MP Group of the Social Democrats of Montenegro and the Liberal Party of Montenegro, MP

Group of the Social Democratic Party, MP group of the Bosniak Party, Coalition “The Albanians Decisively” (FORCA, DUA and Albanian Alternative) and the Croatian Civic Initiative (HGI), MP Group of the Democratic Front, MP Group of the Democrats and the MP Group DEMOS.

Parliament elected the president and members of the 41<sup>st</sup> Government on 28 November 2016.

#### *Legislative and Supervisory Activities of the Parliament*

Parliament, in the period until 20 October 2017 adopted 123 laws<sup>1</sup>, 12 decisions and 31 decisions on election, appointment and dismissal, seven opinions with proposal responses to the Constitutional Court and one strategy. In addition, during this period, Parliament adopted or accepted 44 reports. In 2017, by 20 October and including this date, 37 laws and 2 decisions have been adopted under urgent procedure.

Parliament adopted the Law on Ratification of North Atlantic Treaty and Protocol to the North Atlantic Treaty on the Accession of Greece and Turkey on 28 April 2017.

In the period until 20 October 2017, five special sittings of the Parliament were held, two dedicated to the Premier's Hour and three dedicated to Premier's Hour and parliamentary questions. 15 questions were posed to the Prime Minister and 81 questions to the members of the Government.

In the period until 20 October 2017, Parliament considered and adopted or accepted several reports including: Report on the development and protection of rights of minorities and other minority national communities in 2015, Report on the work of the Ombudsman of Montenegro for 2015, Report on the work of the Fund for the Protection and Exercise of Minority Rights for 2015, Annual Work Report of the Judicial Council and the overall state in judiciary for 2016, Report on the work of the Agency for Protection of Corruption for 2016, Report on the work of the Prosecutorial Council and Public Prosecutor's Office for 2016, Annual report on the work of the Central Bank of Montenegro for 2016, Fifth semi-annual report on total activities within the process of Montenegro's accession to the European Union for the period January - June 2016 and the Sixth semi-annual report on total activities within the process of Montenegro's accession to the European Union for the period July-December 2016 as well as financial reports and plans of work of independent regulatory bodies.

In addition, in this period Parliament appointed: nine members of the State Election Commission, two vice-governors of the Central Bank of Montenegro, Secretary General and deputy Secretary General of the Parliament.

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<sup>1</sup> List of laws that the Parliament adopted in this period is listed under Annex 1.

Administrative Committee of the Parliament, in consideration of the IV Greco recommendation on 17 July 2017, adopted three conclusions on acting upon immunity revocation requests, as follows:

- that the approval is provided for initiating a criminal proceeding when the request is filed by the public prosecutor;
- that the approval is not provided for initiating a criminal proceeding when subsidiary prosecutor undertakes criminal prosecution due to the reasons that the public prosecutor rejected the criminal charge due to the lack of reasonable suspicion that the stated criminal offence was committed or another criminal offence prosecuted ex officio; and
- that, taking into account the personal request of the person having immunity, approval is provided for initiating a criminal proceeding when the subsidiary prosecutor undertakes criminal prosecution.

In the period from 1 January until 20 October 2017, working bodies of the Parliament held one control and 30 consultative hearings.

**Security and Defence Committee** held three consultative hearings of the military-diplomatic representatives of Montenegro before the beginning of their mandate as follows: Admiral Dragan Samardžić and Brigadier-General Rajko Pešić (23 January 2017), as well as Lieutenant Ivan Mašulović (12 October 2017). Committee members gave a positive opinion on the candidate for the position of the head of the Division for Military Intelligence and Security affairs within the Ministry of Defence on 25 July 2017.

**Committee on International Relations and Emigrants** held a control hearing of the director of the Administration for Diaspora on (21 July 2017). In addition, the Committee held three consultative hearings regarding the opinion on the candidate for the position of an extraordinary and authorised ambassador in: the Republic of Italy, as a resident with the seat in Rome (30 June 2017), in the Republic of Slovenia, as a resident with the seat in Ljubljana (30 June 2017) and at the Holy See in the Vatican and the Sovereign Order of Malta, as a resident in Rome (21 September 2017).

**European Integration Committee** held the total of 21 consultative hearings regarding the review of acts in the process of Montenegro's accession to the European Union. The following reports were taken into consideration: Tenth and Eleventh Quarterly Report on the overall activities in the process of Montenegro's accession to the European Union for the period April-June and July-September 2016; Draft Programme of Montenegro's Accession to the European Union 2017-2018 (18 January 2017); Fifth and Sixth Semi-annual Report on overall activities within the process of Montenegro's accession to the EU for the period January-June and July-December 2016; Twelfth Quarterly Report on overall

activities within the Montenegro's accession to the EU for the period October- December 2016; Third and Fourth Quarterly Report on the implementation of obligations from the Accession Programme of Montenegro to the European Union 2016-2018; Programme of Montenegro's Accession to the European Union 2017-2018; Report on the implementation of the Action plan for 2016 for the implementation of the Strategy for Informing the Public about Montenegro's Accession to the European Union 2014-2018; Action Plan for 2017 for the Strategy for Informing the Public about Montenegro's Accession to the European Union 2014-2018 (13 April 2017); Report on the Implementation of the Action Plan for Chapter 23 – Judiciary and Fundamental Rights for the period January-June 2016; Report on the implementation of the Action Plan for Chapter 23 – Judiciary and Fundamental Rights for the period January-June 2016; Report on the Implementation of the Action plan for Chapter 23 – Judiciary and Fundamental Rights for the period with the Operational Document for the Prevention of Corruption in the Areas of Special Risk for the period July-December 2016; Reports on the implementation of the Action Plan for Chapter 24 – Justice, Freedom and Security for the period January-June and July-December 2016 (1 June 2017); information on the programmes of European Union support to Montenegro for 2015 and 2016; Thirteenth and Fourteenth quarterly report on total activities within Montenegro's accession to the European Union for the period January-March and April-June 2017; First and Second quarterly report on the implementation of obligations from the Accession Programme of Montenegro to the European Union 2017-2018 (14 September 2017).

**Committee on Economy, Finance and Budget** held two constitutive hearings as follows: consultative hearing of the candidates who applied to the Public Invitation for appointment of a member of the Senate of the State Audit Institution (1 March 2017) and consultative hearing of the candidates who applied to the Public Vacancy Announcement for appointment of two members of the Council of the Agency for Electronic Communications and Postal Activity (17 May 2017).

**Anti-Corruption Committee** held a consultative hearing of the director of the Agency for Prevention of Corruption on the topic: "Implementation of Control Plan and the supervision of the election of councillors in the Municipal Assembly of Nikšić scheduled for 12 March 2017" (9 March 2017).

Committees, within their supervisory activities, took into consideration numerous reports delivered by, pursuant to the law, specific bodies to the Parliament such as: Annual Work Report of the Judicial Council and the overall state in the judiciary for 2016; Report on the Work of the Prosecutorial Council and the Public Prosecutor's Office for 2016; Report on the Work of the Agency for Prevention of Corruption in 2016; Financial reports with the work reports of independent regulatory bodies for 2016; Report on the implementation of the Strategy of Regional Development of Montenegro 2014-2020, in 2016; Report on the state of the energy industry of Montenegro in 2016; Report on the supervision of the

implementation of the Law on Amendments to the Law on the Conversion of Swiss franc (chf) -denominated Loans into euro (eur)-denominated Loans; Report on the Work of the Central Bank for 2016 with the Report on the Stability of the Financial System for 2016; Report on the Stability of Prices for 2016 and the Annual Financial Statement of the Central Bank of Montenegro with the opinion of the independent external auditor for 2016; Report on the work of the Council for Financial Stability for 2016; Report on the work of the Ombudsman of Montenegro for 2016; Annual Report of the National Mechanisms for Prevention of Torture for 2016; Report on the conditions of work of the security and treatment of employees at the Institution for Execution of Criminal Sanctions drafted by the Ombudsman of Montenegro; Report on the implementation of the Implementation Programme 2015-2016 of the Plan of Activities for Achieving Gender Equality (PAAGE) for 2016.

Pursuant to the provisions of the Law on Parliamentary Oversight of Security and Defence Sector, **Security and Defence Committee** adopted the Plan of Parliamentary Oversight for 2017 (21 December 2016) as well as the Report on the Work of the Committee for 2016 (23 January 2017). The Committee, in accordance with the above mentioned Law, took into consideration the reports that follow: Report on the Work of the Agency for National Security for 2016; Report on the work and state in the administrative areas within the competence of the Ministry of Defence for 2016; Report on the state within the Armed Forces of Montenegro in 2016; Report on the participation of a member of the Armed Forces of Montenegro in international forces, peacekeeping missions and other activities abroad in 2016; Report of the Ministry of Interior on the work and state in the administrative areas for 2016; Report on the state of the protection and rescue system in Montenegro for 2016.

Aimed at including parliamentary committees of the Parliament in the context of giving suggestions and comments to the improvement of economic reforms, **Committee on Economy, Finance and Budget** took into consideration, in January 2017, the Draft Programme of Economic Reforms for Montenegro 2017-2019 which was delivered to the Parliament for information for the first time.

Working bodies of the Parliament reviewed the implementation of several parliamentary conclusions. **Committee on Economy, Finance and Budget** considered the implementation of conclusions adopted in terms of considering the Report on the Work of the Commission for Concessions for 2015 (15 May 2017), implementation of three sets of conclusions adopted regarding the review of the Report on Investments carried out in line with the Decision on granting long-term lease of the land on the Luštica Peninsula, Municipality of Herceg Novi, for the period 31 July 2015 to 1 December 2016, Report on investments and other activities on the basis of the Lease and Development Contract regarding „Luštica Development”, Municipality of Tivat, - project Luštica Bay, for the



period 2015 - August 2016 and the Report on Investments on the basis of the Contract on Long-Term Lease of the location of the Barrack "Orjenski bataljon", Kumbor, Herceg Novi for the period January 2015-August 2016 (15 May 2017) as well as the implementation of conclusions regarding the consideration of the Report of the Central Bank of Montenegro on the oversight of the implementation of the Law on the Conversion of Swiss franc (chf) -denominated Loans into euro (eur)-denominated Loans and monitoring the implementation of the Law on the Conversion of Swiss franc (chf) -denominated Loans into euro (eur)-denominated Loans (16 May 2017).

**Committee on Human Rights and Freedoms**, in the course of discussing the Annual Report of the National Mechanism for the Prevention of Torture for 2015, considered, on 28 December 2016, the implementation of Conclusions of the Parliament adopted regarding the review of the Annual Report of the National Mechanism for the Prevention of Torture for 2014. At the session held on 24 April 2017, in the course of discussing the Report on the Work of Ombudsman of Montenegro for 2016 and the Report on the state of personal data protection and state in the area of free access to information for 2016, Committee took into consideration the conclusions of the Parliament adopted regarding the discussion of these reports for 2015. In addition, during the consideration of the Report on the development and protection of rights of minorities and other minority national communities in 2016, on 25 May 2017, Committee monitored the implementation of the conclusions of the Parliament adopted regarding the consideration of the Report on the development and protection of rights of minorities and other minority national communities in 2015.

Committee, within its supervisory activities, also considered, the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020 with the Action Plan for the implementation of the Strategy for 2017 and the Report on the Implementation of the Action Plan for 2016; Strategy for the Integration of Persons with Disabilities in Montenegro 2016-2020 with the Action Plan for the implementation of the Strategy for 2016/2017; Strategy for the protection of person with disabilities from discrimination and promotion of equality 2017-2021 with the Action Plan for 2017 and 2018 which was the basis for the adoption of the Conclusions sent to the Collegium of the Speaker of the Parliament for information and to competent bodies for implementation (11 July 2017).

**Committee on Health, Labour and Social Welfare**, within its supervisory activity, held a thematic session which was dedicated to the World No Tobacco Day during which, among other things, implementation of the Law on the Limiting Use of Tobacco Products was discussed (30 May 2017).

**Gender Equality Committee** organised, on 7 April 2017, Sixth session of the Women Parliament dedicated to the implementation of activities on the need of larger inclusion of

women into the public and political sphere and inclusion of young women belonging to national minorities and Roma aimed at their encouragement in the political profession.

### *Administrative Capacities*

On 12 October 2017, the number of employees was 162, out of which 149 employees cover positions defined by the Rulebook on Organisation and Job Descriptions of the Service of the Parliament (151 positions defined in total for 238 employees), three employees have suspension of employment based rights while 10 advisors are employed within the Cabinet of the Speaker and Deputy Speaker of the Parliament.

In the period from 1 October 2016 to 12 October 2017 six persons were employed while 4 person's employment terminated.

In addition, during this period, 10 advisors to the Speaker and Deputy Speaker of the Parliament were appointed, mandate of 12 advisors to former Speakers and Deputy Speakers of the Parliament terminated, right to compensation on the basis of the termination of their position ceased for 11 advisors to Speakers and Deputy Speakers of the Parliament while the same right was determined for 10 advisors. At the moment, eight advisors to former Speakers and Deputy Speakers of the Parliament are exercising the right according to the termination of position. Within the same period, term of office of the former Secretary General of the Parliament terminated and the new Secretary General of the Parliament was appointed as well as the Deputy Secretary General of the Parliament, term office of one assistant to Secretary General expired and two assistants to the Secretary General were appointed.

### *Transparency and Openness of Work*

In the period from 1 October to 31 December 2016, Parliament received 39 requests for access to information and in the period from 1 January to 20 October 2017 it received 8 requests. Responses were given to all of the requests. Particular attention in this period was dedicated to informing the public on the work of the Parliament, further improvement of work transparency and strengthening relationship with the citizens which is why the Parliament was recognised as one of the most transparent institutions in the country and beyond. During this period, Parliament continued the practice of publishing all of the important information on its work on the websites.

#### **1.1.3 Governance**

##### **1.1.3.1 Government**

The 41<sup>st</sup> Government was elected on the 28 November 2016 following the signing of the Agreement on mutual political actions and forming the parliamentary majority for the mandate 2016/2020 by the Democratic Party of Socialists and its coalition partners Social

Democratic Party, Croatian Civic Initiative, Bosniak Party, Coalition “Albanians Decisively” and the Liberal Party.

In the newly formed Government, out of 19 ministers four are women (21.05%). The total number of employed civil servants in the cabinets of ministers is 73, 64 of whom are women or 87.67%. 48 women perform duties in the positions of senior managerial staff in ministries so the percentage of representation of women is 46.15%.

Government adopts its Annual Work Programme by the end of the current year for the following year and it consists of a thematic and normative section and is delivered to the Parliament. Implementation of the Work Programme of the Government is monitored by the General Secretariat of the Government and it prepares a report on its implementation which is delivered to the Government. The Government discusses the Report on the implementation of the Work Programme of the Government quarterly, at the first session following the end of a quarter.

Collegium of the Speaker of the Parliament adopts the Plan of Legislative Work of the Parliament which contains an overview of the proposals of laws the discussion of which is planned during a certain calendar year. This document covers also proposals of laws to be enacted as per the Government Work Plan for the given year, among which the proposals of laws the adoption of which is planned for the purpose of harmonisation with the European Union *acquis* have a special designation.

The latest Programme of Accession of Montenegro to the EU was adopted on 27 January 2017 for the period 2017-2018.

### **Implementation of the Government Work Programme**

In the period from 1 January to 1 October 2017, out of 201 obligations planned in total, Government implemented 166 or 82.6%.

Implementation of the Regulatory Impact Assessment in the process of drafting legislation

In the period from 1 January to 1 October 2017 Government considered and adopted 94 proposals of laws. Regulatory impact assessments were submitted for 82 proposals of laws. Pursuant to Article 33, paragraph 2 of the Rules of Procedure of the Government, in case of 10 proposals of laws the proposers submitted an explanation that no RIA should be carried out. Namely, Article 33 paragraph 2 of the Rules of Procedure of the Government defines that provided that the proposer of a law determines that during the preparation of a law or other regulation RIA should not be carried out, they should provide an explanation. Taking into consideration the above mentioned, with the explanation of the proposer, Ministry of Finance approved that RIA was not necessary in the procedure of adopting the above-mentioned regulations. RIA is not carried out for the proposal of the Law on the Final

Budget Statement of Montenegro for 2016 and the Law on the Enforcement of the Constitutional Court Decision.

Within the same period, Government discussed and adopted 36 decrees. In case of 28 decrees reports on regulatory impact assessment were submitted and for 8 decrees proposers determined that no RIA is needed.

### **Transparency of the Work of the Government**

Activities related to further affirmation of the transparency of work of the Government and informing the public on the policies of Government have continued.

In the period from 1 January to 1 October 2017 the General Secretariat of the Government received the total of 130 requests for access to information. The decision-making process in the case of 4 requests is ongoing while all the others have been resolved in one of the manners prescribed by law. Structure of the entities submitting the requests is: NGOs 125 and natural person 5 requests.

#### **1.1.3.2. Appeals Commission**

In the period from 1 January to 20 October 2017, the Commission held 39 sessions and considered the total of 549 cases out of which there were 493 appeals to the acts of first instance bodies and 56 cases based on the verdicts of the Administrative Court. Commission made decisions in all of the 549 reviewed cases.

Out of the total number of cases solved, in 222 cases the appeals were accepted, first instance decisions were annulled and the case was returned for repeated procedure and deciding, in 233 cases the appeals were declined, in 7 rejected, the procedure in one case was suspended, in 21 case the Commission adopted the appeal and ordered the first instance body to make a decision, in 1 case the decision of the first instance body was partially annulled and in 5 cases Commission adopted supplementary decisions in which it accepted the request of the complainant in terms of the expenses of the administrative proceeding.

In this period the Commission received 179 actions, with the request of the Administrative Court to provide responses to actions and case files. Commission responded to 163 actions, and for 4 actions response of the first instance body is awaited.

According to the actions filed, Administrative Court worked on 334 cases. Out of this number, court made decisions in 172 cases, out of which it rejected the action as unfounded in 102 cases, in 60 cases in accepted the action and annulled the decision of the Appeals Commission, in 5 cases the proceeding was suspended, in 1 case the action was dismissed and in 1 case the Commission was obliged to pay the plaintiff all of the costs of the proceeding.

Appeals Commission received 51 verdicts of the Supreme Court out of which in 44 cases the request for extraordinary review of the verdict was rejected, in 5 cases it was adopted, in 1 case it was rejected as untimely and in 1 it was rejected as prohibited.

### **1.1.3.3. Local Self-Government**

#### **General**

Pursuant to the Law on Local Self-Government, the affairs of the municipality are carried out by its bodies: Municipal Assembly and the Mayor. In addition to these bodies there is also local administration which performs administrative affairs or its own affairs, transferred and entrusted Affairs. The Assembly, as the representative body for citizens, performs various functions such as development, human resource, budget, foundation functions. It consists of councillors elected for the period of four years. Assembly has a Speaker who takes care of the work of the Assembly and Secretary General who performs technical affairs for the Assembly and its working bodies. Speaker of the Assembly performs the executive function, he is elected by the Assembly and his role is dual. On one side, he is accountable to the Assembly for the performance of the fundamental municipal affairs, and on the other side he is accountable to the Government for the performance of transferred and entrusted affairs. Local administration consist of the local administration bodies as follows: secretariats, directorates which perform mostly administrative and technical affairs, special services which perform specific affairs (communal police, protection and rescue service, internal audit service) and technical services of the Mayor, Chief Administrator, the Assembly. Supervision of the legality of the work of the local administration in the matters related to deciding on the rights and obligations of citizens is ensured through the institute of the Chief Administrator.

Constitution guarantees the right to local self-government which includes the obligation of the state to create conditions for continuous functioning of local communities. In addition, the relationships between central and local government are based on the principles of the European Charter of Local Self-Government. Law on the Local Self-Government enumerates the affairs that the local self-government units perform such as: own or authentic municipal affairs and transferred and entrusted affairs. Own affairs are the affairs that the municipality independently regulates, finances from its own income and ensures their performance. In addition, own affairs are characterised by the lack of possibility of the state to carry out second instance supervision which is ensured in the given local self-government unit. In terms of the supervision of the performance of these affairs, only court protection in the administrative proceedings is ensured, while in the affairs transferred and entrusted the local self-government second instance supervision is ensured by the public administration bodies.

Law on Local Self-Government prescribes that the municipalities ensure income for financing their own affairs from their own revenue, shared revenue, Equalisation Fund, Budget of Montenegro and other sources in accordance with the special law (Law on Local Self-Government Financing).

The right to local self-government is exercised by the citizens directly and through freely elected representatives in the local self-government bodies. In the interest of the local population, units of local self-government develop appropriate forms of direct citizen participation as follows: initiatives, assembly of citizens, referendum, etc. In addition, all of the municipalities adopted decisions which regulate the manner and procedure of citizens' participation in the performance of public affairs or acts which ensure participation mechanisms (surveys, previous consultations, participation in working groups, public discussion, roundtables, vacant chair) for NGOs, citizens and commercial entities in the process of making decisions on the local level.

Prevention of corruption in the municipality is ensured in accordance with the law which regulates prevention of corruption. In July 2016, Government adopted the Operational Document for the Prevention of Corruption in the Areas of Special Risks which also refers to the local self-government.

Action plans for fight against corruption in the local self-government was adopted by 21 out of 23 municipalities. Union of Municipalities of Montenegro organised regional trainings for employees responsible for the implementation of activities in the fight against corruption in the local self-government and in local self-government units, according to the existing Action Plan, commissions for reporting on the implementation of AP measures are established and they periodically submit reports. In all local self-government units, mechanisms of external control through the State Audit Institution and external commercial audit have been defined. Almost all municipalities (22/23) adopted the Code of Ethics for elected representatives and officials as well as the Code of Ethics for local civil servants and state employees, the implementation of which should be the responsibility of the Ethics Commission for elected officials and the Ethics Commission for local civil servants and state employees. In terms of monitoring and control of public procurement at the local level, they are carried out, monitored and controlled in the same manner as public procurement at the central level, i.e. the same regulations apply. In all of the local self-government units, transparent procedures on public procurement in accordance with the Law on Public Procurement have been defined.

All of the 23 municipalities and 2 urban municipalities adopted integrity plans.

### **Activities in the Reporting Period**

Parliament adopted the **Law on Amendments to the Law on Territorial Organisation of Montenegro** on 27 April 2017 (Official Gazette of Montenegro 31/17). Amendments to the

Law define the status of the former municipality of Tuzi, which was a municipality within the Capital City, as independent municipality. Taking into consideration that in the process of territorial change and establishment of a new municipality basic requirements for its functioning need to be provided, the proposed amendments of this Law establish a new special body, the Organisation Committee for creating requirements for the beginning of functioning of a new municipality. The Committee consists of three representatives of each municipality whose territory is being changed and the newly founded municipality and the representative of the Ministry responsible for local self-government affairs, taking into account representation of experts in the area of urbanism, cadastre and property in its constitution. Committee is tasked with proposing the definition of relationships between municipalities, territorial delimitation, and division of property and proposing other measures aimed at creating requirements for the beginning of the work of the newly founded municipality. Taking into consideration that establishing a municipality is a complex and demanding process, which was illustrate in practice in the course of founding new municipalities of Petnjica and Gusinje, that regulating relationships between municipalities on the basis of territorial changes that occurred requires previous numerous activities in creating conditions for continuous functioning of the newly established municipality in its full capacity, aimed at creating all of the necessary requirements for a successful start of the functioning of Municipality of Tuzi, which requires significant amount of time, proposed amendments postponed the implementation of this Law until 1 September 2018.

Parliament adopted the **Law on Amendments to the Law on Capital City** on 27 April 2017 (Official Gazette of Montenegro 31/17). Objective of the amendments is the harmonisation with the amendments of the Law on Territorial Organisation of Montenegro.

Parliament adopted the **Law on Historic Capital** on 26 July 2017 (Official Gazette of Montenegro 51/17). The Law defines, in more detail, the administrative and legal status of the Historic Capital, status of the Historical Capital of Cetinje, redefines the structure and the role of the Senate of the Historic Capital normatively, strengthens normatively the role of the Mayor of the Historic Capital, ensures a larger degree of decentralisation of affairs of direct interest to citizens of Cetinje and strengthens the participation of representatives of the Historic Capital in the administration bodies of public state services having their seat in Cetinje. Taking into consideration that the Historic Capital should be treated with due respect, since it has an extreme significance, this Law redefines the structure and the role of the Senate of the Historic Capital as well as the new manner of financing the Historic Capital through the Fund for the Development of the Historic Capital managed by the Senate of the Historic Capital. In this way, the Historic Capital assumes a new role and status, in terms of the structure and composition as well as competences.

#### **1.1.4 Civil Sector**

All persons (natural and legal) have the right of association, as the Constitutionally guaranteed right, and the association must be entered into the register of the competent body. In this regard, work of informal associations is prohibited. Registration is simple and the administrative fee is not charged. Register is kept at the Capital City of Podgorica and the only expenses are the transport expenses in case the documentation is submitted personally or costs of mail delivery.

The basic regulation regulating the establishment, type and status of non-governmental organisations is the Law on Non-Governmental Organisations (Official Gazette of Montenegro 39/11 and 37/17) although some matters are regulated by special regulations regarding real estate, taxes, etc. This Law envisages that the state provide support to NGOs by ensuring financial resources for NGO projects and programmes in the area of public interest as well as introducing tax and other benefits for NGOs in accordance with the law. The last amendments to the Law on Non-Governmental Organisations adopted in June 2017 prescribes that the state ensures the minimum of 0.5% of the current annual budget for the stated purpose as follows:

- funds for financing projects and programmes of NGOs in the areas of public interest in the amount of minimum 0,3% of the current annual budget;
- special funds in the area of protection of persons with disabilities in the amount of 0,1% of the current annual budget; and
- co-financing and inter-financing of projects and programmes supported from the EU funds in the amount of minimum 0,1% of the current annual budget.

Law on NGOs prescribes basic criteria for the allocation of funds as follows:

- 1) contribution of the nominated project or programme in the exercise of public interest and the implementation of strategic objectives in a certain area;
- 2) quality of the nominated project or programme;
- 3) capacity of the non-governmental organisation to implement the nominated project or programme;
- 4) transparency of work of the non-governmental organisation.

It also regulates that the Government prescribes the procedure and method of scoring projects and the final stage of defining the Proposal of the Decree on financing projects and programmes of NGOs in the areas of public interest is ongoing as well as the Rulebook on the content of the public call for the allocation of funds for financing projects and programmes of NGOs and the overview and content of the application submitted at the public invitation. Drafts of both documents were publicly discussed during September and a part of October of 2017 and should be adopted soon.

Law on Amendments to the Law on Profit of Legal Entities (from July 2016) prescribes that the expenditures for health, social, scientific, educational, religious, cultural, sport and



humanitarian purposes, reducing poverty, environment protection, protection of persons with disabilities, social care of children and youth, assistance to older persons, protection and promotion of human and minority rights, rule of law, development of civil society and volunteering, Euro Atlantic and European Integration of Montenegro, art, technical culture, promotion of agriculture and rural development, sustainable development, consumer protection, gender equality, fight against corruption and organised crime and fight against addiction are recognised as expenditures up to 3.5% of the total profit. Expenditures can be in cash, things, rights and services and they are recognised as expenditures only if carried out for legal entities (public authorities, public institutions, non-governmental organisations, sports, educational, scientific, religious, cultural and other humanitarian organisations). This expands the number of areas in which donations are recognised as expenditures which aims at encouraging corporate philanthropy.

In terms of the **strategic framework**, there is a Strategy for Development on Non-Governmental Organisations in Montenegro 2014-2016 and it is the second strategy in this area, the first one being adopted in 2009. The first strategy was implemented with a satisfactory percentage of implementation (68.97% implemented, 24.14% partially implemented and 6.9% measures not implemented). Second Strategy has a more modest result of 37.14% implemented measures, 40% partially implemented measures and 22.85% measures not implemented. Development of the Strategy for improving encouraging environment for the actions of non-governmental organisations 2018-2020 with the Action Plan which should be adopted by the end of 2017 at the latest is ongoing.

At the Government level, Council for the Development of Non-Governmental organisations consists of 11 members of NGOs and 11 members of Government representatives, while the chairman of the Council is also a representative of the Government. In addition to this advisory body, within the Ministry of Public Administration, there is special organisational unit within its organisation– the National Office for Cooperation with NGOs and in the ministries, there are contact persons for cooperation with NGOs. Similar mechanisms have been introduced in a number of local administrations.

Consultations and cooperation with the civil sector are regulated in the following mandatory decrees: Decree on the procedure and manner of developing cooperation between public administration bodies and non-governmental organisations (Official Gazette of Montenegro 7/12) and the Decree on the procedure and manner of conduct public debate in preparing laws (Official Gazette of Montenegro 12/12). Decree on the cooperation of public authorities and NGOs regulates all the key forms of cooperation of the public and civil sector (information, consultation, inclusion into the work of working bodies) recognised in international documents, particularly the Code of Good Practice for civil participation in the decision-making process adopted by the Council of Europe in 2009. Decree on conducting a public debate provides for normative preconditions for an effective implementation of

consulting the public within the process of preparing laws and other acts and in this way, it is directed towards strengthening participative democracy in the country.

According to the records of the National Office for Cooperation with NGOs, on the basis of data delivered by public administration bodies, participation of NGO representatives in working bodies in 2016 and previously has been the form of cooperation mostly used by the ministries. This form of cooperation was in 2016 used by 13 ministries, 1 administration body within a ministry and 2 independent administration bodies by publishing **85 invitations for proposing candidates with the inclusion of NGO representatives into 81 working group/body.**

## **1.2. Public Administration Reform**

### **Strategic Framework for Public Administration Reform**

Ministry of Public Administration, in cooperation with other state institutions, works intensively on the implementation of the Strategy of Public Administration Reform in Montenegro 2016-2020. A particularly important issue is the existence of mechanisms for managing the reform process and coordination and procedure of monitoring, evaluation and reporting on Strategy implementation.

In this regard, recognising the importance of reform processes in this area, Government founded the Ministry of Public Administration at the end of 2016, which contains a special organisational unit – Division for the Management of the Process of Public Administration Reform and this Ministry is recognised as the leading reform institution, responsible for monitoring reform implementation.

Montenegro implemented the conclusion from the previous meeting of the Special Group and, in the part concerning the political coordination of the reform process, Government established the Public Administration Reform Council in September 2016.

As the Ministry of Public Administration continuously implements activities of the public administration reform, in cooperation with key institutions included in the public administration reform process, the draft Action Plan for the implementation of the Strategy of the Public Administration Reform 2018-2020 was developed with the support of SIGMA.

Financial resources for implementation of activities envisaged in the Action Plan for the Strategy of Public Administration Reform are partly allocated but having in mind that the rest of the planned activities cannot be covered through the national budget, donor support coordination is ongoing and the Action Plan 2018-2020 will also contain an estimation of costs for this period, relevant activities for 2018 which will be foreseen through the national budget for 2018, the indicative cost assessment for 2019 and 2020 in accordance with the conclusions from the last meeting of the Special Group for Public Administration Reform.

## **Policy Development and Coordination**

Ministry of European Affairs (MEA), by the Decree on amendments to the Decree on the organisation and manner of work of public administration (Official Gazette of Montenegro 3/17), adopted by the Government on 29 December 2016, received another competence - *establishing and developing the system of harmonisation coordination and monitoring and the implementation of strategic documents defining public policies.*

Aimed at the performing this task, at the end of February 2017, Directorate for Coordination, Monitoring Harmonisation and Monitoring the Implementation of Strategies Defining Public Policies was defined and the focus of its action is the improvement of quality of strategic documents.

MEA, in line with the European Commission recommendations from the 2016 Progress Report on the need for improved coordination of policies and mid-term strategic planning, and began the overview of good practice of the system of coordinating policies and development of successful public administrations.

Subject of the analysis were good practices of new EU Member states and overview of experiences from the regional countries. Overview was carried out in terms of findings and conclusions from several Sigma reports and the previous practice of the officials of the Central Government – General Secretariat of the Government, Ministry of Finance, and the Secretariat for Legislation. As a result, MEA, in accordance with new competences, prepared the Information on the need for establishing a strategy coordination system with the analysis of state in the existing strategic framework that the Government adopted at the session held on 20 July 2017. Information indicates to three priority objectives: 1. Increasing quality of the strategic acts and their optimisation; 2. Establishing the strategic document coordination system; 3. Establishing the mid-term strategic planning with the coordinated interagency access.

Aimed at improved alignment of strategic document, MEA focused on the unified approach in the development and the consistency of objectives and priorities with the key Government priorities, overall strategic documents defining general development directions at the level of Montenegro and the plans for utilising structural EU funds. In this regard, the Interagency Working Group for developing acts on the process of drafting, harmonisation and monitoring strategic documents defining public policies was established on 21 July 2017. This will be followed by a special instruction on the minimum criteria for the quality of strategic documents developed by MEA.

## **Managing Public Finance**

Ministry of Finance prepared the Instruction for the preparation of the plan for improving financial management and control in October 2016.

Parliament adopted the Fiscal Strategy of Montenegro 2017-2020 on 26 July 2017. Priority of the Fiscal Strategy is strengthening fiscal stability and in this regard, achieving budget surplus, establishing public debt decrease trend as of 2019 and strengthening economic activities and competitiveness of Montenegrin economy.

At the end of June 2017, Ministry of Finance established the Coordination Working Group and the operational team aimed at promoting the coordination process. Both bodies consist of 19 persons from relevant institutions each.

### **Public Administration and Management of Human Resources**

New legislative solution in the field of civil service improved the legal framework for its development based on the merit system. In this way the civil service system will be significantly modernised in accordance with contemporary practice of human resource management. New normative solutions will provide for consistent implementation of professionalization and de-politisation principles as well as the improvement of the carrier system based on the principle of merit by establishing a catalogue of the necessary profiles of competences for the tasks in high positions. Procedure of appointing a candidate will provide for verification of knowledge, capabilities, skills and competence significant for a particular working position and will provide for selection, appointment or nomination of the most competent staff in all posts which will ensure professionalization and increase of efficiency of the state administration apparatus.

Text of the new draft Law on Civil Servants and State Employees was discussed and adopted by the Government on 22 June 2017.

Following the public discussion and direct communication of the representatives of the Ministry for Public Administration with the EC representatives in Brussels from 18 to 20 September 2017, draft Law was amended as per EC suggestions and proposals and is currently at competent authorities for opinion, In addition, in line with the conclusion reached at the meeting of the Special Group for the Public Administration Reform held between 28 and 29 September 2017, draft Law was submitted to EC after which agreement was reached in terms of key recommendations the EC put forward to Montenegrin representatives aimed at providing for the employment system and improvement based on merit and ensuring depolitisation of the civil service.

### **Responsibilities of the Public Administration**

In terms of making the public administration functional and cost-effective, one of the activities of the Action Plan for the implementation of the Strategy 2016-2020 is the development of the Analysis of functional and financial effects of introducing a “body within a ministry” and the Analysis of the barriers for establishing managerial accountability with the recommendations for improvement, the drafts of which were

developed in cooperation with SIGMA. Considering that in the previous strategic period 2011-2016, the main change at the central administration organisation level was the implementation of the “administration body within a ministry” in 2012 and that no systemic analysis in terms of functional and financial effects of the implementation of this legal institute was carried out, findings of this Analysis will serve as a basis for further continuation of organisation reform of the public administration system in Montenegro. These analyses will be discussed at the session of the Public Administration Reform Council scheduled for 3 November 2017.

### **Providing Services to Citizens and Companies**

New Law on Administrative Procedure is aimed at establishing good administration in the service of citizens, more effective protection of public interest and individual interests of citizens and legal persons in administrative matters, easier and more complete exercise and protection of legality and protection of freedom and rights of citizens which is the reason why the new Montenegrin administrative system simplifies and accelerates the administrative procedure, lowers proceeding cost for all participants, creates conditions and openness towards the use of modern information and communication technologies for the provision of administrative services (so-called e-government). In this regard, the new Law on Administrative Procedure provides for electronic communication, informing and delivering of writs electronically which is a significant step towards the creation of the legal atmosphere for a simpler, faster and more efficient communication between the citizens and the administration.

In terms of improving efficiency, effectiveness and satisfaction of citizens with the quality of provided administrative services, activities related to increasing capacities of the administration for the implementation of the LAP are continuously implemented and 80% of employees, working on administrative proceeding activities have been trained on the implementation of solutions from the new LAP. In addition, the new Law on Administrative Dispute, aligned with the new LAP, will contribute to better establishment of the efficient system of public administration considering that the administrative dispute is a legal mechanism of judicial control of administration, effective means for ensuring the legality of work of the administration and the protection of rights and interests of citizens. During 2016 and 2017, the competent Ministry carried out the procedure of harmonising 90 laws from various resources with the new Law on Administrative Procedure.

In order to ensure quality monitoring of the implementation of the new LAP in all public and legal bodies, Ministry of Public Administration prepared drafts of secondary legislation on the content of the report on proceeding, detailed content and manner of keeping records on proceeding in administrative matters as well as the Instruction on office management of the public administration bodies in order to ensure monitoring of law implementation in

an electronic form. These secondary legislation acts are in the process of harmonisation with the competent authorities.

### **1.3. Rule of Law (see 3.23. Judiciary and Fundamental Rights and 3.24 Justice, Freedom and Security)**

### **1.4. Human Rights and Protection of Minorities (see 3.23. Judiciary and Fundamental Rights)**

## **1.5. Regional Cooperation and International Obligations**

### **1.5.1 Multilateral and Regional Cooperation**

Montenegro became a member of NATO on 5 June 2017.

Montenegro participated at the 70<sup>th</sup> session of UN General Assembly in New York. Head of the delegation of Montenegro was the President Filip Vujanvić and one of the members was Minister of Foreign Affairs Prof Dr Srđan Darmanović.

Montenegro continues to actively participate at the political and expert level in over 30 regional organisation and initiatives, including the Western Balkan 6/Berlin process, Western Balkans Fund, Regional Youth Cooperation Office, Regional School of Public Administration, Central European initiative, South-East European Cooperation Process, Regional Cooperation Council, Union for the Mediterranean, Anna Lindh Foundation, Central European Free Trade Agreement, The Migration, Asylum, Refugees Regional Initiative. Montenegro continued to participate in the activities of the EU Strategy for the Adriatic and Ionian Region and the EU Strategy for the Danube Region.

Montenegro continued to support activities of the Igman Initiative and in this context, Ministry of Foreign Affairs and the Igman Initiative organised a joint 27<sup>th</sup> session of the Igman Initiative on the topic "Relations in the Region – From Crisis to Stability and Cooperation", in Podgorica on 27 June 2017.

Regional cooperation was particularly focused on the activities of the Western Balkan 6 and the Berlin Process. Montenegro signed the Treaty establishing the Transport Community in the Western Balkans with the Western Balkans countries and the EU and adopted the Consolidated Multi-Annual Action Plan for the Regional Economic Area in the summit in Trieste on 12 July 2017.

Montenegro submitted a project within the second call for funding large infrastructure projects by the EU Western Balkans Investments Framework which was completed in December: development of the waste water treatment plant in Podgorica. The total value of the project is EUR 53 million and the amount of EU non-refundable funds applied for is EUR 16,7 million and Montenegro was approved the grant in the amount of EUR 9 million.

Montenegro successfully chaired CEFTA in a one-year period until 31 December 2016.

The local branch of the Regional Youth Cooperation Office was opened in Podgorica on 7 July 2017 which is the first time a local office was opened in the region.

## **1.6 Bilateral Cooperation with the Regional Countries**

### **FYR Macedonia**

Montenegro and the FYR Macedonia continue to develop excellent and dynamic cooperation in the field of defence, which was confirmed by the signing of the Bilateral Cooperation Plan for 2017 during the bilateral consultations with the representatives of the Ministry of Defence of the FYR Macedonia from 14 to 16 February 2017.

Friendship Group with the Assembly (Sobranie) of the FYR Macedonia was established on 22 June 2017.

Consular consultations were held on 2 October 2017 in Podgorica. Macedonian side expressed willingness to represent Montenegro in the consular domain in Brazil while reciprocally Macedonia would be represented by the Embassy of Montenegro in Argentina.

### **Albania**

Contractual and legal basis was improved by the signing of the Agreement on Cooperation in the field of health care on 3 April 2017, Protocol on establishing the Joint Police Cooperation Center between the MOI of Montenegro, MOI of the Republic of Albania and MOI of the Republic of Kosovo in Plav on 30 May 2017 and the Bilateral Cooperation Plan in the area of defence for 2017 signed on 22 February 2017. Agreement on Mutual Relations in the Field of Water Management between the Government of Montenegro and the Government of the Republic of Albania was defined on 22 March 2017.

### **Croatia**

Excellent cooperation on the field of defence has continued. Bilateral Cooperation Plan for 2017 was signed in August 2017.

Memorandum on Cooperation in the field of protection and preservation of underwater cultural heritage between the Ministry of Culture of Montenegro and Ministry of Culture of the Republic of Croatia was signed on 24 January 2017.

Friendship Group with the Parliament of Croatia was established on 22 June 2017. In the Croatian Parliament, Inter-Parliamentary Croatian-Montenegrin Friendship Group was appointed on 13 January 2017.

Second session of the Mixed Committee aimed at implementing the Agreement of Mutual Protection of Minorities was held from 24 to 25 May 2017.

### **Bosnia and Herzegovina**

Intense political dialogue has continued by a number of official visits which represents another confirmation of excellent relations the two countries are continuously developing.

Strengthening the contractual and legal basis has continued through the conclusion of the following documents: Agreement on Cooperation in the EU accession process between the Government of Montenegro and the Council of Ministers of Bosnia and Herzegovina signed on 14 February 2017 and came into force on 23 March 2017; Memorandum of Understanding on the cooperation in the implementation of the project “West Balkans Drina River Basin Management” between the Ministry of Agriculture and Rural Development of Montenegro and the Ministry of Foreign Trade and Economic relations of Bosnia and Herzegovina signed on 8 May 2017; Agreement on the collocation of diplomatic and consular representations between the Government of Montenegro and the Council of Ministers of Bosnia and Herzegovina signed on 24 July 2017.

Parliament established the Friendship Group with the Parliamentary Assembly of Bosnia and Herzegovina on 22 June 2017.

### **Republic of Serbia**

Cooperation at the working level continued through the meeting of the negotiating teams of Montenegro and Serbia (for Chapter 19 – Social Policy and Employment) held on 13 and 14 October 2016 and the second meeting of the Joint Committee of the Government of Montenegro and the Government of the Republic of Serbia in the context of EU accession held on 4 November 2016.

Memorandum on Cooperation in the field of tourism between the Ministry of Sustainable Development and Tourism of Montenegro and the Ministry of Trade, Tourism and Telecommunications of Serbia was signed on 23 February 2017.

Parliament established the Friendship Group with the National Assembly of the Republic of Serbia on 22 June 2017.

### **Republic of Kosovo\***

Montenegrin ambassador entered into office on the Republic of Kosovo on 24 October 2016.

Government of the Republic of Kosovo\* adopted the Strategy and Integration Affirmation of the Montenegrin community in Kosovo 2016-2021 on 22 March 2017. Coordination Committee of Montenegrin entities in Kosovo was established on 3 March 2017.

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\* This denomination does not prejudice positions on the status and it is in accordance with the UN SC Resolution 1244 and the opinion of the International Court of Justice on Kosovo's declaration of independence.



Government of the Republic of Kosovo\* adopted the Platform for activities of Montenegrin entities in the R. of Kosovo on 11 May 2017.

Agreement on Cooperation in the field of culture was signed between the two countries on 28 April 2017.

Bilateral Agreement between Montenegro and the Republic of Kosovo which refers to the Cross-Border Cooperation Programme within IPA II 2014-2020 as well as the Agreement on Partnership between the Ministry of European Affairs, leading partner and the Ministry of Local Government Administration Republic of Kosovo, partner in managing technical support within IPA programme of cross-border cooperation within the Western Balkans borders were signed on 10 February 2017.

Protocol on establishing the Joint Police Cooperation Centre between the MOI of Montenegro, MOI of the Republic of Albania and MOI of the Republic of Kosovo was signed on 30 April 2017.

Parliament established the Friendship Group with the Parliament of Kosovo\* at the 8<sup>th</sup> session of the Committee for International Relations and Emigrants, held on 22 June 2017.

### **Republic of Italy**

Newly appointed Ambassador of Montenegro to Italy received the authorisation on 1 March 2017.

Strategic project "Underwater Cable" is implemented by the Italian public company TERNA and the Montenegrin Electric Transmission System. Cable was fully placed in the middle of February of 2017 and the technical finalisation of works is planned by the end of 2018.

Technical agreement between the Ministry of Sustainable Development and Tourism of Montenegro and the Ministry for the Environment, Land and Sea of Italy was signed within the implementation of the II stage of the development project of the Eco Building in Podgorica was signed on 14 October 2016. Technical agreement between the Ministry of Sustainable Development and Tourism of Montenegro and the Ministry for the Environment, Land and Sea of Italy on managing Italian-Montenegrin Fund EMIF was signed on 14 October 2016.

Bilateral Cooperation Plan in the field of defence for 2017 was signed on 8 February 2017.

Government made the decision to publish Agreement on mutual exchange and protection of confidential data between the Government of Montenegro and the Government of Italy on 28 September 2017.

Parliament established the Friendship Group with the Parliament of the Republic of Italy on 22 June 2017. Protocol of Cooperation of the Committee on European Integration of the Parliament and the Committee for European Union Policies of the Italian Senate, which

envisages systemic and continuous exchange of information and experiences aimed at joint action in European forums, within the context of support which Italy has been providing to Montenegro on its path toward EU membership was signed in Podgorica on 27 March 2017.

Agreement on the transport of passengers and cargo in international road transport between the Government of Montenegro and the Government of Italy entered into force on 1 October 2017.

On the basis of the Competition of the Ministry of Science for co-financing projects of scientific and technological cooperation between Montenegro and Italy within the period 2017/2018, the total of five projects for financing, out of 12 applied, has been accepted in March of 2017.

### **Republic of Turkey**

Bilateral Cooperation Plan in the field of defence for 2017 was signed on 22 September 2017.

Parliament established the Friendship Group with the Pa Grand National Assembly of Turkey on 22 June 2017.

On 22 June 2017, Government accepted the Protocol on Cooperation in implementing the project “Adaptation of the building of the Ministry of Foreign Affairs of Montenegro” in cooperation with TIKA (value EUR 200 000). In mid-April, TIKA begun the project of reconstruction the Clock Tower, the value of which is approximately EUR 400 thousand (fully financed by TIKA)

Readmission Agreement (return and acceptance) of persons whose entry or stay is illegal between the Government of Montenegro and the Government of the Republic of Turkey entered into force on 1 December 2016.

## **2. ECONOMIC CRITERIA**

### **2.1. Existence of Functional Market Economy**

#### **Macroeconomic Stability**

In August 2017, **total industrial production** grew by 2.7% compared to August 2016. On an annual level, production growth was recorded in the ore and stone mining sector by 98.4%, while the decline in production was recorded in the manufacturing sector by 1.8%, and the electricity, gas and steam supply sector by 8.9%. In the first eight months of 2017, as compared to the same period of 2016, the decline in total industrial production was 6.7%. Production decline was recorded in the manufacturing industry (-4.7%) and in the

electricity, gas and steam supply sector (-28.5%), while in the ore and stone extraction sector there was a 124.7% growth in production.

According to preliminary data from Monstat, in August 2017 178,788 **tourists** stayed in collective accommodation<sup>2</sup>, which was 14.6% more than in the same month of the previous year. During the same month, 927,422 overnights were realized, which was by 5.1% more than in the same month of the previous year. In the first eight months of 2017, the number of tourist arrivals in collective accommodation increased by 17.3%, while the number of overnight stays increased by 10.5% compared to the same period of the previous year.

**In forestry**, in the first eight months of 2017, a total of 192,701 m<sup>3</sup> of forestry assortments were produced, which was 18.4% more than in the same period of the previous year.

The value of completed **construction works** in the first six months of 2017 was 45.3% higher compared to the same period of 2016, while construction activity measured at effective working hours increased by 22.6%.

The **annual inflation rate**, measured at consumer prices in September 2017, was 2.8%. Annual growth in prices was recorded in the category "Alcoholic Beverages and Tobacco" 15%, "Transport" 7.2%, "Clothing and Footwear" 5,8%, "Hotels and Restaurants" 4.1%, "Health" 2.5 %, "Other Goods and Services" 2.1%, "Housing, Water, Electricity, Gas and Other Fuels" 2.0%, "Food and Non-Alcoholic Beverages" 1.0% and "Communications" 0.1%. The annual decrease in prices was recorded in the categories "Recreation and Culture" (0.7%) and "Furniture, Household Equipment and Routine Apartment Maintenance" (0.3%), while the prices in the category "Education" remained unchanged.

The **number of employees** in August 2017, according to Monstat, was 188,161, which was by 1.9% less than in the previous month and by 2.1% more than in August 2016. The growth of the number of employees during the first eight months of this year compared to the same period last year was 3.6%. Growth was recorded in sixteen out of a total of nineteen sectors, with the largest growth in the administrative and auxiliary service sector (17.1%), and the smallest one in the information and communication sector (0.2%). The decline in the number of employees is recorded in three sectors, with the largest drop in the real estate sector (-5.3%), followed by the arts, entertainment and recreation sector (-1.2%) and the sector of financial activity and insurance (-0.5%).

In August 2017, the largest number of persons was employed in the following sectors: wholesale and retail trade, repair of motor vehicles and motorcycles (19.9%), state administration and defence, mandatory social security (11.2%), accommodation and catering services (9.6%), education (7.2%), health and social protection (6.5%),

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<sup>2</sup> MONSTAT, according to EU Regulation 692/2011, has issued monthly data on tourist arrivals and overnight stays only for collective accommodation since January 2017 on a monthly basis.

manufacturing (6.2%), traffic and warehousing, and administrative and auxiliary services (6% each), and civil engineering (5.7%).

According to the Employment Office records, in September 2017 there were 48,752 registered **unemployed persons**, representing a decrease of 0.6% in relation to the previous month and an increase of 14.8% compared to September 2016. The administrative unemployment rate in September 2017 was 21.01%, which was 2.70 p.p. more than the rate from September of the previous year.

In August 2017, the **average earnings** in Montenegro amounted to EUR 763 and were 1.1% higher than in August of the previous year. Average earnings without taxes and contributions amounted to EUR 509 and increased by 1.4% compared to August of the previous year.

The **highest earnings without taxes and contributions**, in August 2017, were recorded in the financial and insurance sector (EUR 907), electricity supply (EUR 816), information and communication (EUR 720) and real estate business (EUR 679). The lowest profit without taxes and contributions was recorded by employees in the administrative and auxiliary service sector (EUR 351) and in the wholesale and retail trade (EUR 353). Average earnings without taxes and contributions recorded a real growth of 1.4% per annum and 0.8% per month.

In the first half of 2017, the **deficit of the current account** of the balance of payments was recorded. According to preliminary data, in the first six months of 2017, the current account deficit amounted to EUR 631.3 million or 5.1% less than in the same period of 2016. The current account deficit is the result of an increase in service account surplus (thanks to tourism revenues and transport), as well as positive developments in primary and secondary income accounts due to rising remittances from abroad and increased use of funds from EU funds. In addition, the **external sector** in the observed period is also characterized by an increase in the net inflow in the financial account compared to 2016.

According to preliminary data, the deficit in the **merchandise account** in the first six months of 2017 amounted to EUR 866.3 million or 8.6% more than in the previous year as a result of the faster growth in imports of goods. While total exports of goods amounted to EUR 163.5 million in the observed period, an increase of 7% over the previous year, imports of goods increased by 8.4% to EUR 1 billion. The increase in imports is largely due to higher import of energy sources, as well as machinery and transport equipment for the execution of construction works. Also, the increase in tourist spending this year has led to higher imports of fuels, food and beverages.

The surplus realized in the international **exchange of services** in January-June 2017 amounted to EUR 134.7 million, which was 54.5% more than in the same period last year. Such a development is the result of a significant increase in revenues from travel and

tourism services (due to higher tourist demand) and transport. Monstat data show two digit growth rates of arrivals and overnight stays of foreign tourists this year. In the observed period, the volume of service exchanges amounted to EUR 608.2 million and was by 13.6% higher than in 2016.

In the **primary income** account, there was a surplus of EUR 31.7 million, while in the same period of 2016 a deficit of EUR 5.3 million was recorded. Such trends are the result of an increase in primary income by 8.8% in 2017, while there was an expenditure decrease of 19.6%. In the **secondary income** account, a surplus of EUR 68.6 million was recorded, which was by 36.5% more than in the first six months of 2016, and was the result of an increase in remittances inflows from abroad, as well as a greater withdrawal of funds from EU funds.

According to preliminary data, the **net inflow of FDI** in the period January - July 2017 amounted to EUR 249.8 million, which was 41.0% more than in the same period of the previous year. The growth of net foreign direct investment inflows is the result of increased investment in the form of intercompany debt and real estate, with a very low outflow. The total inflow of foreign direct investment amounted to EUR 316.6 million. In the structure of total inflows in the form of equity investments (investments in companies and banks and real estate investments), inflow of EUR 180.6 million or 57% was realized. Investments in companies and banks accounted for 31.7% (2.4% less), real estate investments 25.4% (38.2% more), intercompany debt accounted for 41.7% (72.1% more than in comparable period 2016) and other investments 1.2% of the total inflow.

The total outflow amounted to EUR 66.8 million, which is three times less than in the period January - July 2017 (EUR 246.3 million). In total outflow, the inflow of funds from the withdrawal of foreign investors abroad amounted to EUR 17.2 million or 25.7%, while withdrawals of non-residents invested in our country amounted to EUR 49.6 million or 74.3%.

In the **investment portfolio** for six months in 2017, a net inflow of EUR 10.4 million was achieved, or a decrease compared to 2016 (by 60.7%), when as a result of the government borrowing an increased inflow was realized due to the emission of Eurobonds. In the same period, other investments accounted recorded a net inflow of EUR 112.8 million, which was 7.5% less than in 2016. Trends in this account are characterized by an increase in borrowing obligations as well as the growth of foreign bank deposits.

## **2.1.1. Economic Trends**

### **2.1.1.1. Monetary and Fiscal Policy**

The priority of fiscal policy in 2017 is to ensure the sustainability of public finances, i.e. the reduction of the budget deficit and the establishment of a declining public debt trend, with

the strengthening of the economic activity and competitiveness of the Montenegrin economy.

**Government budget receipts**<sup>3</sup> for the period January-August 2017 amounted to EUR 1,372.4 million or 32.6% of estimated GDP for 2017 (EUR 4,207.7 million). From this amount the **original income** amounted to EUR 977.4 million, while an income of EUR 395.0 million came from other sources of funding, dominated by domestic borrowing. Primary budgetary revenues are higher than in 2016 by EUR 27.1 million or 2.8% and EUR 7.6 million or 0.8% in relation to the planned ones. Revenue increase was most contributed by the collection of taxes and contributions, which have the highest share in the revenue structure.

The most significant growth compared to previous year was recorded in VAT revenues amounting to EUR 24.2 million, which is the result of better collection of outstanding tax receivables and the growth of import VAT. At the same time, excise revenues are higher by EUR 23.9 million compared to 2016 and EUR 6.3 million in relation to the plan, and are the result of changes in the dynamics of harmonization of excise policy with EU standards. Also, a significant positive deviation was also achieved with the payment of contributions of EUR 20.4 million compared to 2016, due to increased collection of the residual tax debt and the strengthening of tax discipline.

**Budget expenditures** in January-August 2017 amounted to EUR 1,081.2 million or 25.7% of estimated GDP, of which the current budget spending amounted to EUR 1,000.00 million and capital investments of EUR 81.1 million. Compared to 2016, budget expenditures increased by EUR 93.1 million or 9.4%, mainly due to the increase of the capital budget by EUR 59.2 million, due to the increased intensity of works on the highway section.

The **Central Budget deficit** in January-August 2017 amounted to EUR 103.8 million or 2.5% and was EUR 66.1 million higher than the deficit realized in 2016.

During the same period, EUR 270.0 million was repaid to creditors. For the purpose of financing the lacking funds in the central budget, the state realized inflows of EUR 257.1 million by borrowing on the domestic market, EUR 133.4 million by borrowing on the foreign market and EUR 4.5 million on the sale of assets.

Montenegro's **public debt**, at the end of 2016, amounted to EUR 2,546.05 million, or 64.4% of GDP. According to preliminary data, on 30 September 2017 Montenegro's public debt amounted to EUR 2,634.51 million, or 66.58% of the estimated GDP<sup>4</sup>. In the previous period, the Ministry of Finance issued domestic bonds in the amount of EUR 80.41 million

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<sup>3</sup> Budget receipts include original revenues (direct and indirect taxes and non-tax revenues), loans, donations, and income from property sales.

<sup>4</sup> The amount of local self-government debt is projected by the Ministry of Finance because the state does not have a quarterly public debt report.

in November 2016. In the period from 1 January 2016 to 20 March 2017, the total amount of debts in the international market for budget financing and debt repayment amounted to approximately EUR 108.4 million, while in the domestic market, for the financing of the state budget around EUR 86.89 million was provided. During this period, the amount of approximately EUR 29.8 million for infrastructure projects was withdrawn and the amount of approximately EUR 82.8 million was earmarked for the purpose of financing the highway construction project.

## 2.2. Financial Sector Development

The banking system is characterized by adequate capitalization and satisfactory liquidity. The **share of non-performing loans in total loans recorded a significant decrease**. Banks' performance in the observed period is characterized by the growth of key balance positions: loans and receivables from banks and from clients, assets, deposits and capital.

At the end of September 2017, **total bank assets** amounted to EUR 4,095 million, while at the end of September of the previous year they amounted to EUR 3,740 million. In the one-year comparative period, total bank assets increased by 9.5%. The most significant item of the aggregate balance sheet of banks consists of loans and receivables from banks and customers in the total amount of EUR 2,594 million or 63.35%. Compared to September of the previous year, they increased by EUR 202.3 million or 8.46%.

In the course of 2017 **bank loans** amounted to EUR 691.1 million, which was 6.87% less than in the same period of the previous year when new loans amounted to EUR 742 million. The average effective interest rate on newly-approved loans in August is 7.87%.

On 30 January 2017, **total deposits** (including escrow accounts, interest and time deposits) amounted to EUR 3,150.2 million, while on 30 January 2016 they amounted to EUR 2,869.9 million. Total deposits of banks in the one-year comparative period increased by 9.77%. Deposits of natural persons account for EUR 1,614.1 million or 51.24%, deposits of legal persons account for EUR 1,502.1 million, or 47.68%, and those on escrow accounts, interest and time deposits amount to 1.08%.

**Gross non-performing assets (C, D and E) covering loans and receivables and other assets and off-balance sheet items**, at the level of the banking system, by the end of September 2017 amounted to EUR 259.1 million, representing 6.33% of total assets. **Gross non-performing assets (C, D and E) at the level of the banking system** decreased by 18.13% compared to the same period of the previous year when it amounted to EUR 316.5 million or 8.46% of total assets.

**Gross repayable loans and delayed receivables**, at end-September 2017, amounted to EUR 245.1 million, accounting for 9.01% of total gross loans and receivables. Compared to 30 June 2016, gross repayable loans and delayed receivables recorded a decline of 27.62%

and at the end of September of the previous + year they amounted to EUR 338.6 million, or 13.37% of total gross loans and receivables. **Gross non-performing loans and receivables (C, D and E)**, which include bank and client loans, assets and deposits with banks, factoring and forfeiting, bank receivables due to outstanding balances, guarantees and bills of exchange, at the system level for September 2017 are 199, EUR 8 million and represent 7.40% of total gross loans and receivables. At the end of September of the previous year they amounted to EUR 254.9 million and represented 10.17% of total gross loans and receivables.

**Liquid assets** rose by EUR 63.9 million, or 6.4%, compared to September 2016. Funds in the country increased by EUR 59.5 million, or by 9.68%, and foreign funds by EUR 4.4 million, or by 1.14%. The share of liquid assets in total assets at the system level is 25.80% and in comparison with December 2016 there was a growth of 1.27 percentage points.

At the end of September 2017, the **total capital of banks** amounted to EUR 522.6 million, and compared to 30 September 2016, it grew by 4.16%. At the end of the second quarter of 2017, the solvency ratio at all banks was above the legal minimum of 10% and at the aggregate level was 16.64%.

At the end of 2016, the banking system gained a profit of EUR 5.8 million, with five out of fifteen banks reporting a negative financial result. At the end of September 2017, the banking system realized profits in the amount of EUR 30.1 million, with five banks operating in the system at a loss.

**Active interest rates** continue to decline. Namely, at the end of August 2017, the average weighted effective interest rate was 7.00%, while at the end of 2016 it was 7.45%. In September 2017, the passive average weighted effective interest rate was 0.75% and was lower than in September of the previous year when it was 0.96%.

In the banking system of Montenegro, at the end of September 2017, there were six **microcredit financial institutions**, with a total balance of EUR 56.9 million. Compared to September 2016, assets increased by 2.48%. Out of the total balance sheet, 75.35% refers to the assets of a microcredit financial institution.



## 3. ABILITY TO ASSUME THE OBLIGATIONS OF EU MEMBERSHIP

### 3.1. CHAPTER 1: FREE MOVEMENT OF GOODS

#### 3.1.1. Horizontal Measures

In October 2016, within the Ministry of Economy, Directorate for Internal Market and Competition, an Office for Quality Infrastructure was established whose competence included the preparation of horizontal legislation in the areas of quality infrastructure (standardization, accreditation, metrology, technical requirements for products and conformity assessment and market surveillance). The Office is responsible for coordination within Chapter 1.

In line with the commitments from the sectoral strategies, on 23 February 2017, the Government adopted the Action Plan for the Implementation of the Accreditation Development Strategy for 2017 and the Action Plan for the Implementation of the Standardization Development Strategy for 2017.

##### 3.1.1.1. Standardization

At the end of October 2016, the Institute for Standardization of Montenegro (ISME) established the Technical Committee ISME/TK 017: Quality of Work in Educational Institutions.

In the period from 1 October 2016 to 1 October 2017, the Institute adopted a total of 1,963 Montenegrin standards and related documents, fully harmonized with European and international standards. Out of that, 81 documents form harmonized standards. Additionally, at the beginning of October 2017, public consultations were held on 333 MEST drafts.

##### 3.1.1.2. Metrology

Based on the Law on Metrology (Official Gazette of Montenegro 78/09), the following bylaws were prepared and adopted in the reporting period: Decree on amendments to the Decree on legal standards which are subject to mandatory certification or approval of the standard type and the Rulebook amending the Rulebook on deadlines for regular validation of legal standards ("Official Gazette of Montenegro", 13/17).

In 2016, the Bureau of Metrology marked ten years since the foundation and continuously improves the quality and scope of metrology opportunities, especially in terms of personnel and technical capacities, as well as innovation and application of regulations in the field of competence. The Office has 52 systematized job positions, of which 40 are filled,

and in the period from 1 October 2016 to 20 October 2017, five new staff members were employed.

### **3.1.1.3. Accreditation**

In the period from 1 January 2017, the Accreditation Body of Montenegro (ATCG) has accredited four new bodies for conformity assessment. Three bodies belong to the group of certification bodies for management system certification, while one body belongs to the group of testing laboratories. In the same period, a single body for conformity assessment belonging to the group of control bodies lost the status of the accredited organization.

As of 20 October 2017, there are 34 accreditation bodies accredited by ATCG, of which 22 belong to the group of testing laboratories, two belong to the group of calibration laboratories, five belong to the group of control bodies, one belongs to the group of certification bodies for product certification and four belong to the group of certification bodies for the management system certification.

### **3.1.1.4. Market Surveillance**

#### **Coordinating Body for Market Surveillance**

In the reporting period, the Coordination Body held a thematic meeting with representatives of competent bodies and institutions with a view to delimiting market surveillance competence in the product group of *medical devices* - blood pressure measuring devices (legal devices) and *pressure equipment*. Subsequently, amendments to the Decree on determining product groups that are subject to market surveillance, as adopted by the Government on 28 September 2017, have been prepared.

#### **Strengthening Administrative Capacity**

On 22 June 2017, the Government established a new act on internal organization and systematization of the Administration for Inspection Affairs, which increased the number of inspectors for market surveillance in line with the Accession Program of Montenegro to the European Union 2017-2018.

#### **Market Surveillance**

In the period from January to September 2017, in the proactive surveillance (according to the General Market Monitoring Program for 2017), the competent inspections controlled the following: extension cables, electric cookers, electric vibration grinding machines, electric toasters, child seat for bicycles, electric saws/rasps (Market Inspection); blood sugar measuring device with ribbons, nappies for intimate hygiene (Health and Sanitary Inspection); explosives for civil use, pyrotechnic articles (Inspection for explosives, flammable substances, liquids and gases); pressure receptacles - portable welded steel bottles for TNG intended for recharging, TNG underground and overflow reservoirs, gas

cylinders 10 kg (Thermal Energy Inspection); taximeters, water meters (Metrology Inspection); plant protection products, herbicides (Phytosanitary Inspection); RTT devices and equipment, mobile phones, gadgets-portable devices (Inspection for Electronic Communications and Postal Activity).

In reactive surveillance, the Market, Health and Sanitary, Thermoelectric, Metrology Inspection, Inspection for Explosives, Flammable Substances, Liquids and Gases, and the Ministry of Transport and Maritime Affairs - Inspection for Road Transport, monitored hazardous products on the basis of data extracted from RAPEX, upon notice by the Customs Administration, upon notification of the manufacturer / distributor, upon the notice of the surveillance inspectors, on the basis of information from other sources (Regional Network for the Exchange of Information on Hazardous Products), upon consumer reports.

A total of 1,070 inspection controls were carried out, out of which 317 inspections were in proactive surveillance (by program - regular, prolonged) and 753 in reactive surveillance (594 inspections following RAPEX notifications, 7 based on notifications by manufacturer/distributor, 32 inspections upon notifications to surveillance inspectors, and based on information from other sources (Regional Network for Exchange of Information on Hazardous Products - 115 inspections, 4 controls upon notification by consumers, and one inspection control based on information of the Customs Administration).

In the Montenegrin market, in proactive and reactive control, 126 types of hazardous products were found in a total quantity of 2,978 items. Of this, 58 types in the amount of 1,774 units were hazardous products with a serious risk, while in the total amount of 1,204 items there were 68 hazardous products that did not represent a serious risk.

Inspectors imposed the following measures: a permanent ban on trade in 59 product types in the amount of 1,894 items (children's clothing, two-level baby bed, children's swimwear, meat cutter, angle grinder, car fuses, floating aids, sunglasses, electric cooker) as hazardous products that pose a serious risk and incompliant products; the temporary ban on trade until elimination of determined incomliances was imposed for 67 types of products in a total quantity of 1,084 items (extension cable, electric cooker, aerosol dispensers, electric vibrating grinder, children's bicycle, floating aids, electric toasters, child seat for bicycles); the measure of withdrawal from end-consumer was imposed for 18 types of hazardous products in the amount of 1,584 items (children's suits, children's bathing suits, two-level baby bed, angle grinder, card fuses, gas appliance); the notice of withdrawal was published through daily newspapers and by posting the notice in the building; the destruction measure was imposed for one type of products in the amount of 1,348 items (car fuses). According to the inspector's order, 32 types of hazardous products in the amount of 394 items (children's clothing, electric cooker, two-level baby bed, children's swimwear,

extension cables, angle grinder) were returned to the supplier/distributor. One claim was filed to the Misdemeanour Court.

### **Cooperation between the Customs Administration and the Administration for Inspection Affairs**

During the reporting period, in cooperation between the Customs Administration and the Market Inspection, seven joint actions were carried out on enhanced control of certain types of goods, namely: aerosol dispensers; extension cables; electric cooker; manual electric vibrating grinders; electric toasters; child seats for bicycles; electric saw.

The Customs Administration continuously notifies the competent organizational units of the products that pose a risk, as well as after the notifications from the RAPEX system, and the notifications received from the Market Inspection within the Regional Network for the Exchange of Information on Hazardous Products.

#### **3.1.2. Vertical Measures**

##### **3.1.2.1. New Approach Directives**

As for aligning with the New Approach directives, the following by-laws were adopted in the reporting period: Rulebook on electrical engine eco design requirements (Official Gazette of Montenegro 38/17); Rulebook on requirements for eco-design of fluorescent bulbs without integrated chokes, electrically emptied bulbs and chokes and lamps for operating them (Official Gazette of Montenegro 38/17); Rulebook on requirements for eco-design of non-directed household light bulbs (Official Gazette of Montenegro 38/17); Rulebook on radio equipment (Official Gazette of Montenegro 45/17); Rulebook on technical and metrology requirements for measuring instruments and systems with measuring function (Official Gazette of Montenegro 41/17); Rulebook on requirements for weights with non-automatic operation (Official Gazette of Montenegro 45/17); Rulebook on simple pressure vessels (Official Gazette of Montenegro 60/17); Rulebook on electrical equipment intended for use within certain voltage limits (Official Gazette of Montenegro 64/17); Rulebook on modifications and amendments to the Rulebook on machinery safety (Official Gazette of Montenegro 65/17).

#### **Construction Products**

On 26 July 2017 the Parliament passed the Law on Amendments to the Law on Construction Products (Official Gazette of Montenegro 51/17). The Law on Administrative Procedure was aligned by the adoption of that Law.

In accordance with the Law on Construction Products, the following bylaws were also adopted: Rulebook on detailed requirements for appointing and revoking the appointment of a legal entity for technical assessment and issuance of a documents for assessment of

construction products (Official Gazette of Montenegro 77/16) ; Rulebook on detailed requirements for issuing and revoking appointments of assessment and verification bodies and content and method of keeping the record of issued and revoked appointments for performing assessment and verification of building product properties (Official Gazette of Montenegro 72/16); Rulebook on construction products (Official Gazette of Montenegro 82/16); Rulebook on the layout and content of the statement on the properties of the construction product (Official Gazette of Montenegro 46/14 and 38/17); Rulebook on the manner of drafting the document on the assessment of the construction product and the content and manner of keeping records of the issued assessment documents (Official Gazette of Montenegro 72/16); Rulebook on harmonized standards for construction products (Official Gazette of Montenegro 52/17); Decree on the recognition of foreign documents and conformity signs for construction products (Official Gazette of Montenegro 29/17).

### **Recreational Boats**

As for recreational boats, pursuant to the Law on Yachts, the Regulation on technical conditions for the yacht's ability to sail was adopted (Official Gazette of Montenegro 74/16), which transposed Directive 2013/53/EU of the European Parliament and Council of 20 November 2013 on recreational boats and personal watercraft vessels. The Rulebook prescribes the technical conditions for the yacht's ability to sail, documents, records and book of yachts and conditions for placing yachts on the market.

### **Explosives for Civil Use and Pyrotechnic Products**

On 27 April 2017, the Parliament passed the Law on Amendments to the Law on Explosives (Official Gazette of Montenegro 31/17). The purpose of amending the Law was full compliance of the Law with the new amendments that were present in other systemic regulations. The adopted amendments to the law provide the opportunity for their more efficient application because certain provisions are precisely specified.

The following bylaws were also adopted during the reporting period: Rulebook on production and storage facilities for explosive substances (Official Gazette of Montenegro 4/17) and the Rulebook on detailed content and form of applications for the issuance of licenses for storage and trade in flammable liquids and gases (Official Gazette of Montenegro 23/17).

#### **3.1.3. Sectoral (Old) Approach Directives**

Based on the Metrology Law, the Rulebook on pre-packed products (Official Gazette of Montenegro 41/17 of 28 June 2017) was adopted.

##### **3.1.3.1. Chemicals**

On 31 December 2016, the Rulebook on Amendments to the Rulebook on the Content of the Chemical Safety Sheet (Official Gazette of Montenegro 83/16) was adopted, which transposed the Commission Regulation (EU) 2015/830 of 28 May 2015 amending Regulation (EC) No. 1907/2006 of the European Parliament and of the Council on Registration, Evaluation, Authorization and Restriction of Chemicals (REACH).

On 6 April 2017, the Government adopted the 2016 Report on the Implementation of the Chemicals Management Strategy 2015-2018.

On 26 July 2017, the Parliament passed a new Law on Chemicals (Official Gazette of Montenegro 51/17). The main changes introduced by the law were further harmonization with the EU legislation: Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and the founding of the European Chemicals Agency, Regulation (EC) 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, Regulation (EU) No. 649/2012 of the European Parliament and of the Council of 4 July 2012 on the export and import of hazardous chemicals, Regulation (EC) 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents and Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonization of laws and regulations with regard to the application of the principles of good laboratory practice and verification of their application in chemical substances testing), as well as the division of inspection supervision over the implementation of this law between environmental and sanitary inspections. Also, novelties include registration of internal and transported isolated intermediates into the register, chemical advertising, manufacturers' obligations, informing the public about the risks, and other responsibilities.

Pursuant to this law, on 2 October 2017, the Rulebook on detailed content of the prior notification for the export of chemicals (Official Gazette of Montenegro 61/17) was adopted, which transposed all amendments to Annex I of Regulation (EU) No. 649/ on export and import of hazardous chemicals, while on 13 October 2017 the Rulebook on the list of substances causing high concerns was adopted, which transposed the Commission Regulation (EU) 2017/999 on Amendments to Annex XIV to the REACH Regulation.

On 24 August 2017, the Government passed the Proposal for the Law Ratifying the Amendments to the Stockholm Convention on Long-lasting Organic Pollutants, adopted at the sixth and seventh sessions of the Conference of the Parties.

### **3.1.3.2. Biocides**

Pursuant to the Law on Biocidal Products (Official Gazette of Montenegro 54/16), the following Rulebooks were adopted: Rulebook on types of biocidal products (Official Gazette of Montenegro 66/16); Rulebook on the content of the report on the import of biocidal

products (Official Gazette of Montenegro 69/16); Rulebook on lists of active substances allowed for use in biocidal products and biocidal products of lesser risk (Official Gazette of Montenegro 72/16); Rulebook on the closer content of the technical dossier and basic biocidal product data (Official Gazette of Montenegro 5/17); Rulebook on methods for testing the efficacy of a biocidal product (Official Gazette of Montenegro 5/17); Rulebook on the content of the application for a biocidal product authorization (Official Gazette of Montenegro 17/17); Rulebook on the conditions on personnel, space and equipment for legal entities that professionally use biocidal products (Official Gazette of Montenegro 26/17). The Rulebooks transposed the Biocidal Products Regulation (BPR Regulation 528/2012).

## **3.2. CHAPTER 2: FREE MOVEMENT OF WORKERS**

### **3.2.1. GENERAL READINESS FOR THE MEMBERSHIP**

#### **3.2.1.1. Access to the labour market for EU citizens and equal treatment of EU workers and family members**

The Montenegro's accession program to the EU envisages the adoption of a new Law on Foreigners, which will regulate the entry, exit, movement, stay and work of foreigners in Montenegro in accordance with international standards and obligations under the Action Plan for Chapter 24.

The provisions of this Law also address the EU citizens and members of their families to be applied as of the date of accession of Montenegro, regarding the entry, stay and work of nationals of EU Member States and members of their families, Swiss Confederation nationals and members of their families. Although provisions relating to EU nationals are contained in the statutory provisions on foreigners, their position vis-à-vis residence and work is more similar to Montenegrin citizens than foreigners.

#### **3.2.1.2. Accessing the EURES Network**

The EU Integration Facility worth approximately EUR 700,000 will fund two activities related to improving the capacity for accessing EURES. The first activity concerns the development of a Study on the impact of free movement of workers between Montenegro and the EU Member States on the Montenegrin system and the introduction of a European Health Card worth €300,000.00, and an evaluation of the offers received at the EU Delegation (DEU) is ongoing, while the second activity relates to the equipment of the Employment Office with the equipment necessary to work in EURES.

#### **3.2.2. Progress in the previous 12 months**

On 23 February 2017, the Government adopted the **Strategy for Integrated Migration Management in Montenegro for the period 2017-2020**, with the Action Plan for Implementing the Strategy for 2017. The main objective of the Strategy is to fully harmonize and establish a legal framework as well as to strengthen the institutional framework providing the possibility of effective implementation of migration policy control policies in accordance with legal rules and standards as well as the establishment of a monitoring system for monitoring the Strategy and implementation of action plans. The Intersectoral Working Group on Monitoring Implementation of the Strategy was established on 30 August 2017 and will oversee the activities of state bodies and other competent institutions, identify and monitor priorities, dynamics and deadlines for implementation and evaluate the achieved results in strategy implementation. This working group will also submit to the Government of Montenegro regular reports on reviewing, evaluating and proposing measures related to the implementation of the strategies, at least annually.

#### **3.2.2.1. EURES**

In 2017, one EURES adviser was employed. The Division for EURES and International Employment Mediation is now made up of the Head of the Division and 2 EURES Advisers, of which 1 is for Central and 1 for the Northern Region.

In January 2017, a Memorandum of Cooperation was signed with the Slovak Employment Agency on mutual co-operation in the recruitment of eligible candidates from the territory of Montenegro for employment in Slovakia.

In March 2017, in cooperation with the Federal Employment Agency of the Federal Republic of Germany, the Fair was held with the possibility of legal labour migration of Montenegrin citizens to FR Germany.

#### **3.2.2.2. Coordination of Social Security System**

On 29 December 2016, the Parliament of Montenegro adopted the Law Ratifying the Agreement between Montenegro and the Slovak Republic on Social Insurance.

#### **3.2.2.2. Administrative and Technical Preparations**

The service contract "Towards EU Rules for Social Security Coordination", with the aim of improving the institutional and administrative capacities of the competent authorities in Montenegro for the effective implementation of the social security scheme for Montenegro's accession to the EU, was launched by publishing the Contract Notice). On 4 March 2017, following the completion of the first round of evaluation of the bids received in May and June 2017, the candidates (bidders) were shortlisted. During July 2017, they



were submitted documents to apply for the second phase of the open competition. The evaluation of the submitted bids of potential contractors began on 29 October 2017.

This future contract for which € 300,000 was allocated from the EU Integration Facility is planned to achieve the following results:

- Adopted study on the impact of free movement of workers between Montenegro and the EU Member States on the Montenegrin system, and the introduction of the European Health Insurance Card. This study will determine the effects of these movements of workers as well as the effects of introducing the European Health Insurance Card to the state budget in order to identify the costs to be faced by Montenegro in the process of introducing the European Health Card.
- Strengthened capacities of relevant institutions for the implementation of social security schemes co-ordination rules.
- Developing a Communication Strategy for Migrant Workers in order to ensure the timely preparation of the Montenegrin administration to inform migrant workers from Montenegro and the EU about their rights in the area of social security.

### 3.3 CHAPTER 3: RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES

#### 3.3.1. GENERAL READINESS FOR MEMBERSHIP

##### 3.3.1.1 *Right of Establishment and Freedom to Provide Services*

In the field of the **right of establishment and the freedom to provide services**, the most important activities undertaken to transpose the Services Directive are related to the adoption of the Action Plan for transposing the Internal Market Services Directive for the period 2015-2018, which was adopted by the Government on 25 June 2015 and the adoption of the Law on Services, which was adopted by the Parliament on 16 October 2017. The said Action Plan provides for the adoption of 28 laws and 24 bylaws. The report on the implementation of the Action Plan for transposition of Directive 2006/123/EC on services in the internal market for 2015 was adopted by the Government on 15 September 2016 and it shows that four laws and four bylaws were adapted during that period. The legal basis for the establishment of the Single Contact Point (SCP) is contained in Article 8 of the Law on Services, which prescribes the obligation to establish a single electronic contact point in Montenegro. The law establishes the functioning of the SCP through a website, in which information is provided in two languages (Montenegrin and English) to all interested parties on the procedures and conditions for access to or provision of services in Montenegro which are the subject of this law. The Law on Services also contains a legal

basis for the adoption of a bylaw that will define the way of cooperation and exchange of information with the EEA States, in particular the cooperation with regard to the supervision of the provision of services, taking warning measures and the manner of operation of the Ministry when it comes to the IMI system. Also, within the Sectoral Planning Document for "Competitiveness and Innovation", as one of the activities, it is envisaged that the market of services is liberalized and optimized in accordance with the Services Directive and that the legislation is fully harmonized. In this respect, the Action Document for 2016 foresees the establishment of SCP, strengthening of administrative capacities as well as SCP promotional activities, while the Action Document for 2018 foresees the connection to the IMI system. When it comes to access to the Montenegrin services market for third countries, it is defined by the World Trade Organization (WTO) membership negotiations, i.e. the List of Specific Obligations in Services and the List of Exemptions from Article II MFN GATS. Montenegro has concluded a Free Trade Agreement with Ukraine (Law on Ratification of the Free Trade Agreement between the Government of Montenegro and the Government of Ukraine, Official Gazette of Montenegro - International Treaties 3/12), and Agreement on free trade with Turkey (Law on Ratification of the Free Trade Agreement between the Government of Montenegro and the Republic of Turkey, Official Gazette of Montenegro - International Treaties 003/09). When it comes to the CEFTA 2006 Agreement, negotiations on the conclusion of the Supplementary Protocol 6 on trade in services will be finalized in order to further improve trade and economic cooperation and to establish a legal framework for cooperation with WTO non-member States in this area.

### **3.3.1.2. Postal Services**

In the field of **postal services**, all activities related to universal postal services are regulated by the Postal Services Law (Official Gazette of Montenegro 57/11 and 55/16). Universal postal services include postal services in both domestic and international postal traffic. The universal postal service includes the delivery of packages up to 20 kg in international postal traffic. The scope of universal postal services is more closely defined in Article 6 of the said law. The Law on Postal Services also stipulates that the Agency for Electronic Communications and Postal Services shall perform the following: issue and revoke special licenses and licenses for universal postal services, keep the register of postal operators, determine the fulfilment of conditions for obtaining a special license and licenses for performing postal services. The Postal Services Law stipulates that universal postal services may be provided by a legal entity registered in the Central Registry of Economic Operators for performing postal services on the basis of a special license. The Agency shall issue a special license based on the public call procedure. Certain postal services from the domain of universal postal service in the whole territory, universal postal services to a particular area or individual postal services from the domain of universal

postal service in a specific area may also be performed by a legal entity registered in Central Register of Economic Operators for performing postal services, established under the license issued by the Agency. Special licenses and a license may be issued to a legal entity meeting the technical conditions, terms of staff qualifications and the number of employees, the necessary equipment for the performance of universal postal services, the postal network capacity to functionally perform universal postal services and the density of access points to be met by the operator of universal postal services, and which conditions will be met by other universal postal service providers, depending on the area and type of service provided in that area. By acquiring a special license, the legal entity also obtains the right of the postal operator to carry out all commercial postal services, without special application. Commercial postal services may be performed by a legal or natural person based on the application filed to the Agency to be entered in the registry. There are 9 registered postal operators in total. (Universal postal service is provided by one operator, and some postal services in the universal postal service domain are provided by 5 operators. Commercial postal services are provided by 3 operators). As far as reserved postal services are concerned, they do not exist since 31 December 2012. Universal service providers' obligations are also defined by the Postal Services Law, which provides that universal postal services may be performed by a legal entity under a special license in accordance with this law (universal postal operator - Post Office of Montenegro JSC Podgorica). According to the Postal Services Law, universal postal services must be: available to all users of postal services throughout the territory, offered in identical form to all users who meet the same or similar conditions, available without discrimination (which is inspired by political, religious and ideological reasons), permanent, except in case of force majeure, improved in accordance with the technical, economic and social environment and the needs of service users. A universal postal operator is obliged to provide universal postal service to all users on every working day, at least five days a week, with at least: one postal presentation, one postal delivery, except in special circumstances and geographic conditions, with the exception of up to 10% of the population rural and poorly populated geographic areas when at least one delivery is provided per week or setting up common mailboxes at shared locations based on the density of access points. The universal postal service cost must be the same for all users in the whole area where the universal postal service provider provides affordable, cost-based, and cost-effective services for universal postal services, free of charge for certain types of services used by persons with impaired or partially impaired sight, transparent, determined in a way that individual users of services are not given priority compared to other users of services under the same or similar conditions. The universal postal service prices shall be determined by the postal operator according to the criteria established by the Agency. The prices of universal postal services shall be subject to the Agency's approval, at the latest within 45 days of delivery. The Agency may, in whole or in part, modify the universal postal

service price list prior to or after its publication if the prices have not been determined in accordance with the Postal Services Law. According to the Postal Services Law, a postal operator who, in addition to postal services, carries on one or more other activities is obliged to keep separate accounting for postal activity. The Universal Postal Operator is required to provide the allocation of the cost of all postal services with internal calculation in order to provide an overview of the revenue and costs by type of postal services, phases of postal services and unit of postal services. Detailed method for accounting and the calculation of the net cost of the universal postal operator is determined by the Agency's regulation. The Postal Services Law provides for the distribution of universal postal operator by the postal services as follows - the costs of universal postal operators are allocated to: costs directly attributed to a particular postal service, common costs which cannot be separated by individual postal services and are allocated on the basis of their share in the total cost of all postal services. The annual financial reports of the universal postal operator shall be submitted to the Agency with an independent auditor's report, up to 31 March of the current for the previous year. Professional supervision of the quality of universal postal services is performed by the Agency for electronic communications and postal services, through the supervisor. The Postal Services Law provides that the supervisor determines the fulfilment of the prescribed quality standards in the provision of universal postal service as well as the declared quality parameters in other types of postal services. Law on Postal Services provides for the protection of service users and settlement of disputes for all users of postal services. The role of an independent regulatory body for the postal sector is carried out by the Agency for Electronic Communications and Postal Services, which is independent and completely separate from the postal operators.

### **3.3.1.3. Mutual Recognition of Professional Qualifications**

In December 2015, the Council for Higher Education issued a Certificate of Accreditation for the Academic Study Program of Architecture (300 ECTS) lasting for five years, in line with Directive 2005/36/EC and Amendments to Directive 2013/55/EC. The first generation of students studying under the new curriculum was enrolled in the academic year 2016/2017. Also, in May 2017, the Council for Higher Education issued certificates of accreditation for the study programs: Medicine (360 ECTS) lasting for six years, Pharmacy (300 ECTS) lasting for a period of five years, Dentistry (360 ECTS) lasting for six years, High School of Medicine (180 ECTS), lasting for a period of three years. Newly accredited study programs of Medicine, Pharmacy, Dentistry, and High School of Medicine, implemented at the University of Montenegro are aligned with Directive 2005/36/EC and amendments to Directives 2013/55/EC. During the academic year 2017/2018, the first generation of students was enrolled under the new curriculum. There is no high school study program for midwives, even though it is mandatory under the Directive. The reason for this is that there are about 150 active midwives in Montenegro, which is enough for

8,000 births per year. It is estimated that it is not rational to have a special study program for this number of midwives. There is no Veterinary study program in Montenegro, and, for now, there is no initiative to establish it.

More information on the content of study programs and curricula of Medicine, Dentistry, Pharmacy, High School of Medicine and Architecture can be found in the tables below:

Specialization in the field of medicine, dentistry and pharmacy is carried out in Montenegro according to the Rulebook on specializations (Official Gazette of Montenegro 17/14), whose Annex I contains the plan and content of specialization for radiology and family medicine. Specifically, specializations in radiology and family medicine take place fully in Montenegro. Other specializations are implemented by faculty programs in the region, mainly by the Faculty of Medicine in Belgrade.

**Doctors of Medicine**, according to the Rulebook on specializations (Official Gazette of Montenegro 17/14) may specialize in the following areas of health care or branches of medicine:

- 1) Internal medicine;
- 2) Infectology;
- 3) Paediatrics;
- 4) Neurology;
- 5) Psychiatry;
- 6) Paediatric Neurology;
- 7) Paediatric and Adolescent Psychiatry;
- 8) Gynaecology and Obstetrics;
- 9) General Surgery;
- 10) Abdominal surgery;
- 11) Vascular Surgery;
- 12) Chest Surgery;
- 13) Orthopaedics and Traumatology;
- 14) Paediatric Surgery;
- 15) Neurosurgery;
- 16) Plastic, Reconstructive and Aesthetic Surgery;
- 17) Maxillofacial Surgery;
- 18) Urology;
- 19) Cardiovascular Surgery;
- 20) Emergency Medicine;
- 21) Anaesthesiology, Reanimation and Intensive Therapy;
- 22) Otorhinolaryngology;
- 23) Ophthalmology;
- 24) Dermatology-Venereology;
- 25) Physical Medicine and Rehabilitation;
- 26) Family Medicine;
- 27) General Medicine;
- 28) Occupational Medicine;
- 29) Radiology;
- 30) Radiation Oncology;
- 31) Nuclear Medicine;
- 32) Pathology;
- 33) Judicial Medicine;
- 34) Medical Microbiology;
- 35) Clinical Biochemistry;
- 36) Clinical Pharmacology;
- 37) Laboratory Medicine;
- 38) Immunology;
- 39) Hygiene;
- 40) Epidemiology;

- 41) Social Medicine;
- 42) Sports Medicine;
- 43) Transfusion Medicine;
- 44) Aviation Medicine;
- 45) Medical Statistics and Information Technology;
- 46) Palliative Care.

**Doctors of Dental Medicine** may specialize in the following areas of health care or medicine branches:

- 1) Preventative and Child Dentistry;
- 2) Tooth Diseases and Endodontics;
- 3) Dental Prosthetics;
- 4) Parodontology and Oral Medicine;
- 5) Jaw Orthopaedics;
- 6) Oral Surgery;
- 7) Maxillofacial Surgery;
- 8) Medical Statistics and Information Technology

**Graduate pharmacists** can specialize in the following areas of health care or branches of pharmacy:

- 1) Clinical Pharmacy;
- 2) Medical Biochemistry;
- 3) Toxicological Chemistry;
- 4) Sanitary Chemistry;
- 5) Drug Testing and Control;
- 6) Pharmacotherapy;
- 7) Pharmaceutical Technology;
- 8) Control and Application of Medicinal Herbs;
- 9) Social Pharmacy;
- 10) Medical Statistics and Informatics.

There is no partial training in Montenegro for gaining qualifications for regulated professions, except congresses, seminars and workshops.

The proposal for the Law on Recognition of Professional Qualifications for performing regulated professions has not yet been established. Consequently, for the time being only the **working version of the list of regulated professions** has been drawn up so far. In the Ministry of Labour and Social Welfare, the competent ministries submitted **proposals** for regulated professions for the specific area, which comprises 182 regulated professions, namely:

**Ministry of Justice:** Permanent Court Interpreter, Attorney, Notary, Bailiff, Court Expert Witness;

**Ministry of Interior:** Explosive Material Operator, Public Fireworks Officer, Protector of Persons and Property, Security Guard, Body Guard, Value Monitor, Watchman, Fire-fighter, Detective; **Ministry of Science:** Researcher, Senior Researcher, Scientific Associate, Senior Scientific Associate, Scientific Adviser; **Ministry of Health:** Midwife, Biochemist Specialist, Specialist Doctor of Pharmacy, Doctor of Pharmacy, Doctor of Medicine, Specialist Doctor of Medicine, Doctor of Dental Medicine, Specialist Doctor of Dental Medicine, Pharmaceutical Technician, Physiotherapist, Clinical Psychologist, Nurse, Medical Health Technician, Microbiologist Specialist, Therapist; **Ministry of Culture:** Archivist, Archivist Advisor, Archivist Technician, Librarian Advisor, Librarian, Documentation Technician, Documentation Advisor, Documentation Recorder, Photographer, IT Specialist, Researcher, Research Advisor, Cataloguer, Conservator, Conservator Adviser, Conservator Technician, Curator, Laboratory Technician, Museum Pedagogue, Museum Advisor, Museum Technician, Preparatory, Documentation Recorder Adviser, IT Technician Adviser, Pedagogue Adviser, Senior Documentation Recorder, Senior Photographer, Senior IT Technician, Senior Researcher, Senior Conservator, Senior Conservation Technician, Senior Curator, Senior Laboratory Technician, Senior Museum Pedagogue, Senior Museum Technician, Senior Preparatory, Senior Archivist, Senior Archive Technician, Senior Librarian, Senior Cataloguer; **Ministry of Economy:** Chief Technical Manager in Mining, Technical Manager of the Power Plant, Machine Service or Construction Works required for exploitation of mineral raw materials, Head of the Office for Mining Measurements and Mining Plan Development, Head of the Office for Occupational Health and Protection in Mining, Supervisor for Mineral Processing and Stone Processing Facilities, Foreman in Mineral Raw Materials and Stone Processing Facilities, Supervisor for operations in mines and opencast mining, Foreman for operations in mines and opencast mining, Supervisor for electrical engineering, mechanical and construction activities in mining, Foreman for electrical engineering, mechanical and construction works in mining, Coal pit Surveyor, or Surveyor in Opencast Mining, Mine Lighter in Mining, Operator in the Storage Facilities of Explosives in Mining; Chief Mining Project Engineer, Part of Mining Project Engineer, Geological Research Project Developer, Geological Survey Engineer, Responsible Manager of Exploratory Geological Surveys, Authorized Person for Energy Inspection of Buildings,



Authorized Person for performing regular energy inspections of heating systems and air conditioning systems, Steam Turbine Operator, Hydro Turbine Operator, Gas Turbine Operator, Boiler Plant Operator, Central Heating and Air Conditioner Operator, Refrigeration Plant Operator, Operator of devices for preparing supply boiler water, Gas Station Operator, Operator of Gas Installations, Operator of Compressor Stations, Operator of Pumping Stations, Auto Electrician, Car Polisher, Body Worker, Automobile Mechanic, Automotive Mechatronic Technician, Air Mechanic, Well Driller, Watchmaker, Electrical Technician for Home and Electrical Appliances, Galvanizer, Glass Graver; Water, Gas, Heating and Ventilators Fitter; Boat and Yacht Builder, Fireplace Builder, Musical Instrument Maker, Wig Maker, Wrought Iron Products Maker, Glass Product Maker, Artificial Fabric Manufacturer, Jeweller, Stonemason, Craftsman in Ceramics, Piano Tuner, Beautician, Furrier and/or Tanner, Lacquerer, Tinsmith, Metal Smelter, Masseur, Bicycle Mechanic, Mechanic for Agricultural and Construction Machinery, Bucher, Metalworker, Miner, Modeller, Painter, Optician, Floorer, Baker, Brewer and Melthouse Operator, Pastry Shop Operator, Gilding Technician, Precise Mechanic, Shoe Manufacturer, Gunsmith, Printer, Carpenter, Lathe Operator, Art Smelter, Welder, Builder of Metal Frameworks and Cement Plant Operator, Dental Technician; **Ministry of Education:** Defectologist in Educational Institution, Librarian in Educational Institution, Elementary and High School and Resource Centre Teacher in preschool, Pre-School Teacher in Primary School and Resource Centre, Psychologist in Educational Institution, Pedagogue in Educational Institution; **Ministry of Agriculture and Rural Development:** Veterinary, Game Warden; **Ministry of Sustainable Development and Tourism:** Responsible Designer, Responsible Engineer, Responsible Planner, Planner, Tourist Guide, Tourist Animator, Raft/Boat Operator; **Ministry of Finance:** Customs Representative, Tax Advisor; **Ministry of Labour and Social Welfare:** Andragogist, Defectologist, Speech Therapist, Pedagogue, Psychologist in Social and Child Protection Institutions, Social Worker in Social and Child Protection Institutions, Sociologist in Social and Child Protection Institutions, and **Ministry of Transport and Maritime Affairs:** Professional Drivers.

### **3.3.2. Implementation of activities from October 2016 to October 2017**

#### **3.3.2.1 Normative Framework**

##### **Right of Establishment and Freedom to Provide Services**

In the context of the **right of establishment and freedom to provide services**, the Parliament adopted the Law on Services on 16 October 2017. As for the progress in sectoral legislation, the Report on the Implementation of the Action Plan for the Transposition of the Services Directive for 2016 is under preparation.

In addition, the Ministry of Economy regularly updates the Sectoral Plans for Competitiveness and Innovation to provide technical assistance to carry out activities in order to fully align with the Services Directive.

### **Postal Services**

In the field of **postal services**, the Ministry of Economy adopted the Rulebook on postal services on 30 June 2017 ("Official Gazette of Montenegro", 45/17). The Rulebook on postal services was adopted pursuant to Article 21 paragraph 2 and Article 64 paragraph 1 item 1 of the Law on Postal Services ("Official Gazette of Montenegro", 57/11 and 55/16). The Rulebook on postal services establishes the conditions and the manner of performing postal services, the criteria for performing postal services, the deadlines for transmission and delivery of postal items, the dimensions and manner of packaging of postal items, as well as the density of access points of the universal postal operator's network, method for handling postal items that are forbidden to send because they contain prohibited materials and objects, method for opening and viewing postal items, and handling undeliverable postal items, postal stamps, and other issues related to postal services. On 25 November 2016, the Government adopted the Decree on amendments to the Decree on public administration organization and operation (Official Gazette of Montenegro 73/16, 3/17, 19/17). According to this Decree, the Ministry of Information Society and Telecommunications no longer exists. The Directorate for Electronic Communications, Postal Operations and Radio Spectrum, since the adoption of the Decree, has been under the Ministry of Economy. On 11 May 2017, the Government established the Rulebook on internal organization and systematization of job positions of the Ministry of Economy. The Directorate for Electronic Communications, Postal Activity and Radio Spectrum includes two departments: Department for Electronic Communications and Radio Spectrum and the Department for Postal Operations. The Directorate has a total of 9 employees together with the General Director. There are 4 positions in the Department for Postal Operations, namely: one Head of the Department, one Senior Adviser I, one Senior Adviser III, and one Adviser III.

### **3.3.2.2. Statistical Data**

#### **Mutual Recognition of Professional Qualifications**

The Ministry of Education and the ENIC Center submitted 1,803 applications for recognition of foreign education documents in the field of higher education for the purpose of employment in Montenegro, while 1,345 applications for the recognition of foreign curricula for primary and secondary education for the purpose of employment or continuation of education were submitted.

## **3.4. CHAPTER 4: FREE MOVEMENT OF CAPITAL**

### **3.4.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3.4.1. 1. Payment Transactions**

By adopting the new Law on Payment Transactions and its secondary legislation, whose implementation started on 9 January 2015, the Montenegrin regulatory framework for payment transactions is fully aligned with the EU acquis in this area, which was in force at the time of the adoption of a new law. Exceptions are Regulation No. 924/2009 on Cross-Border Payments and Regulation No. 260/2012 on the Establishment of Technical and Business Requirements for Credit Transfers and Direct Borrowing, to be applied from the day of Montenegro's accession to the EU.

The Law on Payment Transactions, which fully implemented Directive 2007/64/EC on payment services in the internal market, lays down general rules for non-cash payments. The provisions of this Law relating to cross-border payments shall apply from the date of accession of Montenegro to the European Union.

It follows from the existing legal provisions that, until Montenegro's accession to the European Union, all non-national payment transactions will have the treatment of an international payment transaction. After Montenegro joins the European Union, Montenegro's payment transactions with the EU Member States will be subject to cross-border payment transactions and Montenegro's payment transactions with countries that are not EU Member States will be subject to international payment transactions. The basic commitment is to apply provisions on national payment transactions concerning the transparency of the conditions and the obligation to provide information on the provision of payment services and on the rights and obligations of the payment service providers and payment service users, with the exceptions expressly provided for.

The timelines for executing international payment transactions are one of the issues that are otherwise regulated in relation to national payment transactions, by regulating that the payment service provider shall make a payment order for an international payment transaction if the payer has cash funds in the account no later than by the end of the following working day from the receipt of the order (for execution of the national payment transaction, that deadline is - by the end of the same working day in which payment order was received). By prescribing this short deadline, the existing high standard of payment transactions with foreign countries and the deadlines for the execution of international payment transactions were retained.

The Law on Payment Transactions stipulates that payment service providers in Montenegro may be: 1) a bank and other credit institution with headquarters in Montenegro; 2) a Montenegrin institution with its seat in Montenegro; 3) an electronic money institution with headquarters in Montenegro; 4) a branch of a third-country credit institution headquartered in Montenegro; 5) Central Bank of Montenegro; 6) State of Montenegro and local self-government units when they do not act as authorities.

#### **3.4.1.2 Prevention of Money Laundering and Fight Against Terrorism**

The Central Bank of Montenegro has intense co-operation with the Administration for the Prevention of Money Laundering and Financing of Terrorism, which is reflected, inter alia, in the fact that the Central Bank, on the basis of the applicable Law on Anti-Money Laundering and Financing, informs the Administration for the Prevention of Money Laundering and Financing of Terrorism about the planned control of a particular bank in order to obtain inputs for additional control of a particular client or transaction.

The Central Bank of Montenegro, during the period from 1 October 2016 to 20 October 2017, conducted ten inspections of banks in order to verify their compliance with regulations in the area of money laundering and terrorist financing.

The Central Bank appointed a representative in the Working Group which prepared the Draft Law on Amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism, which was submitted to the Ministry of Finance for further processing at the end of June and appointed 2 representatives to the Working Group that drafted the Law on Amendments to the Law on International Restrictive Measures adopted by the Parliament of Montenegro on 30 June 2017 (Official Gazette of Montenegro, 42/17), which implemented the standards from the Recommendation No. 6 - Financial Action Task Force (FATF) . In order to train employees in the field of money laundering and terrorist financing, 8 training courses were attended by eight participants who, as executives, were responsible for controlling compliance with regulations in the area of money laundering and terrorist financing.

#### **3.4.2. Implementation of activities from October 2016 to October 2017**

##### **3.4.2.1. Strategic Framework**

In November 2016, the Government adopted an Action Plan for the Implementation of Resolution SBUN 1373 in order to address the shortcomings identified in the Council of Europe Experts Committee's Evaluation Report on Money Laundering and Money Laundering Measures (MONEYVAL) after the Fourth Round of Evaluation of Money Laundering Prevention and Financing of Terrorism in Montenegro.

On 23 March 2017 the Government adopted the 11<sup>th</sup> Report on Implementation of the Strategy for the Prevention of Terrorism, Money Laundering and Financing of Terrorism 2015-2016, as well as the revision of the measures taken from the Action Plan 2015-2016 for the reporting period from July to December 2016.

The Government adopted the Action Plan for the Implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Financing of Terrorism on 15 May 2017.

On 27 July 2017, the Government adopted the 12<sup>th</sup> Report on Implementation of the Action Plan on the Implementation of the Strategy for the Prevention and Suppression of Terrorism, Money Laundering and Financing of Terrorism for the period January-June 2017.

In order to eliminate the deficiencies identified in MONEYVAL IV report, alignment with Directive (EU) 2015/849 and the new FATF (Financial Action Taskforce) Recommendations, the Administration for the Prevention of Money Laundering and Financing of Terrorism, in January 2017, set up a working group in charge of drafting the Law on Amendments to the Law on the Prevention of Money Laundering and Financing of Terrorism and its alignment with relevant international regulations in this area. The working group drafted the mentioned Law.

On 26 October 2017, the Government established the Proposal for the Law on Capital Market. The Law on Capital Market fully changes the existing Law on Securities and comprehensively regulates the trading of financial instruments, the establishment and operation of capital market participants, provides more transparent, safer and more efficient functioning of the capital market itself, improves customer protection and provides more adequate and efficient supervision in law enforcement procedure.

The Law is in line with the basic EU directives and regulations regulating this area and sets the basis for further alignment with implementing directives and regulatory technical standards.

## **2. Track record**

In the period from 1 October 2016 to 20 October 2017, the Central Bank of Montenegro issued additional seven decisions for the registration of agents of payment institutions in the Register of Payments Institutions: Payments Institution "Montenegro transfers doo" Podgorica (making cash payments through the system "Western Union") registered five additional agents, so that there are 19 of them now; The payment institution "Capital Transfers MNE doo" Podgorica (making cash payments) registered two agents (see 3.24 – *Chapter 24 – Justice, Freedom and Security*).

## 3.5. CHAPTER 5: PUBLIC PROCUREMENT

### 3.5.1. GENERAL READINESS FOR MEMBERSHIP

Public Procurement Law (Official Gazette of Montenegro 42/11, 57/14, 28/15 and 42/17) contains general principles of the Treaty on the Functioning of the European Union, principle of economy and efficiency of the use of public means, principle of ensuring competition, principle of transparency of the public procurement procedure and principle of equality.

Principles of the Treaty on the Functioning of the European Union are applied in Montenegro to the entire public procurement, irrespective of value, including public procurement below threshold values prescribed by directives. Procedures of public procurement of goods, services and works assignment are implemented according to the values of public procurement. Censuses within value classes have been set at low level taking into consideration provision with value classes in the EU, and regulated by the Commission Regulation (EU) No 1336/2013. Values of prescribed European thresholds are significantly higher than those established by Montenegrin Public Procurement Law. However, on the other hand, need and willingness of the law maker to define public procurement system which will by all means provide for the control of spending budget appropriation also in this manner is reasonable.

Different types of contracting authorities – parties subject to the application of the Public Procurement Law include state, local authorities, bodies covered by public law, companies and legal entities carrying out work of public interest, as well as entities carrying out activities of water management, energy, mining, telecommunications, postal services and transport. Public Procurement Law requires publishing list of contracting authorities. Public Procurement Administration establishes indicative list and publishes it on the public procurement portal. Contracting authorities, who are subject to provisions of the Article 2 of the Public Procurement Law, shall register and respect the law whether or not they are on the list. Specific exemptions are listed in Article 33, 111 and 116b of the Law.

As stated by the European Court of Justice, exemptions are interpreted very narrowly, and in Montenegrin legal system there are no prejudices with respect to the basic principles of the public procurement system.

Public Procurement Law is mostly aligned with the Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures

of entities operating in the water, energy, transport and postal services sector; Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts; Directive 2005/75/EC of the European Parliament and of the Council of 16 November 2005 correcting Directive 2004/18/EC on the coordination procedures for the award of public works contracts, public supply contracts and public service contracts; Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and the Council on public procurement.

In line with Government conclusions as of 18 March 2015, 2016-2020 Public Procurement Development Strategy and Action Plan for its realization envisage that the Ministry of Finance shall activities on the preparation of Proposal of the Public Procurement Law, which should be passed by the end of 2017 and which will be harmonized with the new package of public procurement directives – EU/2014/24 and EU/2014/25.

There is Concession Act passed on 4 February 2009 (Official Gazette of Montenegro 08/09).

Directives 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security entered into by contracting authorities were passed by the Amending the existing Public Procurement Law from 2017 with: *Subject of procurement in the area of defence and security as well as exemptions will be regulated by the Government regulation, as well as special act of the contracting authority, not by the Public Procurement Law as it was before.*

Quality of the Public Procurement Law has been additionally ensured and improved by passing subordinate legislation for the implementation of laws which have direct importance for its application and they are publicly available on the website of the Public Procurement Administration.

Since public procurement is an economic process, more flexible approach and respect of basic principles are required, not regulation of the entire procedure. In that view, in drafting legislation we took into account releasing area of public procurement from excessive regulations. To a certain extent, at the moment, legislation on public procurement is freed from the excessive regulations and we deem that this issue will be better regulated by e-public procurement project. They are aligned with and supported by the legislation stemming from the Budget Law, Public Procurement Law, as well as other laws of good management of public finance, so we can be sure that public contracts may be prepared, allocated and managed in a manner which is in line with the principles of good management of projects.

Public procurement policy has clearly recognized legal mandate for central body/incorporated body with competences that can supervise policy of public procurement in the country and give guidelines for further alignment of this policy with the policy of public procurement in the EU. This body does not have sufficient capacity to monitor actions in all areas.

One of the most important elements of the public procurement system is transparent procedures that offer equal chances to all interested commercial entities which want to participate in public procurement and which can submit their bids as bidders. This means that interested parties are acquainted with the rules applied in procurement, as well as information on specific options of the procurement. Montenegrin Public Procurement Law realizes its basic principles in practice by publishing all laws, legislation, regulations and rules which define public procurement process, and public procurement plans are also published. The information is published on the Public Procurement Administration website.

Transparency of public procurement is important for making tax payers trust that the Government efficiently manages public procurement. All laws, legislation, regulations and rules defining our process of public procurement are published on the portal. We publish public procurement plans – what we want to buy – and they are available to everyone. In each public procurement and each public invitation we clearly state how bidders will be assessed. We inform unsuccessful bidders and public representatives about this information, which bidder was awarded contract and for which bid. We inform unsuccessful bidders and we explain them that all rules and regulations have been respected. We enable appellate proceedings where independent third party or lawyers of unsuccessful bidders may inspect all minutes of the bidder or officers who implement the procedure, considering that by doing so, we help bidders, as best guards of public procurement system, to defend their interest and improve public procurement at the same time. Registration is necessary, free and free of charge.

Relevant supervision starting from monitoring of the public invitation to the control of accuracy of the implementation of the public procurement procedure for all contracts is implemented.

Increasing legitimacy and certainty of the public procurement procedures made Public Procurement Law strengthen monitoring of the Public Procurement Administration in relation to the overall process of public procurement procedures, specifically with respect to starting public procurement procedure, which is of crucial importance as it provides for timely elimination of irregularities which lead to the delays in the procedure in case of appeal, and which can question regularity of the entire procedure of public procurement, and in that respect, preventive role of the Public Procurement Administration in



cooperation with the competent inspection should completely eliminate those risks or make them sporadic.

For the first time, Public Procurement Law in the public procurement system has established inspection supervision in the public procurement, authorized persons, subject of the inspection supervision and misdemeanour liability of the contracting authorities.

Established supervision system provides data on conducted inspection supervision, established irregularities in the inspection supervision and taken administrative measures from the scope of competence in relation to the established irregularities, as well as accompanying activities in monitoring implementation of activities for elimination of established irregularities.

Availability of data on conducted inspection supervision, taken administrative measures and activities from the scope of competence is ensured through monthly reports and annual report made by the inspection and submitted to the Administration for Inspection Affairs, then through semi-annual reports on inspection supervision submitted by the Administration for Inspection Affairs to the Government by the time negotiations in Chapter 5 are temporarily closed – Public Procurement, then through reporting on the realization of measures from the action plan for Chapter 23 and report for the Subcommittee for Internal Market and Competition.

Inspection for Public Procurement does not have information system which would enable transparent approach to data and activities for elimination of established irregularities.

Respective system for supervision and monitoring which enables access to data and accompanying activities of the potential established irregularities is based on the classical records system envisaged by the Law on Inspection Supervision. In this system, in connected books, records of inspection supervision cases, number of conducted inspection supervision, established irregularities and measures taken is kept, and data from these books is used for drafting monthly and annual reports, reports made by this inspection upon Government conclusion.

In addition, it is important to realistically and timely plan public procurement. Regarding planning of the public procurement, we emphasize that bidders clearly notice parallel line with the Budget Law planning. This segment is clearly recognized also through special Training and Professional Development Program carried out by the Public Procurement Administration together with the Ministry of Finance.

Goals to be achieved by application of legislation on public procurement are primarily the following: getting best values for public money, creation of real market competition, market opening, and equal treatment under equal conditions for commercial entities in the market economy. Relevant statistics for the period 2011-2016 shows that in our country,

by open procedures (open proceeding, limited framework agreement and by negotiation, with previous invitation publishing) more than 92% of public procurement is implemented, whereas by non-transparent procedure (by negotiation, without prior publishing invitation for public bidding) around 5% is implemented, and by other procedures (shopping, direct agreement, contest and consultancy services) around 3% of public procurement is implemented. Relevant information can be obtained in more detail from the Public Procurement Portal.

In line with its competences, Public Procurement Administration gives consent to meeting conditions for the implementation of negotiation procedure without previous publishing of the invitation for public bidding, whereas this provision is contained in Article 31 of the Public Procurement Law. This measure in semi-decentralized Montenegrin system of public procurement is de-stimulating for contracting authorities in terms of use of non-transparent procedure.

Conflict of interests in the public procurement procedure is potential source of corruption as the most dangerous opponent of the crucial goals of the public procurement, which are most efficiently eliminated at prevention level, that is, through recognition of risk cases and circumstances which are deemed illicit regardless of the consequences, as well as at level of monitoring and elimination of actual risks arising during the procedure. According to this, although the existing law solutions in this respect were assessed as very progressive and at the level of the highest international standards, Amendments to the Law from 2014 and 2015 made further improvement in terms of consistency of recognition of potential cases of conflict of interests of the contracting authority and bidder, and the manner of their prevention and elimination, as well as prediction of specifically prescribed consequences if the public procedure process is conducted are implemented with conflict of interests.

In addition, anticorruption measures in terms of preventative and misdemeanour norms have also been improved, among others, by establishing methodology for risk analysis in control execution with the aim of proactive action in the prevention and early detection of corruptive activities and other acts with corruption elements and obligation of each contract of public procurement to incorporate anticorruption clause. Contract of public procurement which does not contain this clause is null and void.

In practice, this problem is resolved in the following way: by submitting statement referring to the conflict of interests submitted by the contracting authorities and bidders who under substantive and criminal liability guarantee that they are not in the conflict of interest and which is submitted prior to the formal start of public procurement procedure. Furthermore, law and subordinate regulations define who is responsible for handing over and signing statement, which circumstances may be deemed real, possible or apparent conflict of interests, in which phase of the public procurement procedure it is necessary to

hand over statement, how to check statement of non-existence of the conflict of interests, how to supervise statement of non-existence of the conflict of interests, which action should be taken if conflict of interests is established or conflict of interest cases have been registered/discovered before or after the procedure, etc.

In Chapter 5 of the Public Procurement Law– Public Procurement in Electronic Form, submitting bid in electronic form and other questions in line with the Law on Electronic Commerce and Electronic Signature have been clearly recognized.

Basic strategic goal of introduction of electronic public procurement in Montenegro is, primarily, increase of transparency and efficiency of public procurement, contribution in the fight against corruption and other irregularities arising in this area, as well as establishment of the unique system of public procurement owing to unification and standardization of procedures.

IPA II Project 2014-2020 Implementation of the System of E-public Procurement has resulted in approval of the funds for the implementation of e-procurement in our country.

The project will specifically focus on the development of modern system of e-procurement in the classic sector in Montenegro through the following set of activities: 1) Development of the action plan for practical introduction of e-procurement in Montenegro; 2) Development of infrastructure for e-procurement including supply and installation of necessary components of hardware and software for work and initial maintenance of the new system; 3) Provision of the operational support and services of Help desk during twelve-month pilot work phase, development and implementation of the training program for system users and administrators (employed in Public Procurement Administration, contracting authorities and bidders), as well as supply of all necessary material for training and 4) Media campaign for raising awareness on policy and strategies of procurement.

Main participants of the process of development of e-procurement are Ministry of Finance and Public Procurement Administration as key user and coordinators of the activities.

It is realistic to expect publishing of tendering procedure for the selection of the most favourable bidder at the beginning of I-II quarter of 2018.

Framework agreement is not sufficiently used if we consider period 2011-2014 whereas its application in 2015-2016 is important, and the effects are strong. Taking in consideration capacities of the Administration, through department for legal assistance, counselling support is at substantial level. By all means, for using this procedure expert assistance is needed.

Montenegrin system of the public procurement is semi-decentralized and centralization is not subject of our policy of public procurement in this period. At first sight, centralization can be very attractive in particular with respect to promises about significant saving and

rationalization. But, it has to be emphasized that centralization at all costs has a lot of drawbacks. In particular, it is necessary to emphasize that centralization specifically in small areas opens doors to corruption because limited number of participants has right to decide for large scale orders of the most favourable bidder. On the other hand, administrative centralization due to significant demand disables small and medium enterprises to compete at all. For this reason, in particular in small areas, important bidders connect to eliminate competition and at the end adjust the price to their needs, not to realistic market price, which does not exist in such conditions.

Very important part of tender documents may be included in technical specification. Those specifications represent obligatory part of the tender documents. With the aim of better understanding and relevant application of the Public Procurement Law, we could define them as "technical requirements which determine characteristics of work, material, products, goods or services. These specifications will ensure that all works, materials, products, goods or services that should be provided are described in the manner which is impartial and adjusted to the needs of the contracting authorities." Technical specifications contain different requirements such as: dimensions, quality, execution, safety of material, products, goods or services, with the aim of ensuring quality, terminology, allocation, testing methods, packing, type of identification and marking (but not specific brand, trademark, patent, specific origin or production, which are strictly forbidden by Law).

Montenegrin contracting authorities may determine technical specification relying on Montenegrin standards harmonized with European standards, European or internationally recognized standards and related documents (noting that each such reference must be accompanied by words "*or suitable*").

The law stipulates that each contracting authority is obliged to appoint its public procurement officer who conducts tasks of the public procurement for the respective contracting authority. As a rule, public procurement officer has university degree, is employed by contracting authority and formally and specifically was appointed for this task by the contracting authority. In line with this Law, public procurement officer is in charge of: preparing plan of public procurement, preparing text of the decision on starting public procurement procedure, preparing request for submitting bids by shopping procedure, sending tender documents to interested parties, conducting professional and administrative tasks in the realization of public procurement procedure, implementing public procurement procedure by shopping method, keeping documentation of public procurement, keeping records of public procurement and preparing and submitting reports on implemented procedures of public procurement to his/her supervisor, i.e. key person of the contracting authority.

Contracting authority shall also submit to the competent body (Public Procurement Administration) copy of the resolution on allocation of a specific person for executing affairs and work tasks of the public procurement officer.

Public procurement officers (as well as other employees working for the competent body and commission in charge of control public procurement procedure carry out administrative and related professional tasks shall have passed professional exam for working in public procurement). Civil service exam for the execution of tasks of public procurement is acquired by successful attendance of the professional training program and education, determined, organized and implemented by the competent authority. Depending on the scope and need for the procurement of certain contracting authorities, special, detached, specialized public procurement services are created. Some contracting authorities who have examples of good practice which are in line with their needs, have allocated services dealing with public procurement affairs.

Program and manner of professional development and training in the area of public procurement is determined by organizing and implementing professional development and training in the area of public procurement and by issuing and renewing certificates in the public procurement area. The goal of the training is to acquire knowledge, skills and abilities of the public procurement procedures of the participants and other persons, with the aim of enabling efficient, economic and transparent implementation, monitoring and control of the implementation of public procurement procedure at all levels. Key challenge for Montenegro will be strengthening capacities for the application and implementation at all levels.

Regarding records from Chapter V of the Public Procurement Law – “*Records, reporting and documents keeping*”, Contracting Authority shall submit report on implemented procedures of public procurement and concluded contracts on public procurement to the competent authority by 28<sup>th</sup> February of the current year for the previous year. Report is submitted in written and electronic form. Competent authority/Administration shall prepare annual report on implemented public procurement procedure and concluded public procurement contracts in the previous year and submit them to the Government by 31 May of the current year at the latest. In that way, one important competence of the Administration is realized, and that is, to improve system through these data and information, to propose measures and make conclusions which are binding for all participants in the public procurement procedures.

Public Procurement Law sets out that complaint procedure shall be started in front of the Commission for the Control of Public Procurement Procedures and that this Commission decides by resolution in the complaint procedure.

However, according to the mentioned law, concluded contracts and procedures of concession allocation cannot be subject of the complaint procedure since the law clearly envisages that the complaint may be made against tender documentation and contracting authority decision, but not against concluded contracts, whereas procedure of allocation of concession is not incorporated in and regulated by the Public Procurement Law.

The Commission is an autonomous and independent state body and therefore all types of influence on its work are forbidden, as well as each use of public authorizations, media and public speaking for the purposes of influencing course and outcome of the procedure before this Commission. Provisions of the *acquis* have been transposed in the public Procurement Law, both with respect to the provisions related to the nullity of the public procurement contract, but also pecuniary fines provisions. Thus, in line with that law, it is prescribed that the public procurement contract which is concluded with conflict of interest on the contracting authority's or bidder's side is null and void, whereas with respect to penalty provisions, this law envisages that for the pronouncing misdemeanour penalties the Commission is not in charge, but inspector for public procurement.

Public Procurement Law sets out that the Commission is obliged to decide about the complaint within 15 days from the receipt of case file and entire documentation about the public procurement procedure, and that this deadline can be extended by maximum ten days, in case of engaging expert, obtaining opinion of competent bodies and in case of large scale documentation in the public procurement procedure.

So far, the Commission was not able to resolve all cases within statutory term due to insufficient staff capacities which could not follow tendency of the significant increase of the number of cases year by year. In 2016 only, number of cases was almost by 100% higher compared to 2012, when the same was established. However, notwithstanding problems that this Commission had when it comes to insufficient number of Commission members, small capacity of its Professional Service and inadequate business space, as well as lack of office furniture and technical equipment, so far, with extraordinary effort, the Commission has shown high level of efficiency which can be seen from the Report of the Commission for 2016, according to which out of total of 1310 cases 1011 cases were resolved, which makes 77.23% of resolved cases.

Concerning the above mentioned, and with the aim of resolving insufficient staff capacities of the State Commission, Law on the Amendments to the Public Procurement Law (Official Gazette of Montenegro 42/17) which came into force on 30 June 2017 increases number of members of the Commission by two members, and the process of their appointment is under way, which means that after their appointment the Commission will have six members and the President. In addition, new Rulebook on Internal Organisation and Job Classification of the Professional Service of the Commission which was passed in December

2016, and which was given consent by the Government, number of members in the professional service of the Commission increased by six members compared to the previous rulebook, and the procedure of its filling is under way, and the mentioned increase of the number of employees in the Commission will surely contribute to the higher level of efficiency of its work.

Public Procurement Law sets out that the system of legal protection through complaint procedure in front of the State Commission is available to all bidders and interested parties without discrimination, but, along with the complaint, the person filing complaint is obliged to submit proof of payment of fee amounting 1% of the estimated value of the public procurement, and this amount shall not exceed 20,000 EUR.

Interested parties have trust in the system of legal protection in front of the Commission, the best indicator of which is higher number of complaints each year before this Commission, and for example, in 2016 the Commission received 1027 complaints whereas this number in 2015 was 899, in 2014 - 808 complaints, in 2013- 748 complaints and in 2012- 522 complaints.

Along with the trend of increase in the number of complaints, each year number of submitted charges against decisions of the Commission decreased, so in terms of percentages number of charges in relation to the decisions of the Commission was 13% in 2012, 8.9% in 2013 and 2014, 6.9% in 2015 and 5.4% in 2016, which means that in the last reporting year contracting authorities and bidders in 94.60% cases deemed that the decisions of the Commission were lawful.

### **3.5.2. Realisation of the activities in the period from October 2016 to October 2017**

#### **3.5.2. 1. Legislative part**

On 29 June 2017 the Parliament passed Law on the Amendments to the Public Procurement Law, published in (Official Gazette of Montenegro 42/17).

The following documents have been published: Rulebook on Forms and Procedures of the Public Procurement (Official Gazette of Montenegro 48/17), Rulebooks on the Contents of Act and Forms for the Implementation of Small Value Procurement and Rulebook on the Content of Act and Forms for the Implementation of Urgent Procurement published in (Official Gazette of Montenegro 49/17), Rulebook on the Report on Implemented Procedures and Concluded Public Procurement Contracts, Small Value Procurements and Urgent Procurements (Official Gazette of Montenegro 52/17), Rulebook on Records of Implemented Procedures of Public Procurement, Concluded Contracts on Public Procurement and Records of Small Value Procurements and Urgent Procurements (Official Gazette of Montenegro 52/17), correction of the Rulebook on Content of Act and Forms for the Implementation of Small Value Procurement and Rulebook on the Content of Act and

Forms for the Implementation of Urgent Procurement published in (Official Gazette of Montenegro 54/17).

### **3.5.2.2. Trainings:**

**Podgorica:** 4-5 July 2017 – Two-day workshop was held – training for representatives of the contracting authority and the bidder,

**Andrijevica:** 31 July 2017 – One-day workshop for representatives of small and medium enterprises for municipalities of Berane, Plav, Gusinje, Petnjica, Andrijevica and Rožaje was held.

**Podgorica:** 8-9 September 2017

**Podgorica:** 25-26 September 2017 and

**Podgorica:** 11-12 October 2017

### **3.5.2.3. Projects**

**Podgorica**, in cooperation with WB, activities on two projects were completed: “Support for small and medium enterprises – development of communication guidelines for commercial entities with emphasis on the development of guidelines for small and medium enterprises and “Development of guidelines for monitoring activities of public procurement (monitoring) in Montenegro”, refer to the chapter from the Strategy “Improving measures for elimination of irregularities and measures for fighting corruption.

**Project** titled “*Support to PFM Policies* which within Component IV envisages funds for financing activities of the project beneficiaries of the State Assistance and Public Procurement Administration. Within IV Component, project “Improvement and strengthening of institutional and legal framework in the area of state assistance and public procurement aims at increasing efficiency, effectiveness and transparency of public finances management in Montenegro in line with EU standards - currently in the phase of publishing procedure for the selection of the most favourable bidder; Project status – Commission for the Assessment and Evaluation of Applications officially appointed by the EU Delegation in the period from 29 June to 18 July 2017 held meetings and assessed economic and financial, professional and technical capacity of received applications. Evaluation report was signed by the Commission members and since 18 June 2017 is in the procedure of EU Delegation approval.

One of the **projects** is also Introduction of Electronic System of Public Procurement in Montenegro. These activities are also in the final stage; in the reporting period Contract Notice and ToR for introduction of electronic system of public procurement were finalized, and we expect Contract Notice to be published tender procedure to start.

Description of taken steps:



1. Task group has worked on the development of Contract notice and ToR
2. Ex ante control procedure for Contract Notice has started.

#### **3.5.2.4. Obligations from AP for the implementation of the Strategy of the Development of Public Procurement System in Montenegro for the Period 2016-2020**

**Podgorica**, on 24 July 2017 II Annual Forum on public procurement “The most important novelties of the Amendments of to the Public Procurement Law in Montenegro” was held; fifth session of the Coordination Body for Monitoring and Implementation of the Strategy of the System of Development of Public Procurement in Montenegro for the period 2016-2020.

**Podgorica**, on 27<sup>th</sup> July 2017 the Government evaluated and adopted semi-annual Report on Realization of Measures from the AP for the Implementation of the Strategy of the Development of Public Procurement System in Montenegro for the period 2016-2020 (period January – the end of June 2017).

Out of total 57 activities which have been classified in eight sub activities, where realization has good dynamics, we will mention only some of them, regarding professional development and training, electronic public procurement, administrative capacities, protection of rights in public procurement procedures, support to small and medium enterprises, measures for elimination of irregularities and corruption in public procurement. All information about the work of this body is available on the public procurement website.

On 15 June 2017 Government adopted Report on Inspection Supervision of Public Procurement. Summary of the results of fair and transparent public procurement system is monitored through reports that Montenegro submits to the EC in the form of quarterly, semi-annual and annual reports on public procurement, and which are prepared by the Public Procurement Administration. The latest report was submitted to EC on 7 September 2017.

Report on Inspection Supervision of Public Procurement for the period from January to June 2017 was adopted by the Government of Montenegro on 28 September 2017.

#### **3.5.2.5. Other activities**

On 22 June 2017 Government adopted Report on Public Procurement in Montenegro for 2016.

Updated list of public procurement officers was published.

Help desk centre for counselling and consultancy services was strengthened.

Updated list of the parties subject to the application of Public Procurement Law (contracting authorities) was published, in line with Amendments to the Public Procurement Law from 2017.

Two civil service examinations for the work in the public procurement area were organized twice (16 June 2017 and 25 July 2017).

## **3.6. CHAPTER 6: COMPANY LAW**

### **3.6.1. 3.6.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3.6.1.1. Company law**

Competent authority for the establishment of companies is Tax Administration. Registration of commercial entities in Montenegro is conducted in the Central Registry of the Commercial Entities (CRPS) which is headed by Tax Administration, in line with the Company Law.

The following documents and data are submitted to CRPS and published during the first registration of the company:

- 1) company incorporation act;
- 2) articles of association;
- 3) list of founders, company members, managers and members of the board of directors, if appointed, including:
  - a) names, surnames and in case of change in names/surnames previous names/surnames;
  - b) date and place of birth of members of the board of directors, unique citizenship number or passport number, if they are citizens of a foreign country;
  - c) permanent residence, or temporary residence of the members of the board of directors;
  - d) statement of the members of the board of directors about their nationality;
  - e) data about their membership in other companies, boards or other functions they have in Montenegro or abroad, as well as place of registration of such companies if they are not registered in Montenegro.
- 4) name of the executive director;
- 5) name of the company, address of the company seat and address for the receipt of official letters, if different;
- 6) members authorized to represent company and information about collective or single representation;
- 7) written consent of the members of the board of directors for their appointment, if they are appointed;

8) document which confirms payment of registration fee.

CRPS publishes data about the name and seat of the company, name of the executive director, names of the members of the board of directors, if appointed, date of passing of incorporation act and articles of association, as well as registration date in the "Official Gazette of Montenegro".

Limited Liability Company is obliged to submit to CRPS the following documents and data, which are subsequently published in the Official Gazette of Montenegro:

- 1) change of the articles of association or incorporation act including extension of the deadline determined for the company duration;
- 2) change of name and seat, as well as addresses for the receipt of official letters;
- 3) appointment, dismissal and data about persons selected as members of the board of directors, members of administration or other authorized persons, if they exist. It must be published if the authorised persons are authorised to represent company individually or collectively;
- 4) appointment, dismissal and data about persons who collectively or individually have authorization to represent company in relation with third persons. It must be published if the authorised persons are authorised to represent company individually or collectively;
- 5) company liquidation
- 6) annulment of the company foundation by the Commercial Court ;
- 7) appointment of the liquidator, his/her identity, qualifications and authorisations which are not listed in this law and articles of association;
- 8) amount of capital if the increase of capital does not require change of the articles of association;

Companies can submit certain documents in electronic form. Data from CRPS data base are available on the internet on CRPS website. There are plans for connecting with business registries from other countries. Provisions of the Company Law specify that minimum founding capital for the establishment of Limited Liability Company is 1 EUR, whereas for the joint stock company it is 25,000 EUR. When it comes to domestic merging and dividing, provisions of the Company Law provide for all conditions referring to domestic mergers and divisions. Provisions on cross border merging have been incorporated in the Draft Company Law. In addition, there is Codex of Corporate Management which includes Montenegrin legislation, principles of business ethics, and internationally recommended best practice of responsible and good corporate management including OECD standards.

Law on Takeovers of Joint Stock Companies is aligned with general principles of the EU and provisions of takeover offers.

Instruction about the work of Central Registry of the Commercial Entities specifies that, along with the registration application, original or certified copy of the documentation necessary for the registration in line with the Company Law must be submitted.

Draft Company Law includes relevant application, i.e. provision which states that following the date of Montenegrin acquisition of the full membership in the European Union, provisions of this law shall apply to relations created by establishment, business operation and termination of European Joint Stock Company (Societas Europaea) and European Economic Interest Grouping, which have not been regulated by the Decree on the European Joint Stock Company and Decree on European Economic Interest Grouping or specific laws for their implementation on the territory of Montenegro.

### **3.6.1.2. Accounting and auditing**

Alignment with the Directive 2013/34/EU has been achieved, that is, provisions regarding the following points have been harmonized with the Law on Accounting (Official Gazette of Montenegro 52/16):

- classification of companies (legal entities) in line with the criteria from the Directive 2013/34/EU;
- exemptions for micro and small legal entities regarding publishing financial information;
- obligation of making and publishing management reports (reports on management) for big legal entities,
- medium legal entities and legal entities which issue securities and other financial instruments that are traded on organized market,
- exemptions regarding development of consolidated annual financial reports for small groups of legal entities;
- additional reporting of entities of public interest which perform activities in the sector of extraction of minerals and stones or activities in forest cutting;
- public interest entity term (PIE).

It is binding by law to publish single and consolidated financial reports. Reports are submitted to the Tax Administration which publishes them on its internet page on the web portal. If the company does not submit financial reports and/or management report to Tax Administration in written and electronic form by 31 March of 2017 for the previous year, penalty provisions shall apply.

International Accounting Standards, that is international standards of financial reporting, are applied in Montenegro, and it is legally binding to make financial reports in line with these standards.

Audit is obligatory for all entities of public interest. Authorised auditors, i.e., audit companies are obliged to apply international auditing standards.

Law on Audit (Official Gazette of Montenegro 1/17) sets up rules and procedures related to the registration and education of the authorised auditors, as well as education related to acquiring title of certified auditor as well as continuous professional education in line with the Directive 2006/43/EC and Directive 2014/56/EU.

Law on Audit took over norms from the directives referring to ethical requirements. It is legally binding to apply Codex of Ethics for Professional Accountants.

### **3.6.2. Realisation of activities from October 2016 to October 2017**

On 6 July 2017 the Government passed the Draft Company Law. After that, the Draft underwent public discussion and is currently being harmonised.

In June 2017 Auditing Council (POB) was established and creation of special organisational unit within Ministry of Finance which will deal with control of work of certified accountants, i.e. auditing companies is under way.

## **3.7. CHAPTER 7: INTELLECTUAL PROPERTY LAW**

### **3.7.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3.7.1.1. Normative framework**

##### ***Copyright and related rights***

Area of copyright and related rights in Montenegro is defined by the Copyright and Related Rights Act (Official Gazette of Montenegro 37/11 and 53/16), Regulation on the Deposit and Register of Copyright Works and Subject Matter of Related Rights (Official Gazette of Montenegro 30/12) and Regulation on Sources of Careful Research Adjusted to Certain Categories of Works and Phonograms (Official Gazette of Montenegro 15/17).

Copyright and Related Rights Act thoroughly define issues which refer among others to: copyright work, types of copyright work (moral rights, property rights and other copyrights), limitation of copyright, exhaustion of right, duration of protection, orphan works, copyright in legal trade, audio visual works, calculation programmes, related rights (interpreters' rights, phonogram producers' rights, film producers' rights, radio broadcasting organisations' rights, publishers' rights) *sui generis* rights of data bases producers, collective exercise of rights, records and mark of protection, protection of rights, as well as relation with foreign elements.

Criminal acts against copyright and related rights are defined by the Criminal Code of Montenegro (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and

Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11, 40/13, 56/13, 42/15, 58/15 i 44/17).

Montenegro considers itself to be fully aligned with the following sources of the EU legislation:

- Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of database;
- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;
- Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art;
- Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;
- Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;
- Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights;
- Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs;
- Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights;
- Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works.

Montenegro is partially aligned with the following sources of the EU law:

- Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission;
- Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

When it comes to the Directive 93/83/EEC, there is non-conformity only with Articles 11 and 12 of this Directive, full harmonisation with the Directive is planned to be achieved through simultaneous harmonisation with Directive 2014/26/EU which is in direct

relation and deals with the same questions as Articles 11 and 12 of the Directive 93/83/EEC (mediating and complaint procedures).

Montenegro has introduced principle of union exhaustion of rights with effectiveness from the date of Montenegrin accession to the EU.

### ***Industrial property right***

*Patent area in Montenegro is defined by Patent Law (Official Gazette of Montenegro 42/15 and 2/17) and Regulation on the Contents of the Registers, Applications and Other Submissions, Notification and Publication of Data in the Procedure for the Legal Protection of Inventions (Official Gazette of Montenegro 8/16). Patent Law thoroughly defines questions which refer, among others, to subject of patent protection, conditions of patent protection and rights to patent acquisition, procedure for patent recognition, contents and size of patent rights, limitation of rights, exhaustion of rights, compulsive licences, duration and termination of patents, certificates on additional protection, annulment of patents and certificates on additional protection, civil protection of rights, trade of rights, confidential inventions, inventions arising from labour relation, European registration of patents and European patent, international registration on the basis of the Agreement on Cooperation in the Area of Patents, registry of representatives and other relevant questions.*

Patent Law stipulates that, if the basic patent is recognized for the product which is integral part of human or animal medicine or plant protection product, and if for its placing on the market permit for placing on the market is issued in line with specific regulation, competent authority may recognize certificate on additional protection under conditions stipulated by this law.

Montenegro considers itself to be fully aligned with the following sources of the EU law:

- Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions;
- Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights;
- Regulation 1610/96/EC of the European Parliament and of the Council concerning the creation of a supplementary protection certificate for plant protection products;
- Regulation 469/2009/EC of the European Parliament and of the Council concerning the supplementary protection certificate for medicinal products, and
- Regulation 816/2006/EC of the European Parliament and of the Council on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems.

Montenegro has introduced principle of the union exhaustion of rights with the effectiveness from the date of Montenegrin accession to the EU.

Area of trademarks in Montenegro is regulated by the Law on Trademarks (Official Gazette of Montenegro 72/10, 44/12, 18/14, 40/16 and 2/17), Regulation on the Procedure of Granting, Changing, Renewing and Internationally Registering Trademarks (Official Gazette of Montenegro 50/11).

Montenegro considers itself to be fully harmonised with:

- Directive 2008/95/EC of the European Parliament and of the Council to approximate the laws of the Member States relating to trademarks, and
- Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights.
- Montenegro has introduced principle of the union exhaustion of rights with the effectiveness from the date of Montenegrin accession to the EU.

Law on Trademarks also regulates questions which refer to the extension of the effectiveness of Community trademark registration and Community trademark on the territory of Montenegro from the date of Montenegrin accession to the EU, questions related to the establishment of competent courts for Community trademark and other questions relevant for the Community trademark.

Design area in Montenegro is also regulated by the Law on Legal Protection of Industrial Design (Official Gazette of Montenegro 80/10, 27/13, 42/16 and 2/17) and Regulation on the Procedure for Recognition, Changes and Renewal of the Validity of Industrial Design (Official Gazette of Montenegro 12/12).

Montenegro considers itself to be fully aligned with:

- Directive 98/71/EC of the European Parliament and of the Council on the legal protection of designs, and
- Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;

Montenegro has introduced principle of the union exhaustion of rights with the effectiveness from the date of Montenegrin accession to the EU.

Law on Legal Protection of Industrial Design also regulates questions referring to the extension of the effectiveness of registrations of the Community design and Community design on the territory of Montenegro from the date of Montenegrin accession to the EU, questions related to the establishment of competent courts for Community design and other questions relevant for the Community design.



### ***Business secrets***

Article 19 of the Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure prescribes that Member States are obliged to harmonise their national legislation with the provisions of this directive by 8 June 2018. In that view, Montenegro plans to wait for Member States of the European Union to harmonise their national legislation with this directive in order to be able, on the basis of their experience, and with expert assistance from the EU by the end of 2019, to start the procedure of harmonisation of Montenegrin legislation with this Directive.

#### **3.7.1.2. Implementation of intellectual property rights**

Montenegro has efficient system of the implementation of intellectual property rights with the aim of combating piracy and falsification which should be further improved in future, and which is completely harmonised with the Directive 2004/48/EC on intellectual property rights implementation. This directive is transposed in relevant regulations in the area of intellectual property rights. Ministry of Economy, as relevant ministry in the area of intellectual property, on 29 March 2017 established Coordination Team for Implementation of Intellectual Property Rights, composed of representatives of the Ministry of Economy, Intellectual Property Office, Commercial Court, State Prosecution Office and Administration for Inspection Affairs, Customs Administration and Police Administration.

The following tasks of the Coordination Team were determined:

- improving and strengthening cooperation between authorities in charge of protection and implementation of intellectual property rights in Montenegro;
- coordinating activities aimed at prevention and elimination of infringement of intellectual property rights;
- monitoring and analysis of activities of competent authorities in relation to questions of intellectual property and proposing measures aimed at improving efficiency of their work;
- Establishing and monitoring priorities in their work, dynamics of deadlines and realisation deadlines as well as assessment of achieved results.

It is planned that Coordination Team meets as necessary, but at least twice a year. Coordination team may create special task groups for the purposes of discussing questions important for the protection of intellectual property rights, and as necessary it may engage representatives of other state bodies, as well as experts outside public administration

bodies. Rules of Procedure of work sets out manner of work, decision making of the Coordination Team, rights and obligations of the President, members and secretary of the Coordination Team, as well as other questions important for the work of Coordination Team. In addition, obligation of the Coordination Team to prepare and submit report of its work to the Ministry of Economy by 31 March of current year for the previous year at the latest has been determined.

It is important to note that in the period from 2012 to 2012 National Strategy of Intellectual Property for the period 2012-2012 and Action Plan for its implementation were in force, and they included planned and realised measures aimed at raising awareness on the importance of intellectual property rights and fight against falsification and piracy.

### **Intellectual Property Office**

Decree on the Amendments to the Decree on Organisation and Work of Public Administration (Official Gazette of Montenegro 19/17) has changed status of the Office and it became body within the Ministry of Economy.

Scope of work of the Intellectual Property Office in essence has remained the same since its establishment. Provision of the Article 3 of the Decree of Amendments to the Decree on Organisation and Manner of Work of Public Administration (Official Gazette of Montenegro 19/17) sets out that Office performs tasks related to: examination of registrations and meeting conditions for recognition of industrial property rights; resolving acquisition patent, trademark, design, topography of integrated circuits and geographic origin indication (industrial property) rights; establishment of termination of industrial property rights; publishing data related to the registration and industrial property rights; keeping registries of registration for the recognition of industrial property rights, industrial property rights registries and registries of the representatives of legal and natural persons in the procedures for recognition of industrial property rights; depositing and keeping records of copyright works and items including related rights; issuing permits for performing duties of organisations for collective exercising of copyright and related rights; supervising work of organisation for collective exercise of copyright and related rights; preparing professional bases for drafting regulations in the area of industrial property; and other affairs within its scope of competence.

With the aim of implementing intellectual property rights, the Office continuously improves cooperation with key institutions involved in implementation of the intellectual property rights: Ministry of Economy, Custom Administration, and Administration for Inspection Affairs, Market Inspection, Commercial Court and Supreme State Prosecution Office.

Taking into consideration existing administrative capacities and limited financial resources for new employment, although there are 9 vacancies, with the current staffing,

Office cannot respond to the obligations arising from the existing legislative framework and procedure of Montenegrin accession to the EU. This is specifically due to previous devotion to the professional development and training of the employees. Since 2010 4 seminars and 1 international conference in cooperation with WIPO were organised, 6 seminars in cooperation with EPO, 2 fair visits and several study visits to other offices. However, planned intensification of activities of the Office will include filling up vacancies.

**Starting from the recommendations of the negotiating Chapter 7 and IV benchmarks, the Office is in particular devoted to:**

- 1) **Strengthening administrative capacities** through intensive and professional staff training. In that view, in particular since July 2017, we have intensified cooperation with WIPO, EPO, EUIPO. The following training programs were agreed: study visit to the Office in the region (BiH) – November 2017, 2 seminars – in cooperation with EPO and WIPO – December 2017, professional training for the implementation in TMview, DesignView (EU IPO); seminar on 26 April 2018 (WIPO), 2 round tables devoted to the intellectual property right – April 2018 (WIPO) and numerous other events in cooperation with WIPO, EPO, EU IPO.
- 2) **Work on the creation of overview base of the achieved results on investigation, criminal prosecution and judicial proceedings in case of breach of law:**
  - a) In line with the assumed obligation, on 26 April 2016 the Office established Task Group for determining model of data collection on implementation of the intellectual property rights which developed methodology of collection and analysis of statistical data on the implementation of intellectual property rights. **The methodology was developed in line with EU standards and, according to it, each authority collects and submits to the Office data from the scope of its competence included in the collective report prepared by the Office and aimed at submitting to the EC. The report contains statistical overview of the results by institutions: Intellectual Property Office, Administration for Inspection Affairs, Customs Administration, Police Administration and Commercial Court.**
  - b) In line with the Decision on the Coordination Team for the Implementation of the Intellectual Property Rights, **Task Group was established with the task to organise and implement common action aimed at prevention and elimination of intellectual property rights infringement.** The Group is presided by the Director of Intellectual Property Office, and it includes representatives of: Police Administration, Customs Administration and Inspection Affairs Administration. On 20 October the Task Group held its first session.

In the same period, the Office worked on improving data bases and tools for efficient application of intellectual property rights:

- At EU IPO, the Office has initiated assistance in regulating data base of trademarks and afterwards implementation of the most contemporary IT tools in that area (special team established at Office has worked on these tasks since September 2017, and its implementation is planned for the end of 2018).
- In October 2017 the Office was given support from EPO for regulating patent data base (team which will soon start its work on patent data base is under creation, and finalisation of this task is planned for the beginning of next year).
- The Office has entered Project IPA 2016 which will grant it software for trademarks and EDMS (electronic system for data management).
- The Office has started preparations of search of expert support in the application of Vienna Classification of the Figurative Elements of Marks through TEIEX.

At the end of September 2017, the Office initiated passing of new national Strategy in the area of intellectual property rights (2019-2021) and it showed readiness to offer contribution for its development.

With the aim of further promotion and the affirmation of the intellectual property rights and better availability of information to all interested parties, on 19 October 2017 the Office realised first activity from **the project Open Door Day**.

### **Administration for Inspection Affairs – Market Inspection**

Market inspection supervises application of regulations in several administration areas, among others, protection of intellectual property rights, so due to limited number of inspectors it is not possible to organise implementation of supervision by specific areas, but all inspectors are in charge of all areas of supervision. In that view, when it comes to the implementation of supervision in the area of the protection of intellectual property rights, there are no specialised inspectors for this specific supervision. However, effort was made to overcome this problem through training smaller number of inspectors for this area of supervision. Because of age structure, and other reasons as well, there is a tendency of drain of the inspection staffing, and filling is very slow or non-existent due to lack of budget appropriations, long procedures for recruitment, and lack of interest for inspection profession due to low salaries.

Implementation of the inspection supervision is based on the special law regulating inspection supervision, provisions of the Inspection Supervision Law contained in the material laws which are subject of supervision, special law related to the Market Inspection, as well as Administrative Procedure Law and other process laws.

Apart from inspection supervision, Market Inspection deals with the execution of other tasks from the scope of its competence, primarily, receiving trade registrations and keeping registries of trade registrations, receiving initiatives/complaints of consumers and other persons, keeping and maintaining National System for Quick Exchange of Information about Dangerous Products, etc.

When it comes to the protection of intellectual property rights, apart from other competent authorities, since 2006 Market Inspection has been more intensively involved in the supervision pursuant to the Law on the Application of Regulations Defining Protection of Intellectual Property Rights (Official Gazette of Montenegro 45/05, 73/10, 37/11, 40/11, 18/14, 42/15 and 42/16). Based on this Law, market inspector is authorised to carry out supervision of production and trade of goods that infringe industrial property rights and supervision of trade in goods with copyright and related rights. Pursuant to provisions of this law, procedure for the protection of intellectual property rights is started ex officio and upon initiative – request of the intellectual property right holder (applicant). With the aim of enabling easier communication with the Inspection, request form, as well as all regulation in this area are published on the website of the Market Inspection.

Market Inspection is in charge of supervising application of the following laws defining area of intellectual property rights: Copy Right and Related Rights Act, Patent Law, Law on Trademarks, Law on Legal Protection of the Industrial Design, Law on Indications of Geographical Origin, Law on the Protection of Topography of Semi-Conductors, Law on Cinematography and Law on Optical Discs.

### **Commercial Court**

Commercial Court is, among others, responsible for the implementation of the Intellectual Property Law in Montenegro. 5 judges are in charge of cases referring to intellectual property right. Commercial Court is the only first instance specialised court for infringement of intellectual property rights since 20 March 2015, and with respect to civil legal protection.

### **Police Administration**

Within Ministry of Interior - Police Administration - Department for the Suppression of the Economic Crime, pursuant to the new Rulebook on Interior Organisation and Job Classification, centralisation of this department was conducted establishing three territorial regions: Central, Southern and Northern and 48 jobs were classified, two of which refer to the area of intellectual property protection within Group for Suppression of Criminal Acts against Property, Intellectual Property, Environment and Special Development.

In line with the subject classification and authorisations by law, within Department for the Suppression of the Economic Crime, there are also criminal acts against intellectual property prescribed in the Criminal Code of Montenegro – Title XXI.

Within the Department for the Fight against Organised Crime and Corruption, based on the new Rulebook on Interior Organisation and Job Classification centralisation of the Department was carried out, and the Department includes Group for suppression of criminal acts of high technology crime including three systematised places.

### **Customs Administration**

Customs Administration is one of the authorities in Montenegro in charge of the implementation of the measures of the protection of intellectual property rights. Through its protective function, Customs Administration controls goods if there is doubt that the goods infringes intellectual property rights, and with the aim of preventing trade of counterfeit goods. Customs Administration contains Department for the Protection of Intellectual Property and Monitoring of Prohibition and Limitation. Monitoring application of regulations in the area of intellectual property, participation in drafting regulations regarding intellectual property, considering and processing requests for intellectual property rights protection, participation in organising and execution of training in this area, establishing cooperation in the area of intellectual property at national and international level, etc. are within competence of the Department for the Protection of Intellectual Property and Monitoring of Prohibition and Limitation. In line with the Rulebook on Internal Organisation and Job Classification of the Ministry of Finance in the Customs Administration, within the Department, 4 jobs have been classified. Tasks within competence of the Department are carried out by three officers, two managers and two independent advisers for intellectual property, whereas working place for independent adviser in the area of prohibition and limitation is currently vacant.

In branch offices – custom offices, appointed coordinators for the intellectual property rights conduct tasks of coordination between Department for the Protection of Intellectual Property Rights and branch offices – custom offices and customs outposts (providing assistance in identification of goods in examination of packages, keeping records of goods which is seized and placed in the storage facilities, providing assistance to the holders of rights of intellectual property during examination and possible taking samples of the goods, etc.).

Customs Administration continuously cooperates with competent authorities in Montenegro in charge of implementing intellectual property rights (Ministry of Economy, Office for Intellectual Property, Commercial Court, Agency for Medicines and Medical Devices, etc.) through membership in common task forces (Coordination Team for the Implementation of the Intellectual Property Rights, Team for Monitoring and Realisation of

the Activities in Suppression of Trade in Falsified Medicines, etc.), joint meetings, trainings, etc.

With the aim of acquainting public with the activities we implement in this area, primarily with respect to disruption of customs procedure and keeping goods on the basis of doubt about infringe of intellectual property rights, and raising awareness on the importance of the protection of these rights, on regular basis, Customs Administration informs public through announcements also published on the Administration website. In cooperation with competent authorities in Montenegro, Customs Administration participates in campaigns, preparations of joint announcements and other activities.

In 2015, 25 customs procedures were disrupted and 52,746 pieces of goods were temporarily seized.

In 2016, 83 customs procedures were disrupted and 77,075 pieces of goods were temporarily seized.

By 18 October 2017, 38 customs procedures were terminated and 1,955 pieces of goods were seized.

### **3.7.2. Realisation of activities from October 2016 to October 2017**

#### **3.7.2.1. Normative framework**

With the aim of aligning all Montenegrin laws containing provisions which refer to the administrative procedure with rules passed by new Montenegrin Law on Administrative Procedure, amendments to the Law on Trademarks, Law on Legal Protection of the Industrial Design and Patent Law were made. In that view, on 29 December 2016 the Parliament passed the following laws:

- Law on the Amendments to the Law on Trademarks (Official Gazette of Montenegro 2/17);
- Law on the Amendments to the Law on Legal Protection of the Industrial Design (Official Gazette of Montenegro 2/17); and
- Law on the Amendments to the Law on Patents (Official Gazette of Montenegro 2/17).

Ministry of the Economy passed the Rulebook on the Sources of Careful Research Adjusted to Suitable Categories of Works and Phonograms (Official Gazette of Montenegro 15/17), as well as Rulebook on Contents of Trademark Document and Design Document (Official Gazette of Montenegro 19/17).

Those amendments are not related to the EU law and their application started on 1 July 2017 because their application was linked to the beginning of application of the new Law on Administrative Procedure.

#### **3.7.2.2. Implementation of intellectual property rights**

During 2017, Coordination Team for the Implementation of Intellectual Property Rights held three sessions, and at one of the sessions, Decision on the Creation of Special Task Force made of representatives of Customs Administration, Police Administration, Administration for Inspection Affairs and Office for Intellectual Property was made, and its task is to organise and implement common actions directed towards prevention and suppression of intellectual property rights infringement.

Cooperation was also carried out through participation in the meetings of Task Force which was in charge of monitoring implementation of the National Strategy of Intellectual Property for the period 2012-2015 and Action plan for its implementation, within Task Force for the Preparation of Negotiations for Montenegrin Accession to the EU for Chapter 7 – Intellectual Property Right and through direct types of cooperation of competent institutions.

### **Office for Intellectual Property**

Office for Intellectual Property (hereinafter referred to as: Office) continued with the implementation of the following activities:

- exercise of regular registration of competences of intellectual property rights (patent, trademark, industrial design) and exercise of competences in the area of copyright and related rights;
- introduction of new technical solutions and monitoring of the existing (Migration of data into the patent software, implementation of TM View-a, Design View, USS (User Satisfaction Survey) as well as monitoring and proposing new technical solutions (HDB (harmonized data base), Common Examiners Tools (CESTO), Front office);
- improvement and strengthening of administrative capacities;
- organisation of seminars for representatives of public institutions, judiciary and prosecution offices included in the implementation of the intellectual property rights with the aim of raising level of professional expertise, knowledge and skills;
- active and more intensive cooperation with World Organisation for Intellectual Property (hereinafter referred to as WIPO), Office for Intellectual Property of the European Union (hereinafter referred to as EUIPO) and European Patent Organisation (hereinafter referred to as EPO);
- registration of the industrial property rights and exercise of competence in the area of copyright and related rights in Montenegro continues in line with internationally ratified treaties which are binding for Montenegro, as well as national legislative framework. Furthermore, investigators of the Office have continuously monitored relevant judgements of the European Court of Justice, Joint Communication EUIPO



related to the Law on Trademarks, as well as Joint Communication in relation to graphical display of the design.

On the basis of renewed and intensified cooperation with the Office for Intellectual Property of the European Union (EUIPO), the Office has entered in the procedure of implementation of the following tools:

- TMView is basis of trademarks functioning under principle “all in one.” It enables very simple search of trademarks contained in the national bases of the EU Member States, Russia, Korea Republic, Morocco, Mexico, Turkey, Norway, the USA, as well as in international trademark bases EUIPO ns WIPO (Romarin). Information may be found in languages of the above mentioned countries. This basis is continuously developing and it is expected that in similar way, Montenegro will enable access to its trademark base;
- DesignView is a network tool for search which enables each Internet user to search designs of all involved offices, including EUIPO and national offices. The tool is multilingual and user friendly and enables access to applications for design and registrations, offered by involved offices through single and unique platform.
- With the aim of improving quality of work, the Office showed interest for the User Satisfaction Survey (USS). The USS is a tool of the survey type, i.e. tool which provides information about satisfaction of users with the work Office, including information what should be changed or improved. After implementation of this tool, the Office has possibility to create online questions related to its work to which users can answer. After implemented survey, on the basis of users answers, Office may determine with which service of the Office users are satisfied and which should be given additional efforts for the purposes of improving work in that area.

In many tools from EUIPN network, the Office recognized those that might help users/applicants as well as examiners in the area of trademark and design. They include HDB (Harmonised Database), DesignClass, Common Examiners Support Tool (CESTO), Front Office. With the aim of monitoring and improving existing technical solutions, the Office continued with migration of data into the patent software – Patent Data Management System as one of the most developed and most functional systems for small national offices for intellectual property.

### ***Mechanisms of cooperation and coordination between members for the protection and implementation of the intellectual property rights***

On 29 March 2017 Ministry of the Economy established Coordination Team for the Implementation of Intellectual Property Rights composed of the members of the Ministry of Economy, Office for Intellectual Property, Commercial Court, State Prosecution Office, Administration for Inspection Affairs, Police Administration and Customs Administration.

The Office is in charge of preparing incorporated quarterly reports on progress in the area of intellectual property regarding implementation of intellectual property rights, which are within its competence and within competence of other bodies involved in the implementation of the intellectual property rights. Coordination Team for the Implementation of Intellectual Property Rights has established Task Force composed of the representatives of the Office, Customs Administration, police Administration and Administration for Inspection Affairs. Goals of this Task Force are organising and implementation of common actions aimed at prevention and suppression of infringement of intellectual property rights. Taking this into consideration, on 20 October 2017, the Office held first Constitutive Session of the Task Force whose members are acquainted with the Decision of the Coordination Team for the Implementation of Intellectual Property Rights, with tasks and goals of the Task Force, as well as plan of future activities.

### ***Strategy for the support of raising awareness about the importance of intellectual property rights***

At the beginning of October 2017 in agreement with the Ministry of Economy, the Office initiated idea on offering expert assistance in development of new National Strategy for Intellectual Property with World Organisation for Intellectual Property (WIPO). Preparatory activities were announced for the beginning of the next year, and the Strategy will refer to the period from 2019 to 2021. Goals of the new National Strategy are: continuation of further harmonisation of national legislation with the EU legislation, improvement of the implementation of intellectual property rights, exercise of economic valorisation of intellectual property rights and continuous raising awareness about the importance of the intellectual property, with special emphasis on improvement of cooperation with universities, Chamber of Commerce, small and medium enterprises and other important segments of the society.

### ***Administrative capacities***

By Decree on the Amendments to the Decree on Organisation and Manner of Work of Public Administration (Official Gazette of Montenegro 19/17), the Office became body within Ministry of the Economy. On 15 May 2017 Ministry of the Economy passed Rulebook on Internal Organisation and Job Classification of the Ministry of Economy in which Office jobs were classified. 27 jobs were classified and 19 of them were filled in. Compared to the previous one, new Rulebook went one step further, and copyright and related rights were classified as separate division. The Office started initiatives for filling jobs of senior management staff (two assistants), whereas three additional officers were employed under temporary service agreement. In addition, in line with Budget Proposal for 2018, the Office has asked for funds for filling remaining eight vacancies, which was

recognized also in the request submitted to the Ministry of Public Administration for the development of *Plan for Optimisation of Number of Employees in Public Sector*.

The Office officers attended seven training programs organised by EPO, EUIPO in the areas of higher quality patent protection, industrial design, trademarks and design and they gained information about new tools that EUIPO offers to the non EU members and current EPO projects.

In cooperation with World Intellectual Property Office (WIPO), and European Office for Patents (EPO) the Office organised two seminars:

- Madrid and Hague Systems Seminar was organised in Podgorica on 6 September 2016. It was jointly organised by WIPO and the Office. 56 people participated in the Seminar.
- Seminar "European Patent System: from submitting application to recognizing patent" was held in Podgorica on 5 December 2016. It was organised by the European Office for Patents (EPO) in cooperation with the Office. 50 people participated in the seminar.

## **Administration for Inspection Affairs – Market Inspection**

### ***Administrative capacities***

Total number of current employees in the Market Inspection is 47, out of which 45 inspectors (including chief inspector) and two advisers. With the aim of training inspectors for the implementation of supervision in the area of intellectual property, on 5 December 2016 the seminar "European Patent System: from submitting application to patent recognition" was realised.

In this period intellectual property rights holders **filed 22 requests** (seven general and 15 single). Detailed description of the achieved results regarding irregularities and taken measures in line with regulations on the intellectual property rights protection, as well as industrial property right (patent, trademark, design, geographical origin designation, topography of integrated circuits) was submitted as annex to 1 document.

### **Supreme State Prosecution Office**

In the period from 1 January to 19 October 2017, criminal charges regarding criminal acts against intellectual property were not filed to the state prosecution offices in Montenegro.

In September 2017, Basic State Prosecution Office in Montenegro, established criminal case *ex officio*, after media reporting about the alleged doubt that certain individuals, working for a public institution, under their own name, partially published another person's copyright work, in order to determine if there is basis for doubt that the committed

criminal act is infringement of moral rights of authors and interpreters. Preliminary proceeding is currently under way.

### **Commercial Court**

In the period from 1 January 2017 to 20 October 2017 Commercial Court received 183 cases in the area of protection of intellectual property rights, out of which for 74 cases final decision was passed or the case was settled in other way, whereas the remaining cases are undergoing first instance procedure. Those cases primarily refer to protection of rights of trademarks and music authors' rights protection. Average duration of the procedure regarding those cases is from three to six months.

### **Police Administration**

Police Administration did not press any criminal charge related to the intellectual property right.

### **Customs Administration**

In the period from 1 January to 18 October 2017 Customs Administration terminated 38 customs procedures and temporarily seized 1,955 pieces of goods. 109 requests for taking measures for the protection of intellectual property rights submitted by the right holders, were adopted, out of which 15 work requests, two requests were rejected and one procedure was suspended.

5,664 pieces of goods were destroyed under customs supervision.

In addition, since 10 January 2017 Decree on Treatment of the Goods by Customs Authority for Which There is Reasonable Doubt to Breach Intellectual Property Rights (Official Gazette of Montenegro 48/16) has been effective. The Regulation is mostly harmonised with the Regulation of the European Parliament and of the Council 608/2013 concerning customs enforcement of intellectual property rights and Commission Regulation 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights. The Regulation along with annexes is available on the Customs Administration website. With the aim of uniform and regular treatment, detailed Instruction for customs officers on the Regulation application was developed.

### ***Administrative capacities***

Officers of the Customs Administration participated in four training programs related to recognition of counterfeit goods, protection of intellectual property rights, organised by EUIPO, WIPO and EUROPOL. In addition, in Alicante, Conference "Counterfeit of toys and video games" was held from 9 to 11 November 2016, and it was organized by EUROPOL

and EU Office for Intellectual Property (EUIPO) from Alicante. One officer of the Customs Administration of Montenegro participated in conference.

## **3.8. CHAPTER 8: COMPETITION**

### **3.8.1. Antimonopoly Policy and Concentration**

#### *Legislative Framework*

The adoption of the Law on Amendments to the Law on the Protection of Competition is covered by the Government's Agenda for the fourth quarter of 2017. The amendments were initiated with the aim of forming a single body to carry out activities related to the protection of competition and control of state aid. Namely, the relevant amendments, among other things, provide for the competences and procedures of the State Aid Control Commission will be placed under the competence of the Competition Protection Agency.

This will enable state aid control activities to be carried out within existing institutional arrangements without any extension of the network of regulatory bodies.

Amendments were also initiated for the purpose of alignment with the provisions of the Law on Administrative Procedure.

Although the amendments to the Law do not relate to alignment with the EU acquis, they essentially improve the area of Chapter 8 through the formation of an operational independent state aid authority.

#### *Capacity for Implementation and Application*

The Agency has continuously improved qualitative and quantitative administrative capacities. In this respect, during the reporting period, five civil servants were employed at the Agency, of which four in professional and one in general service.

At the moment, including the director, there are 17 civil servants employed in the Agency, of which eight of them are involved in the protection of competition.

#### *Concentrations*

The Agency issued a total of 30 decisions on the approval of the concerned concentrations.

The Agency received a total of 26 applications for issuing a concentration permit. 20 applications from the current period were resolved. Ten decisions were issued to approve the concentration of market participants, based on the items transferred from the previous period. In addition, six applications are in the procedure.

The authorized persons, upon the order of the Director of the Agency, went for an unannounced control of the business premises of a legal entity, in order to collect the data necessary for further action by the Agency upon the application for concentration.

One Decision on concentration approval was subject to initiating an administrative dispute, following the actions of the interested parties. The Administrative Court of Montenegro overruled the decisions in question and confirmed the legality of the Agency's conduct.

### ***Prohibited Agreements and Abuses***

The Agency adopted two decisions, namely: one decision for abuse of dominant position and one decision for a prohibited-cartel agreement

#### ***Decision on abuse of dominant position***

The Agency initiated and completed the process of investigating possible acts of abuse of dominant position, undertaken by the Port of Kotor JSC in the market for the provision of pilotage services within the relevant geographic market of the Boka Kotorska Bay.

The Agency adopted a Decision that established that the "Port of Kotor JSC", exercising their exclusive right as a concessionaire within the waters of the Port of Kotor, abused their dominant position by conditioning the agents and shippers to engage the Port of Kotor JSC for pilot services, in any case when the Port of Kotor was the port of the ship's destination and departure. By the same Decision, the Agency prohibited any future action by which the "Port of Kotor JSC" could prevent, restrict or distort competition by abuse of dominant position in the manner described.

The Agency also ordered a measure under Article 59 of the Law on Competition Protection in proportion with the committed violation, in order to eliminate the harmful consequences and to establish effective competition on the market, as well as the deadline for its enforcement. As mentioned above, the "Port of Kotor JSC" acted within the given deadline. The "Port of Kotor JSC" filed a lawsuit against the aforementioned ruling to the Administrative Court and the appeal proceedings are pending. A motion for initiation of a misdemeanour procedure against the legal person and the responsible person in the legal person was filed to the Misdemeanour Court - the District Court in Kotor, which was dismissed by the Court's decision.

An appeal against the ruling of the Misdemeanour Court in Kotor was filed to the High Court for Misdemeanours. The High Court of Montenegro accepted the appeal of the Agency, abolished the decision of the Court for Misdemeanours in Budva - the District Court in Kotor and returned the case for reconsideration and decision making.

#### ***Decision due to Cartel Agreement:***

The Agency initiated and terminated the investigation of competition violations initiated ex officio against the business entities "URION d.o.o." from Podgorica, and "Montemedicom d.o.o." from Podgorica, in order to determine whether the Agreement on joint participation in the public procurement procedure of the Health Insurance Fund was valid. In this connection, the Agency adopted a Decision determining that the business entities "URION d.o.o." from Podgorica and "Montemedicom d.o.o." from Podgorica, violated the competition in the relevant public procurement market of RTG films and consumables - wet technology, radiography films, x-ray films, x-ray developers, x-ray recorders, on the geographic market of Montenegro.

It was found the objective or effect of the Agreement was to have a higher price offered in the specific public procurement, as a result of the agreement reached, for each product than it would have been in the case of individual bid of each participant in the prohibited agreement, and that the business entities were obliged to make the decision on the price and the conditions of the sale alone and independently from their competitors.

The same Decision also found that the agreement was banned and null and void. The Contracting Parties "Montemedicom d.o.o." and "Urion d.o.o." were prohibited to further apply and implement the agreement in question, and they were ordered to notify the relevant measures of the Agency to the Health Insurance Fund, while providing evidence of execution of the order.

A motion was filed to the Misdemeanour Court in Podgorica to initiate misdemeanor proceedings against the participants in the prohibited agreement. By the decision of the Misdemeanour Court in Podgorica, the party in the proceedings "Montemedicom d.o.o." was acquitted, because no evidence was presented to the Court about the advertising of the prohibited agreement. Against the aforementioned decision, the Agency filed an appeal to the High Court for Misdemeanours.

"Urion d.o.o." initiated an administrative dispute against the aforementioned decision. The Administrative Court issued a judgment rejecting the claim, i.e. confirming the legality of the Agency's conduct.

Also, in the proceedings of prohibited-cartel agreements, in 2017, after a motion filed for the initiation of a misdemeanor procedure, the Misdemeanour Court adopted a decision issuing a warning to the legal person "Safran doo", while a fine of €600 was imposed on the responsible person in the legal person.

Three applications for individual exemption of agreements from the ban were filed to the Agency. The Agency approved an exemption for *Phillip Morris Montenegro LLC and Neregelia LLC Podgorica*. The second application for *Coca-Cola Hellenic Bottling Company-Serbia, LLC Belgrade*, will be decided upon the submission of an application for concentration approval, since there was no obligation to submit an application for individual exemption, while the third procedure regarding the application submitted to the

Agency by the *Bavaria NV* of the Netherlands and related persons *Trebjesa Niksic LLC*, is on-going.

Also, seven initiatives were submitted to the Agency to investigate the violation of competition, of which the proceedings are ongoing for three initiatives, while the investigation procedure was completed for four initiatives.

- An initiative was submitted to the Agency for the Protection of Competition by the business entity "*Lima*" *doo Niksic*, requesting the taking of measures to protect competition in the market for the provision of taxi services in the relevant area of Herceg Novi Municipality because the allegedly competitive firm raised the prices of their services, which were drastically higher than prices in other and surrounding municipalities.

Consequently, the Agency conducted a procedure for analysing the conditions of competition in the market for the provision of taxi services within the relevant geographic market of the Herceg Novi Municipality, with the aim of determining the manner of functioning and analysis of the conditions of competition in the relevant market.

The Agency determined that the *Program of Organizing Taxi Transfers in the Territory of Herceg Novi Municipality up to 2020*, which was issued without the consent of the competent authority of the Municipality, allowed the disturbance of efficient competition on the market of passenger transport in the territory of Herceg Novi Municipality at the expense of citizens, i.e. service users and to the benefit of the existing participant in that market, which organized their business as a business entity, rather than as an individual service provider.

Based on the foregoing, Herceg Novi Municipality was instructed to adequately determine the conditions of participation in the relevant market, either by providing the conditions of competition between a large number of independent natural persons / entrepreneurs, within the defined number of car taxis, or creating conditions for participation of a large number of business entities with a limited number of vehicles and in a transparent licensing process, which would enable the creation of more efficient competition based on the parameter of price, quality and security of service provision.

- "TEA MEDICA" Podgorica LLC addressed the Competition Protection Agency with the initiative to initiate a procedure for determining the violation of competition in the retail medicine market by concluding an agreement preventing, limiting or distorting competition or exercising abuse of dominant position.



The applicant stated that the closure of a significant part of the retail medicine market, solely in the interest of the undertaking "Montefarm", violated Montenegro's obligations under the international treaty with the EU Member States, as specified in Articles 72, 73 and 74 of the Stabilization and Association Agreement, and also violations of Articles 8 and 15 of the Law on Protection of Competition.

Understanding the content and purpose of the Initiative, as well as the existing problems in the work of the participants in a defined market and the limitations in business, the Agency has no jurisdiction to conduct any proceedings against the Fund which carries out the delegated affairs of the Health Policy of Montenegro, nor can it in any way affect the health policy implemented by the Ministry of Health and the Fund, in accordance with the needs of the insured, since the Agency does not have the competence to initiate the procedure of amending the regulations in force, and it has no jurisdiction to act in the case where the other applicable regulations established the rights and obligations of each market participant, where there is control over the implementation of these statutory regulations, as in this case by the Ministry of Health. Within the scope of its competence, within the meaning of Article 19 paragraph 2 item 10 of the Law on Protection of Competition, the Agency may only issue opinions in relation to the applicable regulations affecting or potentially affecting competition, or issue opinions on the proposed text of amendments to the legislative framework and within its competence established by law.

In this regard, the applicant was referred to health policy holders to provide preconditions for achieving equal conditions of business on the defined relevant retail market for medicines in pharmacies in the territory of Montenegro, irrespective of ownership and management.

- By reviewing the initiative submitted by *"KIPS" DOO Podgorica* and due to the application of unrealistically high prices for waste transport by the public sanitation company *"Čistoca" DOO Podgorica*, which did not correspond to the market criteria and the actual value of the services rendered, which resulted in violation of Article 15, paragraph 1, items 1) and 3) of the Law on Protection of Competition, the Agency determined that the Capital City, by the statute, established public services, bodies and organizations for carrying out activities within the scope of competence of the Capital City. In this regard, the Agency does not have the authority to review the decisions of the competent municipal bodies, as the founder of the service provider concerned. Also, the Agency has no authority to regulate any service or product price to any economic entity. Thus, the Agency is not in charge of pre-regulating the price of any participant, even a presumptive monopolist, but merely has the possibility to conduct proceedings for acts of abuse of dominant position which may be double - actions

aimed at exploiting consumers or actions with a view to foreclosing competitors or preventing development competition in the market.

Regarding the allegations of the existence of the damage and the extent of damage caused by the existence of only one authorized participant in the market with delegated activities, the Agency notes that it has no jurisdiction to determine the damage on that basis, but in accordance with the Law it was the exclusive jurisdiction of the Economic Court of Montenegro, in litigation.

- *"TERRA Montenegro" doo*, Podgorica, submitted to the Agency an initiative to investigate the violation of competition reading that the competition right to participate in a tender was violated, which was published by the "Water Utility Pljevlja", in the manner that part of technical characteristic included a description of the necessary machinery and equipment that could only be offered by one manufacturer, thus excluding all other manufacturers, i.e. bidders from that tender.

With respect to the Initiative in question, it was determined that there was no basis for initiating proceedings by the Agency, and the applicant was instructed to request the protection of their rights from the State Commission for Control of Public Procurement Procedures, pursuant to the provisions of the Law on Public Procurement (Official Gazette of Montenegro [42/11](#), [57/14](#), [28/2015](#) and [42/17](#)).

- The initiative for the investigation of the violation of competition was filed by *"M-tel"*, on suspicion that "Total TV Montenegro", through the related company "Serbia broadband - Serbian Cable Network" d.o.o. from Belgrade, violated competition in the audio-visual media services market in the territory of Montenegro in such a way that a legal entity that had the approval to distribute media content in Serbia, offered their "satellite broadcasting equipment", through their Total platform TV Serbia, in the territory of Montenegro or, in the slightest sense – did not prevent the use of their equipment in the territory of Montenegro. The Agency for Electronic Communications and Postal Services, the Agency for Electronic Media and "Telemach" d.o.o, which was the person related to "Total TV Montenegro", were asked for an opinion on the subject matter. Further activities are ongoing.
- Broadcasting Centre LLC filed an Initiative to initiate proceedings for determining a violation of the Law on Protection of Competition against the company "Telemach" d.o.o from Podgorica, and related persons who, according to the allegations of the initiative, abused the dominant position in the bid for the distribution/re-broadcast of audio visual media content.

*Further action from the Agency level is ongoing.*

- "Crnogorski Telekom A.D" filed an Initiative for investigating violation of competition against the Company Telemach LLC from Podgorica, and related persons.

The Initiative reads that Telemach LLC and its affiliated persons abused the dominant position in a manner that they received no answer to a number of requests for the submission of offer for the distribution / re-broadcasting of audio visual media, the channel Sport Club, to the company United Media, as the owner of the channels, and Telemach. The exception was the reply of Telemach dated 19 January 2017, in which the applicant was informed that they were not a holder of the rights to Sport Club channels, for which reason they were not able to bid for the re-broadcast of the channels concerned, and they were referred to United Media Network AG from Switzerland.

Following both initiatives, the applicants, the Agency for Electronic Communications and Postal Services, the Electronic Media Agency and Telemach LLC, were required to submit a statement and documents.

Further examination is ongoing.

Six actions were confirmed and one decision was annulled by the Administrative Court, following lawsuits on procedural and substantive matters.

An application for protection of legality against a decision of the High Court for Misdemeanour was filed to the Supreme Public Prosecutor's Office.

A constitutional complaint was filed to the Constitutional Court against the decision of the High Court for Misdemeanours.

The Supreme Court received a response with the case files after the application for extraordinary review of the judgment of the Administrative Court, confirming the Agency's decision.

The Agency monitors and analyses the conditions of competition in the market of certain branches of industry, with the aim of determining the functioning of the market in which the business is carried out, thus conducting a procedure for analysing the conditions of competition in the following markets: petroleum and petroleum products, import and distribution of sugar and edible sunflower oil, the market for perfumery, cosmetics and hygiene products, the sale of pet food, the provision of services by driving schools, the production and sale of ice cream and frozen food (fruit, vegetables, fish, meat, pasta, ready meals) in the territory of Montenegro and in the market of providing stone carving services in the territory of Budva Municipality.

Most of the prepared analyses are the basis for initiating proceedings.

In addition to the submitted initiatives, analysing the conditions of competition in the market and the markets of certain sectors of the economy, and after obtaining the data and documentation, against a certain number of market participants, the conditions for initiating the procedure were ex officio met due to established doubts about the existence of market competition.

However, due to the necessity of harmonization of certain provisions of the Law on Protection of Competition with the Law on Administrative Procedure, procedures under the competences of the Competition Protection Agency cannot be initiated, and in particular, the Agency can not apply for initiation of misdemeanour proceedings against certain market participants to the competent misdemeanour court.

In the direction of further activities from the level of the Agency, it is necessary to wait for the adoption procedure and urgent application of the Law on Amendments to the Law on Protection of Competition, so that the Agency can undoubtedly carry out the tasks within its competence, whereby preconditions will be created for launching already prepared decisions for violations of competition. In this connection, by analysing the conditions of competition in the pet food market, based on the data collected, it was found that there were no indications indicating any possible violation of competition in the market.

The Agency issued one opinion on drafts of the relevant market analysis submitted by the Agency for Electronic Communications and Postal Services.

An application for issuing an opinion on insurance was filed to the Agency, and in relation to the application and interpretation of the Law on Competition Protection. However, the Agency cannot, on the basis of the submitted data, issue an opinion as to whether there was a potential restriction of competition in public procurement procedures, and they were referred to request information from the competent authorities in the insurance sector and public procurement procedures.

In addition, at the request of the parties, the Agency issued four opinions on the application of regulations in the field of competition protection.

The Agency, beyond the procedures initiated, investigated the competition conditions in the financial market, the food products market, consumer goods, and in particular the pharmaceutical products market, after which activities it would decide on further procedures regarding the possible initiation of the procedure.

The EBOR approved the Technical Assistance Project to the Agency, which would start, after formal declaration by EBOR, at the end of the current year or beginning of 2018.

### **3.8.1.2. State Aid**

#### ***3.8.2.1. Harmonization of Legislation and Institutional Setting***

In order to further strengthen the authority of bodies exercising control of state aid, the Draft Law on Amendments to the Law on Protection of Competition and Draft Law on State Aid Control were prepared, which received a positive review of the EC on 13 July 2017, and 11 October 2017. A new institutional framework for the State Aid Control Authority will be proposed by the mentioned legal solutions, which will include, inter alia, detailed procedures in front of this body and the competent court, the provisions on refunding the unlawful and incompatible state aid, the procedures for subsequent harmonization of all existing state aid measures, as well as criminal provisions.

Also, the Draft State Aid Law paid particular attention to regulating the procedure for collecting information in order to carry out subsequent controls of the aid granted.

#### ***3.8.2.2. Capacity for Implementation and Application***

The State Aid Department at the Ministry of Finance was preparing documents for the State Aid Control Commission and issued 10 decisions:

- six decisions on the compatibility of state aid, on the basis of notified schemes of state aid;
- two decisions on harmonization of legal acts (legal regulations and bylaws) with the rules of state aid;
- one conclusion on the notified individual state aid, and
- one decision on the compatibility of state aid, upon reported individual aid.

On 12 October 2017, the Government adopted the Annual Report on granted State Aid in 2016.

In terms of transparency, in 2016, as in previous years, the State Aid Control Commission regularly published on its website all its decisions as well as legal acts in the field of state aid that were adopted by the Government and the Ministry of Finance.

## **3.9. CHAPTER 9: FINANCIAL SERVICES**

### **3.9.1. GENERAL READINESS FOR MEMBERSHIP**

#### ***3.9.1.1. Banks and financial conglomerates***

The existing regulatory framework in Montenegro, within the meaning of financial services and control of institutions, is based on a high level of compliance with the Directive

2008/48 (Basel II). The establishment of credit institutions – banks is regulated by the Law on Banks (Official Gazette of Montenegro 17/08, 44/10, 40/11). Banks may be founded by domestic and foreign legal persons and/or natural persons under equal terms and conditions. Banks and other credit institutions from other countries, including the Member States, cannot provide services directly to the territory of Montenegro. A cross-border provision of services in Montenegro by banks from the Member States or other countries can be done only through branch offices that are established in Montenegro. For any operation of foreign banks in Montenegro through a branch office established in Montenegro, banks that are founders of branches must have a prior approval by the Central Bank of Montenegro, which is issued under the Law on Banks.

The Central Bank is a competent authority for issuance of licences and approvals for banks, as well as for the supervision of their operations. Terms and procedures for issuance of bank licences are regulated by the Law on Banks (Granting a licence – Articles 21 to 28) and they are entirely harmonised with the Directive 2004/48/EU.

On 25 October 2017, with a view to a more comprehensive regulation of non-banking financial institutions, the Parliament of Montenegro adopted the Law on Financial Leasing, Factoring, Purchase of Receivables, Micro-Credit and Credit and Guarantee Matters. In addition to the regulation of financial services (micro-credit and credit and guarantee matters), this Law regulates other most important financial services (leasing, factoring, repurchase of receivables), as well as the establishment, business operations and supervision of companies providing such financial operations. The operational independence of the Central Bank of Montenegro, as a competent authority for bank supervision, is regulated by the Law on the Central Bank of Montenegro (Official Gazette of Montenegro 40/10, 46/10 and 06/13) which stipulates the status, objectives, functions, operations and organisation of the Central Bank of Montenegro.

Obligation of banks to maintain capital adequacy is stipulated by the Law on Banks (Articles 70 and 71) and by the Decision on capital adequacy (Official Gazette of Montenegro 38/11, 55/12), which are harmonised with the Directive 2006/48/EC and 2006/49/EC. In accordance with these regulations, the solvency ratio maintained by a bank on a solo or consolidated basis must not be less than 10%. Since the regulation governing the banking operations has not been harmonized with the Directive 2013/36/EC and the Regulation 575/2013/EC (Basel III), there are no prescribed ratios of liquidity or leverage for banks.

The deposit guarantee scheme in Montenegro is regulated by the Law on Deposit Protection (Official Gazette of Montenegro 44/10, 40/11 and 47/15). The Deposit Protection Fund is a specialised institution, founded in accordance with the Law, with the aim to provide insurance of deposits held with banks and to provide efficient, simple and

fast reimbursement of deposits to depositors of a failed bank in Montenegro up to the guaranteed amount. Insurance of deposits includes deposits of natural and legal persons, both residents and non-residents. All types of deposits opened in the name of the owner are insured, including their transaction accounts, current accounts and deposit savings accounts. Exceptions to the protection of deposits are stipulated by the Law on Deposit Protection, Article 6 paragraph 2, and in line with the prevailing standards in the world. In case of a bank failure, the Deposit Protection Fund guarantees a payment of up to EUR 50,000.00 per depositor, regardless of the number or type of deposit in a bank and within 15 days following the occurrence of the protected case. All banks licenced by the Central Bank are automatically included in the deposit insurance system. Banks are obliged to pay a deposit insurance premium to the Fund.

The existing regulatory framework does not regulate the area of bank recovery, nor has a separate authority for recovery of banks been established. Solving of problems of troubled banks is regulated by the Law on Banks (Official Gazette of Montenegro 17/08, 40/11). This Law defines the authority of the Central Bank to impose measures against banks, including the ones that essentially represent remedial measures for banks.

In the accession process to the EU, among other things, Montenegro has assumed the obligation to align its legislation with the Directive 2014/59/EU of the European Parliament and the Council establishing a framework for the recovery and resolution of credit institutions and investment firms ("BRRD"). Alignment with this Directive is to be carried out within the framework of two legislative projects, by adopting a new Law on Recovery (recovery procedure initiation, recovery plans, recovery procedure, measures and instruments of recovery, recovery funds etc.), and partly within the adoption of amendments to the Law on Banks (a part of BRRD that regulates matters under the authority of the banking supervision authorities and which includes plans for bank recovery, financial assistance within the banking group, and supervisory measures of early intervention). Drafting of these laws is underway.

### ***3.9.1.2. Insurance and occupational pensions***

Article 30 of the Law on Insurance stipulates terms and conditions for insurance companies to obtain licences. Any insurance company may be granted a licence to operate regardless of whether the founders are domestic or foreign legal or natural persons.

Companies may establish branches both in and outside the country borders; however, any establishment of branches is subject to obtaining of an approval; should the companies have any intention to establish branches beyond the borders of Montenegro, they would need to fulfil conditions prescribed by laws of the country where the branch is to be established.

Domestic insurance companies are licenced to carry on insurance business in Montenegro, and any cross-border provision of these services would be subject to prior authorisation by the Agency and to an appropriate authorisation of the supervisory authority of the country where the insurance company intends to engage in insurance businesses.

At the same time, any foreign company that does not have a branch in the country with a licence from the Agency, cannot provide insurance services in the territory of that country without a physical presence (branches of insurance companies), except in cases which are stipulated as exemptions in Article 6 of the Law on Insurance.

Foreign companies in Montenegro can carry on business through branches which do not have a status of a legal person. Conditions for obtaining of an authorisation for a foreign company are prescribed by Articles 42 to 45 of the Law on Insurance. Supervision over branches is carried out in accordance with provisions pertaining to all shareholder companies with registered office in Montenegro and they have the same rights in terms of provision of insurance services as any other domestic company.

Article 30 of the Law on Insurance prescribes terms and conditions for obtaining an authorisation for business operations.

Those are the terms and conditions regarding the following:

- Minimum share capital:
  - a) EUR 2,000,000 for a company engaged in non-life insurance activities, excluding insurance of liabilities – general liability insurance and motor vehicle liability insurance, surety insurance and credit insurance,
  - b) EUR 3,000,000 for company engaged in non-life insurance activities including insurance of liabilities – general liability insurance and motor vehicle liability insurance, surety insurance and credit insurance,
  - c) EUR 3,000,000 for company engaged in life assurance activities.
- Professional qualifications of persons managing the company (qualified holders);
- Professional qualifications of persons having managing roles – board of directors and executive director;
- Contents of a business plan and founding documents;
- Organisational, staffing and technical capacity of the insurance company for pursuit of insurance activities.

The Law also prescribes other liabilities of companies – capital, technical provisions, solvency margin, depositing or investment of funds, audit, actuary and internal audit, and establishes conditions for distribution of insurance services through representation and



mediation, as well as the approvals that are necessary for companies to be able to make decisions and implement activities.

Insurance terms and conditions and insurance premium rates are made by insurance companies according to their own business strategies. The obligation to report to the Agency about terms and conditions and premium rates has not been established for the purpose of granting of approval. The Law prescribes the obligation to submit terms and conditions, insurance premium rates and technical conditions within 15 days following the day of their adoption.

The exception to this rule is in the segment of motor vehicle insurance which is regulated by a separate law. Since the market in Montenegro is not entirely deregulated yet, the Agency suggested a return to the regulated market by 1 January 2021 in the Proposal of amendments to the Law on Mandatory Motor Vehicle Insurance that has been submitted to the Ministry of Finance. This proposal is based on the results of analyses of two independent actuaries, which were submitted by the Insurance Association, and which refer to the fulfilment of terms and conditions for the liberalisation of motor vehicle insurance at the market of Montenegro. These analyses suggest that the fall of an average insurance premium rate of motor vehicle insurance, which may arise as a consequence of a deregulation of prices of the insurance, would lead to a significant negative impact to the operations of insurance companies engaging in that type of insurances, having in mind the size of motor vehicle insurance in total portfolio of insurance companies.

To support the proposal of the Agency the following facts are to be taken into account:

- Full effects of the applied bonus-malus system, adopted in early 2015, are expected in the period 2020-2021;
- As of 1 February 2017, premium rate of motor vehicle insurance has reduced by 7,5% following the initiative of the Agency;
- A number of companies engaged in motor vehicle insurance have been in the business for less than 10 years, and they need more time to establish reliable and comprehensive databases, with the aim to have a more precise definition of premium rates and technical provisions.

As of the day of EU accession, the market of motor vehicle insurance will be completely deregulated.

Supervision of insurance companies is performed by the Insurance Supervision Agency – an independent regulatory body. Independence is ensured in a way that the government does not have any authority on the activities of the Agency, in the part of supervision or in the sense of control of the general acts of the Agency nor in the election of the management staff. The Agency submits its annual reports and plans to the Parliament. The Agency is

managed by the Council, whose members may not be members of the Parliament, members of local parliaments, high government officials, officials of political parties, or persons with interest in legal entities that are subject to the Agency supervision, nor any other person whose integrity has been compromised by criminal verdicts. The Securities and Exchange Commission is responsible for the supervision of professional and voluntary pension funds.

### ***3.9.1.3. Infrastructure of the financial market***

The mechanisms of protection of investors in the securities settlement system are governed by the Law on Securities, the Rules of the Central Depository Agency of Montenegro and by the Instructions on exemption of clients' accounts from means of coercive collection.

The first of the mechanisms of reduction of the systemic risks is regulated by the Article 82 of the Law on Securities, which stipulates that investment intermediaries are obliged to keep the assets of clients on a separate account, the so-called "Client Account", which is separated from the assets of the investment intermediary and which is created for the purpose of trade in accordance with the orders made by the clients. Funds on clients' accounts can be used solely for payments under instructions given by clients. Funds on accounts are owned by clients, not by authorised participants, they do not make a part of property of authorised participant, nor a part of the liquidation or bankruptcy, and cannot be used for collection of receivables of the client.

When it comes to securities, in accordance with Article 82 of the Law on Securities, the investment intermediary is obliged to open a separate account with the Central Depository Agency to keep the securities intended for trade in accordance with the clients' orders. Furthermore, Article 93 of the Law on Securities stipulates that the securities and monetary assets of the members of the Central Depository Agency do not make a part of its property, nor a part of the liquidation or bankruptcy, and cannot be subject to court enforcement against the agency.

In accordance with Article 74 of the Law on Securities, the Commission may revoke the licence to the investment company once a decision on liquidation or bankruptcy has been passed. A suspension or revocation of the licence does not affect the realisation of transactions with securities concluded before the suspension or revocation of the licence, in which one of the parties is a person whose licence has been suspended or revoked, nor to the right, obligation or liability arising from such transactions.

With the aim of additional protection of funds of clients, the Commission has adopted the Instructions on exemption of clients' accounts from means of coercive collection. These Instructions regulate the method of exemption from coercive collection of accounts on which the authorised participant at the market of securities and the custodial bank hold their monetary assets that the client deposits to pay for the securities.

In accordance with Article 98 of the Law on Securities, the Central Depository Agency has established the Guarantee Fund to insure the monetary assets for fulfilment of failed monetary obligations from the contractual settlement, be it a temporary or permanent failure. Through the funds of the Guarantee fund, members jointly guarantee for the performance of net monetary obligations arising from the calculation for contractual settlement of securities' transactions up to the amount of funds paid to the Guarantee Fund.

#### ***3.9.1.4. Securities market and investment services***

According to the current regulation (Article 77b of the Law on Securities), foreign investment companies may establish branch offices in Montenegro to carry out securities operations on the grounds of a licence issued by the Commission. The branches are subject to the provisions of the Law on Securities which pertain to the investment companies and to the provisions of the Law on Business Organisation in a part that refer to parts of foreign companies.

The Securities Commission is authorised to regulate and supervise the issuance of securities and their trade (including the regulated markets), as well as to issue the licences and supervise operations of companies for collective investments.

The collective investments companies are subject to prior licence by the Securities Commission. The Law on Investment Funds regulates the conditions for establishment and business operations of investment funds and investment fund management companies.

According to the Law on Securities, the Central Depository Agency registers the dematerialised securities, clearing and settlement of the transactions that included dematerialised securities, as well as any other activity related to the dematerialised securities.

Issuance of licences to investment companies is regulated by the Law on Securities and by the Rules on issuance of licence to authorised participants at the securities market.

According to the Rules, founders of authorised participants submit to the Commission an application that contains:

- 1) Name and registered office of the authorised participant;
- 2) Information about the intended types of operations with securities;
- 3) The date of signing of the association act, and the date of the founding assembly;
- 4) Name and registered office of the authorised participant;
- 5) The amount of cash and non-cash founding capital of the authorised participant;
- 6) Data about acting director as follows: name and surname, birth date, professional qualifications, length of service and professional background before the date of application, as well as whether that person has been convicted of a criminal offence against the official duty or the economy.

In addition to the application for issuance of licence to authorised participants, the founders are to submit the following documents to the Commission:

- 1) the association act of the authorised participant, along with copies of a registration of founders from the court registry, or, in case when a bank submits the application, an agreement on foundation of the bank and the approval by the Central Bank for activities of an authorised participant;
- 2) statute of the authorised participant, or statute of the bank with any subsequent amendments that allow for the activities of an authorised participant, in case when the bank submits the application;
- 3) rules of an authorised participant;
- 4) description of activities and plan for work for the next two years;
- 5) evidence that the sole activity is the one of an authorised participant with securities, except in the case when the request is filled in by a bank;
- 6) evidence that the founders of the authorised participants have provided, in accordance with the association act, a capital contribution in the amount of at least: EUR 10,000 for an investment advisor, EUR 25,000 for broker; EUR 125,000 for dealers and investment managers; EUR 250,000 for underwriters or an equivalent in property and rights or even above that amount, with defining of each role of every founder and total number of their shares;
- 7) evidence of origins of funds, if the founder is a foreigner;
- 8) decision on registration in a court registry of the majority founder (who holds shares with nominal value that is equal or higher than 25% of the value of share capital or who has or controls 25% of more votes at general shareholders' meetings) and balances of the founder's businesses (balance sheet and income statement) as of 31 December for annual report of the previous year;
- 9) evidence on technical and technological equipment for activities of the authorised participant;
- 10) evidence on organisational and staff competences for the activities of authorised participant, along with the draft rulebook on organisation and systematisation and with the data about persons who hold special authorisations and responsibilities;
- 11) evidence that the authorised participant would have as minimum two brokers, dealers or investment managers with full-term employment;
- 12) evidence about the method of providing of the adequate business premises for activities of the authorised participant;
- 13) statement by a minimum of two founders that they intend to conclude an agreement with the authorised participant;
- 14) authorisation for a person with whom the Commission is to cooperate in the process of issuance of the approval;
- 15) evidence of payment of a fee to the Commission.

### **3.9.2. Implementation of activities from October 2016 to October 2017**

#### **3.9.2.1 Normative framework**

Based on experience with the implementation of the Law on Voluntary Financial Restructuring of Debts towards Financial Institutions that was adopted in 2015 with a two-year deadline for implementation, the Parliament adopted the Law amending the Law on Voluntary Financial Restructuring of Debts towards Financial Institutions (Official Gazette 37/17).

These amendments extended the deadline for the implementation of the Law for another year. The Law extended the scope of loans that can be subject of the agreement of restructuring; moreover, the process of restructuring has been further simplified along with further tax incentives to debtors with the aim to stimulate restructuring of debts.

In terms of the implementation of this Law, with the aim of strengthening of new regulatory solutions for credit restructuring, the Central Bank adopted the Decision on minimum standards for credit risk management in banks on 3 July 2017 (Official Gazette 44/17). These amendments to the Decision required the banks to inform the Central Bank about all initiated restructuring processes, their results and the measures that the Central bank may undertake against banks that do not consider every possible instrument of restructuring.

The data about the effect of implementation of the Law on Voluntary Financial Restructuring of Debts towards Financial Institutions show that during the first four months following the adoption of its amendments, the loan restructuring in accordance with this Law was executed by 7 out of 15 banks, in the amount of EUR 10,1 million, where the loans of legal entities make 97,4% and loans of natural persons make 2,6%.

The Montenegrin insurance market, although at a relatively low level (penetration at 2,12% of GDP), has made continuously positive trends, so the gross invoiced premium in 2016 grew by 4,2% and in period 1 January – 31 August 2017 the growth was 2,8%.

On 29 September 2017, the Council of the Insurance Supervision Agency adopted the following:

- Rulebook on contents of reports, notices and other data submitted to the Insurance Supervision Agency and on method and deadlines of their delivery (Official Gazette of Montenegro 63/17), and
- Rulebook on more detailed conditions for transfer of operations of businesses of insurance companies (Official Gazette of Montenegro 63/17).

On 26 October 2017, the Government defined the Proposal of the Law on Capital Market.

The Law on Capital Market changes entirely the existing Law on Securities and regulates the trade in financial instruments, the establishment and business operations of all participants at the capital market, and provides for a more transparent, safer and efficient functioning of the capital market, promotes protection of clients and ensures a more adequate and efficient supervision of the market.

The Law is aligned with EU directives and decrees regulating this area and sets a solid foundation for further alignments with the implementation directives and regulatory-technical standards.

The Securities and Exchange Commission adopted the following pieces of secondary legislation:

- Rules on contents, deadlines and methods for drafting and delivery of financial reports of issuers of securities (Official Gazette 83/16). The purpose of the adoption of the Rules is harmonisation with the Law on Accounting (Official Gazette 52/16);
- Rules on amendments to the rules on method of block trades (Official Gazette 12/17 from 24 February 2017). The purpose of the adoption of the Rules was to enhance the supervisory function of the Commission.

On 29 September 2017, the Commission adopted a set of strategic documents:

- Programme for year 2018;
- Financial plan for year 2018;
- General plan of controls for year 2018, and
- Employee training programme for year 2018.

The Commission informed the Central Depository Agency and the Montenegro Stock Exchange about the findings and recommendations of the FSAP mission for financial infrastructure (IMF/World Bank). In line with the findings of the mission, the Commission has begun with the implementation of the proposed improvements.

### **3.9.2.2. Administrative capacities**

The Central Bank works continuously on improvement and strengthening of the administrative capacities through various forms of technical bilateral cooperation. Furthermore, the Central Bank maintains regular contacts with the EU institutions and with central banks of the EU Member States with a view of a successful preparation for accession to the European system of central banks.

Twinning project "Support to regulators of financial services" is at its final stage of preparation; the project will be funded from IPA 2014 which is to begin by the end of the year at the latest. This is a highly important project for the Central Bank as it will

contribute to further alignment of the supervisory and regulatory framework with the EU legal framework and strengthen administrative capacities in this field.

The Insurance Supervision Agency has 23 employees, including the director and chairman of the Council. The Council has a president and two members who are appointed for a five-year term and may be re-appointed.

The Insurance Supervision Agency, in line with the available funds, continuously provides for the professional trainings of its employees in the fields of insurance, actuaries, audits, accounting, information technologies etc.

As a body with competences in the area of consumer protection and anti-money laundering and counter-financing of terrorism, the Agency keeps a close eye to the regulations and provides professional trainings of its employees, so the employees had one training each in one of the areas during the period 1 October 2016 – 20 October 2017.

In October 2016 in Ljubljana, the representatives of the Securities and Exchange Commission signed the Declaration on cooperation with regulators of capital market from the region (Slovenia, Croatia, Bosnia and Herzegovina, Republic Srpska, Serbia and Macedonia). Basic objective of the Declaration is to establish and maintain fair, efficient and stable capital markets. The Declaration envisages the establishment of a Permanent conference of national capital markets regulators and establishment of permanent working groups dealing with current market capital issues.

The Securities and Exchange Commission and the Agency for Prevention of Corruption signed the agreement regulating the mutual cooperation in the exchange of information and data in the procedures for determination of conflict of interest and monitoring of the property of public officials.

### **3.10. CHAPTER 10: INFORMATION SOCIETY AND MEDIA**

#### **3.10.1. GENERAL READINESS FOR MEMBERSHIP**

##### ***3.10.1.1. Electronic communications and information technology***

##### **Laws and regulatory provisions for securing the fair trade and consumer protection**

The Law on Electronic Communications (Official Gazette of Montenegro 40/13, 56/13 and 02/17) defines that a consumer is any natural person who uses or requests a publicly available electronic communications service for the purposes which are outside his or her business activity (Article 4 paragraph 1 item 24 of the Law on Electronic Communications).

Exercising and protection of rights of users of public electronic communications services is carried out in accordance with the Law, Article 147 paragraph 3:

The user of public electronic communications services is particularly entitled to:

- 1) the access to public electronic communications network, within eight days from the date of application, provided that this is technically feasible;
- 2) the unobstructed use of publicly available electronic communications services of declared quality, availability and safety, at publicly available prices;
- 3) an itemized bill, for the provided services, which enables a clear overview of items and verification of the calculated amount of the provided service or an non-itemized bill, if the user requests it;
- 4) protection of secrecy of electronic communications in accordance with this Law and the law regulating data confidentiality, protection of personal data and protection of undisclosed data and
- 5) exercising of other rights in accordance with the Law.

Aside from this, the Agency for Electronic Communications and Postal Services ("Agency") has developed an online application for customer assistance when choosing the electronic communication services i.e. the Calculator – an interactive tool for comparing of offers of public electronic communication services in the landline and mobile telephony segment, access to internet, distribution of TV and radio programmes (AVM content) and combined packages of such services (Article 150 paragraphs 1, 4 and 5).

Articles 151 and 153 of the Law protect the customers since the Agency controls subscriber agreements and determines whether they comply with the Law and thus provide for the protection of subscribers in this area.

According to Article 155, customer complaints that are most often sent via e-mail of the Agency relating to the speed and quality of internet are solved by the Agency by testing of the measurements in cooperation with the customers. The Agency has installed a solution on its web site that enables users to carry out testing of their speed of data transfers.

### ***Administrative capacities***

In November 2016, the Decree on amendments to the Decree on organisation and manner of the work of the public organisation was adopted (Official Gazette 73/16, 3/17, 19/17) which annulled the Ministry for information society and telecommunication, and by which the Directorate for electronic communications, postal services and radio-spectrum was transferred under the competence of the Ministry of Economy. The rulebook on internal organisation and systematisation of the Ministry of Economy was adopted in May 2017.

Within the Directorate for electronic communications, postal service and radio-spectrum there are two divisions – Division for electronic communications and radio spectrum and the Division for postal services. The Directorate has a total of 9 employees together with the general director.



There are 5 positions envisaged by the systematisation in the Division for electronic communications and radio spectrum: manager (one person) and senior advisor I (four persons – one vacant position).

The administrative capacities of the Agency consist of 71 employees, and five of that number account for the members of the Council – chairman and four members. The remaining 65 employees are with the following qualification structure: 7 lawyers, 13 economists, 28 electrical engineers, 1 teacher of English language, 1 civil engineer, 1 graduate of political science, 1 Bsc, 1 with tertiary education and 12 with secondary education.

### **Independence of the regulator**

According to the Law on Electronic Communications, the Agency is an independent regulatory authority which, by exercising public authorities in the area of electronic communications, performs regulatory and other tasks stipulated by the Law. In performing regulatory and other tasks, the Agency may not accept or ask the instructions from state and other bodies and organizations or other persons (Article 8 of the Law to the Electronic Communications).

The Law on Postal Services (Official Gazette of Montenegro 57/11 and 55/16) stipulates in Article 102:

Universal Service Operator ensures sustainability of provision of universal postal service from the funds realized through: - revenues realized through provision of universal postal service.

If the funds referred to in paragraph 1 of this Article cannot cover net costs for the provision of universal postal service, the funds missing, i.e. the losses in provision of universal postal service shall be provided from the compensation fund of the Agency.

If the funds referred to in paragraph 2 of this Article cannot cover net costs for the provision of universal postal service, the funds missing, i.e. the losses in provision of universal postal service shall be provided from the funds of the Agency.

If the funds referred to in paragraph 3 of this Article cannot cover net costs for the provision of universal postal service, the funds missing, i.e. the losses in provision of universal postal service shall be provided from the state budget.

Right to obtain missing funds for coverage of losses in provision of universal postal service shall be realized based on a verified net calculation.

In the case of compensation of net costs of the universal postal services, no excessive fee can be paid for the provision of universal postal service.

The Government made a proposal to compensate the net costs from the compensation fund of the Agency and the funds missing to be compensated from the budget; however, members of the Parliament made a proposal of amendments to that provision saying that majority part should be provided from the funds of the Agency while any funds missing should be provided from the Budget. According to the members of the Parliament, the Agency within its own internal regulations may define any re-grouping of funds, with the aim of provision of universal postal services, except that it cannot be done on the account of the electronic communications. In addition, electronic communications will not be done to cover the net costs of postal services because the Law on Electronic Communications defines that funds from postal services must be differentiated in the accounting.

If the annual statement of the Agency shows that total revenues of the Agency exceed the total expenditures, the resulting surplus will be allocated to a separate account and may be used solely for fulfilment of legal obligations of the Agency in the following calendar year; thus no funds are sent to the state budget.

The Law amending the Law on Electronic Communications (Official Gazette 02/17) deleted the provision by which the Parliament was competent to dismiss the Council of the Agency in case the financial statements are not adopted.

### ***Functioning of a single European number 112 in Montenegro***

According to the Law on Electronic Communications, the operators of public telephone networks shall provide to all users free-of-charge calls to the Single European Emergency Call Number "112". The operator shall deliver promptly and free-of-charge, to the Operational Communication Centre, all available data on calls made to the "112" number and other emergency service numbers. The operator shall enable the user to generate the call to the Single European Number "112", in other ways, particularly via Short Textual Messages.

Article 142 of the Law on Electronic Communications stipulates as follows:

(1) The operators of public telephone networks shall provide to all users free-of-charge calls to the Single European Emergency Call Number "112" in accordance with the Numbering Plan, including public pay telephones.

(2) The operator referred to in paragraph 1 of this Article shall deliver, where technically feasible, promptly and free-of-charge, to the Operational Communication Centre, all available data on calls made to the "112" number and other emergency service numbers, in particular personal data on subscriber, the calling number, time and duration of the call and the location from which the call was made.

(3) Manner and conditions for introduction of the Single European Emergency Call Number "112" and the quality of service parameters for calls to that number shall be prescribed by

the Ministry, with the approval of state administration body in charge of protection and rescue.

(4) The operator shall enable the user to generate the call to the Single European Number "112", in other ways, particularly via Short Textual Messages (hereinafter referred to as: SMS).

(5) Service quality parameters referred to in paragraph 1 of the Article hereof, their limiting values and methods for measuring shall be prescribed by the Ministry.

(6) The Agency, in cooperation with the state administration body in charge of protection and rescue, shall inform the citizens of the existence and use of Single European Emergency Call Number "112" in an appropriate and publicly available manner.

In Montenegro, calls to number "112" are received at the Operational Communication Centre 112 (OCC 112), which is a part of the Department for emergency situations at the Ministry of Interior, and they are forwarded to an appropriate emergency service: the police, service for protection and rescue, medical emergency service and service for safety at sea. These services can still receive phone calls from national numbers of emergency services: 122, 123, 124 and 129. By October 2015, calls to number 112 were received only through the OCC 112 in Podgorica. The OCC 112 is currently organised for regions – Central region with headquarters in Podgorica, Southern regions with headquarters in Bar and Northern region with headquarters in Bijelo Polje. Should there be any problem with any of the centres, all calls are taken over by another properly functioning centre. OCC 112 in Podgorica, Bijelo Polje and Bar work in shifts (24 hour shifts). In 2016 and 2017, OCC 112 centres were lined with working and back-up links so their reliability and security of their work has been improved. A step forward was made in terms of locating of calls to OCC 112. Hence, depending on the type of network the caller used (2G, 3G, 4G, LTE), the operators are now able to determine the caller's location within 1000m-300m in radius.

From time to time, OCC 112 holds meetings between operators of mobile and landline telephony (Montenegrin Telecom, Mtel, Telenor and Telemach) and the Agency.

In 2014, the Rulebook for access to number 112 for persons with reduced mobility and persons with disabilities was adopted. Since the Law amending the Law on Electronic Communications was adopted in 2017, which, among other things, deleted the term "reduced mobility" in order to be compliant with the law, the Ministry of Economy in cooperation with the Ministry of Labour and Social Welfare have adopted the Rulebook amending the Rulebook for access to number 112 for persons with reduced mobility and persons with disabilities. Persons with disabilities still enjoy special measures and benefits in using the services of the universal service.

## **Strategy for the development of the information society and broadband access**

The Strategy for the development of the information society in Montenegro by year 2020, which is coordinated by the Ministry of Economy and the Ministry of Public Administration, each within their own field of competences, was adopted on 21 July 2017. The first Action plan for the implementation of the Strategy for the development of the information society in Montenegro by year 2020 was adopted on 30 March 2017. The Strategy for the development of the information society has identified strategic development directions with key indicators of success. As one of the basic prerequisites for further social and economic development of Montenegro i.e. a transition to a digital society, it is necessary to provide accessibility of a broadband access as follows:

- basic broadband access ⇒ coverage: 100% of population by year 2018,
- high speed broadband access (30 Mbit/s or more) ⇒ coverage: 100% of population by year 2020,
- ultra- high speed broadband access (100 Mbit/s or more) ⇒ use: 50% of households by year 2020.

This will be achieved by building an electronic communication network that will enable high speed broadband access. For a major step forward in accessibility of high-speed broadband internet it is necessary to increase the investments into NGA networks and expand the NGA networks to suburban areas and partly to rural areas. It is necessary to make conditions for smooth development of modern electronic communication networks, through incentives of investments, adequate planning, simplifying of the administrative procedures for obtaining special licences and permits for construction of electronic communication networks and for provision of the necessary resources for the frequencies for the development of the electronic communication networks. Also, it is necessary to make conditions for the cost reduction for construction of the NGA network, by ensuring joint use of the existing electronic communication infrastructure, the availability of information about electronic communication infrastructure (register of connections, database about electronic communication infrastructure, mapping of accessibility of broadband access and its speed) and public construction works (a single information point about public works), coordination of works and construction of installations in facilities that enables a high-speed and ultra-high-speed access to internet.

### ***Infrastructural access to the duct and the scope of facility sharing***

The shared use of electronic communications infrastructure and associated facilities is stipulated in Articles 53, 54 and 55 of the Law on Electronic Communications, and in other regulations adopted in accordance with the Law. Owners of electronic communication infrastructure submit to the Agency on quarterly basis all data about the infrastructure telecommunication and cable ducts, antenna posts and buildings and other facilities. The

owners of this infrastructure are operators who use it to provide electronic communication services. The Agency has developed the system of mapping of the electronic communication infrastructure with the aim to improve the efficiency of data transmission and to inform the operators about the available electronic communications infrastructure. This system uses 11 operators. Shared use of the electronic communication infrastructure is regulated by contracts between the operators and is represented by:

- 498, 970m of the telecommunication cables
- 233 antenna poles
- 174 building/facilities

### **3.10.1.2. Services of the information society**

#### ***Digital agenda for Europe***

When it comes to compliance with the Digital Agenda for Europe and the Digital single market strategy, Montenegro has the Strategy for the information society development until year 2020. This document defines strategic directions of development in the area of information society. The document is divided into chapters that have been identified as key steps to achieve the EU standards in this field, namely: broadband infrastructure, cyber security, human capital, digital business, e-education, e-health, e-inclusion, e-government and research, innovation and development. The above-mentioned chapters are tackled through the European and the national context, the strategic development tools and the indicators that will serve as a kind of benchmarks of the information society development in Montenegro.

#### ***Digital skills***

The Strategy for the development of the Information Society 2012-2016 defined the number of ICT graduates to be up to 30% of the total number of graduates until year 2016. During the period 2011-2015, a total of 14,490 students graduated from Montenegrin universities, out of which 1,208 students graduated from ICT programmes i.e. 8,3% of total graduates thus leaving this task undone, as it indicates the deficit of ICT skills in Montenegro.

In terms of digital skills, by the end of March 2016, as many as 8,290 citizens of Montenegro started the process of certification in IT skills under the ECDL standards, and a total of 7,721 citizens gained the ECDL certificate. The project "Introduction of ECDL standards into education system" that was completed in June 2014, established the ECDL test centres in the Examination Centre and in the Human Resources Administration which take over the role of centres for ECDL trainings and certification in the system of education and in state administration of Montenegro.

### ***Data security and privacy protection in the sector***

The personal data protection is provided under terms and conditions of the Law on Personal Data Protection (Official Gazette 79/08 and 70/09), and in accordance with the principles and standards from the international agreements on human rights and fundamental freedoms and the generally accepted rules of the international law. The Agency for Personal Protection was established in accordance with the provisions of this Law as a supervisory authority. The Agency is autonomous and independent in carrying out its businesses.

### ***Compliance with the Directive 2016/1148***

In compliance with the Directive 2016/1148 **concerning measures for a high common level of security of network and information systems across the Union, the following activities have been implemented: adoption of the Strategy on Cyber Security 2013-2017, which recognized the key goals that were implemented through the Action plan.** The Ministry of Public Administration is a competent authority for cyber security and within it there is the National CIRT team whose function is to coordinate and respond to threats, attacks and challenges in cyber space; the Ministry has implemented the activities planned within the establishment of local CIRT teams in Montenegro. A total of 31 local teams have been established in state bodies and 6 local teams in the private sector that cooperate with members of the national CIRT in matters of protection from security incidents online. In line with the amendments to the Law on Information Security (Official Gazette 40/16) critical information infrastructure has been defined, and the regulations for protection of critical information infrastructure are underway.

The procedures for data security have been defined in line with the Decree on measures of the information security (Official Gazette 14/10, 55/15) and the Rulebook on computer and communication resources on the network of state bodies (Official Gazette 34/13).

The implementation of the Single information system for electronic exchange of data commenced on 11 September 2017 in accordance with the Law on Electronic Government (Official Gazette 32/14) and the Decree on the content and method of data management in a Single information system for electronic data exchange.

### ***Compliance with the Regulation 910/2014***

The Law on Electronic Identification and Electronic Signature was adopted on 12 May 2017 (Official Gazette of Montenegro 31/17). The Law is aligned with the Regulation 910/2014 of the European Parliament and the Council (eIDAS).

### **3.10.2. Implementation of activities from October 2016 to October 2017**

#### **3.10.2.1. Electronic communications and information technology**

##### **Normative framework**

The Strategy for the development of electronic communications is a part of the Strategy for the information society development in Montenegro 2016-2020. On 30 March 2017, the Government adopted the first Action Plan for the implementation of the Strategy for the information society development in Montenegro until year 2020.

The Law amending the Law on Electronic Communications was adopted on 29 December 2016 (Official Gazette of Montenegro 02/17). By the amendments to the Law, the alignment was done with the Montenegro Report – independence of the regulator and with the rules of state assistance and with Chapter 8 – Competition policy. As the expression "persons with reduced mobility" was deleted from the Law, there were two changes of rulebooks – the Rulebook on the types of benefits and special measures for access to public electronic communications services for persons with reduced mobility and persons with disabilities (Official Gazette of Montenegro 43/14) and the Rulebook on special measures and benefits for persons with reduced mobility, as well as for persons with disabilities, including access to the number "112" and to the emergency services (Official Gazette of Montenegro 42/14) with the view of alignment with the law, and the persons with disabilities still have special measures and benefits in the use of services of the universal service.

A work group was established for the development of the Law on measures to reduce costs of deploying of high-speed electronic communication networks, with the view of alignment with the Directive 2014/61/EU of the European Parliament and Council from 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks. The adoption of the Law is planned for the IV quarter of 2017.

The Agency adopted the Rulebook amending the Rulebook on methods and deadlines for the implementation of security measures and the integrity of the electronic communication measures and services (Official Gazette of Montenegro 81/16) and the Rulebook amending the Rulebook on the method of assessment of the price of services and special packages of the universal service for socially disadvantaged persons, persons of reduced mobility and persons with disabilities (Official Gazette of Montenegro 13/17).

The Plan on radio-frequency spectrum allocation was adopted on 30 March 2017 (Official Gazette 32/17) and it implemented decisions of the World Radio communications Conference from 2015 (WRC2015). The Plan complies with the European table of Frequency Allocations.

On 20 December 2016, the Agency adopted the Plan of allocation of radio frequencies 146-174 MHz for PMR/PAMR systems (Official Gazette of Montenegro 81/16).

On 3 March 2017, the Agency adopted the Plan of allocation of radio frequencies 440-470 MHz for PMR/PAMR systems (Official Gazette of Montenegro 24/17).

On 25 May 2017, the Agency adopted the Decision on amendments to the Plan of allocation of radio-frequencies for digital radio-broadcasting (Official Gazette of Montenegro 34/17), the Plan of allocation of radio frequencies from the range 87,5-108 MHz for FM radio (Official Gazette of Montenegro 34/17), the Plan of allocation of radio frequencies from the range 87,5-108 MHz for FM radio (Official Gazette of Montenegro 34/17) and the Plan of allocation of radio frequencies from the range 526,5-1606,5 kHz for AM radio (Official Gazette of Montenegro 34/17).

### **Track record**

The Agency ordered the Montenegrin Telecom to harmonise their prices of relevant services with the results of the cost model from 25 December 2016 in a way to reduce the prices of the voice telephony by 30%, the cost of calls to mobile networks by 45% and the cost of international calls to all zones and types of network by 25%. The Montenegrin Telecom acted as instructed and applied all set prices and published the new price lists.

On 22 October 2016, the Agency instructed the operators Montenegrin Telecom, Telenor and M-Tel, i.e. operators with significant market power on the wholesale market of calls that end up in mobile networks and on wholesale market of access and originating of calls from public mobile networks, to reduce the cost of those prices by 10%.

In 2017, the Agency continued with monitoring of the Implementation of accounting separation and cost accounting in accordance with the CCA/LRIC methodology for year 2016. The Operators submitted their revised financial statements on 30 June 2017.

### **Analyses of relevant markets**

According to the Programme of work and the Operating plan, the Agency adopted the Decision on the analyses of relevant markets, as per recommendation of the European Council from 9 October 2014 *on relevant product and service markets* within the *electronic communications* sector susceptible to ex-ante regulations. The decision was delivered to the operators and to the Agency for protection of competition. After the operators – Montenegrin Telecom and Telenor submitted their objections, the Agency responded to that. According to the opinion of the Agency for protection of competition, on 28 December 2016, following the consultations, the Council of the Agency adopted the Decision on relevant markets. The Decision defined the relevant markets susceptible to ex-ante regulations. Having adopted the Decision, the Council opened the Public consultative process for these documents on 29 June 2017 which lasted until 31 August 2017.



Montenegrin Telecom, Mtel and Telenor delivered comments to the documents. On 15 September 2017, responses to the comments made by operators were submitted to the Council for the adoption. Following the adoption, drafts of the Decision of the above mentioned markets have been made and they are to be discussed by the Council.

On 14 February 2017, the Agency adopted the Decision on initiation of a public offering for allocation of radio-frequencies from range 3400-3600 MHz for the implementation of the public landline/mobile electronic communication network. In accordance with the Decision on initiation of the public offering, the public offering was implemented through the method of the auction of spectrum in the single round sealed bids auction. After the list of qualified bidders was established, the auction was carried out on 29 March 2017 in the format, as per the procedure and rules from the Decision on the initiation of the public offering and the Documents for public bid. The process ended on 3 April 2017 by making a Decision on the choice of bidder MTEL doo Podgorica, as the first-ranked bidder to which the frequency resources were allocated for a five-year term.

With the view of implementation of decisions from the WRC2015 in terms of releasing the range of 700 MHz for the mobile services, with the exception of airline mobile services, the Agency changed the working channel for the company Radio and Broadcasting Centre in the Decision from 19 May 2017 on the amendments to the Approval for audio-visual media services upon request, and changed the channel into the allotment in Tvrđas, from RF channel 49 to RG channel 46. On 27 June 2017, and on the basis of this Decision, the Agency adopted the Approval for the use of radio-frequencies for the allotment zone Tvrđas and thus gave an approval to that company to use the channel 46 instead of channel 49, for a period until 1 July 2029. The company Radio and Broadcasting Centre completed the transition from channel 49 to channel 46 in the allotment zone Tvrđas and the range 694-790 MHz has been made free from use by the radio broadcasting service from 1 August 2017.

With the view of providing of the additional spectrum for further development of the mobile communication networks and services, on the level of CEPT were identified ranges 694-790 MHz, 1452-1492 MHz, 2300-2400 MHz, 3400-3600 MHz and 3600-3800 MHz for the implementation of MFCN (TRA-ECS) system (included the IMT technologies). The Plan of work for year 2016 envisaged a development of a study that was to show whether it was possible to implement the MFCN (TRA-ECS) systems, and LTE/LTE advanced mobile communication networks in these ranges, having in mind the current status of the use of these ranges in Montenegro. To this regard, the Agency published the Tender documents for an open call of public procurements for the provision of service of the development of a study on likelihood of the use of radio frequencies from the range 694-790 MHz, 1452-1492 MHz, 2300-2400 MHz, 3400-3600 MHz i 3600-3800 MHz for IMT systems. Following the conducted process of the public procurements, the agreement was concluded with the

Institute for development and research in the area of protection at place of work. The study was delivered to the agency on 21 August 2017.

### ***Geo-referenced database of electronic communication infrastructure***

The geo-referenced database and the internet portal for mapping of electronic communication infrastructure was completed on 25 November 2016. The geo-referenced database and a web portal for mapping of electronic communication is in function and is currently being used by 11 operators. The 11 operators have submitted their data about antenna poles and buildings and other facilities, and about electronic communication equipment. Only two operators delivered data about the telecommunication cable channels, and Montenegrin Telekom, a majority owner of these channels in Montenegro, is to deliver the required data after a research of its telecommunication cable channels.

### ***Electronic registration of users***

The amendments to the Rulebook on method of the registration of users of public electronic communication services from 30 September 2016 allowed for the electronic registration of users of mobile telephony as well. The Agency and the mobile telephony operators reached an agreement to introduce the electronic registration of prepaid mobile service users and after nearly a year long development of a special application for mobile phones, the infrastructure was provided and the electronic registration began with the implementation as of 25 May 2017.

All points of sale of the authorised distributors of SIM card service providers are equipped with mobile phones with an installed application for user registration. This is the first application of its kind in the region and among the first ones in Europe. This application will minimise any mistakes or misuses that may arise from the process of registration of users.

During the first month of registration, as of 25 May 2017 and until 3 July 2017 a total of 30,731 users were registered.

### ***Latest market data (landline, mobile, internet, broadband, services of transferability)***

As of 30 September, total number of landline connections was 147,365. Out of this number of users, a total of 126,733 active connections related to natural persons (86%), and 20,632 active connections (14%) related to legal persons. There has been a reduction of users by 0,44% from the beginning of year 2017 until 30 September 2017.

By 30 September 2017, the number of mobile telephony users in Montenegro amounted to 1,140,709 which corresponds to the penetration of 183,98%. In the period from the beginning of the year and until 30 September 2017, the number of users increased by 9,6%.

Total number of fixed broadband connections to the internet was 134,597 on 30 September 2017. Out of the total number of users, the natural persons accounted for 123,647 active connections (91,86%), and the legal persons accounted for 10,950 connections (8,14%). As per technology: xDSL=42,69%, KDS-HFC=27,21%, FTTx=23,41%, WiFi=4,30%, WiMAX=2,33% and the satellite =0,06%. For the period from the beginning of the year and until 30 September 2017, there was a growth of users of 14,46%.

Since the launch of the option of a number transfer, as many as 31,643 numbers have been transferred until 30 September 2017; out of this number there were 6,890 transfers in the landline telephony and 24.753 numbers in the mobile telephony. From the beginning of the year and until 30 September 2017, a total of 5,895 numbers were transferred, out of which 2,814 in the landline telephony and 3,081 in the mobile telephony.

### ***Complaints, lawsuits (by users)***

In the area of protection of users of the public electronic communication services, a total of 296 complaints of the users of public electronic communication services were received, out of this number 83 complaints were fully adopted, 4 of them were partially adopted and 103 complaints were rejected; 7 complaints were processed to other authorities and in 92 cases the users withdrew their complaints.

### ***Controls performed at operators***

The supervision department carried out a total of 172 controls during the period 1 January-30 September 2017.

### ***3.10.2.2. Services of the information society***

#### **Normative framework**

The Law amending the Law on Free Access to Information was adopted on 12 May 2017 (Official Gazette of Montenegro 30/17) thereby normative prerequisites for the reuse of information in the machine readable code has been met. The Directive 2013/37 on the reuse of public-sector information was transposed through the Law.

Under the Law amending the Law on the Information Security (Official Gazette of Montenegro 40/16), the Government established the Council for the information security that coordinates activities and advises the Government on all important matters in the field of cyber security on 9 June 2017.

The Action plan for the implementation of the Strategy for development of the information society in Montenegro by year 2010 was adopted on 30 March 2017.

### ***Statistics***

According to the plans of establishing of new services, as many as 240 services have been uploaded to the Portal of e-government, where 130 services refer to natural persons and 110 services to legal persons. Since 1 January 2017, as many as 48 new services have been designed.

As many as 111 public discussions have been uploaded on a special page e-Participation, which is a public system that allows commenting and upload of documents.

### **International cooperation**

The cooperation with the OECD continued through the participation of the Ministry of Public Administration in development of the regional publication "Competitiveness in South-East Europe".

Several activities were carried out under the TAIEX technical assistance plan, which provided technical assistance to the EC in the field of the Ministry: a study visit about the topic "Legislation in relation with the critical IT network infrastructure" (March 2017), a study visit about the topic "E-accessibility of the Government web site" (April 2017), a study visit about the topic "Role, responsibility and CERT work procedures in emergencies" (May 2017), a study visit about the topic "Open data portal" (October 2017).

Through the NATO SPS programme in cooperation with the NATO school from Oberammergau, two training sessions were organised to cover the topic of cyber security for 30 civil servants. Two courses lasting ten weeks were organised: M6-108 Network Security Course and M6-109 Network Vulnerability Assessment and Risk Mitigation Course. A special study visit to relevant institutions for cyber security of the Great Britain (London, 9-10 October 2017) was organised by the UK Embassy in Podgorica.

#### ***3.10.2.3. Audio-visual policy***

##### ***Achieved results***

In accordance with the Rulebook on allocation of funds from the Fund of the Agency for Electronic Media of Montenegro ("Agency") for assistance to commercial radio broadcasters, the fourth contest for allocation of funds of EUR 150,000 was organised. According to the agreed criteria, the Council of the Agency made a decision on 26 September 2016 as follows:

- EUR 75,000.00 to be allocated for nine annual grants to incite the share of own production in the overall programme structure of radio broadcasters,
- EUR 75,000.00 to be allocated for 33 programme grants to increase the volume, structure and diversity of contents dedicated to special topics of public interest.

On 27 December 2016, the Council of the Agency released the Report on allocation of funds from the Fond of the Agency for assistance to the commercial radio broadcasters in this public contest.

At the beginning of March 2017, the legal framework for the establishment of the Fond of the Agency for assistance to the commercial radio broadcasters ceased to exist as well as the competences of the Agency to collect and allocate funds from proceeds from radio receivers. With reference to this, the Decision of the Constitutional Court of Montenegro that came into force on 3 March 2017 (Official Gazette of Montenegro 14/17) repealed Article 270 paragraph 1 item 5a and Article 270a of the Law on Road Transport Safety (Official Gazette of Montenegro 33/12 and 58/14). The repealed provisions (Article 270a) had stipulated that each vehicle owner in Montenegro, with a built-in radio receiver in their vehicle must pay a EUR 2 fee for the use of a radio receiver on the occasion of the official registration of their vehicle, and (Article 270 paragraph 1 item 5) a vehicle can be registered only with an evidence of a paid fee for use of the radio receivers in the vehicle. Furthermore, the Law stipulated the competence of the Council to allocate funds from the Fund of the Agency once every six months as a form of assistance to the commercial radio broadcasters, on the basis of a public contest and in accordance with a special act.

Having in mind the amount of unallocated funds that were deposited to the Fund of the Agency for assistance to the commercial radio broadcasters before the entry into force of the Decision of the Constitutional Court of Montenegro, the Council announced the fifth contest for allocation of funds worth EUR 264,280.78 on 8 May 2017. The contest was suspended on 20 June 2017 in order to ensure that the work and decisions of the Council align with the principles of objectivity, transparency and non-discrimination. A dispute was brought before the Administrative Court against the suspended decision on annulment of the contest. The procedure is underway.

In February 2017, the Agency adopted the Media literacy development programme that foresees a number of activities in the development and promotion of media literacy in Montenegro over the next three years.

The Decision on adoption of the financial plan along with the work plan of the Agency in 2017 (Official Gazette of Montenegro 2/17 from 31 January 2017) was adopted on 29 December 2016; the Conclusion on acceptance of the report on financial operations and the Activity report of the Agency for year 2016 was adopted on 2 June 2016 (Official Gazette of Montenegro 37/17 from 14 June 2017).

In the second half of 2016 and in early 2017, the Agency has conducted several public contests for the granting of rights for broadcasting of radio programmes. Three contests were announced in the second half of 2016 and one in the first half of 2017.

Following the conducted public contests for the granting of rights for broadcasting of radio programmes, the Agency issued six new licences for broadcasting of the general radio programme and prolonged 13 previously issued licences for radio broadcasting. Among them, five broadcasters expanded the services of their radio programmes.

Furthermore, six broadcasters reduced the services of their radio programmes by abandoning certain frequencies or platforms with conditional access.

The Agency signed the protocol on debt rescheduling with seven broadcasters and has conducted the coercive collection against six broadcasters (two of those are completed). During the reporting period, four bankruptcy proceedings ended all four of which had been initiated before.

In the period June-December 2016, the Agency received a total of 66 complaints for the work of TV broadcasters. In the proceeding of first instance, 45 complaints were rejected, 15 of them were accepted and the same number of warnings was issued. Five complaints were dismissed. The Agency was not in charge to consider one of the complaints, and six complaints were included in a total of three conclusions.

Between January-October 2017, a total of 21 complaints were submitted to the Agency for the work of TV broadcasters and one complaint to the work of cable operators.

During the period January-October 2017, the Agency issued: three warnings to broadcasters for violating of programme standards or copyrights, 30 warnings for lack of payment of broadcasting fees, 1 warning to the cable operator for violating of copyright and similar rights.

In accordance with the Law on Electronic Media (Articles 61 and 63), the Rulebook on conditions related to the minimum programme quotas for European audio-visual works and independent production stipulated the requirements the national TV broadcasters (covering a minimum of 75% of population in more than 10 units of local self-government) must meet to reach the defined quota within five-year term.

Having in mind this, as well as the need to develop the practice of monitoring and reporting on the fulfilment of these obligations, the Agency worked side by side with the national broadcasters on strengthening of the capacities for timely and accurately recording of the participation of these works in the broadcast programme. In addition to this, data submitted by the media were analysed and the following conclusions were made:

- Broadcasters TV Pink M (50,93%), TV Vijesti (51,46%) and TV Prva (52%) fulfil the quota for the European audio-visual works. Other national broadcasters (TVCG1, TVG2, TV Atlas) did not deliver the requested data.

- TV Broadcasters TV Pink M (2,45%) and TV Vijesti (3,54%) submitted the requested data about the participation of the audio-visual works of independent producers. The analyses of the submitted data showed they did not meet the prescribed quotas for these works. Other national broadcasters (RTCG1, RTCG2, TV Atlas, TV Prva) did not deliver the requested data.

The Council of the Agency adopted the Rulebook on organisation and systematisation of jobs in the Agency on 28 July 2017 (No 01-1080 as of 28 July 2017). Currently there are 23 jobs in the Agency, including the position of the director, with a total of 24 members of staff. There is one vacant position. There was a reorganisation of jobs and a new unit was established – Public Relations and General Affairs (in addition to previously established units for legal and economic affairs and the sector for monitoring).

### ***International Cooperation***

Within the regional project implemented by the Council of Europe "Reinforcing judicial expertise on freedom of expression and the media in South-East Europe" (JUFREX), which is financed by the European Union and the Council of Europe, representatives of the Agency took part in the development of the publication "Media regulatory authorities and hate speech" which is available in English language too.

## **3.11. CHAPTER 11: AGRICULTURE AND RURAL DEVELOPMENT**

### **3.11.1. General readiness for membership**

#### **Horizontal issues**

A fully operational Agency for Payments in charge of implementing agricultural policy measures does not exist in Montenegro. According to the Rulebook on Internal Organisation and Job Descriptions of the Ministry of Agriculture and Rural Development, the Directorate for Payments is the Ministry's organisational unit that performs the tasks of an IPARD Agency, i.e. manages the payments from pre-accession funds for rural development and from the national budget.

The Rulebook on Internal Organisation and Job Descriptions of the Ministry of Agriculture and Rural Development provides for a total of 77 positions to be filled within the Directorate for Payments, which is divided into 6 directorates and 5 departments. Currently, out of the aforementioned number, a total of 43 positions have been filled and the current organisational structure and procedures are in compliance with the accreditation criteria as regards the division of tasks into authorisation, execution and accounting of liabilities, and the provision of conditions for application of the "four eyes" principle when performing these tasks.

The Directorate for Payments has met all the criteria for the conferral of management powers from the European Commission and accreditation is pending, as well as the signing of the Financing Agreement, based on which implementation of IPARD in Montenegro will officially start.

Montenegro does not have the Integrated Administration and Control System (IACS).

The legal basis that regulates the payment control system in agriculture comprises the Law on Agriculture and Rural Development (Official Gazette of Montenegro 56/09 and 34/14, 1/15, 30/17), Rulebook on the form and method of keeping the register of entities and the farm register (Official Gazette of Montenegro 16/14), Law on Registration and Identification of Animals (Official Gazette of Montenegro 48/15).

Registration in the Farm Register is mandatory for those farms that are submitting requests for the exercise of the right to incentives or support and producers of agricultural products destined for the market. The process of registration in the Farm Register is done automatically via a software application.

The IPA 2013 project called “Strengthening Montenegrin agriculture with establishing Land Parcel Identification System (LPIS)” is currently being implemented in Montenegro. The project aims at establishing a LPIS system in Montenegro by providing hardware and software infrastructure, as well as at recording new digital ortho-photos.

The pilot version of the software for LPIS was implemented in June 2017 and was used for unique identification of agricultural parcels on which organic farming takes place.

Following a successful implementation of the pilot project, development of a fully operational LPIS system that will enable unique identification of every agricultural parcel in Montenegro has been continued. The Geographic Information System, which represents the merging of cartography and database technology, will be established.

The final software version of the system is still being developed, introduction of the new digital ortho-photo map (DOF) into the LPIS system is being prepared, while the basis for the new DOF are aerial photos made in 2017.

The hardware infrastructure has been procured under the project LPIS and has been installed within the premises of the Directorate for Payment, while the next activity implies the installation of the final version of the software along with the new DOF.

The process of establishing the FADN system in Montenegro is in progress. A pilot FADN survey was conducted in the course of October and November 2016, which covered a total of 30 farms from different sectors of agriculture, throughout Montenegro, from which first data were collected, following which an IT framework was created for the future FADN system, as well as a database containing converted data (XML), which are used in the EU's



RICA1 database. The Ministry of Agriculture and Rural Development has sent an official request to the DG AGRI to join the EU's RICA system, to which an affirmative response was provided, following which the process of joining started.

Direct payments are defined by the Law on Agriculture and Rural Development (Official Gazette of Montenegro 56/09, 34/14, 1/15), Law on the Budget of Montenegro and the Decree on conditions, method and dynamics of implementation of agricultural policy measures – Agricultural budget (Agro-budget), which is adopted annually.

Under the agricultural budget for 2017, the amount of EUR 5,272,000.00 has been allocated for direct support measures, representing 31.2% of the total national budget.

Direct support is provided for plant production, livestock production, the dairy sector and for tobacco production.

When it comes to plant production, direct support is granted per hectare of cultivated land for all types of production. The minimum surface for support to production is 0.5 hectares, while the amount of support totals EUR 180 per hectare. In this way, gradual decoupling from production has been made, as well as the introduction of a simplified single payment scheme (SAPS - like) for arable, multi-annual and vegetable crops.

As far as the livestock sector is concerned, direct support is granted per head of cattle. The premiums per head for breeding cows and heifers (a minimum of three head of cattle) amount to up to EUR 70, while as regards breeding sheep and goats (a minimum of 30 head of cattle), the premiums for amount to up to EUR 8. Fees are provided for organised fattening as well.

Premiums for milk are granted in the form of payments per litre of bought milk and the amount of support depends on the quality and quantity of delivered milk. In order to encourage production of traditional products, a premium for farmers processing milk on farms has also been introduced.

Support to tobacco production is in the form of coupled payment and is per hectare of sown and/or planted areas of tobacco.

Out of the total direct support that amounts to EUR 5.272 million in 2017, a total of EUR 1 million, or 18.97% of total direct payments, is allocated for direct payments in crop production - which represent a simplified single payment scheme (SAPS-like) for arable, multi-annual and vegetable crops.

When it comes to the cross-compliance mechanisms, they are not being fully applied as provided for under the Common Agricultural Policy. As regards livestock production, animals that are in the support system must be identified with ear tags and registered in the database, while the animal owner must have a passport for that animal and must properly keep records in accordance with the Law on Livestock Breeding. Furthermore, it

is obligatory to adhere to the principles of good agricultural practice, regularly apply agro technical measures in plantations, and to maintain good agricultural condition of land.

The cross-compliance requirements are gradually introduced in order to enable the farmers to get better prepared for full fulfilment of the cross-compliance requirements.

When it comes to counselling in the field of agriculture, these two departments within the Ministry of Agriculture and Rural Development are in charge of giving advices in this field: Plant Production Counselling Department and Livestock Breeding Counselling Department.

The aforementioned departments function as counselling services for the entire territory of Montenegro and are divided into 7 regional centres. The counselling services imply the provision of support to farmers in preparing projects and requests for assistance from the national budget funds and pre-accession funds, organisation of educational workshops with a view to improving agricultural production, increasing competitiveness of farmers, increasing product quality, introducing food safety standards, applying good agricultural practice, applying innovations, new technologies, protecting the environment. In addition, the two departments organise and gather information necessary for the functioning of 'the Agricultural Market Information System (AMIS), as well as for the Farm Accountancy Data Network (FADN), and they also submit data to the National FADN Monitoring Committee and cooperate with the Economic Analysis Department.

### **Common market organisation**

The Law on Regulation of Agricultural Products Market of 3 August 2017 (Official Gazette of Montenegro 51/2017) is partially aligned with the provisions of the CMO Regulation 1308/2013.

The law contains provisions regarding market interventions, defines the products for which conditions for the placing on the market will be laid down. The provisions concerning producer organisations, associations of producer organisations and interbranch organisations, are almost fully aligned with the provisions of the CMO Regulation.

Furthermore, the Law contains provisions concerning contractual relations in specific sectors, which are mainly aligned with the provisions of the CMO Regulation.

The provisions concerning trade with other countries have been aligned where it was possible due to the obligations arising from Montenegro's membership in the WTO. Namely, it provides for the possibility of introducing automatically granted authorisations for the import of certain agricultural products, as well as the possibility of using one of the quota allocation methods.

Due to the specific characteristics of the olive growing sector, this area is defined by a special Law on Olive Growing and Olive Oil of 16 October 2014 (Official Gazette of

Montenegro 45/2014). By-laws regulate the olive oil standards, sampling method and analysis method, labelling and marking method, and they are all aligned with the EU rules.

The laboratory for chemical analysis of olive oil and the sensory analysis of virgin olive oil has been authorised.

There are currently eight olive growers associations in place in Montenegro. The associations are acting as non-governmental organisations and are not organised in the form in which such associations operate in the EU.

Standards in the wine sector are regulated by the Law on Wines of 1 July 2016 (Official Gazette of Montenegro 41/2016). This law is aligned with Regulation (EU) No 1308/2013. The European categories and definitions of grape and wine products have been fully adopted, the marketing year for the wine sector has been defined, as well as the content of the vineyard register and the method of register keeping and records keeping in the wine sector (records on the entry and exit of grapes and grape products, compulsory statements/declarations), oenological practices and methods of analysis, provisions on the labelling and presentation of wine.

The basis for geographic tagging of wine is the Study on geographical zoning of wine-growing areas in Montenegro, which defines to which wine-growing zone (CI, CII, CIII, B) Montenegrin wine-growing areas belong to. Accordingly, oenological practices and restrictions/limitations in wine production have been laid down, and are fully aligned with the EU marketing standards.

When it comes to the fruit and vegetable sector, regulations have been passed defining the marketing standards for fresh fruit and vegetables, as well as for certain processed fruits and vegetables.

As regards the import/export quotas, Montenegro applies only preferential import quotas stipulated by certain free trade agreements. For now, these quotas are administered by the Customs Administration on the basis of the "first come, first served" system. Montenegro does not apply export subsidies nor is able to do so due to the obligations arising from the WTO membership.

As regards the level of alignment with market measures, we can say that the provisions concerning the regulation of the internal market have been aligned to a large extent (product coverage, conditions for introducing measures, etc.). When it comes to trade with other countries (quotas, export subsidies), alignment has been reached in the part where this was possible due to obligations assumed at international level.

At the moment, Montenegro is applying measures similar to the market measures being applied in the wine and honey sectors, while the measures similar to those for olive oil are granted to producers associations that are not organised in the form in which such

associations operate in the EU.

Support in the honey sector is provided from the agricultural budget under market-price policy measures, which include the control and suppression of varroa, honey quality control, restocking of beehives. Support to the wine sector has been for years provided from the rural development measures (investments for improvements in processing, winery infrastructure) harvest insurance (natural disasters, climate extremes and disease agents) restructuring and conversion of vineyards (assortment replacement and relocation of vineyards), promotion and popularisation of domestic wines (wine routes, fairs, commercial and tourist events).

### **Rural development**

The rural development policy is defined by the Agriculture and Rural Development Strategy that was adopted in 2015. The strategy defines the agricultural policy in the context of the EU accession policy. The main objective of the Montenegrin agricultural policy is to increase the competitiveness of production, increase productivity, increase arable land and to introduce the EU food safety standards in the primary sector and the processing sector. Fulfilment of these objectives is being achieved through implementation of rural development measures, funded under IPARD and from the national budget.

The Programme for Development of Agriculture and Rural Areas under IPARD II 2014-2020 (IPARD Programme) was adopted by the Government adopted on 10 September 2015.

Following the official request for entrustment of budget implementation tasks that Montenegro submitted to the European Commission on 14 August 2015 for two rural development measures, measure 1: "Investments in physical assets of agricultural holdings" and measure 3: "Investment in physical assets concerning processing and marketing of agricultural and fishery products", two audit missions were organised: one in the period 25-29 January 2016 and the second one in the period 28-30 June 2016. Findings showed that employees have a good knowledge of the procedures for the implementation of rural development measures.

In the course of September 2017, nine persons were employed within the Directorate for Payments and both issues were resolved after the official decision was adopted and the NAO Support Office assessed the quotation prices database and by this, the request of auditors had been met.

Besides the accreditation of the aforementioned measures, requests for accreditation of the following measures are being prepared: Technical Assistance and Diversification of Economic Activities.

## **Organic agriculture**

Organic farming in Montenegro is governed by the Law on Organic Agriculture (Official Gazette of Montenegro 56/13). The law is fully aligned with the Council Regulation (EC) No 834/2007 of 28 June 2007 on organic farming and labelling of organic products, which is being fully implemented, except for the provisions of the article concerning the imports from third countries and the use of the EU logo since it is not possible to apply those provisions until entry into the EU.

The Rulebook on detailed rules and conditions for organic plant and livestock production (Official Gazette of Montenegro 53/14) lays down in more details the rules and conditions for organic plant and livestock production, conditions for the use of permitted products and substances and how to use them, dosing and the time limit in which they can be used and the duration of the transition period (conversion). This Rulebook is fully aligned with the Commission Regulation (EC) No 889/2008 laying down detailed rules on organic farming and labelling of organic products with regard to organic farming, labelling and control.

The control system has been established through authorisation and accreditation of the control authority "Monteorganica". "Monteorganica" has been accredited by the Accreditation Body of Montenegro for performing control and for certification in organic agriculture in accordance with the requirements of the EN ISO/IEC 17065:2013 standard. Two laboratories performing necessary analyses in organic farming have been accredited in accordance with EN ISO/IEC 17025 standard. The control authority is supervised by the Ministry of Agriculture and Rural Development and the Accreditation Body of Montenegro.

Through the agricultural policy measures, the Ministry allocates funds for the development and promotion of organic farming. Payments are made per hectare in plant production and per livestock unit/bee hive in livestock production.

## **Quality policy**

As far as Montenegro is concerned, the quality policy area is governed by the Law on Quality Schemes for Agricultural Products and Foodstuffs (Official Gazette of Montenegro 22/2017), which is fully aligned with the Regulation (EU) No 1151/2012 and the Commission Delegated Regulation (EU) No 665/2014. The law regulates the manner and procedure for determining the quality schemes for agricultural products and foodstuffs, as well as the conformity assessment of agricultural products and foodstuffs with the specification of these products. The defined quality schemes for agricultural products and foodstuffs are: designation of origin; geographical indication; designation of traditional specialities guaranteed; "higher quality" mark; "mountain product" mark and "my farm product" mark.

Geographical indications of spirit drinks are governed by the Law on Spirit Drinks (Official Gazette of Montenegro 53/16), which is fully aligned with the Regulation (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

The Law on Wine (Official Gazette of Montenegro 41/2016) has introduced the PDO/PGI system for the labelling of wine, which is fully aligned with the geographical indication of wines in the European Union.

In accordance with the adopted laws, the request for launching the procedure for registration of quality schemes is submitted to the Ministry of Agriculture and Rural Development, i.e. the Directorate for Quality Schemes.

On 2 December 2016, the authority in charge of control and certification, "Monteorganica" LLC, was authorised by the Ministry of Agriculture and Rural Development to carry out the control and certification of quality schemes. "Monteorganica" LLC is undergoing the process of obtaining accreditation for the control and certification of quality schemes by the Accreditation Body of Montenegro, in accordance with the EN ISO/IEC 17065 standard.

### **3.11.2. Implementation of activities from October 2016 to October 2017**

#### ***Legislative framework***

The Parliament adopted the Law Amending the Law on Agriculture and Rural Development on 27 April 2017 (Official Gazette of Montenegro 30/17), which was published on 9 May 2017. The adoption of this law has created a legal basis for the establishment of certain components of the Integrated Administration and Control System (IACS) in Montenegro, such as the Land Parcel Identification System (LPIS) and the aid application system. Furthermore, these amendments created a legal basis for the adoption of necessary by-laws, which will define in more details the manner in which the abovementioned components will be established.

On 22 July 2017, the Parliament adopted the **Law on Organisation of Agricultural Markets** (Official Gazette of Montenegro 51/17), which entered into force on 11 August 2017.

On 28 March 2017, the Parliament adopted the **Law on Quality Schemes for Agricultural Products and Foodstuffs** (Official Gazette of Montenegro 22/17).

On 27 April 2017, the Parliament passed the **Law on Ratification of the International Agreement on Olive Oil** (Official Gazette - International Treaties 04/2017). By this, Montenegro has continued to be a member of the IOC, and has continued applying the standards set under this Agreement, which have been adopted in the EU as well.

On 21 September 2017, the Government of Montenegro passed the **Decision determining the wine-growing areas** (Official Gazette of Montenegro 65/17).

The **Rulebook on the list of agricultural products to be placed on the market** (Official Gazette of Montenegro 60/17) completely took over the list of products from Annex 1 of the Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

The **Rulebook on the content and manner of keeping the vineyard register** (Official Gazette of Montenegro 63/16) is aligned with the following regulations: Regulation (EU) No 1308/2013, Commission Regulation (EC) No. 436/2009[1] and the Commission Regulation (EC) No 555/2008 [2].

The **Rulebook on oenological practices for the production of wine and other products prepared from grapes** (Official Gazette of Montenegro 10/17) is aligned with the Regulation (EU) No 1308/2013 and Commission Regulation (EC) No. 606/2009 [3].

The **Rulebook on registration in the register of spirit drinks producers was** (Official Gazette of Montenegro 65/17) lays down the procedures and conditions for entering the producers of spirit drinks in the register.

The **Rulebook on the content and size of the organic farming sign** (Official Gazette of Montenegro 60/16) prescribes the content, size and the form of the organic farming sign, and the method of labelling organic food products and products from the transitional period.

The **Rulebook on detailed conditions and rules for the processing, packaging, transportation and storing of organic products** (Official Gazette of Montenegro 83/16) lays down detailed rules for entities engaged in the processing, packaging, transportation and storing of organic products.

The Ministry of Agriculture and Rural Development adopted the **geographical indication: "Njeguški pršut"**(Official Gazette of Montenegro 67/16).

The Ministry of Agriculture and Rural Development adopted the **designation of origin: "Pljevaljski sir"**(Official Gazette of Montenegro 36/17).

### **Track record**

Direct payments for all arable land have been introduced, which means that the activity under the Action Plan for alignment with the EU acquis for Chapter 11 has been implemented.

A public call for the measure "Investments in agricultural holdings - IPARD-like 1.2", under the "EU/IPA project of institution-building in agriculture and rural development in Montenegro - Trust Fund I (IPARD-like 1 project) ", was announced on 8 November 2016. A total of 168 contracts have been signed with applicants for the total amount of eligible investments amounting to EUR 4.2 million. The realisation of agreed investments is in

progress.

Under the project "Additional EU/IPA project of institutional-building in agriculture and rural development in Montenegro - Trust Fund II (IPARD-like 2 project)", a total of 33 contracts were signed on 31 October 2016 for the realisation of the public call for the measure "Investment in physical assets concerning processing and marketing of agricultural and fishery products-IPARD-like 2.1", with the total eligible investments amounting to EUR 4.93 million.

On 13 January 2017, the Ministry announced an IPARD-like 2.2 public call for the measure "Investment in physical assets concerning processing and marketing of agricultural and fishery products". A total of 31 contracts have been signed with applicants for the total amount of eligible investments amounting to EUR 5.4 million (without VAT) and the potential support amounting to EUR 2.02 million. The realisation of these investments is in progress.

A public call for the measure "Investment in physical assets concerning processing and marketing of agricultural and fishery products - IPARD-like 2.3" was announced on 16 October 2017. The deadline set for the submission of applications is 1 November 2017 - 31 January 2018.

Public call for provision of support to organic farming was announced on 8 May 2017. This public call was implemented by the Directorate for Payments, with the support of the World Bank's project "Montenegro - Institutional Development and Agriculture Strengthening (MIDAS) and the project "Strengthening Montenegrin agriculture with establishing Land Parcel Identification Systems (LPIS) - IPA 2013". This call represents a testing of the existing system for implementation of direct payments measures in Montenegro in relation to the IACS requirements, where the LPIS pilot reference parcel has been used for the first time, which is relevant for the submission of the request for support, which is for the first time submitted electronically.

The Rulebook on Internal Organisation and Job Descriptions of the Ministry of Agriculture and Rural Development (No. 011-7/17-5 of 27 March 2017) provides for a total of 77 positions to be filled within the Directorate for Payments. After the Rulebook was adopted, deployment of the existing employees was performed in accordance with the new Rulebook/job descriptions, and 9 new employees were hired on 18 September 2017, so now there are 43 employees working within the Directorate for Payments.

The second meeting of the IPARD Programme Monitoring Committee was held on 27 June 2017 in Podgorica, during which the preparation for accreditation of the IPARD measures was discussed.

Based on the Study on geographical zoning of wine-growing areas in Montenegro, names and borders of new Montenegrin wine-growing areas have been established. The area of



vine cultivation in Montenegro has been extended and the number of areas increased when compared to the data listed in Annex II of Protocol II of the SAA and it has been determined to which specific viticulture zone the Montenegrin viticulture regions belong to.

## **3.12. CHAPTER 12: Food Safety, Veterinary and Phytosanitary Policy**

### **3.12.1. GENERAL READINESS FOR THE MEMBERSHIP**

In Montenegro, the authority in charge of food safety, veterinary and phytosanitary policy is the Ministry of Agriculture and Rural Development (MARD) within which operates the Administration for Food Safety, Veterinary and Phytosanitary Affairs (AFSVPA), while the Ministry of Agriculture and Rural Development and the ministries in charge of health and environment are responsible for the GMO.

Official control of food is now carried out by veterinary, phytosanitary and food inspectors; health, animal welfare and animal identification and registration are the responsibility of veterinary inspectors; agricultural inspectors are in charge of zootechnics; phytosanitary inspectors are in charge of plant health, plant protection products, seed and planting material and protection of plant varieties; forestry inspectors are in charge of forest planting material, while GMO monitoring is also performed by inspectors in charge of health and environment.

Three sectors have been established within the AFSVPA (Sector for Food Safety, Sector for Veterinary Medicine and Sector for Phytosanitary Affairs), along with inspection departments in charge of official controls within the scope of sectoral regulations. There are currently 74 employees, of whom 45 are inspectors. Recruitment of additional 25 employees has been planned by 2020. Besides the employees of the Administration, employees from the Ministry of Agriculture and Rural Development (directorate for livestock farming, department for counselling related to livestock farming and agricultural inspectorate) are also included in the system for food safety, veterinary and phytosanitary policy, along with employees of the Administration for Inspection Affairs (forestry inspectors). Recruitment of 25 more employees has been planned by 2020.

Montenegro takes activities required for accreditation of laboratories in line with European legislation. According to Montenegro's real needs, accreditations will either be completed no later than Montenegro's accession to the EU or contracts will be concluded with certain accredited laboratories of the EU for certain tests. Montenegro has still not designated the

national reference laboratories. Laboratory tests of food are performed by the following institutions and centres: Public Health Institute, Ecotoxicological Examination Centre and Specialised Veterinary Laboratory (SVL). The Public Health Institute is the accredited laboratory (IST 17025:2011) and accredited 40 methods, most of which refer to the field of microbiological tests. Specialised Veterinary Laboratory (SVL) is the accredited laboratory (ISO 17025:2011) that accredited the methods for the following: *Salmonella*, *Listeria*, *Enterobacteria*, *Escherichia Coli*, *Staphylococcus*, *Streptococcus* and *Trichinella*. Ecotoxicological Examination Centre of Montenegro – CETI is the accredited laboratory (IST 17025:2011) authorised for the following analyses: contaminants, pesticide residues, residues of veterinary medicines, radioactivity etc. Montenegro has the approved Residue Monitoring Programme for most products, except for equidae, milk, rabbit and venison meat. Thirty methods have been accredited so far. Laboratory testing of food and feed is carried out by the SVL and CETI, which are accredited (IST 17025:2011) and have a certain number of accredited methods. Laboratory testing for animal diseases is carried out by the SVL which accredited methods for the following: bluetongue disease, brucellosis, enzootic bovine leucosis, classical swine fever and rabies.

Laboratory testing of harmful organisms, as well as professional, technical and other affairs of public interest in the field of plant health protection is performed by the Phytosanitary laboratory (Faculty of Biotechnology, University of Montenegro). Phytosanitary laboratory is also authorised for testing of biological efficiency of pesticides. Methods used for diagnostic testing of harmful organisms and plant products are the following: methods established by EU regulations related to certain harmful organisms, EPPO methods or laboratory's own methods. Laboratory testing of seed and assessment of quality of planting material, as well as professional and technical tasks (certification) and other tasks of public interest in this field is performed by the seed laboratory (Faculty of Biotechnology, University of Montenegro). For the assessment of quality of planting material of agricultural plants, methods prescribed by the EU, national legislation or own laboratory methods are used.

As regards the national reference laboratories, Montenegro has still not designated them.

Legal framework in the field of veterinary policy- protection of health of both domestic and imported live animals and products of animal origin, certification, computer systems (TRACES), safeguard measures, border inspection posts (BIP), as well as the legal framework for identification and registration of animals (cattle, sheep, goats, pigs and equidae) is established by the Law on Veterinary Medicine (Official Gazette of Montenegro 30/2012 and 48/15), Law on Animal Welfare Protection (Official Gazette of Montenegro 30/2012 and 48/15) Law on Animal Identification and Registration (Official Gazette of

Montenegro 48/2007, 73/2010 and 48/2015), as well as a large number of bylaws passed on the basis of these laws.

Control system in the internal market has been transposed into the Law on Veterinary Medicine in line with Council Directive 90/425/EEC and Council Directive 89/662/EEC. Furthermore, relevant registries have been established. Montenegro adopted control system for import from the third countries through framework legislation aligned with the *acquis*, as well as provisions for clear distribution of responsibilities, particularly for control authorities.

Provisions related to the control system on the external borders of the EU, which is covered by the EU basic regulations and their implementing texts have been transposed into national legislation. As regards the implementation, strengthening of the control system on seven border inspection posts is underway.

Control of non-commercial movement of pets is performed by the public administration authority in charge of customs affairs.

Training on declaring goods intended for import to the EU through TRACES system has been carried out and equipping of GIM (internet connection etc.) is underway. Following completion of preparatory activities, Montenegro will ask the EC to use the TRACES system in the period prior to accession.

Legal framework in the field of animal identification and registration is the Law on Animal Identification and Registration (Official Gazette of Montenegro 48/2007, 73/2010 and 48/2015), AFSVPA - MARD is an authority in charge of conducting the Central registry of farms and electronic database on farms and animals. Registration of farms and cattle identification and registration have been carried out since 2007, sheep and goats since 2011 and pigs since 2015. Montenegro has a system which is aligned with the EU requirements and operational database. The system is connected with laboratory information system (SVL-LABIS) for monitoring diseases, in which the data on completed laboratory tests of samples and/or organs on certain communicable diseases (brucellosis, leucosis, classical swine fever, rabies etc.) are entered. Identification and registration of farms and animals is carried out with IPA financial assistance.

Health status of animals is determined at the level of herd, farm, region or state when it comes to certain diseases (started with health status of cattle). This will provide conditions for trade in animals within the EU following accession. AFSVPA is preparing crisis plans.

Montenegro joined the ADNS on voluntary basis and performs the notification through the ADNS system.

Through the Law on Veterinary Medicine (Official Gazette of Montenegro 30/2012, 48/2015 and 57/2015) Montenegro defined the obligation of notifying the EC on suspicion or confirmed cases of disease in line with the Rulebook on classification of animal diseases, method and procedure of notifying on communicable animal diseases (Official Gazette of Montenegro 5/2008).

The owner of killed or slaughtered animal, things or raw materials damaged or destroyed during the implementation of measures for eradication of particularly harmful communicable diseases, as well as: rabies in domestic breeding animals, anthrax, cattle brucellosis, sheep and goat brucellosis - mellitococosis, swine brucellosis, Q fever, trichinellosis in domestic pigs, BSE, bovine tuberculosis, enzootic bovine leucosis, scrapie, equine infectious anaemia, ATL, as well as for animals found to be killed by the mentioned diseases, shall be entitled to compensation.

Legal framework related to **placement of feed, food and by-products of animal origin on the market**, as well as responsibilities, organisation and powers of the competent authorities, hygiene requirements, facilities, microbiological requirements for raw milk and control rules in the implementation of HACCP is provided by the Law on Food Safety (Official Gazette of Montenegro 57/2015) and a large number of bylaws transposing the following regulations (EC) No 852/2004, No. 853/2004, 2074/2005, 854/2004, 882/2004, derogating from Regulation 852/2004 and amending Regulation 853/2004 and 854/2004, Regulation No. 2073/2005.

Legal framework related to labelling, presentation and advertising of food is aligned with Regulation (EU) No. 1169/2011, and amendments to Regulations (EC) No. 1924/2006 and 1925/2006. Legal framework related to additives is aligned with Regulation (EU) No. 1333/2008. Legal framework related to enzyme preparations for food is defined by the Law on Food Safety, while the bylaw is being prepared.

Legal framework related to extraction solvents is aligned with Directive 2009/32. Legal framework related to food flavourings is aligned with Regulation (EC) No. 1334/2008 and Regulation (EC) No. 2065/2003. Montenegro took over the EU list of flavouring substances which can be used in food. Legal framework related to materials and articles intended to come into contact with food is aligned with Regulation (EC) No. 1935/2004 and Commission Regulation (EC) No 2023/2006. Other EU regulations (related to ceramics, glass, plastics) are planned to be transposed by the end of 2017. Legal framework for supplements, vitamins, minerals and other substances which may be added to food has

been aligned with Directive 2002/46/EC and Regulation (EU) No 1925/2006. Legal framework related to foodstuffs intended for particular nutritional uses has been aligned with the following: Directive 2006/141/EC; Directive 2006/125/EC; Directive 1999/21/EC; Directive 96/8/EC and Implementing Regulation (EU) No 828/2014. Legal framework related to quick-frozen foodstuffs has been established by the Law on Food Safety, while implementing bylaws have been planned for the II quarter of 2018. Legal framework related to contaminants has been aligned with provisions of Regulation (EC) No 1881/2006. Bylaws transposing Regulation 258/97 have been planned for 2018.

As regards ionising radiation, regulation from the FRY is still in force. Base for transposing Directive 1999/2 and Directive 1999/3 has been provided under the Law on Food Safety. Legal framework related to natural mineral water has been established under the Law on Food Safety (Official Gazette of Montenegro 57/2015). Rulebook on more detailed safety criteria to be fulfilled by drinking water is in force (Official Gazette of Montenegro 24/2012 and 32/2015). Harmonised system is partially established since March 2015. Completely harmonised system will be established by the end of 2017.

General requirements for feed, as well as obligations of entities dealing with feed are defined by the Law on Food Safety (Official Gazette of Montenegro 57/2015), which represents legal framework for passing bylaws in this field (feed hygiene, placement on the market and use of feed, feed intended for particular nutritional uses, labelling, presenting and packaging of feed, etc.).

Legal framework for feed hygiene, putting into circulation and use of feed is aligned with Regulation No 183/2005, Directive 2008/38/EC, and Regulation No 767/2009 which have been transposed into Decree on food hygiene (Official Gazette of Montenegro 13/2016), Decree on more detailed requirements for placement of feed on the market (Official Gazette of Montenegro 63/2016) and decree on requirements for production and putting on the market of feed intended for particular nutritional uses (Official Gazette of Montenegro 10/2017)

Legal framework related to feed additives is established by the Law on Food Safety (Official Gazette of Montenegro 57/2015). Transposition of Regulation 1831/2003 and its implementing texts into a new bylaw has been planned for 2017.

Legal framework on undesirable substances in food has been aligned with Directive 2002/32/EC and Annex to Commission Recommendation 2006/576/EC.

Legal framework for medicated feeding stuffs has been aligned with Council Directive 90/167.

Legal framework in the field of **phytosanitary policy**, responsibility, organization and powers of competent authorities, inspection controls in the country and on the border crossing points, as well as general and specific control measures, import procedure and control of plant health and harmful organisms has been established by the Law on Plant Health Protection (Official Gazette of Montenegro 28/2006, 28/2011 and 48/2015) which is aligned with Directive 2000/29.

Phytosanitary measures programme is adopted on annual basis, while the funds for its implementation are provided under the Budget of Montenegro. The mentioned programme includes: continuous supervision over harmful organisms; special supervision over harmful organisms; monitoring and phytosanitary measures, as well as urgent phytosanitary measures. The programme is implemented for the purpose of supervising harmful organisms, includes measures, scope, laboratory analyses, period, institutions for its implementation (authorized laboratories), control methods and responsible persons.

Montenegro transposes general control measures for plant health, i.e. harmful organisms and implements Directive 2000/29 through the following acts:

- Law on Plant Health Protection (Official Gazette of Montenegro 28/2006, 28/2011 and 48/2015);
- Rulebook on phytosanitary measures for prevention of the introduction and spread of harmful organisms and their suppression and the lists of harmful organisms of plants, plant products and supervised facilities (Official Gazette of Montenegro 39/2011 and 80/2016);
- Rulebook on the amount of fee for phytosanitary control of plants, plant products and supervised facilities (Official Gazette of Montenegro 15/2014);
- Rulebook on minimum requirements for checking identities and health condition of plant consignments in places which are not points of introduction (Official Gazette of Montenegro 77/2015).

Special control measures for plant health, i.e. harmful organisms and protected zones are completely aligned with EU legislation.

In the field of registration of facilities – plant passports, three application texts which are transposed and implemented into national regulations provided in Annex. Phytosanitary registry of producers, entities dealing with processing, importers and distributors of certain plants, plant products and other supervised facilities has been established. This completed the first step, i.e. fulfilled preconditions for establishment of plant passport system in Montenegro, thus implementing obligation laid down by Article 6 of Directive 2000/29, 92/90, 92/105 and 93/50. By 1 September 2017, 616 entities that gained the right to use MNE number as a precondition for the implementation of the Plant Passport

System in Montenegro were entered into the registry in line with obligations laid down in Article 6 of Directive 2000/29 and 92/90 and 93/50. Implementation of the plant passports system was initiated with the support of IPA project in 2015. Strategy for establishing the plant passport system in line with defined priorities:

- 2015 pilot project for establishing the plant passport system for seed potatoes;
- 2016 plant passports for seed potatoes;
- 2017 plant passports for wine grape planting material;
- 2018 plant passports for fruit planting material;
- 2018 plant passports for ornamental plants, forest trees reproductive material and vegetable planting material, etc.

Control of goods subject to phytosanitary checks is performed on 8 border crossing points. Border phytosanitary inspectors are continuously trained in sampling. Furthermore, preparations were initiated for the implementation of the joint entry phytosanitary paper (CPED).

Legal framework related to plant protection products is the Law on Plant Protection Products (Official Gazette of Montenegro 51/2008 and 18/2014) to which Regulation 1107/2009 and its application texts were transposed. Plant protection products are not produced in Montenegro, and the specific system for placement of plant protection products into circulation is in force. As a small country with limited human resources, Montenegro is not able to develop the full capacity for approving plant protection products and establishes the system for recognising plant protection products approved by the EU. It is necessary to establish the appropriate institutional capacities for efficient implementation of the EU system in the most acceptable structure for Montenegro, in order to achieve the goals established in the EU. List of active substances permitted for use in plant protection products is aligned with the EU list and published in the Official Gazette of Montenegro.

Montenegro transposed and implemented Directive 2009/128 on the sustainable use of pesticides through the following:

- Law on Plant Protection Products (Official Gazette of Montenegro 51/2008 and 18/2014);
- Rulebook on more detailed requirements when it comes to storage room and trade in plant protection products (Official Gazette of Montenegro 15/2013);
- Rulebook on the content and method of keeping records on the use of plant protection products (Official Gazette of Montenegro 24/2013);

- Rulebook on the rules of good agricultural practice for plant protection products (Official Gazette of Montenegro 45/2014)

The National action plan for sustainable use of pesticides for the period 2016-2021 was adopted by the Government in 2016, when trainings related to use of plant protection products were initiated. Its implementation is ongoing.

Legal framework for pesticide residues is completely aligned with EU legislation.

Legal framework related to seed and planting material are the Law on Agricultural Plants Seed Material (Official Gazette of Montenegro 28/06, 61/11) and the Law on Seed Material (Official Gazette of Montenegro 28/06, 61/11) and the Law on Forest Trees Reproductive Material (Official Gazette of Montenegro 37/07, 40/11). They represent the legal base for transposition and implementation of basic and application texts for the mentioned fields. Montenegro adopted harmonised rules for putting the following into circulation: crop seed; vegetative parts for reproducing vegetables and vegetable crops; forest reproductive material; seed potatoes, wine grapes and fruit planting material.

There are no companies dealing with plant breeding in Montenegro in the field of seed production. In general, the seed production system in Montenegro is based on multiplying of imported seed material of higher categories into the seed material of lower categories (seed potatoes and certain crop seeds). Eleven seed potato producers and 5 crop seed producers are currently entered into the registry of seed material producers.

The EU rules will be gradually implemented in line with priorities. The process is planned to be completed at the end of 2018.

The legal framework related to rights of entities dealing with plant breeding is the Law on Plant Varieties Protection (Official Gazette of Montenegro 48/07 and 48/08) which is a legal base for the protection of plant varieties in Montenegro and establishes methods and procedures for acquiring breeder's rights in line with Regulation 2100/94.

Montenegro deposited the accession instrument to the UPOV convention on 24 August 2015, and became a 73rd member of the International Union for the Protection of New Varieties of Plants (UPOV) on 24 September 2015. Completely aligned system will be reached on the date of accession.

Legal framework for GMO - the Law on Genetically Modified Organisms (Official Gazette of Montenegro 22/08) is in force (transposed regulations: Directive 2001/18 and Regulation 1830/2003). Partial implementation is possible. Completely aligned system will be established on the date of accession. Law on Food Safety (Official Gazette of Montenegro 14/07), defines general requirements for genetically modified food or feed. Partial implementation is possible. Completely aligned system will be established on the date of accession.



### 3.12.2. Implementation of activities from October 2016 to October 2017

#### 3.12.2.1. Food safety

##### Legislative framework

The following bylaws have been passed:

**Decree on more detailed requirements for placing feed on the market** (Official Gazette of Montenegro 63/16));

**Rulebook on the method of sampling for the control of mycotoxin level in food** (Official Gazette of Montenegro 67/16);

**Rulebook on the methods of sampling and laboratory testing of feed on genetically modified material** (Official Gazette of Montenegro 69/16);

**Decree on the method of monitoring dioxin levels in food** (Official Gazette of Montenegro 73/16);

**Decree on types of extraction solvents which may be used for processing raw materials and food** (Official Gazette of Montenegro 73/16);

**Decree on the measures for reducing and preventing contamination of apple juice with Patulin** (Official Gazette of Montenegro 77/16);

**Rulebook on the methods of sampling and laboratory testing of feed** (Official Gazette of Montenegro 78/16));

**Decree on types of substances used for reducing surface contamination of foods of animal origin** (Official Gazette of Montenegro 80/16);

**Decree on substances which may be added to foodstuffs intended for particular nutritional uses** (Official Gazette of Montenegro 80/16);

**Decree on vitamins and minerals and other substances which may be added to foodstuffs intended for particular nutritional uses** (Official Gazette of Montenegro 80/16);

**Decree on types of vitamins and minerals which may be used in production of supplements** (Official Gazette of Montenegro 80/16);

**Decree on materials and articles intended to come into contact with food which may be placed on the market in need** (Official Gazette of Montenegro 80/16);

**Decree amending the Decree on informing consumers on food** (Official Gazette of Montenegro 83/16));

**Rulebook on monitoring of residues in animals and products of animal origin** (Official Gazette of Montenegro 3/17);

**Decree on the use of health and nutrition claims in the labelling, presentation and advertising of foods** (Official Gazette of Montenegro 6/17);

**Decree on the method and requirements for placing foodstuffs intended for particular nutritional uses on the market** (Official Gazette of Montenegro 10/17);  
**2017 Monitoring programme for nitrates in food of plant origin** (Official Gazette of Montenegro 11/17));  
**2017 Monitoring programme for pesticide residues in food of plant and animal origin** (Official Gazette of Montenegro 11/17);

**Rulebook on requirements for feed intended for pets** (Official Gazette of Montenegro 13/17);

**Rulebook on the method of performing official control of food and feed of non-animal origin** (Official Gazette of Montenegro 18/17);

**Rulebook on the method of sampling of food and method of laboratory testing of food contaminants** (Official Gazette of Montenegro 19/17);

**2017 Monitoring programme for certain contaminants in food of non-animal origin** (Official Gazette of Montenegro 19/17);

**Decree on requirements for production and placement of feed intended for particular nutritional uses on the market** (Official Gazette of Montenegro 28/17);

**Rulebook amending the Rulebook on the maximum residue limits of pharmacological substances of veterinary medicines in products of animal origin** (Official Gazette of Montenegro 28/1);

**Decree on the maximum quantities of undesirable substances in feed** (Official Gazette of Montenegro 31/17);

**Rulebook on the template of Recipe and accompanying document for medicated feedingstuffs** (Official Gazette of Montenegro 32/17);

**Rulebook amending the Rulebook on the method of sampling of food and method of laboratory testing of food contaminants** (Official Gazette of Montenegro 38/17);

**Rulebook on the method of registration and maintaining the Central registry of approved facilities for food production, processing and distribution** (Official Gazette of Montenegro 39/17);

**Decree on requirements for production and placement of medicated feedingstuffs on the market** (Official Gazette of Montenegro 51/17);

#### **Track record**

On 12 July 2017, the Government of Montenegro passed the National programme for improvement of facilities for products of animal origin and facilities for by-products of animal origin, which includes the plans for improvement of facilities of the III category with deadlines for removal of irregularities, which represents an integral part of requirements of the closing benchmark 1.

Activities are continuously carried out when it comes to monitoring of improvement of facilities classified into III category and removal of irregularities in line with the Improvement plans.

The Administration issued permanent licences for performing activities to entities whose facilities fall under the category I (48), while facilities of the III category (108) received interim approvals until the final deadline defined in approved improvement plans.

The establishments that started conducting activities following the entry into force of the Law on Food Safety and the Decree on Food Hygiene are issued approvals only if all the prescribed requirements have been met. Nine new facilities have been approved.

The following monitoring programmes have been carried out: residues of pharmacologically active substances used in veterinary medicinal products in foodstuffs of animal origin, nitrate residues of foods of plant origin, pesticide residue in food of plant and animal origin, monitoring of live bivalve molluscs to determine presence of E. coli (microbiological criteria), presence of chemical contaminants,, presence of bio toxins and monitoring of sea water for the purpose of determining possible presence of toxin-producing planktons and presence of potentially toxic planktons.

A total of 2,342 producers of food of plant origin have been entered into the Registry of primary food producers by 1 September 2017.

### **3.12.2.2. Veterinary**

#### **Legislative part**

**The following bylaws have been adopted:**

**Plan for crisis management in case of an outbreak of avian influenza in poultry** (Official Gazette of Montenegro 70/16);

**Plan for crisis management in case of an outbreak of lumpy skin disease** (Official Gazette of Montenegro 70/16);

**Rulebook on detailed requirements to be met by establishments and equipment for keeping and raising chicks for fattening** (Official Gazette of Montenegro 72/16);

**Rulebook on detailed requirements to be met by vehicles for transportation of animals** (Official Gazette of Montenegro 72/16));

**Order banning import and transit of consignments of poultry, birds, and poultry and bird products for the purpose of prevention of introduction of highly pathogenic avian influenza** (Official Gazette of Montenegro 74/16));

**Order banning import and transit of consignments of poultry, birds, and poultry and bird products for the purpose of prevention of introduction of Newcastle disease** (Official Gazette of Montenegro);

**Rulebook on detailed conditions for import and transit of aquaculture animals and their products** (Official Gazette of Montenegro 79/16);

**Order banning keeping of poultry outdoors and implementation of measures for prevention of an outbreak and spreading of highly pathogenic avian influenza** (Official Gazette of Montenegro 81/16);

**Rulebook on the monitoring of residues in animals and products of animal origin** (Official Gazette of Montenegro 3/17);

**Rulebook supplementing the rulebook on detailed contents of the records of breeding animals** (Official Gazette of Montenegro 11/17);

**Rulebook on the manner and methods of testing the production traits of quality breeding cattle** (Official Gazette of Montenegro 11/17);

**Rulebook on the conditions for establishment and equipment for keeping and raising of calves** (Official Gazette of Montenegro 11/17);

**Program of mandatory measures of animal healthcare in 2017** (Official Gazette of Montenegro 12/17);

**Rulebook on conditions for obtaining, keeping, suspending, and revoking health status of poultry and other birds for avian influenza** (Official Gazette of Montenegro 18/17);

**Rulebook amending the Rulebook on conditions for obtaining, keeping, suspending, and revoking health status of cattle and pigs to tuberculosis, brucellosis, and enzootic leucosis** (Official Gazette of Montenegro 21/17);

**Rulebook on conditions for import and transit of ungulates** (Official Gazette of Montenegro 21/17);

**Order on implementation of measures for suppression and prevention of spreading of bluetongue disease** (Official Gazette of Montenegro 23/17);

**Rulebook supplementing the Rulebook on the maximum allowed quantities of residues of pharmacologically active substances of veterinary medicinal products in products of animal origin** (Official Gazette of Montenegro 28/17);

**Rulebook amending the Rulebook on the manner of keeping the registry and issuance of passports for pets** (Official Gazette of Montenegro 28/17);

**Rulebook on the method of keeping dangerous dogs** (Official Gazette of Montenegro 31/17);

**Rulebook on the measures for prevention, detection, and suppression of some animal diseases** (Official Gazette of Montenegro 33/17);

**Rulebook on measures for prevention, detection, suppression, and eradication of swine vesicular disease** (Official Gazette of Montenegro 34/17);

**Rulebook on the list of animals and products of animal origin subject to veterinary testing** (Official Gazette of Montenegro 46/17);

**Rulebook on conditions for import and transfer of circus animals** (Official Gazette of Montenegro 52/17);

### **Track record**

The programme of mandatory measures of animal health protection in 2016 was implemented, including for the first-time vaccination of cattle against lumpy skin disease (LSD). Also being implemented within the planned deadlines is the Programmes of measures for animal health protection in 2017. Vaccination was carried out against the following diseases: lumpy skin disease of cattle, bluetongue disease of cattle and sheep, classical swine fever, anthrax.

The last case of LSD was recorded in September 2016.

Furthermore, autumn campaign 2016 and spring campaign 2017 of oral vaccination of foxes against rabies were carried out using aerial bait distribution and vaccine was provided for autumn vaccination 2017 through the EU support.

### **3.12.2.3. Phytosanitary policy**

#### **Legislative framework**

**The following bylaws have been adopted:**

#### **Plant health**

**Order concerning the measures for prevention of introduction of harmful organisms for plants, plant products, items under supervision transported in wood packaging material originating from China** (Official Gazette of Montenegro 66/16);

**Rulebook amending the Rulebook on phytosanitary measures for prevention of introduction, spreading, and suppression of harmful organisms and lists of harmful organisms of plants, plant products, and items under supervision** (Official Gazette of Montenegro 80/16));

**Rulebook on phytosanitary measures for prevention of introduction and spreading of harmful organisms of the genus *Pomacea* (Perry)** (Official Gazette of Montenegro 13/17);

**Rulebook on phytosanitary measures for prevention of introduction and spreading of harmful organism *Phyllosticta citricarpa* (Mcalpine) Van der Aa** (Official Gazette of Montenegro 17/17);

**Rulebook on phytosanitary measures for prevention of introduction and spreading of harmful organism (Harris), *Epitrix papa* sp.n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)** (Official Gazette of Montenegro 17/17);

**Rulebook on implementation of phytosanitary measures for prevention of spreading and eradication of harmful organism - *Tilletia* spp** (Official Gazette of Montenegro 26/17);

**Order amending the Order concerning measures for prevention of introduction of harmful organisms for plants, plant products, and items under supervision transported in wood packaging material originating from China** (Official Gazette of Montenegro 38/17);

**Rulebook amending the Rulebook on phytosanitary measures for prevention off introduction and spreading of harmful organism *Phyllosticta citricarpa*** (Official Gazette 47/17);

### **Seed and planting material**

**Program for control testing of planting material for 2016** (Official Gazette of Montenegro 66/16);

**Program for control testing of seeds material for 2016** (Official Gazette of Montenegro 66/16);

**Rulebook on conditions for production and putting into circulation of fruit plant material** (Official Gazette of Montenegro 81/16);

**Rulebook on the methods for testing diversity, uniformity, and stability of new plant variety** (Official Gazette of Montenegro 2/17);

**Program for control testing of seed material for 2017** (Official Gazette of Montenegro 11/17);

**Program for control testing of planting material for 2017** (Official Gazette of Montenegro 11/17);

**Program for control testing of parent trees of planting material for 2017** (Official Gazette of Montenegro 11/17);

**Rulebook on production and putting into circulation of vegetable seed material** (Official Gazette of Montenegro 26/17);

**Rulebook on production and putting into circulation of beet seed material** (Official Gazette of Montenegro 49/17);

### **Plant protection products**

**Rulebook on the precautionary measures related to plant protection products** (Official Gazette of Montenegro 69/16);

**List of active substances approved for the use of in plant protection products for 2017** (Official Gazette of Montenegro 7/17);

**List of registered plant protection products** (Official Gazette of Montenegro 7/17);

### **Pesticide residues**

**Program of monitoring of residues in the food of plant and animal origin for 2017** (Official Gazette of Montenegro 11/17))

## **Track record**

The Program of phytosanitary measures for 2016 was implemented and implementation of the Program of phytosanitary measures for 2017 has begun.

The Register of producers, processors, importers, and distributors of plants, plant products, and other controlled items has been set up. By 1 September 2017, 616 entities have been entered into the register and they obtained the right to use MNE number as a prerequisite for implementation of the System of plant passports in Montenegro, in accordance with the obligations referred to in Article 6 of Directive 2000/29 and 92/90 and 93/50.

The implementation of the System of plant passports started in 2015 in accordance with IPA 12 Project: Development of services for safety of food, veterinary, and phytosanitary affairs, and was implemented for potato in 2016 and vine propagation material in 2017.

In 2017, Montenegro started the implementation of the national plan for sustainable use of plant protection products in accordance with the Action Plan for 2016-2021. All the prescribed activities are being implemented in accordance with the Plan.

At the beginning of 2017, a media campaign was organised aimed at raising awareness on the sustainable use of plant protection products.

Training also started for users of plant protection products and it is continuous. This is one of the prescribed activities under the National Plan for sustainable use of plant protection products.

### **3.1.3. CHAPTER 13: FISHERIES**

#### **3.13.1. General readiness for the membership**

Overall, the fisheries sector of Montenegro may be categorised as small, without industrial fishery, and it takes place across the coastline and on the Skadar Lake (freshwater fishery). In accordance with the Law on Marine Fisheries and Mariculture (Official Gazette of Montenegro 56/09 and 47/15), commercial fishing is divided into small scale and large scale, and the division is based on fishing tools and equipment that is allowed for the use on vessels, as well as the length of the vessel.

Permits for commercial fishing on the sea are issued on the basis of the opinion of a science institution – Marine Biology Institute Kotor, which is in charge of implementation of continuous annual exploring of the fishing sea of Montenegro and estimates the quantity of

fish and other marine organisms that can be caught annually. In line with the scientific opinion of the Marine Biology Institute, the Ministry of Agriculture and Rural Development determined the capacity of the fishing fleet, expressed in kW and GT, and the maximum allowed catch of demersal and pelagic resources.

With a view to establishing a long-term and sustainable management of available resources, and based on the years of exploration in the territorial sea of Montenegro, the maximum sustainable capacity of the fishing fleet and the maximum allowed annual catch of demersal and pelagic resources have been set.

Based on the scientific opinion of the Marine Biology Institute, the following capacity of the fishing fleet of Montenegro has been set:

- total number of fishing vessels (trawls) is 23 or a maximum number GT (1200) and kW (7500)
- total number of fishing vessels (seines) is 20 or a maximum GT (2000) and kW (8000)
- total number of fishing vessels (small type coastal) is 180 or a maximum GT (500) and kW (5000)

On the basis of this division, in the following five-year period a total of 223 permits can be issued, or more in case the total number of permits does not exceed the maximum allowed number of gross register tonnage (GT) and total maximum allowed power of all power generators.

This number of permits (223) does not include 10 permits for tuna fishing and five permits for hand collecting of shells. Bearing in mind that the use of fishing tools for tuna fishing is still in its infancy, we believe that at the moment the limit to 10 vessels is sufficient.

The maximum allowed number of fishing days has been set for vessels fishing small pelagic fish in a way that the number of fishing days was limited to 180 days per year, i.e., 144 fishing days for sardines and anchovy. Furthermore, a fishing ban is in force relating to fishing small pelagic fish in the period from 1-15 April on the territory of the fishing sea of Montenegro. As regards preservation and protection of demersal resources, in the last couple of years, on the fishing vessels that use the fishing tools of trawls, only the fishing tools with the dimension of square-shaped net meshes of 40 mm are used.

Continuously, each year research expeditions take place in territorial and international waters of the Adriatic Sea to assess the biomass of demersal and pelagic resources – MEDITS and MEDIAS programmes funded through FAO AdriaMed.

The administrative capacity of inspection for marine fisheries currently consists of three employees in the Directorate for Fisheries. Inspectors for marine fisheries during



inspections at the sea cooperate with the Maritime Border Police (Ministry of Interior) by using their vessels.

In the period from 1 January 2015 to 30 June 2017, the Municipality of Ulcinj organised the project “Sustainable development of maritime and coastal ecosystem“, funded by the Kingdom of Norway and under which one person was hired and trained for carrying out controls of fishing activities and on 24 July 2017 a contract was signed between the Municipality and the Ministry of hiring this trained person for the tasks of control of fishing activities.

In Montenegro, the rules governing market standards are not applied in the way prescribed by the EU.

The aquaculture sector in Montenegro implies maritime and freshwater aquaculture.

Freshwater aquaculture takes place on 33 farms, mostly in central and northern part of Montenegro. Rainbow trout is mostly grown, as well as small quantities of brown trout used for restocking the natural watercourses.

Currently, the whole mariculture in Montenegro is concentrated in the area of Bay of Kotor, on a total of 19 farms. Shells - mussels are farmed on all 19 farms, while six of them deal with oyster farming, and two farms apply the principle of integrated multi-trophic mariculture (mussels, oysters, gilthead seabream, and seabass).

Montenegro is a full member of the regional organisation of the General Fisheries Commission for the Mediterranean as of 2018, and is recognised by the GFCM as a member that regularly and fully meets its obligations. Montenegro is not a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT), but has started activities towards the membership. Montenegro is a signatory to the Ministerial MedFish4Ever declaration adopted at the ministerial conference on 30 March 2017, in Valletta, Malta.

### **3.13.2. Implementation of activities from October 2016 to October 2017**

The Parliament passed the Law ratifying the Agreement on port state measures to prevent, deter, and eliminate illegal, unreported, and unregulated fishing on 6 March 2017 (Official Gazette of Montenegro – International Treaties 2/2017). This agreement defines the manner for designating the ports open for international transport, procedures for obtaining permit for access, or refusal of access to the port, rights and obligations of port state to foreign fishing vessels using its ports, method of performance, reporting to the interested parties and measures to be taken by the port state following the conducted inspection control, rights and obligations of the flag state regarding the vessels with the right to fly its flag, obligations of the signatories regarding the systematic monitoring and review of the implementation of the Agreement and evaluation of the achieved progress,

cooperation and exchange of information with the relevant countries and other issues of importance for this area.

April 1 2017 marked the start of implementation of the Annual program of data collection on the fisheries of Montenegro (DCF - DCRF) creating a framework for collection of biologic, ecological, technical, and social and economic data required for fisheries management on sustainable bases, aligned with the EU legal framework and recommendations of the General Fisheries Commission for the Mediterranean .

“Pre operational program – pilot measures for the period 2018-2020“ was prepared and it is funded by the World Bank project, MIDAS.

As part of inspection and control, 931 checks were performed in 2016, 146 misdemeanour warrants were issued, 18 misdemeanour charges were filed, while in the first eight months of 2017, 526 checks were carried out, 26 misdemeanour warrants 15 misdemeanour and one criminal charge.

With the changes of the rulebook on internal organisation and job descriptions of the Ministry of Agriculture and Rural Development of 30 March 2017, the Directorate General for Fisheries was formed with a total of 17 positions. The Directorate General consists of two administrative units, Directorate for Resource and Fishing Fleet Management, and the Directorate for Monitoring and Inspection Supervision.

The Directorate General of the Directorate General for Fisheries was appointed at the session of the Government of Montenegro of 25 May 2017.

Two new employees were hired in September 2017 and they were appointed for the positions of advisors for market regulation, structural measures, and state aid and the advisor for international treaties respectively.

The Directorate currently employs seven employees, as well as three inspectors authorised to perform checks in accordance with the Law on Marine Fisheries and Mariculture.

## **3.14. CHAPTER 14: TRANSPORT POLICY**

### **3.14.1.1. *Strategic Framework***

The new Transport Development Strategy for 2018-2035 is being drafted to give consideration to the role of Intelligent Transport Systems (ITS) in the network management and operation:

- The role in transport data collection and analysis;
- The role in supporting the implementation, operation and maintenance of the network;

- Defining various functional levels of ITS through the network based on the hierarchy of roads;
- Acknowledging the need for centralised control and resource management;
- Acknowledging the applicable legal framework for implementing ITS and identifying any changes that might be needed;
- Outlining possible financial mechanisms for the implementation and management of ITS, including private capital;

A meeting is to be held on 19 and 20 October 2017 between the representatives of CONNECTA (Technical Assistance to Connectivity in the Western Balkans) ITS team and the representatives of relevant Montenegrin institutions.

Further information on the Transport Development Strategy 2018-2035 can be found in Chapter 21.

#### **3.14.1.2 Institutional/ Administrative Capacity**

No additional employees were hired in the Directorate for Railway Traffic of the Ministry of Transport and Maritime Affairs and the Railway Directorate in the reporting period. As for the training, small numbers of representatives of the Directorate for railway traffic and the Railway Directorate participated in the trainings given by the European Union Agency for Railways in the fields of railway safety and interoperability. In addition to this, one employee undertook training in applying for a WBIF grant.

In the Directorate for State Roads of the Ministry of Transport and Maritime Affairs one employee was engaged on road projects in Montenegro.

In the Directorate for Maritime Traffic of the Ministry of Transport and Maritime Affairs trainings were carried out as regards cooperation with the United States coast guard. Three trainings were carried out in the reporting period on the security of ships and port facilities in Montenegro, i.e. on the implementation of ISPS Code and the international convention for the safety of life at sea. To ensure continuity of courses, the same participants were engaged in all the trainings. Once provided, the trainings made a common contribution to the improvement of port facilities security system in Montenegro and made it a more secure environment for the development of maritime transport and nautical tourism.

It should be noted that the Ministry of Transport and Maritime Affairs undertook the trainings provided by the European Maritime Safety Agency (EMSA), namely: FSI – Flag State Institution, STCW - The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, ISM (International Safety Management), MLC (Maritime Labour Convention), ISPS Code (International Ship and Port Facility Security).

### **3.14.2. Air Transport**

#### ***Normative Framework***

On 27 April 2017, the Parliament of Montenegro adopted the Law Amending the Law on Air Transport (Official Gazette of Montenegro 30/17).

The following secondary legislation acts were adopted during the period 1 October 2016 - 20 October 2016:

- Rulebook amending the Rulebook on the Place and Manner of Posting the National Insignia and Call Signs on aircrafts (Official Gazette of Montenegro 75/16);
- Rulebook amending the Rulebook on the Content and Method of Keeping Records on Civil Aircrafts of Montenegro (Official Gazette of Montenegro 78/16);
- Rulebook on Introducing Operating Restrictions Aimed at Reducing Noise at Airports (Official Gazette of Montenegro 80/16);
- Rulebook on Services of Aviation Meteorology, the Manner of Preparing, Collecting and Dispatching Meteorological Data (Official Gazette of Montenegro 6/17);
- Rulebook Amending the Rulebook on Technical Requirements and Procedures related to Air Operations (Official Gazette of Montenegro 6/17);
- Rulebook amending the Rulebook on Airworthiness Certification and Environmental Certification of Aircrafts and Related Products, Parts and Appliances, as well for the Certification of Design and Production Organisations (Official Gazette of Montenegro 12/17);
- Rulebook amending the Rulebook on Civil Aviation Rules and Competencies of the European Aviation Safety Agency (Official Gazette of Montenegro 15/17);
- Rulebook amending the Rulebook on Aircraft Crew (Official Gazette of Montenegro 15/17);
- Rulebook amending the Rulebook on Standards and Criteria for Unimpeded Use of Operation Areas, Facilities, Devices and Equipment at Airports (Official Gazette of Montenegro 19/17);
- Rulebook amending the Rulebook on Technical Requirements and Procedures Related to Air Operations (Official Gazette of Montenegro 25/17);
- Rulebook on Content and Manner of Keeping Records of Areas for Off-Airport Landing and Take-off (Official Gazette of Montenegro 43/17);
- Rulebook on Content and Manner of Keeping the Register of Airports (Official Gazette of Montenegro 43/17);
- Rulebook on Airspace Terms of Use and Classification (Official Gazette of Montenegro 52/17, entered into force on 16 August 2017, in use as of 4 January 2018);
- Rulebook on Terms and Method of Professional Training of Assistant Flight Crew – Aviation Meteorologist Crew (Official Gazette of Montenegro 56/17);

- Rulebook on Working Hours and Rest Periods of Air Traffic Controllers (Official Gazette of Montenegro 64/17).

The last EU security Regulation– Commission Implementing Regulation (EU) 2017/815 on amending Implementing Regulation (EU) 2015/1998 as regards clarification, harmonisation and simplification of certain specific aviation security measures was implemented when the National Programme of Civil Aviation Safety was adopted by the Government on 31 August 2017.

### **3.14.3. Maritime Transport**

#### ***Normative Framework***

On 16 October 2017, the Parliament adopted the Law amending the Law on Safety of Maritime Navigation expected to be published in the Official Gazette. The law transposed the 2014 amendments to the Maritime Labour Convention (MLC).

In addition to that, a series of secondary legislation acts were adopted in the reporting period:

- Regulation on Maintaining Order at Ports (Official Gazette of Montenegro 44/17);
- Rulebook amending the Rulebook on Safety at Work and Accommodation of Crew and other Persons on Board Vessels (Official Gazette of Montenegro 26/17) implementing the Directive 93/103/EC laying down Minimum Safety and Health Requirements for Work on Board Fishing Vessels;
- Decision on the Fee for Basic, Regular and Extraordinary Inspection on Vessel Seaworthiness (Official Gazette of Montenegro 36/17);
- Decision on the Fee for Exams for Acquiring Titles and Competencies from Special Professional Training of Ship and Yacht Crew (Official Gazette of Montenegro 36/17);
- Rulebook on Data of Passengers Aboard on Montenegrin Vessels (Official Gazette of Montenegro 26/17) implementing the Directive 98/41/EC;
- Rulebook on Technical Requirements for Establishing Seaworthiness of Yachts (Official Gazette of Montenegro 74/16);
- Rulebook on Closer Terms related to Legal Entities Conducting Assessment and Safety Protection Plan of Port (Official Gazette of Montenegro 78/16)
- Rulebook on Seaworthiness of Passenger Vessels (Official Gazette of Montenegro 82/16);
- Rulebook on Terms related to Safety at Work and Accommodation of Crew Members and Other Persons on Board (Official Gazette of Montenegro 82/16);

On 28 September 2017, the Government adopted Decision on Port Designation According to Type of Maritime Transport and Decision on Port Designation According to the Use of Ports.

#### ***Track record***

By the Commission Implementing Decision of 23 March 2017 to recognise seafarer's certificates issued by Montenegro to be endorsed by the Member States, Montenegro was added to the white list of countries which fully comply with the STCW Convention and Code. It means that any seafarers' certificate issued by the Port Captaincies of Bar and Kotor is recognised by the EU, i.e. that Montenegrin seafarers may work onboard the vessels sailing under the flag of EU Member Countries.

#### **3.14.4. Road Transport**

##### ***Normative Framework***

On 16 October 2017, the Parliament adopted the Law on Road Transport. Alongside other additions to the rules was a part on transport security setting out the requirement to hold a professional driver's licence following driver trainings, an exam to certify professional competence and an obligation to take periodic trainings. A series of secondary legislation acts will have been adopted by the end of the next year, the legal basis of which is contained in the related act.

Proposal for the Law on the Amendments to the Law on Working Hours, Rest Periods for Mobile Workers and Recording Equipment in Road Transport is written.

##### ***Track record***

PSO agreement for 2017 was signed with a transport operator to reimburse railway transport expenses the operator is unable to cover from the revenue generated from ticket sales.

#### **3.14.5. Railway Transport**

##### ***Normative Framework***

In July 2017, a workgroup was formed to draft the Law Amending the Law on Railways in order to create a legal environment for the work of the independent regulator and the authority for railways security, switching to multiannual contracts for the maintenance of railway infrastructure and transposing of the Recast Directive 2012/34 in all the applicable parts. The drafting is in its final stage and it will have been made available for public discussion by the end of 2017.

A special Railway Development Strategy for 2017-2027 was prepared for the first time and adopted by the Government on 29 March 2017. The Strategy defined directions of railway

system development, taking into account European standards and recommendations in the railway and environmental protection fields.

### ***Track record***

In 2017 Railway Directorate issued eight new engine driver's licences and one certification of ECM for the maintenance of freight rail wagons. The total of 140 engine drivers has certifications so far.

The Railway Directorate prepared the Report on Security for the year of 2016 which was published in September 2017.

The work on publishing secondary legislation acts on railways security and interoperability was continued. From January to October 2017 a series of topics was elaborated through the adopted Rulebooks. The topics included: technical requirements for railway signalling and security facilities, safety measures during railway track construction works, internal order in railway transport, technical requirements for electric power facilities, the register of railway infrastructure and the programme of industrial railway track maintenance.

Technical specifications for interoperability were sent to translators and they shall have been published by the end of 2017. New projects in the field of signaling are preparing in accordance with the TSI.

First grant arrangement for railways infrastructure projects funded from the Western Balkans Investment Framework (WBIF) was signed (EUR 20+20 million) and two biddings were completed – the bidding for electronic interlocking in Podgorica station and another one for the repair of six inclines on the north leg of Bar railway line. Two projects which are funded by IPA funds are already underway, along with a series of projects from the previous loan arrangements with the EBRD and WBIF grants. The railway investments amounted to nearly EUR 10 million on an annual basis.

## **3.15. CHAPTER 15: ENERGY**

### **3.15.1. Security of supply**

#### ***Normative framework***

On 15 December 2016, Government adopted the Energy balance of Montenegro for 2017.

The Ministry of Economy issued the Rulebook on the content of the energy balance, the data for the development of balance and manner of their delivery (Official Gazette of Montenegro 34/17).

### ***Achieved results***

On 21 June 2017, representatives of the electric utility companies, namely, Montenegrin Electric Power Company, Montenegrin Electric Transmission System and Montenegrin Electricity Market Operator, signed the Founding Contract and the Statute of the Stock Exchange Electric Company Energy DOO. The procedure of registration of this company with the Central Registry of Economic Entities was finalised on 7 August 2017.

At the meeting of the Council of Ministers of the Energy Community held on 14 October 2016, the PECE List (which comprises the projects of interest for the Energy Community) and the PMI List (which comprises the projects having the status of projects of mutual interest between the Contracting Parties to the Energy Community and Member States of the European Union) were adopted.

The PECE list includes the Project of construction of Italy – Montenegro –Serbia – Bosnia and Herzegovina electricity interconnection (the Montenegrin section of the Trans-Balkan corridor), while the PMI List includes the Project of construction of the Ionian-Adriatic gas pipeline (IAP). These projects are also included in the national Single list of priority infrastructure projects, adopted by the Government of Montenegro on 30 June 2017.

Realisation of the project of connection of Montenegro's and Italy's respective electric power systems by means of a submarine cable is underway, and the CGES - Montenegrin operator of electricity transmission is carrying out the infrastructure works in its territory. In addition, construction of an interconnection with Serbia and Bosnia and Herzegovina has been planned. For the completion of the project of construction of the power trans-Balkan corridor (total estimated value of the investment amounts to EUR 127,122,000.00) Montenegro has been awarded a grant in 2016 through the Western Balkans Investment Framework (WBIF) amounting to EUR 25,000,000.00. The project implementation status is as follows:

- Activities on implementation of the project of connecting the respective electric power systems of Montenegro and Italy are ongoing;
- Construction of the power transformer station TS 400/110/35 kV Lastva – a significant part of construction and electrical assembly works has been carried out and these are expected to be completed by the end of 2017;
- Construction of the long-distance transmission line DV 400 kV Lastva – Čevo – a great part of construction works and electrical assembly works has been carried out, as well as of the works on preparation of design documents and procurement of equipment, and these are expected to be completed around the middle of 2018;
- Construction of the long-distance transmission line DV 400 kV Čevo – Pljevlja – significant activities related to preparation of the design documents, procurement of



equipment and on-site works have been carried out, and this segment of the project is expected to be completed by the end of 2018;

- Construction of the long-distance transmission line DV 400 kV Pljevlja – State border with Serbia – is funded from the WBIF grant; a separate agreement on donation for construction of the Trans-Balkans corridor (I): the Montenegro Section, Part 2, was concluded between the KfW and the CGES on 15 June 2017; the Contract on assignment of non-repayable funds and liabilities between the State of Montenegro (Ministry of Economy) and the CGES was concluded on 4 August 2017; the procedure of selection of the most favourable bid for provision of consulting services has been finished and on 17 October 2017 the Consulting Services Contract was concluded between the CGES and the Lahmeyer International GmbH; with the aim to preparation of a planning document necessary for construction of the long-distance transmission line DV 2x400 kV Pljevlja 2 - Bajina Bašta, the Ministry of Sustainable Development and Tourism received the data necessary for drawing up of the terms of reference; this segment of the project is expected to be completed by the middle of 2022.

On the basis of the Memorandum of Understanding and Cooperation regarding the implementation of Ionian-Adriatic gas pipeline, three meetings of the Project Management Unit, whose Standing Secretariat is within the Ministry of Economy, were held in the period from 1 October 2016 to 20 October 2017.

### **3.15.2. Internal energy market**

#### ***Normative framework***

On 26 July 2017, the Parliament of Montenegro passed the Law amending the Energy Law (Official Gazette of Montenegro 51/17). Amendments to the Energy Law have been carried out in order to specify in more detail the competences of the Energy Regulatory Agency in the process of determining a regulatorily allowed revenue of the operators of electricity transmission and distribution systems, respectively, as well as to ensure independence of the electricity transmission system operator and create conditions for obtaining a certificate from the Energy Regulatory Agency and for smooth carrying out of its activity.

Construction of energy facilities is being carried out in compliance with the new Law on Spatial Planning and Construction of Structures, passed by the Parliament on 30 September 2017 (Official Gazette of Montenegro 64/17).

In the period from 1 October 2016 to 20 October 2017, the Energy Regulatory Agency adopted as follows:

- General conditions for electricity supply (Official Gazette of Montenegro 70/16);

- Decision on the contents of the Annual report on realisation of the Plan of electricity generation for the privileged producer for the previous year (Official Gazette of Montenegro 74/16);
- Methodology for setting the tariffs for use of the electricity transmission or distribution system to be paid by users of a direct line when the line is connected to the transmission or distribution system (Official Gazette of Montenegro 78/16);
- Rulebook on the conditions for issuing the approvals based on which the producers and suppliers of electricity may supply last customers through a direct line (Official Gazette of Montenegro 78/16);
- Methodology for setting the tariffs to be applied by the supplier of last choice and of vulnerable customers (Official Gazette of Montenegro 83/16);
- Rules for functioning of the supplier of last choice and of vulnerable customers (Official Gazette of Montenegro 83/16);
- Rules for adjustments of tariffs and fees (Official Gazette of Montenegro 13/17);
- Rules on maintaining the confidentiality of commercially sensitive information used by system operators (Official Gazette of Montenegro 28/17);
- Decision amending the Methodology for setting the tariffs, deadlines and conditions for providing auxiliary services and electricity transmission system balancing services (Official Gazette of Montenegro 40/17);
- Rules for resolution of disputes through arbitration (Official Gazette of Montenegro 42/17);
- Decision supplementing the Rules for adjustments of tariffs and fees (Official Gazette of Montenegro 46/17);
- Rules on the minimum quality of delivery and supply of electricity (Official Gazette of Montenegro 50/17) and
- Rules supplementing the rules on establishing the status of a closed electricity distribution system (Official Gazette of Montenegro 61/17).

In the period from 1 October 2016 to 20 October 2017, the Energy Regulatory Agency provided its consent or approval on:

- Methodology for setting the fees for connection to the electricity distribution system (Official Gazette of Montenegro 7/17);
- Measurement rules in the electricity distribution system (Official Gazette of Montenegro 7/17);
- Methodology for billing and collection of payments for electricity drawn in an unauthorised manner (Official Gazette of Montenegro 7/17);
- Rules for implementing the procedure of detecting, ascertaining and preventing unauthorised use of electricity (Official Gazette of Montenegro 15/17);

- Rules for functioning of the electricity distribution system (Official Gazette of Montenegro 15/17);
- Programme of measures for application of non-discriminatory conditions for accessing the electricity distribution system (Official Gazette of Montenegro 38/17);
- Market rules (Official Gazette of Montenegro 44/17);
- Rules for operation of the balancing electricity market (Official Gazette of Montenegro 44/17) and
- Rules on application of the procedure for transparent management of congestions and for allocation of cross-border capacities for transmission of electricity (Official Gazette of Montenegro 54/17).

### ***Achieved results***

In accordance with the Energy Law and the Law on cross-border exchange of electricity and natural gas, activities within the procedure of certification of the electricity transmission system operator are being conducted. On 20 June 2017, the CGES - the electricity transmission system operator, submitted a request for certification to the Energy Regulatory Agency, on the basis of which the Energy Regulatory Agency is implementing the procedure of ascertaining the fulfilment of the certification requirements.

The Energy Regulatory Agency has issued two licences for supply of electricity, so currently there are five suppliers operating in the market. However, only one of the licenced suppliers – the Montenegrin Electric Power Company is currently active, i.e. it is carrying out the electricity supply activity. In the course of 2016 and 2017 there were no requests to change the supplier and all the customers have been being supplied by the EPCG, except the Podgorica Aluminium Plant which is a self-supplying customer.

In the period from 1 January 2017 to 20 October 2017, 16 complaints were lodged with the Energy Regulatory Agency and all of them have been resolved. Eight complaints were lodged due to suspension of electricity supply, seven complaints were lodged against the decision on issuing the consent for connection and one complaint was lodged against a grid connection refusal.

### **3.15.3. Hydrocarbons**

#### ***Normative framework***

On 22 June 2017, the Government adopted the Master plan for development of the gas transport system (gasification) of Montenegro, accompanied by the Report on the strategic environmental impact assessment and by the Guidelines for planning of priority investments in the gas pipeline projects.

On 27 July 2017, the Government adopted the Programme for exploration and production of hydrocarbons in the submarine area of Montenegro.

### ***Achieved results***

On 15 March 2017, the Concession Contract for production of hydrocarbons in the submarine area of Montenegro for the blocks 4219-26 and 4218-30 was concluded with the company Energean Montenegro Limited, Cyprus. The concluded contract stipulates that the exploration stage shall last seven years in total, with two exploration periods (sub-stages) of three and four years, respectively.

### **3.15.4. Renewable energy sources**

#### ***Normative framework***

On 2 February 2017, the Government adopted the Report on implementation of the National Action Plan for use of energy from renewable sources by 2020, for the period 2014-2015. According to this Report, the share of renewable energy sources in the total final consumption of energy for the year 2014 amounts to 31.9%, while for the year 2015 it amounts to 31.7%. Also, the Annual plan for issuing energy licences in 2017 was adopted on the same day. In accordance with this Plan, the Ministry of Economy prepared two requests for issuing of energy licences for reconstruction of small hydro power plants and these requests are currently under the examination procedure.

The main provisions of Directive 2009/28/EC have been transposed into the Energy Law, on the basis of which the Ministry of Economy adopted the following secondary legislation in the period from 1 October 2016 to 20 October 2017:

- Rulebook on the method of calculation of share of energy from renewable sources in the total final energy consumption, energy content of fuels and the method of calculation of the total energy consumption used in transportation, the method of calculation of the quantity of electricity generated in hydro power plants and wind power plants and the method of calculation of the quantity of energy from heat pumps (Official Gazette of Montenegro 34/17);
- Rulebook on the content of a request for issuing an energy licence and the content of the registry of energy licences (Official Gazette of Montenegro 52/17);
- Rulebook on the conditions to be fulfilled by a legal entity for exploration and measuring of the potential of renewable energy sources (Official Gazette of Montenegro 52/17) and
- Rulebook on the programme and manner of taking the examination for carrying out the activities of installation of rather small biomass-fired boilers and furnaces, solar

photovoltaic systems, solar thermal systems, shallow geothermal systems and heat pumps (Official Gazette of Montenegro 63/17).

### ***Achieved results***

#### **Small hydro power plants**

On the basis of the sixth conducted tender procedure, on 6 October 2016 the Government adopted the decisions on awarding concessions for construction of small hydro power plants on the watercourses named Bistrica, Bukovica, Lještanica and Bjelojevička and accepted the concession contracts. The concession contracts for construction of small hydro power plants on the watercourses named Bukovica, Bistrica and Lještanica were concluded on 13 January 2017, while the concession contract for the Bjelojevička watercourse was concluded on 22 March 2017.

In line with provisions of the Energy Law, the Government adopted the following decisions:

- Decision on awarding the concession for construction of the “Bistrica” Small Hydro Power Plant on a part of the Bistrica watercourse, on the basis of the energy licence as of 6 October 2016, while the concession contract for construction of the “Bistrica” Small Hydro Power Plant on a part of the Bistrica watercourse was concluded on 28 November 2016;
- Decision on awarding the concession for construction of the “Šeremet potok” Small Hydro Power Plant on a part of the Šeremet Stream watercourse, on the basis of the energy licence as of 3 November 2016, while the concession contract for construction of the “Šeremet potok” Small Hydro Power Plant on a part of the Šeremet Stream watercourse was concluded on 6 February 2017;
- Decision on awarding the concession for construction of the “Paljevinska” Small Hydro Power Plant on a part of the Paljevinska River watercourse, on the basis of the energy licence as of 29 December 2016, while the concession contract for construction of the “Paljevinska” Small Hydro Power Plant on a part of the Paljevinska River watercourse was concluded on 15 March 2017;
- Decision on awarding the concession for construction of the “Vinicka” Small Hydro Power Plant on a part of the Vinicka River watercourse, on the basis of the energy licence as of 12 January 2017, while the concession contract for construction of the “Vinicka” Small Hydro Power Plant on a part of the Vinicka River watercourse was concluded on 15 March 2017;
- Decision on awarding the concession for construction of the “Ljevak” Small Hydro Power Plant on a part of the Rijeka (Ljevak) watercourse, on the basis of the energy licence as of 12 January 2017, while the concession contract for construction of the “Ljevak” Small Hydro Power Plant on a part of the Rijeka (Ljevak) watercourse was concluded on 13 March 2017;

- Decision on awarding the concession for construction of the “Pecka” Small Hydro Power Plant on a part of the Pecka River watercourse, on the basis of the energy licence as of 16 February 2017, while the concession contract for construction of the “Pecka” Small Hydro Power Plant on a part of the Pecka River watercourse was concluded on 4 April 2017;
- Decision on awarding the concession for construction of the “Slatina” Small Hydro Power Plant on a part of the Slatina watercourse, on the basis of the energy licence as of 30 March 2017, while the concession contract for construction of the “Slatina” Small Hydro Power Plant on a part of the Slatina watercourse was concluded on 25 May 2017.

The Agreement on assignment of the Concession contract for construction of small hydro power plants on the Bistrica watercourse was concluded on 24 July 2017 and the composition of the “Bistrica Clean Energy” consortium has been changed.

Also, two annexes to the contract which provide for extension of the deadlines for construction of small hydro power plants were concluded as follows: Annex no. 2 to the Concession contract based on the energy licence for construction of the “Raštak” small hydro power plant on 7 August 2017 and Annex no. 1 of the Concession contract for construction of small hydro power plants on the Bistrica watercourse – the Ljuboviđe tributary on 27 September 2017.

Considering that construction of the SHPP on the Piševska River watercourse had been completed before the contractually stipulated deadline, the Annex no. 2 to the Concession contract based on the energy licence for construction of the “Piševska rijeka” small hydro power plant on the Piševska River watercourse was concluded on 2 October 2017. Namely, the operating permit for the “Piševska Rijeka” SHPP was issued on 3 May 2017.

The operating permit for the “Babino polje” SHPP on the Babinopoljska watercourse was issued on 25 September 2017. The construction of the “Bistrica” SHPP on the Bistrica watercourse – the Ljuboviđe tributary has been completed and it was commissioned at the beginning of July 2017.

Zoning & technical requirements were issued for construction of the following small hydro power plants: the “Đurička 1” SHPP and the “Đurička 2” SHPP on the Đurička River watercourse with its tributaries (on 26 January 2017); the “Bjelojevička 1” SHPP and the “Bjelojevička 2” SHPP on the Bjelojevička watercourse (on 28 July 2017); the “Raštak 2” SHPP on the Raštak watercourse (on 18 May 2017); the “Pecka” SHPP on the Pecka watercourse (on 26 December 2016); the “Slatina” SHPP on the Slatina watercourse (10 February 2017) and the “Bukovica” SHPP on the Bukovica watercourse (on 16 November 2016).

Building permits were issued for construction of the following small hydro power plants: the “Mojanska 1” SHPP on the Mojanska River watercourse (on 29 December 2016), the

“Mojanska 2” SHPP on the Mojanska River watercourse (on 22 December 2016), the “Mojanska 3” SHPP on the Mojanska River watercourse (12 December 2016), the “Kutska 1” SHPP on the Kutska River watercourse (on 29 December 2016), the “Kutska 2” SHPP on the Kutska River watercourse (12 December 2016), the “Meteh” SHPP on the Komarača watercourse (24 February 2017), the “Vrbnica” SHPP on the Vrbnica watercourse (on 26 July 2017), the “Rijeka Reževića” SHPP on the Reževića River watercourse (on 3 October 2016), the “Ljevak” SHPP on the Rijeka watercourse (Ljevak) (on 1 July 2017), the “Vinicka” SHPP on the Vinicka watercourse (on 26 June 2017) and the “Šeremet potok” SHPP on the Šeremet Stream watercourse (on 28 July 2017).

The Ministry of Economy issued nine energy licences for construction of small hydro power plants with the installed capacity of up to 1 MW, as follows:

- on 19 October 2016, the energy licence for construction of the “Varin potok” SHPP on the Varin watercourse, with the installed capacity of 177.3 kW (Municipality of Kolašin);
- on 21 October 2016, the energy licence for construction of the “Elektrana Mišnjića” SHPP on the Mišnjića Stream watercourse, with the installed capacity of 222.2 kW (Municipality of Mojkovac);
- on 21 October 2016, the energy licence for construction of the “Dapsićka rijeka” SHPP on the Dapsićka River watercourse, with the installed capacity of 575.86 kW (Municipality of Berane);
- on 28 March 2017, the energy licence for construction of the “Vođenički potok” SHPP on the Vođenički Stream watercourse, with the installed capacity of 198.99 kW (Municipality of Andrijevica);
- on 28 March 2017, the energy licence for construction of the “Zagradaska” SHPP on the Zagradaska River watercourse, with the installed capacity of 698 kW (Municipality of Bijelo Polje);
- on 28 March 2017, the energy licence for construction of the “Brzava” SHPP on the Brzava watercourse, with the installed capacity of 629 kW (Municipality of Bijelo Polje);
- on 24 April 2017, the energy licence for construction of the “Brzava 1” SHPP on the Brzava watercourse, with the installed capacity of 650 kW (Municipality of Bijelo Polje);
- on 21 April 2017, the energy licence for construction of the “Stubljanska” SHPP on the Stubljanska watercourse, with the installed capacity of 401 kW (Municipality of Bijelo Polje);
- on 1 June 2017, the energy licence for construction of the “Čelinska” SHPP on the Čelinska River watercourse, with the installed capacity of 296 kW (Municipality of Bijelo Polje).

## **Solar power plants**

The Ministry of Economy issued six energy licences for construction of solar power plants, with the installed capacity of up to 1 MW, as follows:

- on 9 December 2016, the energy licence for construction of the “Titex 1” solar power plant with the installed capacity of 457.47 kW, Municipality of Podgorica;
- on 9 December 2016, the energy licence for construction of the “Titex 2” solar power plant with the installed capacity of 999.78 kW, Municipality of Podgorica;
- on 9 December 2016, the energy licence for construction of the “Titex 3” solar power plant with the installed capacity of 999.78 kW, Municipality of Podgorica;
- on 9 December 2016, the energy licence for construction of the “Titex 4” solar power plant with the installed capacity of 406 kW, Municipality of Podgorica;
- on 24 April 2017, the energy licence for construction of the “Aliance” solar power plant with the installed capacity of 202.8 kW, Municipality of Podgorica;
- on 4 August 2017, the energy licence for construction of the solar power plant with the installed capacity of 31.2 kW, Municipality of Podgorica.

## **Wind power plants**

### “Krnovo” WPP

On 15 June 2017, the Government accepted the Annex no. 5 to the Contract on land lease and construction of the wind power plant at the Krnovo site, which was concluded on 23 June 2017. This Annex sets out that 7 November 2017 is the final deadline by which the investor shall enable commencement of operation of the Krnovo WPP and of accompanying facilities and infrastructure and their connection to the electric power system.

In the beginning of May 2017, the “Krnovo” WPP was commissioned for trial operation, and the competent Ministry issued the operating permit for the said WPP on 30 August 2017.

### “Možura” WPP

On 31 July 2017, the Government approved the transfer of a share of 90% in the subsidiary company “Možura Wind Park” doo Podgorica from the current owner, namely the “Enemalta plc” company, to the “Malta Montenegro Wind Power JV Ltd” company and accepted the Share Assignment Contract, which was concluded on 20 September 2017.

### **3.15.5. Energy efficiency**

#### ***Normative framework***

On the basis of the Law on Efficient Use of Energy (Official Gazette of Montenegro No. 57/14), the Ministry of Economy adopted seven rulebooks, as follows:



	<b>Name of the secondary legislation act and the date of its adoption</b>	<b>Main novelties introduced by the act</b>
1.	Rulebook on energy efficiency labelling of household refrigerating appliances (Official Gazette of Montenegro 74/16)	Energy efficiency labelling has been laid down for 4 groups of products: household refrigerating appliances, television sets, household dishwashers and electrical lamps and luminaires – <i>as required by the Directive 2012/30/EU on energy efficiency labelling of energy-related products</i>
2.	Rulebook on energy efficiency labelling of television sets (Official Gazette of Montenegro 74/16)	
3.	Rulebook on energy efficiency labelling of household dishwashers (Official Gazette of Montenegro 74/16)	
4.	Rulebook on energy efficiency labelling of electrical lamps and luminaires (Official Gazette of Montenegro 74/16)	
5.	Rulebook on ecodesign requirements for electric motors (Official Gazette of Montenegro 39/17)	Ecodesign requirements for energy-related products have been laid down for 3 groups of products: electric motors, fluorescent lamps without integrated ballast and high intensity discharge lamps, as well as non-directional household lamps – <i>as required by Directive 2009/125/EC establishing a framework for the setting of ecodesign requirements for energy-related products</i>
6.	Rulebook on ecodesign requirements for fluorescent lamps without integrated ballast, for high intensity discharge lamps and for ballasts and luminaires able to operate such lamps (Official Gazette of Montenegro 39/17)	
7.	Rulebook on ecodesign requirements for non-directional household lamps (Official Gazette of Montenegro 39/17)	

On 29 December 2016, the Government adopted the Plan for reconstruction of state-owned buildings for the period 2017-2019, by which it is planned to carry out the activities towards achieving the objective related to obligatory reconstruction of public official buildings at the level of 1% of the usable floor area per year, in compliance with requirements of Directive 2012/27/EU.

On 6 April 2017, the Government adopted the Operational plan for energy efficiency improvement for 2017, which provides for energy efficiency measures in buildings under the competence of the state administration bodies and public services founded by the state.

### ***Achieved results***

Under the EU-funded (IPA 2011) project titled "Development of sustainable use of energy", the Study on energy efficiency potentials in the transport sector has been prepared, as well as the Action plan for application of renewable energy sources and energy efficiency measures in the transport sector.

The following activities have been carried out under the Montenegro - Energy Efficiency Project – Additional Financing (MEEP AF):

- Works on replacement of the Clinical Centre of Montenegro's main building facade metalwork and works on upgrading of the thermal-technical and electrical installations in the Clinical Centre of Montenegro;
- Energy characteristics of five healthcare facilities have been improved: the Nikšić Community Health Centre, the Kolašin Community Health Centre, the Andrijevića Community Health Centre, the Petnjica Health Station and the Murino Health Station.

The following activities have been carried out under the Energy Efficiency Programme in Public Buildings (EEPPB):

- Works on implementation of energy efficiency measures in six buildings have been completed: the "Irena Radović" Public Pre-School Institution in Danilovgrad, the "Petar I Petrović Njegoš" Secondary General Education School in Danilovgrad, the "Njegoš" Primary School in Cetinje, the "Milorad Musa Burzan" Primary School in Podgorica, the "Božidar Vuković Podgoričanin" Primary School in Podgorica and the "Vaso Aligrudić", the "inž.Marko Radović" and the "Spasoje Raspopović" secondary schools in Podgorica. The value of the works executed in these buildings amounts to EUR 5.6 million;
- The tender procedure is underway for selection of a contractor for the implementation of energy efficiency measures in three facilities: the "Slobodan Škerović" Secondary General Education School, the "1. jun" Resource Centre and the "Podgorica" Resource Centre for Children and Youth in Podgorica;
- The tender procedure for selection of a consultant for the implementation of accompanying measures (preliminary designing and installation of the energy and water consumption monitoring system, the concept for maintenance of the structures, inventory of buildings, procurement of the software for certification of buildings, certification of buildings and verification of savings) has been completed;
- Preparation of the design documentation and tender dossier is underway for the implementation of energy efficiency measures in three facilities: the "Aleksa Bećo Đilas" Primary School and "Vuksan Đukić" in Mojkovac, the "Komanski most" Institute in Podgorica;

- Preparation of the design documentation is underway for the reconstruction of: the "Naša radost" Public Pre-School Institution in Herceg Novi and the H Facility in the "Grabovac" Nursing Home for Elderly People in Risan.

Implementation of the project of providing support to the citizens for use of renewable energy sources has been continued:

- The funds for subsidising the interest rate under the project "Energy Wood II" have been spent – the programme of interest-free loans for purchase and installation of the heating systems that use modern forms of biomass (pellets, briquettes) for households. Under the project, 532 heating systems have been installed;
- Implementation of the "Energy wood III" started in October 2017 – interest-free loans for purchase and installation of the heating systems that use modern forms of biomass (pellets, briquettes) for households. Funds for implementation of the project, amounting to EUR 85,000, have been provided from the budget of Montenegro;
- "Solar katuns" ("Solarni katuni") – The third phase of the project for installation of photovoltaic solar systems in katuns (summer pasture settlements in the mountains) was successfully implemented in 2017. Within this phase of the project, 54 photovoltaic systems were installed in the Montenegrin katuns.

### **3.15.6. Nuclear energy, nuclear safety and protection against ionising radiation**

#### ***Normative and strategic framework***

On 29 December 2016, the Government considered and adopted the Strategy for protection against ionising radiation, radiation safety and management of radioactive waste for the period 2017-2021, accompanied by the Action Plan for the period 2017-2021.

On 6 March 2017, the Parliament passed the Law on ratification of the Agreement between the European Atomic Energy Community (EURATOM) and non-member States of the European Union on the participation of the latter in the Community arrangements for the early exchange of information in the event of radiological emergency (ECURIE) (Official Gazette of Montenegro – International Treaties No. 2/17), whereafter the ratification instruments were sent to the EC.

Upon being invited by the EC, Montenegro formally expressed its readiness to voluntarily join the radiological data exchange platform (EURDEP). In this regard, the national contact person has been appointed, as well as its substitute.

On 30 September 2017, the Parliament passed the Law on Spatial Planning and Construction of Structures (Official Gazette of Montenegro No. 64/17), by which, among other things, it has been standardised that protection against radon is to be taken into

account in the stage of construction of a structure, as a preventive measure for protection against the radioactive gas named radon. Compliance was achieved in this way, both with the national needs and peculiarities and with a part of the provision related to protection against radon from the Council Directive 2013/59/EURATOM laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/ EURATOM, 90/641/ EURATOM, 96/29/ EURATOM, 97/43/ EURATOM and 2003/122/ EURATOM.

On 5 October 2017, the Government considered and adopted the third National report on implementation of obligations arising from the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which was submitted to the Secretariat of the International Atomic Energy Agency. The third National report will be presented at the Sixth regular meeting of the contracting parties to the Joint Convention in the period from 21 May to 1 June 2018 in the International Atomic Energy Agency (IAEA) in Vienna.

In the course of 2017, activities were intensified on drafting the proposal for the Strategy for decrease of risk from natural disasters accompanied by the Action plan for implementation of the Strategy for the period 2018 – 2023 and on drafting the proposal for amendments to the Law on Transport of Hazardous Substances, whose drafting is coordinated by the Directorate for Emergency Situations of the Ministry of Interior.

### ***Achieved results***

Under the IPA national project titled "Strengthening the protection against radiation and nuclear safety in Montenegro through enhancing the capacity of the Public Institution of "Ecotoxicological Examination Centre of Montenegro", approved to Montenegro by the European Union, six stations for 24-hour measuring of the ambient dose of gamma radiation in the air (GDR) were installed and networked in the territory of the following municipalities: Pljevlja, Nikšić, Berane, Herceg Novi, Bar and in the territory of the Capital City of Podgorica.

Within the framework of implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, the Agreement on Safeguards, the Additional Protocol and the Protocol on Small Quantities, Montenegro has so prepared far 21 national reports and statements on nuclear materials and submitted them to the International Atomic Energy Agency. Four reports per year are drawn up and submitted to the International Atomic Energy Agency. Preparation of the twenty-second National Report and statement on nuclear materials is underway, and these need to be submitted to the International Atomic Energy Agency by 29 November 2017.

With a view to fulfilling the obligations from the international legal instruments, at the Seventh regular meeting of the contracting parties to the Convention on the Nuclear

Security, held in the period from 22 March to 7 April 2017 in the International Atomic Energy Agency (IAEA) seated in Vienna, Montenegro successfully presented the first National report on implementation of obligations arising from the Convention on the Nuclear Security. In the course of the procedure of reviewing the reports of the contracting parties to the Convention, Montenegro asked other member states 12 questions, while Montenegro was asked 18 questions in total.

Representatives of the relevant institutions in cooperation with the representatives of the IAEA Nuclear Security Department carried out the revision of the current Integrated Nuclear Security Support Plan (INSSP) and prepared the new one, as well as the Action Plan for its implementation for the period 2017-2019. The said plans were harmonised at the end of February 2017, after which the national contact person for implementation of these plans was appointed. Also, the national contact person for access to the platform of the Nuclear Security Information Management System (NUSIMS) has been appointed. Preparatory activities on organisation of the Regional workshop for development of human resources in the field of nuclear security are underway, which will be held in the end of October and in the beginning of November of the current year in Podgorica, as organised by the International Atomic Energy Agency and the Ministry of Sustainable Development and Tourism.

In Montenegro, special attention is dedicated to the natural radioactive gas named radon, as one of the forms of the enriched naturally occurring radioactive material (NORM). Implementation of two national projects that deal with radon is underway, and these are namely: MNE9004 "Radon mapping in Montenegro and improvement of the national system for protection against radon" and MNE9005 "Assessing and reducing radon in Montenegrin schools and kindergartens". Both projects are financed by the International Atomic Energy Agency and the Government. The projects are research-oriented, and they are being implemented by: the Montenegrin Academy of Sciences and Arts, the Ministry of Sustainable Development and Tourism, the Ministry of Education and the Agency for Nature and Environment Protection. The implementation of these projects includes, among other things, assessment of the average annual concentration of radon in residential premises in the territory of the whole country, as well as assessment of the average annual concentration of radon in all secondary and primary schools, kindergartens, resource centres, secondary school and university students' residence halls of Montenegro.

Since harmonisation of the legal framework with the up-to-date international standards of the International Atomic Energy Agency (IAEA) and with the *acquis* of the European Union in the field of radiation and nuclear safety and security and protection against ionising radiation is an important activity of the Government, implementation of two national projects is underway: MNE9006 "Improvement of the regulatory infrastructure in the field of nuclear and radiation safety", approved by the IAEA, and the IPA multi-beneficiary

project titled “Further strengthening of the nuclear regulatory bodies of Albania, Macedonia, Bosnia and Herzegovina, Serbia, Kosovo and Montenegro”, approved by the European Union, whose implementation lasts three years, i.e. until the end of 2018. The objectives of the projects are further strengthening of the regulatory infrastructure in the field of radiation safety and harmonisation of the national regulations with the European Union *acquis* and international standards in this field. Drafting of the new Law on protection against ionising radiation, radiation and nuclear safety and security started in January 2017, as well as drafting of a future set of improved secondary legislation.

## 3.16. CHAPTER 16: TAXATION

### 3.16.1. GENERAL READINESS FOR MEMBERSHIP

#### 3.16.1.1. Indirect taxation – value added tax

In Montenegro, standard VAT rate (general rate) is 19%, while from 1 January 2018, the VAT will be 21%; discounted rate is 7%. In the Montenegrin tax legislation there is no taxation of products and services at a rate below 7%. Products and services for which the VAT is calculated and paid at a discounted rate of 7% are:

- 1) Basic products for human nutrition (bread, flour, milk and dairy, baby food, fat, oil, meat and sugar);
- 2) Medicines, including the medicines for use in veterinary medicine, except for medicines from Article 25 paragraph 1 item 9 of the Law;
- 3) Orthodontic and prosthetic devices as well as medical devices that are surgically implanted in body, except for medical devices from Article 25 paragraph 1 item 9 of this Law;
- 4) Textbooks and teaching materials;
- 5) Books, monographs and serial publications;
- 6) Accommodation services in hotels, motels, tourist resorts, boarding houses, camps and villas; services of food preparation and serving of food, drinks and beverages in hotels with a minimum of four stars in the Northern region, or at least five stars in the Central and Coastal region;
- 7) Drinking water, other than bottled water;
- 8) Dailies and periodicals, except for the magazines which in whole or a part include advertisements;
- 9) Services of public transport of passengers and of their personal luggage;
- 10) Public hygiene services;
- 11) Funeral services and goods related to those services;
- 12) Copyrights and services in the area of education, literature and art;

- 13) Copyrights in the area of science and art products, collections and antiques referred to in Article 45;
- 14) Services charged in the form of tickets for cinema and theatres, concerts, museums, fairs, amusements parks, exhibitions, zoos and similar cultural and sports performances, except for those for which exemption from VAT payment is prescribed;
- 15) Services regarding the use of sports facilities for non-profit purposes and services provided in marinas;
- 16) Fodder, plants feed, means for plant protection, seeds and plant propagation material, and livestock;

In Montenegrin tax system, exempts without the right to deduction of input VAT are not fully aligned with the Directive 2006/112/EC (Article 132(1) and 135).

### **Exemptions that are in public interest**

The following services that are in public interest are exempt from the VAT payment:

1. Public postal services, as well as supply of goods directly related with these deliveries;
2. Health services and care and delivery of goods including supply of human organs, blood and human milk, performed in accordance with regulations on health insurance;
3. Social security services and the supply of goods directly linked to social security services that are performed in accordance with the regulations governing the field of social security services;
4. Services in pre-school education and the education and training of children, young people and adults, including the supply of goods and services directly linked to these activities, provided these activities are performed in accordance with the regulations governing this field;
5. Services and deliveries of goods by nursery schools, primary and secondary schools, universities, and by student catering and boarding institutions;
6. Services related to culture including tickets for cultural events and supply of goods directly related to those services provided by non-profit organizations in accordance with regulation governing the field of culture;
7. Services related to sport and sport education, which perform non-profit organizations (unions, associations, etc);
8. Services of public radio broadcasting service, except for services of commercial character;
9. Religious services and supply of goods directly linked to religious services performed by religious institutions in order to satisfy the needs of the faithful, in accordance with the regulations related to those communities;
10. Services provided by non-government organizations established in accordance with the regulations governing the activities of these organizations, unless there is probability that such exemption would lead to a distortion of competition.

## **Other VAT exemptions**

1. Insurance and reinsurance services, including services provided by insurance brokers and agents;
2. Supply of immovable property, except the first transfer of the ownership rights i.e. the rights to dispose of a newly-constructed immovable property;
3. Services of leasing or subletting of residential houses, apartments and permanent residential premises for longer than 60 days and lease of agricultural land or forests, which are registered in land books;
4. Banking and financial services, such as:
  - a) Approving and managing credits, as well as approving and managing guarantees that is other forms of credit insurance by the creditor;
  - b) Services relating to the management of deposits, savings, bank accounts, conducting payment operations, payment orders (remittances), executing due liabilities, cashing cheques or other instruments, except for debt collection;
  - c) Transactions, including the issuing of banknotes and coins, which are legal tender in any country, excluding collector's items (for example: numismatic collection); the collector items shall be considered to be coins of gold, silver and other material, bank notes not in use as legal tender, and coins with a numismatic value;
  - d) Trading in shares that is other forms of equity interests in companies, bonds and other securities, including their issuance, except for the safekeeping of securities;
  - e) Investment fund management.
5. Current postage stamps, administrative and court and tax stamps;
6. Supply of gold and other precious metals to the Central Bank of Montenegro;
7. Games of chance services.

VAT exempt transactions from with the right to deduct input VAT are not entirely aligned with Article 169(b) of the Directive 2006/112/EC, and the tax legislation does not recognise the VAT refund scheme for tourists.

Provisions of Article 25 paragraph 3 and of Article 30 of the Law on VAT stipulate that goods entered into the free tax zone i.e. free customs warehouse, which are intended for export or import of goods, and the turnover services arising from the turnover of those products intended to be entered into the free tax zone, or in free customs warehouse, are exempt from VAT.

The definition of taxable persons is aligned with the legislation.

Provisions of Article 13 of the Law on VAT stipulate that State bodies and organizations and bodies of local self-government unit and other public bodies are not considered



taxpayers within the framework of their activities on the basis of public functions even if, in connection to these activities, taxes, fiscal stamps, contributions and other duties are being collected. Political parties, trade unions and chambers are not considered as the taxpayers, if they carry out activities within their scope of work, i.e. authorizations.

State bodies and organizations and bodies of local self-government unit and other public bodies are considered as taxpayers if they are performing supply of goods or services, which is taxable, according to this Law, in the case of other taxpayers.

Montenegrin legislation provides for special taxation procedures in Articles 42-49 of the Law on VAT, for:

- small businesses;
- farmers;
- travel agencies and tour operators;
- used goods, works of art and antiques;
- other instances of supply of works of art, collectors' items and antiques;
- goods at public auctions.

### **3.16.1.2. Indirect taxation – excise**

The Law on Excise (Official Gazette of the Republic of Montenegro 65/01, 76/05, Official Gazette of Montenegro 76/08, 50/09, 78/10, 61/11, 28/12, 38/13, 45/14, 1/17, 50/17) stipulate that the excise tax is payable for excise goods: alcohol and alcoholic beverages, tobacco products, mineral oils, their derivatives and substitutes, carbonated water and liquid for electronic cigarettes.

The excise is paid for the following tobacco products: cigars and cigarillos, fine-cut tobacco and other tobacco for smoking. Definitions of these products are prescribed by the provisions of Articles 46-49a and they are aligned with the Directive 2011/64/EU. If the calculated excise tax on cigarettes (specific and ad-valorem) is less than the minimum excise tax set forth under this Law, the minimum excise tax is paid which is 100% of the total excise tax determined for the weighted average retail selling price of cigarettes. The weighted average retail selling price is calculated by dividing the total value of all cigarettes released into free circulation at retail selling prices and the total quantity of all cigarettes released into free circulation in the preceding year. The excise tax for cigarettes is paid as a specific excise tax determined as an amount for 1,000 pieces and as an ad valorem excise tax determined as a percentage of retail price of cigarettes. The minimum amount of excise per kilogram is: specific excise (30€/1000 pieces or EUR 0,60 per pack); ad-valorem excise (32%) and WAP EUR 1,9, while total excise is EUR 60 for 1000 pieces. The Law provides for an excise calendar of increase of specific excise which will amount to EUR 40,00 from 1 January to 31 December 2018, and as of 1 January to 31 December 2019 the amount of

specific excise will be EUR 50,00 for 1000 pieces. Ad valorem excise will remain unchanged and it will amount to 32% of the average weighted price of cigarettes.

Alcohol and alcoholic beverages that are subject to excise tax are: beer, wine, other fermented drinks, intermediate alcoholic beverages and ethyl alcohol and this classification is in line with rules from the Directive 92/83/EC. The excise tax base for wine, intermediate alcoholic beverages and other fermented beverages is the quantity of the excise goods in hectolitres; and for beer and ethyl alcohol is the contents of alcohol by volume per hectolitre, which means that the rules regarding the tax base for these products are entirely aligned with the Directive 92/83/EC. The Law stipulates that a producer who with the purpose of placing in the market produces up to 500 litres of strong alcoholic beverage per year, and who fulfils the terms and conditions set by the Law regulating conditions for the production and placing on the market strong alcoholic beverages, is considered a small producer of strong alcoholic beverages. The Law also defines that excise taxpayer is a natural person – producer of alcoholic beverages in excess of quantities allowed for personal use, if such alcoholic beverages are released into circulation. A special regulation will be adopted in the near future to set up the upper limit of alcoholic beverages for personal use.

The excise are paid for the energy products that are encompassed by Article 2 of the Directive 2003/96/EU, and the alignment remains in the area of taxation of electrical energy and its implementation in the existing Law. The excise prescribed for the energy products are expressed in the same units as foreseen by the legislation. Also, the alignment of energy products, as per the Law, refers to the minimum rates from the Directive too. The Law foresees that the mineral oils that are used as heating fuel (gas oils and kerosene) must be marked by a proper colour and an indicator (for gas oils in red colour, and for kerosene in green colour), with the minimum of 6 mg/l and maximum of 9mg/l of marked indicator "CI Solvent Yellow 124", at temperature of 15°C.

In the part of alignment with the EU standards in the area of monitoring of the movement of excise products, Montenegro ought to set up the electronic system Excise Movement Control System (EMCS) into the IT system of the Customs Administration.

Through TAIEX and the participation within the programme FISCALIS 2020, the Tax Administration took into consideration the experience of custom officers from EU Member States and from the region and established the system for monitoring and control of excise products.

For excise products that are imported, monitoring of trends of excise products in the regime of deferred payments of excise is done through the customs declarations, which are submitted electronically. The monitoring of the movement of excise products, that are stored into excise warehouses after importation, for the purpose of postponing of payment

of excise, and monitoring of the movement of the excise products made in Montenegro are done through the prescribed excise document, which must be submitted to the customs authority exercising control over the procedure of movement of the excise products.

With the aim of a more efficient monitoring of movement of excise products, the Customs Administration has, within IPA II support for the Sector "Democracy and management" planned a development of a new national application for monitoring of movement of excise products in the IT system of the Customs Administration, a project titled "Support to the Customs Administration in the excise area". This application will have an option of interconnectivity and interoperability with the future application EU-EMCS, whose establishment the Customs Administration also plans to implement within the future support (from IPA II).

An approval for the implementation of the project "Support to the Customs Administration in the excise area" is due.

Once the Customs Administration has taken up the full control over excise from the Tax Administration, the Customs Administration will carry out comprehensive controls in all customs proceedings (import, export, transit), in all types of transit, control in passenger traffic and the control inside the customs area. In the electronic system for risk monitoring of the Customs Administration there are special risk profiles that treat excise products. The profiles are made with the technical assistance by experts of the World Bank, through the IFC project. The system allows for monitoring of results of control and the evaluation and updating of risk profiles.

The collection has increased and so has the number of detected violations while the quantity of seized excise goods increased multifold. Over the first nine months of this year, total of EUR 173,254.862.82 has been collected which is by 22,24% more than in the same period last year (as for mineral oils, their derivatives and substitutes, 27,33% more has been collected than during the same period last year, 12,59% for tobacco, 8,10% for alcohol and alcoholic beverages and 3,89% for carbonated water).

The Customs Administration conducts these controls independently, and in cooperation with the Tax Administration and the Police Directorate, as well as with customs authorities of the EU Member States.

The Customs stipulates that duty free shops may be opened on the airports and navy ports opened for the international traffic, with organised passport and customs control, for selling commodities to the passengers leaving abroad and passengers in transit over the customs area of Montenegro. This solution is aligned with the *acquis* i.e. with Article 99 of the SAA.

The costs for passengers related to goods in the personal luggage of passengers are fully aligned with the Directive 2007/74/EC, having in mind that the Law on VAT stipulate that non-commercial goods of a certain type, value and quantity that passengers bring into the country will be tax exempt, in accordance with the terms and conditions for the customs regulation. Furthermore, the Law on Excise stipulates that the excise is not paid for excise products that passengers bring into their own baggage from abroad and they are exempt from paying of import fees in accordance with the customs regulations.

### **3.16.1.3. Direct taxation**

In Montenegro, banks are obliged to submit to the tax authority, for the purposes of the procedure for determining, collecting and controlling taxes, on written request data on executed transfers of funds of the bank's client in the payment system, stipulated by Article 4 of the Law on Prevention of illegal businesses (Official Gazette 29/13 and 16/16).

Article 26 of the Law on Corporate Profit Tax (Official Gazette of the Republic of Montenegro 65/01, 12/02, 080/04 and Official Gazette of Montenegro 40/08, 86/09, 40/11, 014/12, 61/13, 55/16) regulates the tax treatment of status changes. The provisions of this Article stipulate that the transfer of assets in a case of status change (acquisition, merger or division) and distribution of the share capital are not considered as the sale of assets for the purpose of that Law.

In case of status changes, the tax liability arising from capital gains occurs at the time when a legal entity, which emerged as a result of the status change, sells the assets acquired from the status change. The capital gain is calculated as a difference between the sale price of the asset and its bookkeeping value, established in accordance with the accounting regulations, reduced by depreciation costs established in the manner envisaged by the Law.

The right to defer payment of the profit tax on capital gains realized by transfer of assets is acquired in a case the owner of the legal entity that transferred the assets in the event of acquisition, merger, or division received a consideration in a form of shares or interest in the legal entity to which the assets were transferred, as well as in the case of possible cash consideration the amount which does not exceed 10% of the par value of acquired shares or interest.

Articles 35, 36 and 37 of the Law on Corporate Profit Tax define rules about consolidation of companies for the taxation purposes. For the purpose of the tax consolidation, parent and subsidiary companies constitute a group of related companies if the parent company has direct or indirect control over at least 75% of shares or interest of the subsidiary company. Related companies have the right to the tax consolidation provided that such companies are residents of Montenegro.

The parent company submits a request for the tax consolidation to the competent tax authority no later than by 31 December of the current tax period. The competent tax authority is obliged to render a decision approving the tax consolidation within 30 days as of the day of the submission of the request. Each member of the group of related companies is obliged to submit its tax return to the competent tax authority, while the parent company is to submit the consolidated tax return for the group of related companies. Losses of related companies in the consolidated tax return are offset against the profit of other related companies in the group. For the tax assessed under the consolidated tax return, the taxpayers are individually related companies from the group, proportionally to the taxable profit from an individual tax return. Once approved, the tax consolidation will apply for the period of no less than five years. If prior to the expiry of that period, the conditions referred to in Article 35 paragraphs 1 and 2 of this Law change or one or more related companies decide for an individual taxation, each member of the group will be obliged to pay the proportional difference for the tax relief used.

Article 38 of the Law on Corporate Profit Tax stipulates that the price originating from asset transactions or creation of obligations between related parties is considered a transfer price.

Related parties are considered as the parties among which special relations exist that may have direct impact on the conditions or economic outcomes of transactions among such parties, in accordance with the law governing tax administration.

The price expected to be achieved from asset-related transactions or contractual obligations between parties that were operating at arm's length basis or higher achieved price is considered as the arm's length price. The difference between the arm's length price and a transfer price is included in the tax base. The arm's length price is determined by applying the comparable price method and when this is not possible, then the resale price or acquisition price increased by a customary margin method is used.

The capital liabilities and similar taxes that are related to the Directive 2008/4/EC have not been applied to the increase of capital.

#### **3.16.1.4. Administrative cooperation and mutual assistance**

After gaining independence, Montenegro took over 37 treaties on double taxation, which were concluded by the Socialist Federative Republic of Yugoslavia, the Socialist Republic of Yugoslavia or by the State Union of Serbia and Montenegro and which refer to Montenegro and are aligned with its legislation (Albania, Belgium, Belarus, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Egypt, Finland, France, Netherlands, Croatia, Italy, Iran, China, Cyprus, Korea, Kuwait, Latvia, Hungary, Macedonia, Malaysia, Malta, Moldova, Germany, Norway, Poland, Romania, Russia, Slovakia, Slovenia, Sri Lanka, Sweden,

Switzerland, Turkey, Ukraine and United Kingdom). Treaties with these countries are in force.

As an independent country, Montenegro has concluded treaties with Ireland, Serbia, United Arab Emirates, Austria, Azerbaijan and Portugal and the treaties with Spain and Qatar have been initialled.

Montenegro is interested in signing of the Multilateral Convention on mutual administrative assistance in tax matters of OECD, and after having received the draft of the Convention by the General Secretariat of the Council and after joint cooperation with experts from the Group of Code of Conduct in the taxation area for the purpose of text adjustments, the Ministry of Finance will initiate the conclusion in accordance with the Law on Conclusion and Implementation of International Agreements (Official Gazette of Montenegro 77/08) and send it to the Government of Montenegro for discussion and adoption.

Montenegro, with the view of tax transparency, fair taxation and implementation of measures against the base erosion and profit shifting (BEPS measures) intends to access or become a member of the *Global Forum on Transparency and Exchange of Information for Tax Purposes*. The Ministry of Finance will initiate the proceeding before the Government of Montenegro for obtaining their approval for accession.

In the forthcoming period, Montenegro will approach the Inclusive Framework on BEPS, and will accordingly devote itself to the implementation of minimum standards of BEPS. Montenegro received a letter by the director of the Centre for Tax Policy and Administration in OECD concerning the signing of the Multilateral convention on implementation of agreements on taxation concerning the measures of prevention of tax base erosion and profit shifting.

On the basis of individual treaties on double taxation, Montenegro exchanges information about direct taxes with other contracting countries. Information exchange is currently carried out only upon request of other tax administrations of contracting countries.

Montenegro has undertaken to establish the CLO office by IV quarter of 2018. An office with three employees is envisaged in the organisational framework of the Tax Administration. Furthermore, the IPA project 2014, whose implementation is to begin soon, provides for the adoption of rulebooks and handbooks for this office as well as training of officials.

### **3.16.1.5. Operating capacities and computerisation**

In 2016 and 2017, the Tax Administration utilised the funds of the multi-beneficiary IPA for the Western Balkans and used the assistance of the IMF consultants with the aim of strengthening of administrative capacities in the Tax Administration and establishment of

business functions in line with the EU standards. The assistance was provided in the following areas: risk analysis, VPO, clearance of the tax payers data base (active vs. inactive status), strengthening the activities of collection and tax debt reduction, setting up key indicators for measuring of the impact of business processes in the Tax Administration, improvement of the process of registration and submission of tax applications, the organisational structure of the Tax Administration. The action plan that monitors the level of implementation of recommendations for improvement of business processes based on the TADAT mission (November 2015) was adopted.

IT strategy of the Tax Administration was adopted in 2015. Amendments to the IT strategy, with the view of achieving interconnectivity and interoperability with the EU systems, are planned within the IPA 2014 twinning project "Support to the Tax Administration". The launch of this project is due by the end of 2017.

It is important to note that signing of EUR 14-million credit arrangements with the World Bank is underway for the project of reform of Tax Administration. The project, which is due at the beginning of 2018, includes the development of a single IT system of the Tax Administration that will meet all future needs of the Tax Administration. Implementation of this project would require a change of both the business and IT strategy of the Tax Administration.

### **3.16.2. Implementation of activities from October 2016 to October 2017**

#### **3.16.2.1. Normative framework**

On 29 December 2016, the Parliament adopted as follows:

- The Law amending the Law on Personal Income Tax (Official Gazette of Montenegro 83/16) effective as of 1 January 2017. This Law extended the validity of a higher tax rate of 11% to personal income in the gross amount above average earning in Montenegro, i.e. above EUR 751.
- The Law on Restructuring of Tax Receivables (Official Gazette of Montenegro 83/16) that provided for deferred payment of the primary tax receivable into maximum 60 equal monthly instalments with one-off payment of 10% of the total amount of the tax receivable as defined in the decision on restructuring tax receivable;
- The Law amending the Law on Excise (Official Gazette of Montenegro 1/17) that increased the excise (for lead and unleaded gasoline and gas oils) and further strengthened the harmonisation with the Directive of the European Council 2003/96/EEC in that field by introducing the natural gas into the excise system.
- The Law amending the Law on Value Added Tax (Official Gazette of Montenegro 1/17) through which the harmonisation was achieved with the Article 98 paragraph 2 and Annex III to the Directive of the European Council 2006/112/EC; the Law defines that

the reduced rate does not apply to the delivery of some products and services, among other things, to delivery of IT equipment. In addition, this solution introduced the taxation of IT equipment at a general rate of 19%.

On 26 July 2017, the Parliament adopted as follows:

- The Law amending the Law on Value Added Tax (Official Gazette of Montenegro 50/17). This Law increased the general rate of the value-added tax from 19% to 21% (starting from 1 January 2018), and completed the harmonisation with the Directive of the Council 2006/112/EC on the common system of value-added tax in the part relating to the place of supply of services.
- The Law amending the Law on Excise (Official Gazette of Montenegro 50/17). This Law further harmonised the excise to tobacco products with the Directive 2011/64/EC on the structure and rates **of excise duty** for fine tobacco, by changing the existing "excise calendar"; the excise to tobacco as of 1 January 2019 will be fully harmonised with the excise from the above mentioned Directive. Also, the increase of excise to fine cut tobacco was completed, as well as the gradual increase in excise on ethyl alcohol, carbonated drinks with added sugar and the coal.

On 16 October 2017, the Parliament adopted the Law amending the Law on Tax on Turnover of Used Motor Vehicles, Vessels, Aircrafts and Flying Objects that defined in more detail the meaning of the used motor vehicles, vessels, aircrafts and flying objects in the part of tax treatment of these products, and whether the taxation of this type is done for the vehicles that have been only registered in Montenegro at least once and for which the salesperson, or the carrier did not have the right to deduct the input VAT when purchasing.

### **3.16.2.2. Administrative capacities**

The Tax Administration has started to use software for an automated risk analyses and it also utilises an application to monitor the activities of tax inspectors. In addition to this, systems for automated exchange of information with the Ministry of Interior, the Health Insurance Fund and the Customs Administration have been established, and previously with the Ministry of Labour and Social Welfare. An application that shows data about measures in the field of collection is being used for every tax payer as and per type of tax.

In June 2017, negotiations for signing of a 14-million worth loan agreement with the World Bank for the project "Reform of the Tax Administration" ended (10 million for IT-IRMS system and 4 million for business processes). Also, on 31 July 2017, the Board of Directors of the World Bank approved a loan agreement which is a prerequisite for further steps in terms of the implementation.

Based on the recommendations of the EC from the latest progress report on monitoring of recommendations from the TADAT report, a visit was made by one of IMS consultants concerning the strengthening of capacities of the Tax Administration in debt management



(the project of technical assistance from the multi-beneficiary IPA is being implemented from funds provided by the EC). By the end of the year, it was agreed to continue with the technical assistance in the area of clearing up the registry of tax payers and large tax payers.

The fifteen-day long mission of the IMF experts ended – i.e. monitoring of the implementation of recommendations of TADAT report. The report "Further progress in the reforms of the Tax Administration" was drafted and a monitoring by representatives of the EC concerning the assessment of previously provided technical assistance of the IMF consultants ended too.

On 8 November 2016, the Council adopted the "Conclusions on the criteria and the conduct of process of establishing an EU list for non-cooperative jurisdictions for tax purposes". The Conclusions contain a set of objective criteria that need to be promoted at an international level in line with the tax systems of non-EU jurisdictions and which concern the areas of tax transparency, fair taxation and the implementation of anti-BEPS measures.

Montenegro expressed its intention to take part in the process of application of the criteria, which have been agreed in the Council with regards to the tax transparency, fair taxation and implementation of measures against the base erosion and profit shifting (anti BEPS measures) which are defined in the "Conclusions of the Council concerning the criteria and processes that lead to compiling of an EU list whose competences have not been complied for taxation purposes" from 8 November 2016.

## **3.17. CHAPTER 17: ECONOMIC AND MONETARY POLICY**

### **3.17.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3. 17. 1. Economic policy**

The Law on Budget and Fiscal Responsibility that came into force in 2014 was adopted with the aim of alignment with the Directive 2011/85/EU and it represents the underlying act for budget planning and its performance, fiscal responsibility and other matters related to the state budget and budgets of local self-administration. This Law defines the criteria for fiscal policy planning, mid-term budgetary framework, numerical fiscal rules and other norms aimed at improving of management of public finances.

By formal introduction of the mid-term budgetary framework, the projections of main elements of public finances have been improved, particularly in the segment of public expenditure planning, by establishing of upper limits for budget spending for all budgetary units of Montenegro

### 3.17.1.2. Monetary policy

When it comes to the **independence of the Central Bank of Montenegro**, the Law on the Central Bank of Montenegro from 2010 largely implemented the principle of independence of the Central Bank of Montenegro, whereas through the Law amending the Law on the Central Bank and the Law amending the Law on Foreign Current and Capital Operations, the principle of independence of the Central bank of Montenegro has been fully implemented. Thus the recommendations of the European Commission in the Report on analytical overview of compliance of the legislation of Montenegro for Chapter 17 have been met.

In the area of the **functional independence**, the Central Bank has all the necessary instruments and competences for the implementation of the monetary policy within the existing monetary regime in Montenegro. The Central Bank is independent in decision making when it comes to the use of instruments of the monetary policy. The Law amending the Law on the Central Bank of Montenegro explicitly stipulated that maintaining price stability would be the main objective of the Central Bank from the day of accession of Montenegro to the European Union.

The principle of **institutional independence** of the Central Bank is consistently applied in practice, and the Law amending the Law on the Central Bank of Montenegro further strengthens this principle by the introduction of a provision that other authorities and institutions, with the exception of courts, must not approve, annul, abolish or affect in any other manner any decision of the Central Bank from its field of authority.

When it comes to the principle of **personal independence**, the Law on the Central Bank of Montenegro stipulates that the mandate of governor, vice-governors and other members of the Council lasts 6 years; that the mandate of a member of the Council appointed to the position of a member of the Council whose term of office expired before the expiry of the mandate lasts for 6 years; a member of the Council may be relieved of duty before the end of the term of office if the member fails to fulfil conditions required for the function or is found responsible for a serious violation in performing of their function; governor, vice-governors and other members of the Council may initiate an administrative proceeding against the decision on relieve of duty before the Administrative Court; as of the day of accession of Montenegro into the EU, governor who has been relieved of duty will have the right to refer such decision to the European Court of Justice.

When it comes to the **financial independence**, the Central Bank is independent in management of funds that are required for fulfilment of its tasks in an adequate manner. Profit of the Central Bank is allocated to the reserves in the amount of 50% of the profit, while a share of the profit of up to 10% may be allocated into special reserves, and the remaining share of profit makes the revenue for the budget of Montenegro.

In regards to the **prohibition of the monetary financing of the public sector and of privileged access of the public sector to financial institutions**, the principle of prohibition of the monetary financing of the public sector has been fully implemented in Montenegro. As for the principle of the prohibition of privileged access of the public sector to financial institutions, the Decision on bank reserve requirement to be held with the Central Bank of Montenegro was amended in December 2015 and thereby a complete alignment with this principle was achieved. The Law on Insurance (Official Gazette of the Republic of Montenegro 78/06, 19/07, Official Gazette of Montenegro 53/09, 73/10, 40/11, 45/12, 6/13, 55/16), the Rulebook on depositing and investing technical reserve funds and capital funds of investment firms (Official Gazette of Montenegro 46/13), the Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06, 14/07, Official Gazette of Montenegro 73/10, 40/11) and the Law on Deposit Protection (Official Gazette of Montenegro 44/10, 10/11 and 47/15) are undergoing appropriate modifications for the purpose of complete implementation of this principle.

The Law amending the Law on the Central Bank of Montenegro stipulates that in the event of a need for liquidity of a credit institution, the Central Bank may grant credit to the credit institution, with adequate collateral. More detailed terms and conditions to grant a loan will be stipulated in a new decision of the Central Bank of Montenegro that will repeal the Decision on granting last-resort financial assistance. Thus, complete alignment with the EU legislation in this field will be achieved. The Law amending the Law on the Central Bank of Montenegro further defines the current solution and specifically states that the Central Bank of Montenegro may purchase state debt securities at secondary markets only.

When it comes to main objectives of the Central Bank, the Law amending the Law on the Central Bank of Montenegro established the objectives of the Central Bank as of the day of accession to the European Union. Namely, provisions of Article 87v of the Law stipulates: "The main goal of the Central Bank is to preserve stability of prices. Notwithstanding the question of achievement of goals from paragraph 1, the Central Bank supports general goals of the economic policy of the European Union, with the aim of contributing to the accomplishment of goals from Article 3 of the Treaty on European Union. The Central Bank acts in accordance with the principle of the open market economy with the free competition, by giving priority to an efficient allocation of funds, in accordance with the principles from Article 119 of the Treaty on the functioning of the European Union."

The Central Bank is obliged to work on accomplishment of goals and on execution of tasks of the ESCB, under the Treaty on the functioning of the European Union, Statute of ESCB and ECB, regulations of the EU and this law.

As regards the monetary regime in Montenegro, the Central Bank does not conduct currency exchange policy, and for the implementation of the monetary policy it does not

use all standard instruments. A reserve requirement is an instrument of the monetary policy that is effectively used. Primarily, this instrument has been developed to strengthen the trust into the banking system. Also, it has been used to curb the credit activity, reduce the gap between placement and source of funds, in terms of their maturity gaps, and to increase liquidity of the banking sector.

In accordance with the Law on the Central Bank, the Central Bank monitors the maintenance of the stability of the financial system as a whole and adopts regulations and measures in this area. The Central Bank regulates businesses of credit institutions, issues licences and approvals, controls credit institutions, issues approvals for payment services and controls payment institutions, issues approvals for issuance of electronic money and for providing of payment services to institutions for electronic money and controls their operations.

When it comes to the financial system, over 95% of assets and liabilities are in euro. Therefore, less than 1% of total loans were approved in a currency other than euro, and less than 2% of borrowings the banks use were in a currency other than euro, and about 6% of deposits in banks. Also, much of the state debt is in euro, which makes 88.6% of the total debt at the end of March 2017. The debt in dollars refers to 8.8% of the withdrawn loan for the highway. The withdrawal of the remaining funds of the loan from the Exim bank will contribute to the growth of the indebtedness of Montenegro in other currencies. That exposes the country to the risk of depreciation of euro in relation to dollar. However, the impact should not be drastic. First of all, the share of this loan in total indebtedness of the country is not significant and it is unlikely that the euro will be significantly depreciated in relation to dollar during the 14 year term of loan repayment.

The international reserves managed by the Central Bank stood at EUR 606,6 million at the end of September 2017. In the structure of international reserves, securities take the dominant position (65.5%) i.e. securities held for sale (68.5% of total investments into securities).

The external debt of the country, which has constantly been around 80% of the total country debt, has increased significantly since 2011 as a result of the crisis response. A significant growth of the foreign debt has been evident in the period 2013-2015, through issuance of eurobonds and through withdrawal of funds for the highway. Until 2015, external debt of the country was below 50% of the GDP, and since that year, the share of GDP was over 50%. Private external debt, debts of banks and other sectors was declining during the period 2010-2015 and in 2010 it was 85,5% of the GDP, while in 2015 it was 70% of the GDP. With the inclusion of the intercompany debt, the private debt reaches the level of 106.5% of the GDP in 2015.

Current account deficit during the first six months of 2017 was EUR 631.3 million, which is by 5,1% lower than in the same period last year. First of all, the decline is a result of increase of the surplus on the account of services, and primary and secondary income.

The average net inflow of foreign direct investments in the period 2006-2016 was from 9.4% to 35,6% of the GDP.

Along with the ever growing revenues in the field of tourism, which were ranging from 12.5% to 22.2% of GDP in 2006-2016, the inflow of remittances makes a very stable and growing source of funds from abroad. The inflow of remittances grows one year after another and in the period 2006-2016 it was in the range from 6.4% to 9.3% of GDP.

### **3.17.2. Implementation of activities from October 2016 to October 2017**

#### **3.17.2.1. Alignment of legislation**

##### ***Economic policy***

The Law on Budget of Montenegro for 2017 was adopted on 29 December 2016 (Official Gazette of Montenegro 83/16). The measures for the recovery of the budget deficit and public debt have been adopted for the period 2017-2021 as an integral part of the Law on Budget of Montenegro for year 2017. In spite of significant effects that are expected from the implementation of adopted measures, it has been estimated that additional measures should be defined in order to accelerate the declining of public debt as early as in 2019 and then reach the surplus in 2020.

To this end, the Parliament adopted the Fiscal Strategy of Montenegro 2017-2020 on 26 July 2017. In accordance with the Law on Budget and Fiscal Responsibility, and on the basis of the Fiscal Strategy for 2017-2020, the Government adopted the Guidelines of macro-economic and fiscal policy for 2017-2020 on 6 July 2017. This document provides the mid-term goals of the economic and fiscal policy, mid-term macro-economic and fiscal framework, on the grounds of which the limits of consumption were defined, which are binding for year 2018 and indicative for the following period. The evaluation of the criteria of fiscal responsibility i.e. execution of numerical fiscal rules is completed by the State Audit Institution, which is published in the Annual report on audits and activities. In order to strengthen the system of management of public finances, the Parliament of Montenegro adopted the amendments to the Law on Budget and Fiscal Responsibility on 16 October 2017.

On 27 January 2017, the Government adopted the Programme of Economic Reforms for Montenegro 2017-2019. This is the vital document of Montenegro in the economic dialogue with the EC and EU Member States. At the same time, it is also a key strategic document of the country for medium macro-economic and fiscal programming, which also includes a follow-up agenda of structural reforms regarding a reduction or elimination of barriers to

the commercial growth and strengthening of an overall competitiveness of the country. The Programme of Economic Reforms is being prepared each year in accordance with the methodology and recommendations of the EC. The preparation of this document, which is the most important instrument for the economic dialogue between Montenegro and the EC, having in mind the long-term continuity, does not require any further staff engagement, but rather their training through an adequate expert support.

When it comes to readiness to participate in macroeconomic imbalance procedures, Montenegro currently does not have all the variables required for the development of the basic MIP indicators. In the previous period, within the IPA 2014 multi-beneficiary project, the Statistical Office of Montenegro, in the capacity of a coordinator of the statistical system of Montenegro, worked on the identification of the competent institutions for production of the basic variables for the MIP indicators. The competent institutions recognised as responsible for production of basic variables for development of the MIP indicators are the Central Bank of Montenegro, the Ministry of Finance and the Statistical Office of Montenegro. Currently available data for development of MIP indicators have been collected and the meta-data have been prepared. Also, the activities were carried out about the number of employees in accordance with the ESA 2010 methodology. In the upcoming period, activities will be carried out to produce the missing variables with the aim of a stronger accessibility of variables that are necessary for the development of all basic MIP indicators. In the period 4-15 December 2017, an IMF technical mission is planned with the objective of a support to the Central Bank of Montenegro in preparation of IIP and statistics of a foreign debt in accordance with the Rulebook of the IMF for payment balances and international investment position, sixth edition (BPM6). The mission will focus on the assessment of cash flow as that is one of the key missing positions for compiling and development of the IIP table. Also, in cooperation with the IMF experts, a table of external debt will be prepared in accordance with the methodology of the IMF and the World Bank.

When it comes to the Fiscal notification and the Procedure on surplus deficit, the data are being sent in accordance with the national legislation and methodology, and after the complete implementation of ESA2010 and the Handbook on deficit, other data will be revisited as well.

The Ministry of Finances prepares monthly, quarterly and annual fiscal reports which are in line with the Law on Budget and Fiscal Responsibility; currently, there are on-going activities on their alignment with the ESA 2010 methodology. These activities are being carried out by the Work group for the implementation of ESA2010 methodology in the statistics of public finances that is composed of representatives of the Statistical Office of Montenegro, the Central bank and the Ministry Finance.

Members of the Working group worked intensively on the implementation of the aforementioned methodology with an expert of the Croatian National Bank, through the project financed by IPA2013. The project was completed in July 2017 and significant results have been achieved. As for the mentioned area of statistics (GFS), it is planned to transfer the competences to the Statistical Office of Montenegro, with an increase in the number of employees, to fulfil the requests from chapters 17 and 18.

To fully align with the Directive 2011/85 it is necessary to introduce the ESA 2010 methodology in the system of public finance, with an adequate institutional coverage.

### ***Monetary policy***

On 30 March 2017, the Government adopted the Action plan for alignment with the legislation in the area of monetary and economic policy. On 11 May 2017, the Negotiating position of Montenegro was delivered for the Intergovernmental conference on access of Montenegro to the European Union for Chapter 17 – Economic and Monetary Policy.

The Law amending the Law on the Central Bank and the Law amending the Law on Foreign Current and Capital Operations were adopted on 16 October 2017 and thus the principle of independence of the Central Bank of Montenegro has been fully implemented.

In the area of a prohibition of a privileged access of the public sector to financial institutions, the EC gave a positive opinion to the Proposal Law amending the Law on Voluntary Pension Funds. Recommendations of the MONEYVAL were fulfilled through the amendments of this Law, which the evaluators of the European Council described as urgent and mandatory, as well as a request of a prohibition of a privileged access of the public sector to the financial institutions in the part that relates to the voluntary pension funds. This Law is expected to be adopted by the Government by the end of the year.

In this area, when it comes to the dynamics of the adoption of a new Law on Insurance, the activities on compiling the Draft are at the initial stage and will continue in 2018 and 2019. The deadline for adoption of the Law on Insurance is the IV quarter of 2019, with the implementation date as of the day of accession to the EU.

In order to align the Montenegrin legislation with the Directive 2014/59/EU of the European Parliament and the Council for establishing a framework for the recovery and resolution of credit institutions and investment firms (known as “BRRD”), in July 2017 the Central Bank adopted the work version of the Draft Law on Recovery of Banks and the Draft Law amending the Law on Banks and delivered them to the Ministry of Finance for further procedure.

To align the Montenegrin legislation with the Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firm and for creation of the legal ground for adoption of a set of secondary

legislation for the implementation into the banking legislation of the Regulation 575/2013/EU on prudential requirements for credit institutions and investment firms, it is planned to adopt the new Law on Banks as well as secondary legislation for its implementation. In 2018, the Central Bank will prepare a working version of the new Law on Banks with foreign experts within the Twinning project titled "Support to regulation of financial services". In that way, new Basel standards of capital and liquidity (Basel III) will be implemented in the banking legislation, which are focused on strengthening of capital requirements for banks, and for establishment of a framework for new regulatory requirements with regard to liquidity and additional capital requirements for financial institutions of systemic significance.

### **3.17.2.2. Administrative and operational capacities**

On 25 October 2017, the Parliament adopted the Law on Financial Leasing, Factoring, Purchase of Receivables, Micro-Crediting and Credit Guaranteed Operations, and the Central Bank thus became a competent institution for regulation and control of operations of these financial institutions. In order to implement this new function, there is going to be a change of organisation and systematisation in the Central Bank in such a way as to ensure adequate administrative capacities.

In order to fill in the capacities for the creation, implementation and monitoring of a structural reform to fulfil the criteria of the European Semester, it is necessary to fill in the vacancies in the Directorate for the economic policy and development. To this respect, three trainees are being trained for the operations of this directorate.

## **3.18. CHAPTER 18: STATISTICS**

### **3.18.1. Statistical infrastructure**

The Law on Official Statistics and the Official Statistical System of Montenegro establishes the legal framework for the production and dissemination of the official statistics, as well as the framework for organising the official statistics system of Montenegro. It is fully compliant with Regulation (EC) No. 223/2009 and the European Statistics Code.

The Statistical Office does not have sufficient financial and human resources for dealing with tasks under the process of alignment with European requirements and harmonization of the growing demands of users at the national level. Another serious problem is the lack of working space in the existing building.

The planning process of the multi-annual programme is regulated by the Law and MONSTAT will organise it again in 2018 for the Programme for 2018-2023. The Law stipulates that the Government shall adopt programmes as well as annual plans that are developed for the purpose of implementing the Programme. Both documents are published



in the Official Gazette of Montenegro. MONSTAT is responsible for the development of multi-annual programmes and annual plans in cooperation with other producers of official statistics.

MONSTAT has signed 18 memoranda of understanding with the administrative data providers. In the context of implementation of ESA 2010 methodology, a trilateral agreement was signed by MONSTAT, the Central Bank of Montenegro and the Ministry of Finance.

The main statistical classifications have been established: Statistical Classification of Activities (NACE Rev. 2), International Standard Classification of Occupations (ISCO-08) and Nomenclature of Territorial Units for Statistics (NUTS), which are in line with the current EU regulations. The Statistical Office has fully implemented NACE Rev. 2 in accordance with Regulation (EC) No. 1893/2006, as well as ISCO-08 in accordance with Regulation (EC) No. 1022/2009. Classification of Products by Activity (CPA), which is harmonized with Regulation (EC) No. 451/2008, applies in all statistical areas since the beginning of 2015. The nomenclature of countries and territories for the external trade statistics of the EU and non-member countries (GEONOM) based on Regulation (EC) No. 1106/2012, is used by the Statistical Office, also since the beginning of 2015. In 2016, activities on the establishment of the DEGURBA classification were started (degree of urbanisation - classification into the following three categories: rural areas, towns and suburbs, and cities). The above classification was performed for three municipalities.

### **3.18.2. Macroeconomics statistics**

The Statistical Office performs calculation of the quarterly gross domestic product according to the production and consumption method and has a time series from 2010 to 2017 at current prices and 2011-2017 at constant prices. In the area of quarterly GDP, the Statistical Office has made a significant progress by reducing the deadline for publishing the quarterly GDP as of 2016 from  $t + 90$  to  $t + 83$  days following the end of the reference quarter. In the observed period, significant efforts were invested in the preparation of quarterly GDP data in line with the ESA 2010 methodology for the period 2006-2009, aimed at extending the quarterly GDP series in line with the ESA 2010 methodology. Great progress has been made in the part referring to the preparation of quarterly indicators: the number of employees according to the ESA 2010 methodology. Quarterly data on employees were prepared according to the ESA 2010 methodology for the period 2013-2015, and were first submitted to Eurostat via eDAMIS.

Also, the Quarterly National Accounts (QNA) Inventory has been prepared as defined by the benchmarks for the closing of the Chapter 18, describing the sources and methods for calculating quarterly GDP according to the consumption method. In September 2017, quarterly QGDP results for the second quarter of 2017 were published according to the

consumption approach in line with the ESA 2010 methodology and were submitted to Eurostat.

The Statistical Office performs calculation of the annual gross domestic product using the production and consumption method at current and constant prices as well as the gross national income at current prices. In 2016, the implementation of the ESA 2010 methodology for the period 2006-2009 was continued through the introduction of two important changes: the capitalisation of research and development costs, and the treatment of military equipment. Using the improved methodological concept, the time series of data on the gross domestic product according to the ESA 2010 methodology has been extended so that the time series now covers the period from 2006 onwards. In September 2017, the time series 2006-2009, which is in line with the ESA 2010 methodology, was published together with the Results of the annual GDP calculation for 2016 and the results of the calculation of the Gross National Income for 2016, according to the ESA 2010 methodology

Also, a comprehensive document GNI Inventory has been prepared, which is a detailed description of sources and methods for calculation of GNI, which is defined by the closing benchmarks for the Chapter 18, with the accompanying tables - Process tables which indicate the transformation of the basic data in accordance with the concept of the ESA 2010 methodology and the prescribed Instructions for the preparation of the document.

In 2016 and 2017, in parallel with the work on the extending of the time series of GDP according to the ESA 2010 methodology, the Statistical Office, with the support of IPA projects (IPA 2014 multi-beneficiary and IPA 2013 national), continued its work on the harmonisation with the ESA 2010 methodology. Its results will be used as inputs for further improvements and filling of variables within the tables defined by the closing benchmarks.

With a view to continuing harmonisation with the ESA 2010 methodology, there were significant efforts towards improving the calculation of the non-observed economy, in accordance with Recommendations of the GNI Committee and Eurostat, by setting up a model for assessing the share of legal (tips, private lessons, paid services to households) and illegal activities (drugs and prostitution), which contributed to a more comprehensive calculation of GDP for 2015 and 2016. The results of the GDP calculation for 2015 and 2016, including the improvement of the calculation of the non-observed economy (legal and illegal activities), were submitted to Eurostat via eDAMIS.

The annual calculation was improved in the part concerning the preparation of indicators: number of employees and wages and salaries of employees according to the ESA 2010 methodology. Data on employees and wages and salaries were prepared according to the ESA 2010 methodology for the period 2013-2015 and for the first time they were

submitted to Eurostat via eDAMIS. Data on wages and salaries are the basis for continuing the work on the introduction of GDP calculation according to the income method.

In the part referring to the annual national accounts, metadata for the available indicators for the Macro-economic imbalance procedure – MIP have been prepared.

Within the IPA 2014 multi-beneficiary project, a work on the preparation of the annual sector accounts was initiated. The available statistical and administrative sources for the preparation of the annual sector accounts were analysed.

Based on the available sources, experimental accounts of production and primary distribution of income for the non-financial sector and accounts of production, primary and secondary distribution of income for the general government sector according to the ESA 2010 methodology were partially prepared. In the forthcoming period, work on further development of the annual sector accounts will continue through the IPA 2015 project.

During the previous period, aimed at contributing to the further development of the annual sector accounts, a special emphasis was placed on the preparation of the experimental classification of institutional units by institutional sectors in accordance with the criteria defined by the ESA 2010 methodology, namely on the definition of the non-financial sector, financial sector, general government sector and non-profit institutions in the household service. A draft sectorisation of these sectors was prepared for 2015 and work on the preparation of sectorisation for 2013 and 2014 is in progress.

After completing the work on the preparation of the annual sector accounts, conditions will be created for the preparation of quarterly sector accounts according to the ESA 2010 methodology.

With the support of the IPA 2013 national project, significant progress has been made in the preparation and production of the supply and use tables. Concrete progress has been made in the production of balanced supply and use tables for 2013 and 2014. The results of a complex survey on the Structure of revenues and expenditures of business entities, entrepreneurs and users of budget funds for the reference 2013, carried out in November-December 2014, was used as the most important data source for the preparation of the listed supply and use tables. In the forthcoming period, there will be activities towards the expansion of the time series of the supply and use tables as well as towards their further harmonisation with the ESA 2010 methodology.

The production of a longer time series will create conditions for future work on the production of input-output tables.

In accordance with the Law on Official Statistics, the Ministry of Finance keeps statistics on fiscal expenditures and non-fiscal revenues. In October 2014, Montenegro for the first time submitted the Fiscal Notice data to Eurostat which was followed by a regular data

transmission. The ESA methodology has not yet been implemented in the Montenegrin fiscal notification, but in the previous period, significant steps have been taken in order to improve the methodological framework and harmonise public finance statistics according to the ESA 2010 methodology, as defined by the Strategy for the implementation of the ESA 2010 methodology in the field of public finances, adopted by the Government in April 2015. A progress was made in this area, by establishing an experimental classification of institutional units that belong to the state sector according to the ESA 2010 methodology, which will be used as a basis for further improvements. Methodological adjustments have been made for a number of transactions: the adjustment of taxes according to the calculation principle, a model has been prepared for the calculation of government bonds and dividends, interest, treasury bills, military weapons expenditures, and licenses for mobile telephony. Conversion tables of the economic classification of fiscal revenues statistics and non-fiscal expenditures encoded according to the ESA 2010 methodology have been finalised.

Pursuant to the Law on Official Statistics, the Central Bank of Montenegro is responsible for compiling financial accounts. The key activities required for the preparation of financial accounts are ongoing. These activities include institutional classification of sectors, development of public/state sector statistics (based on the Ministry of Finance strategy) and the development of statistics for the rest of the world. In the area of balance of payments (BoP), the CBCG produces and distributes BoP data in line with the new methodology (BPM6). In the previous period, a progress has been made by establishing an experimental classification of institutional units belonging to the financial sector according to the ESA 2010 methodology, which will be the basis for further improvements to follow.

A great progress has been achieved through implemented activities in the area of external trade statistics that is largely in line with the EU acquis, which also contributes to the improvement of the macroeconomic statistics. With the support of the IPA 2010 national project, the experimental data of foreign visible trade by invoicing currency (TIC) and data of foreign visible trade by enterprise characteristic (TEC) for the reference year 2014 were produced. Also, in 2017, the European Classification of Goods has been implemented - CN2017 (8-diggit).

Within the price statistics, the harmonized index of consumer prices (HICP) and purchasing power parity (PPP) are largely aligned with the EU standards. The harmonized index of consumer prices and purchasing power parity are produced in accordance with the main regulations (EC) no. 2016/792 and no. 1445/2007. The Statistical Office regularly submits to EUROSTAT: monthly harmonised indices of consumer prices (since February 2016, on the new common index reference period, 2015 = 100), annual weights, updated list of administrative prices, metadata (HICP\_ESMS\_A).

The European classification of individual consumption according to the purpose at the five-digit level (ECOICOP 5 digit) has been implemented, as well as the EC Regulation no. 2015/2010, referring to the new common index reference period (2015 = 100). Within the IPA 2014 project, the Office calculated the experimental HICP at constant tax rates for the period from 2012 to 2015. Also, within the same project, detailed working methodologies for the harmonised index of consumer prices and purchasing power parities have been updated. Work began on the introduction of the House Price Index, whereby administrative sources of data were identified and an experimental index was calculated based on the data from the regular MONSTAT survey "Prices of dwellings in new residential buildings".

### **3.18. 3 Business statistics**

In July 2017, SBS data have been submitted to Eurostat for the first time via eDAMIS programme for data transmission.

Short-term statistics for industry, construction and services is calculated using a regular monthly and quarterly dynamics. Through various IPA programs, Montenegro has been implementing European legislation in the area of short-term statistics. In the period from October 2016 to October 2017, the harmonisation of short-term statistics has been significantly improved by increasing the coverage of new indicators within the Eurobase, in accordance with Regulations (EC) no. 1165/98 and 1158/2005. Significant progress has been made by calculating calendar and seasonally adjusted data series for the area of construction and retail trade. All newly calculated indicators were submitted to Eurostat. In the area of service statistics, on the basis of administrative sources (VAT data) turnover of services was calculated for the period 2010-2017. Data has not yet been submitted to Eurostat. In October 2016, metadata in the new ESMS format for short-term statistics was revised through the Metadata Handler application, in accordance with Requirements of Eurostat.

PRODCOM statistics is fully harmonised with the basic Regulation (EC) no. 3924/91. As a result of the implementation of the new classification CPA revision 2.1, PRODCOM list 2016 has been implemented. The data for 2016 were forwarded to Eurostat within the stipulated deadline.

The Statistical Office regularly produces data on the statistics of domestic and foreign affiliates - FATS, according to the classification of activities NACE Rev2. While respecting the principle of confidentiality, the data are published at an aggregate level according to the following groups: industry, construction, trade and services. The FATS statistics data were submitted to Eurostat via the eDAMIS data transmission programme.

Tourism statistics is highly aligned with the EU Regulation 692/2011. The indicator of the monthly net occupancy rate of rooms is calculated and is being sent to Eurostat starting from January 2017. A significant progress was made in the national tourism statistics. As

part of the IPA 2014 project, a pilot survey on the tourist activity of the population in Montenegro for 2016 was conducted for the first time. In July 2017, all datasets and micro-databases on the national tourism were sent to Eurostat for validation, while in August 2017, a quality report was sent. In 2017, the implementation of the national tourism survey continued in accordance with the Annual Plan of Official Statistics for 2017.

In 2016, the air transport and air passenger transport statistics were established and fully harmonised with Regulation (EC) No. 437/2003. The data were transmitted to Eurostat in the required form of micro data. In April 2017, the document "Inventory air transport statistics" was submitted to Eurostat.

The Ministry of Science is the institution responsible for the production of statistics of science and research, which is produced for all four sectors: higher education, state, business and entrepreneurial, and private non-profit sector, in accordance with the requirements of the EU regulations on science and technology statistics. Although this classification is not introduced in the country, the guidelines on the definition of sectors from the methodological manual Frascati (OECD 2002, 2015) are used.

In 2017, with the support of the national project IPA 2013, a methodology and instruments, as well as the road map for innovation research have been established. The Statistical Office will conduct a two-year research on innovative activities of companies. For 2018, a pilot project is envisaged.

In the area of information and communication technologies, the Statistical Office conducts a research on the Use of Information and Communication Technologies in Enterprises and Households.

Data for 2016 were published on 31 October 2016. In April 2017, data for households and enterprises were collected for 2017. In September 2017, data for the same year were submitted to Eurostat (through eDAMIS) along with relevant reports: Metadata Report and Quality Report.

#### **3.18.4. Social statistics**

In the area of social statistics, the Survey on Income and Living Conditions (EU-SILC) has been fully implemented since 2013 and is compliant with relevant regulations. In April and May 2017, a survey for 2017 was carried out, and the data from 2013 to 2016 was analysed in order to submit the data to EUROSTAT in November 2017.

Statistics on social protection was established when the first pilot survey of social protection statistics ESSPROS was implemented in 2017, for the data referring to 2013, 2014 and 2015. The data were submitted to EUROSTAT via eDAMIS.

In 2017, the Labour Cost Survey (LCS) is conducted as a regular survey. The Job Vacancies Statistics (JVS) is envisaged by the Statistical Survey Plan as a pilot study for 2017, aimed at examining the possibilities of using administrative sources for this survey.

The working group of the Ministry of Health has begun its work on the development of the Rulebook on determining the causes of death and death certificate, and is expected to be completed in the first quarter of 2018.

In July 2017, the Statistical Office provided available data on non-monetary health statistics according to EUROSTAT's request and methodology, ending with data available for 2016, and it continues to increase the coverage in line with the requirements.

The data on external migrations are submitted to Eurostat - a total of 19 tables. Emigration data requires additional methodological adjustments due to insufficient flow coverage. From 2018, asylum statistics will be conducted as a regular survey, and the first delivery of data to Eurostat is planned for 2018. So far, a pilot survey has been conducted.

### **3.18.5. Agricultural statistics**

Annual surveys in the area of plant production statistics are harmonised with Regulation (EC) No. 543/2009. Data from the annual surveys in the area of plant production statistics are regularly submitted to Eurostat via eDAMIS web portal. In the period October 2016-October 2017, there were activities towards improving the availability of data which included analysis of the available administrative sources and the implementation of the Plant Production Pilot Survey, which was implemented by telephone in December 2016.

Further work in the area of agricultural statistics will focus on examining the possibility of migrating to administrative sources of data, as well as introducing more modern methods of data collection, thus improving the availability of data and shortening the time needed for publication.

In November 2016, a survey was carried out on the structure of agricultural holdings in accordance with Regulation (EC) No. 1166/2008. The data will be submitted to Eurostat in accordance with the Regulation by the end of 2017.

In cooperation with the Faculty of Biotechnology, a complete Production Account in Agriculture for the period 2012-2016 has been established, which is based on the balance principle. The results will be available in December 2017.

In the area of agromonetary statistics, which includes the Economic Accounts and Prices in Agriculture, there are continuous activities towards harmonisation with the EU acquis.

Economic accounts for agriculture include: Production account, Generation of income account, Entrepreneurial income account, Capital account. In February 2017, a complete Production Account for Agriculture was established for the period 2012-2016 (production

value - Output, Intermediate Consumption - Input) in accordance with Regulation (EC) No. 138/2004, which is a part of the Economic Account for Agriculture. With a view to controlling the intermediate consumption account and calculating the part of the Capital Account within the survey on the structure of agricultural holdings, conducted in November 2016, a set of financial questions is included which will serve to control the obtained results through the system of Economic Accounts in Agriculture.

A system for calculating income generation account based on the available data and a system for obtaining the Capital account in agriculture was established (based on the obtained results of livestock production, plantation and machinery).

A complete system for calculating absolute prices in agriculture and the price index of agricultural products and the funds and services invested in agriculture in the base year 2015 for the period 2011-2016 has been established in accordance with EUROSTAT's Handbook for Agricultural Price Statistics from March 2008.

A methodology and a questionnaire for the implementation of the Pilot survey on land prices and rents was prepared in accordance with the "Common Methodology" agreed between the European Commission (Eurostat) and the Member States in 2010. The survey will be carried out on the field from 16<sup>th</sup> to 30<sup>th</sup> of October 2017.

#### **3.18.6. Environment and energy statistics**

Structural and short-term energy statistics are produced and are fully harmonised with the European legislation. In November 2016, an e-questionnaire for the collection of monthly data on petroleum products was created. In March 2017, for the first time, Eurostat published the SHARES statistics (Renewable energy sources) for Montenegro based on energy balance data that is regularly submitted to Eurostat. Statistics of energy products prices is fully in line with the European Directive (EC) no. 2008/92.

All relevant energy products produced and consumed in Montenegro are included and shown in the energy balances in line with the applicable international methodological standards (Eurostat and IEA).

In cooperation with the Environmental Protection Agency, waste statistics is carried out in accordance with Regulation (EC) No. 849/2010, the data is submitted to Eurostat via eDAMIS. In 2017, in the area of waste statistics, a revised data series for 2011-2015 was prepared. In this way, comparable data was obtained both at the national and international level.

The collection of information on the sources of data necessary for the calculation of economic accounts in the environment was initiated.



Statistics on the costs of environmental protection is not produced but MONSTAT plans to develop it. The work was initiated to develop the balance of material flows through the project GRANT 2015 (2017-2019).

### **3.18.7. Additional connections**

The Statistical Office sends data from 45 domains to EUROSTAT via eDAMIS web portal and eDAMIS web application.

A total of 238 different datasets are sent. There is a constant work to increase the number of data from domains and datasets sent via eDAMIS.

In the period 1 October 2016 – 10 October 2017, the Statistical Office sent data from 41 domains to EUROSTAT via eDAMIS web portal and eDAMIS web application. During this period, a total of 218 different data sets were sent.

## **3.19. CHAPTER 19: SOCIAL POLICY AND EMPLOYMENT**

### **3.19.1. GENERAL READINESS FOR THE MEMBERSHIP**

#### **3.19.1.1. Labour law**

The Montenegro's Programme of Accession to the EU 2016-2018 (MPA) provides for the adoption of the Labour Law in the fourth quarter 2017. The law is in the final phase and it should soon be sent to the European Commission. For the purpose of alignment with the EU acquis and international regulations, amendments were made on the current text of the Labour Law in agreement with the social partners. Public debate related to the Law was concluded on 25 September 2017, and it was realised through 5 round tables organised according to the territorial (north, south and central Montenegro) and functional principle (seats of the social partners).

The Draft Labour Law is aligned with the EU Directives provided for in the Action Plan for Chapter 19 – Social Policy and Employment, and which were not transposed into the valid text of the Labour Law. The Law is fully flexible regarding the procedure of starting employment, starting employment in a simple and efficient manner without administrative obstacles; redefining certain institutes of the existing Law with the aim of preventing and finding mechanisms and instruments for the suppression of grey economy in the labour market and undeclared work; the manner of proving forms of labour which are generally difficult for proving such as overtime labour, work during the national and other holydays, envelope wages, abuse of temporary incapacity for work – sick leave; giving impetus to the new employment, particularly to the active role of the Labour Inspection of the Agency for Peaceful Settlement of Labour Disputes, as well as the special role of courts in full

protection of the rights of workers. Provisions of the Draft Labour Law are aligned with the Directive 2008/104, Directive 2003/88, Directive 2008/94, Directive 89/391, Directive 92/85, Directive 2010/18, Directive 96/34, Directive 1999/70 and Directive 2008/94.

The Labour Inspection is financed under the Administration for Inspection Affairs. Although it is equipped to a certain level, additional equipping of the labour inspection is necessary. In the period from 1 January to 20 October 2017, the labour inspection found 25 informally employed children over 15 years of age and took measures for the purpose of legalisation of their work by indicating to their employers to eliminate the established irregularities. Afterwards, consents of parents and health certificates were provided according to which labour contracts were concluded and the minors were reported for the mandatory social insurance, so that their legal-employment status was adjusted to the Labour Law. The inspection has sanctioned employers for the illegal employment of minors, in line with the penalty provisions of the Labour Law. The children were not found on difficult and dangerous jobs, so there were no recorded cases which could be treated as the worst form of labour engagement of children in any activity.

#### **3.19.1.2. Health and safety at work**

The MPA provides for the adoption of the Law Amending the Law on Health and Safety at Work for the third quarter 2017. Text of the Proposal for the Law Amending the Law on Health and Safety at Work was sent to the EC on 6 September 2017 for opinion. The Proposal for Law is aligned with: Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work; Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work; Commission Directive 2000/39/EC of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work; Commission Directive 2006/15/EC of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC; Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC.

Rulebook on the health and safety at work regarding the risk of exposure to chemical agents (Official Gazette of Montenegro 81/16 of 28 December 2016) is aligned with the Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at

work and Directive 2016/0130 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.

Rulebook amending the Rulebook on the measures of health and safety at work related to the risk of exposure to carcinogenic or mutagenic substances, Official Gazette of Montenegro 60/16 of 20 February 2017 is aligned with the Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work.

The Rulebook on measure of safety at work related to the risk of exposure to asbestos (Official Gazette of Montenegro 14/17) is aligned with the Directive 1999/92/EC of the European Parliament and of the Council on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres.

The Rulebook on measures of protection from the risk of exposure to explosive atmosphere (Official Gazette of Montenegro 27/17) is aligned with the Directive 2000/54/EC of the European Parliament and of the Council on the protection of workers from risks related to exposure to biological agents at work.

### **3.19.1.3. Social dialogue**

The Draft Law on the Social Council and the Draft Law on the Trade Union Representation were written by the working group composed of the representatives of the social partners. After the tripartite consultations with full consensus the Council gave positive opinions to the proposals of the two mentioned laws, submitted to the EC for opinion.

The Social Council of Montenegro functions at the level of three municipalities.

At the bipartite level the social dialogue is carried out at the level of branches is at the satisfactory level which is confirmed by the fact that 20 branch agreements are in force.

The collective contract with the employer is concluded by the competent body of the employer and a representative trade union organisation. Participants in concluding the collective contract are obliged to negotiate. Each contractual side can initiate the negotiations.

Employees and employers have the right, according to their free choice, without a previous approval, to establish their organisations and to become their members, under the conditions established by the Statute and rules of those organisations. The employer is obliged to allow the employees to freely practice trade union rights and to provide to the trade union organisation conditions for efficient practicing of trade union activities which protect the interests and right of the employees, in line with the collective agreement.

In Montenegro there is no obligation of registration of individual collective agreements, and therefore there is no information on how many enterprises have concluded the individual collective agreement.

The general and branch collective agreements apply to all employees in Montenegro, in a certain branch, regardless to the ownership structure of the enterprise.

#### **3.19.1.4. Employment policy**

According to the Survey on the labour force for the second quarter of 2017, the labour market marks positive changes, regarding the indicators of activity rate, employment rate and unemployment rate.

The activity rate (15+) amounted to 54.8% and marks growth in relation to the first quarter 2017 when it amounted to 53.9%, as well as a mild growth in relation to the same quarter of the previous year (54.5%).

The employment rate (15+) amounted to 46.5% and it is 1.9% bigger than in the first quarter when it amounted to 44.6%, or 1.6% bigger than in the same quarter of the previous year.

The unemployment rate (15+) amounted to 15.1% and it is 2.3% lower than in the first quarter (17.4%), 2.4% lower than in the same quarter of the previous year when it amounted to 17.5%.

A mild trend of indicator recovery in the second quarter in relation to the first quarter of the current year, is marked in youth 15-24 years old, which reflects in the growth of the activity rate to 30.1% (28.6%), employment rate to 21.4% (18.6%) and drop of the unemployment rate to 28.9% (35.0%), as well as in the older population 50-64 (57.2%:45,54.5%, 53.1%:50.5% I 7.1%:7.3%).

According to the administrative data, the average growth of employment, for eight months 2017 was 3.6% higher than in the same period previous year (177,514:183,828). The growth of employment was marked in 16 activity sectors whereas in only three there is a drop of employment rate. The greatest growth of employment is marked in the following sectors: administrative and auxiliary activities 17.1%, construction 8.8%, supply with energy, gas, steam and air conditioning 7.9%, services of accommodation and catering 5.3%, than transport and storage 4.5%. The drop of employment is marked in real-estate business for 5.3%, art, entertainment and recreation 1.2% and financial activities and insurance activities for 0.5%.

At the end of September 2017, in the unemployment registry there were 48,752 persons which is insignificantly less than in the beginning of the year (49,487). The rate of registered unemployment amounted to 21.01% whereas at the beginning of the year it

amounted to 21.33%. The participation of women in the registered unemployment for nine months of this year grew from 52.21% to 57.44%. The participation of the unemployed young people up to 25 years of age in the total number of registered unemployment is reduced from 18.41% to 11.4%, while the participation of the people over 50 years of age increased from 22.11% to 29.62%.

The framework of the employment policy is defined in the National Strategy of Employment and Human Resource Development 2016-2020, which is implemented through annual action plans. The implementation of the Action Plan for Employment for 2017 is in progress and it includes activities that will be realised in order to accomplish goals under the set priorities. The implementation of the envisaged activities has caused a mild recovery of indicators of the labour market.

One of the goals of the Strategy under the priority of increasing employment and reduction of unemployment is also the increase of efficiency of measures of the active employment policy with particular accent on the inclusion of the youth, women and long term unemployed persons on the labour market. For the purpose of creating conditions for greater efficiency of active measures through the project of Active Measure of Labour Market for Employment co-financed by the EU from IPA Component IV – Operational Programme “Human Resource Development 2012-2013”, the Analysis of Effectiveness of Active Measures was drafted and it represents one of the key results of the project whose findings and recommendations should serve as a help for future development in the field of employment in Montenegro.

When it comes to the active policies in the labour market, the Employment Office of Montenegro, based on the demands of the labour market and incapability of the unemployed persons to respond to them, realised programmes intended for both, unemployed, primarily to persons who are difficult to employ, as well as to employers. Through the realisation of these programmes, there are basically two goals that need to be accomplished simultaneously, raising the level of employment rate and employment of the unemployed and provide the missing labour force on the labour market. The programmes were implemented, within the scope established based on the status and present trends on the labour market, demands of both employment seekers, as well as of employers, programs and measures of the Government in the field of employment and recruitment, available resources for these purposes, as well as other relevant sources.

In the period from 1 October 2016 to 17 October 2017 the Employment Office organised programmes of active employment policy for 1,979 participants. The programmes of education and training of adults which include acquiring professional qualifications and key skills necessary on the labour market have been realised for 544 unemployed persons. Participants of the programme are unemployed persons, primarily of surplus occupations

who are interested in employment in the touristic-hospitality industry, construction, agriculture and other fields where the possibility of employment is bigger.

In cooperation with the employers from the private sector, the training programmes were organised for individual work as well as the trainings for the work with employers for 226 participants. The training programme for independent work allows the adoption of skills and competences for independent performing of tasks and work operations for 55 unemployed persons who less than two years ago acquired high school education (third and fourth level) and did not have work experience at the their educational level. The programme included 171 unemployed persons in unfavourable position in the labour market.

Community service programmes in the field of care for children and youth, old persons in social need, environmental protection, educational, culture and other fields of public interest included 1,064 unemployed persons.

Bearing in mind the fact that informal economy as an activity parallel to the formal-regular business operations is negatively influencing the integration of young people in the labour market, and therefore their social-economic status, the Employment Office in cooperation with other competent bodies realised the Programmes of training and employment of young people on the jobs of suppression of informal business "Stop to Grey Economy" which covered 145 unemployed highly educated young persons. The participants received training and employment in the real working environment, in the duration of four months, on the tasks of providing technical support and assistance to the officers of the Administration of Inspection Affairs, the Police Administration and Tax Administration in the suppression of informal economy.

During 2017 there was also the Programme of occupational training of persons with acquired higher education for 3,274 persons from the unemployment registry (fifth generation). The programme allows people with high education and without work experience to acquire knowledge, skills and competences during the nine month occupational training for the independent performing of work and taking a corresponding professional exam.

The amendments of legal solutions on the labour market have been launched (the Labour Law and the Law on Employment and Realisation of Unemployment Insurance). Furthermore, the amendment of the Law on Health Insurance and the Law on Contributions for Mandatory Social Insurance in the sense that an unemployed person who is not a beneficiary of financial compensation, realises the right to health insurance by directly reporting to the Health Insurance Fund.

The labour inspection for the area of employment relations and employment performs regular control and controls upon initiatives. The most frequent irregularities are related to

labour without employment contract and payment of mandatory insurance (of both Montenegrin citizens and foreigners) without permission for temporary residence and work of foreigners or report of the work of foreigners, irregularity of payment of salaries and contributions. Still, we can confirm a considerable improvement regarding greater respect of legal obligations by employers.

As regards the services of public announcing, the Employment Office of Montenegro is obliged, in line with the Law on Employment and Realisation of Unemployment Insurance, to announce the job vacancy of an employer on a board and internet page of the Office, as well as in the media within two days from the day of reporting. The Office provides means for public notification of the job vacancy. The employer is obliged to report vacancies to the Employment Office for the purpose of monitoring supply and demand on the labour market. The job vacancies include cases when there is a need upon the expiration of the previous work contract to conclude a new work contract for a definite or indefinite time period with the same employee, when there is a need to assign the employee to another work position with the same employer, or the transfer of an employee based on the employer's agreement with the consent of the employee.

During nine months of 2017 the demand for labour force (reported job vacancies in employers) was at the level of 24,055 vacancies which is 9.79% less than in the same period of the previous year (26,665).

As regards the statistics on work, the Statistical Office of Montenegro has established regular delivering of micro-data from the Survey on Labour Force to Eurostat and the first Report on quality has been sent. The Structure of Earnings Survey (SES) was carried out in 2015 for the first time as a regular research. The data were submitted to Eurostat in 2016 in line with the deadlines for sending data. The Labour Cost Survey (LCS) is carried out in 2017 as a regular research. The job vacancy statistics (JVS) is envisaged by the Plan of Statistical Researches as a trial research in 2017 with the aim of considering the possibility of using administrative sources for this research.

#### **3.19.1.5. European Social Fund**

Projects financed from the Operational Programme "Human Resource Development" 2012-2013 – IPA I perspective are either realised or in the final phase of realisation.

When it comes to the financial aspects of the OPs, the amount allocated so far is 5,717,136.93 out of EUR 5,803,344.00 which is the amount allocated for this OP.

#### **3.19.1.6. Social inclusion and protection**

The strategy for development of the system of social and child protection for the period 2018-2022 with the Action Plan for 2018 for the implementation of the Strategy and the Strategy for Development of the System of Social Protection of Old People for the period

2018-2022 with the Action Plan for 2018 for the implementation of the Strategy were adopted on 28 September 2017.

For the purpose of further implementation of the reform of social protection system the Committee for management of the project “Integrated Information System of Social Protection” approved the continuation of the project until 31 September 2019, in line with the revised project document. In the following period there will be a need for intensive support to the employees as well as the development of new functions of the information system.

Under the project “Cooperation between the Employment Office of Montenegro and Social Work centres“, which was implemented under the OP Human Resource Development 2012-2013 (IPA IV Component) cooperation and integrated approach in the work of the Employment Office of Montenegro and the social work centres is regulated by signing of the Agreement the purpose of which is to allow the beneficiaries of material supplement for family to resolve problems with the support of services, to strengthen and develop capabilities for the active overcoming of unfavourable social situation, better inclusion in the labour market and/or greater social inclusion. The basis of new/improved work methods under the project is that the client is in the centre of the service, and that the joint assessment of their needs and identifying of services which are needed in the first place, not the other way round.

The new individual approach and work in multidisciplinary teams for drafting the individual activation plan demand trained staff. Trainings which were held under the project represent a useful instrument for support to the professional development of experts in both institutions, but further effort is required and strengthening of the capacities of employees in order to enhance their capability to adequately respond to the needs of beneficiaries.

The project included the organisation of trainings after which new work methods were launched in 19 locations in Montenegro which represents an important step on the path of drafting individual plan of activation with the participation of both institutions. The need for this kind of work is prescribed by the Law on Social and Child Protection stipulating that the Social Work Centre and the Employment Office are obliged to mutually cooperate in the implementation of the measures for social inclusion of beneficiaries of material supplement who are capable of working.

### **3.19.1.7. Equality between women and men in employment and social policy**

Changes in the field of pregnancy are related to additional protection of pregnant women in the sense that the employed pregnant woman gets extension of the contract for a definite period of time in case she stays pregnant. The additional protection includes the right of the employed woman to one free day each month for having a prenatal control. There is



also the possibility for the employed father and mother to use the right to parental leave in equal duration, whereas the father is obliged to use the mentioned right in the duration of at least one month. (Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC).

The Labour Law guarantees equal salaries for the same work or the work of the same value.

The Law on Prohibition of Abuse at Work provides for a procedure of protection inter alia in the cases of sexual abuse in the working post and discriminatory salary based on gender.

### **3.19.1.8. Anti-discrimination in the field of employment and social protection**

The analysis of alignment of the Montenegrin legislation with the Law on Prohibition of Discrimination of Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities was adopted in September 2016. The subject of the Analysis included 59 laws 34 of which received a recommendation for alignment.

The Strategy for Protection of Persons with Disabilities from Discrimination and the Promotion of Equalities for the period 2017-2021 with the Action Plan 2017/2018 was adopted in December 2016. This is the first strategic document which defines measures and activities for providing full protection from discrimination and exercise of equal rights in all fields of life to the persons with disabilities. The general goal of the Strategy is the creation of conditions for obtaining full equality of persons with disabilities with other persons in line with the principles of the UN Convention on the Rights of Persons with Disabilities, the Constitution and the law.

In order to provide efficient application of the Strategy and its monitoring, this programme document is divided into areas which are in the Law on Prohibition of Discrimination of Persons with Disabilities are recognised as the fields of action, namely:

- Respect of dignity of persons with disabilities;
- Discrimination in the field of accessibility (physical environment, information and communication, public transport);
- Discrimination in the access to private and public goods and services;
- Discrimination in the procedures before the authorities;
- Discrimination in the field of privacy and family relations;
- Discrimination in the field of education and occupational training, discrimination in the field of professional rehabilitation, labour and employment;
- Discrimination in the field of social protection and adequate living standard;

- Discrimination in the field of health protection;
- Discrimination in the field of political and public life;
- Discrimination in the field of sport, culture and recreation.

A special chapter is related to the role of local self-government in the process of protection of persons with disabilities from discrimination.

For the purpose of monitoring the realised activities, the Commission for monitoring was formed, composed of the representatives of line ministries and representatives of the civil society.

The Action Plans 2017-2018 establish clear responsibility of the competent institutions for the implementation of measures from this Strategy.

The Law Amending the Law on Minority Rights and Freedoms, which was aligned with the recommendations of the EC and Venetian Commission, was adopted on 27 April 2017.

The main reasons for the adoption of this Law are directed toward the intervention in the part of institutional support to the realisation of minority rights and freedoms, transparency and efficiency of the procedures for the distribution of resources for the realisation of projects intended for the activities important for the preservation and development of the national and ethnical characteristics of minority peoples and other minority national communities and their representatives in the field of the national, cultural, language and religious identity.

In the service of the Protector of Human Rights and Freedoms there are 33 systematised public servant and employee positions. The service has 29 public servants and employees (without the Protector and four Deputies). This year, two councillors have been employed in the sector for the rights of children and youth and in the discrimination sector.

In the period from January to 30 June 2017, 64 cases were processed, 5 of which were taken over from 2016. The statistical data on the number of cases with the element of discrimination for this semi-annual period point to the dominantly stressed field of labour and employment. Out of the total of 64 cases which were processed in the first half of 2017, in 25 cases the submitters of complaints asked for protection from unequal treatment upon the employment and realisation of employment rights.

### **3.19.2. PROGRESS IN THE LAST 12 MONTHS**

#### **3.19.2.1 Labour law**

The adoption of the Law on Labour Fund is envisaged by the MPA for the third quarter 2017. The Law on Labour Fund was sent to the EC for opinion on 24 July 2017.

The adoption of the Law on Social Council is envisaged by the MPA for the third quarter 2017. The Law on Social Council was sent to the EC for opinion on 26 July 2017.

The adoption of the Law on Trade Union Representation is envisaged by the MPA for the third quarter 2017. The Law on Trade Union Representation was sent to the EC for opinion on 1 August 2017.

### **3.19.2.2. Health and safety at work**

The Ministry of Labour and Social Welfare has adopted:

- Rulebook on jobs with special work conditions and the conditions that the employees should meet for performing those jobs (Official Gazette of Montenegro 70/16)
- Rulebook on health and safety at work regarding the risk of exposure to chemical agents (Official Gazette of Montenegro 081/16)
- Rulebook Amending the Rulebook on the measures of safety and health at work regarding the risk of exposure to carcinogens or mutagens (Official Gazette of Montenegro 60/16)
- Rulebook on the protection of workers from the risks related to exposure to asbestos at work (Official Gazette of Montenegro 14/17)
- Rulebook on measures of protection from the risk of exposure to explosive atmosphere (Official Gazette of Montenegro 27/17)
- Rulebook on measures of protection at work from the risk of exposure to biological agents (Official Gazette of Montenegro 062/17).

### **3.19.2.3. Social dialogue**

In the period from 1 October 2016 to 20 October 2017 the Social Council of Montenegro held four plenary sessions and six sessions of the Presidency of the Social Council.

The Council issued four positive opinions on the proposals of Laws and Decisions. (Proposal for the Decision on establishing the annual number of licences for temporary residence and work of foreigners; Proposal for the Law on Labour Fund, Proposal for the Law on Trade Union Representation and Proposal for the Law on the Social Council).

### **3.19.2.4. European Social Fund**

Projects financed from the Operational Programme *Human Resource Development 2012-2013* – IPA I perspective (hereinafter referred to as OP) are:

- Project “Modernisation of Educational Programmes and Trainings for Teachers” officially finalised on 31 July 2017.

- Project “Active Measures of the Labour Market for Employability“ officially finalised on 10 August 2017.
- Project (framework agreement on services) “Development of the Framework for Project Structure for OP Human Resource Development“ officially closed on 21 September 2017.
- Project “Cooperation between the Employment Office and the Social Work Centres“ officially closed on 30 September 2017.
- Project “Strengthening Capacities of the Montenegrin Institutions for the Participation in the Programme HORIZON 2020“ which ends on 18 November 2017.
- Nine projects carried out under the grant scheme “Youth, Women and Long-term Unemployed Persons on the Labour Market“ which end in October/November 2017.
- 14 projects carried out under the grant scheme “Transfer of Knowledge Between High Education, Research and Economy“ which ends in December 2017.
- Nine projects carried out under the grant scheme “Realisation of Trainings and Employment Projects for Persons with Disabilities and RE Population“ were launched in February 2017 and will last until March/April 2018.
- Contracts on Procurement “Procurement of School Equipment in Line with the Modernised Educational Programmes“ were signed in June and July 2017. Equipment for 8 occupational high schools in Montenegro was delivered in September 2017.
- Project “Strengthening of Transparency and Visibility of the Operational Programme“ which was launched on 26 May 2017, while the project „Improvement of Knowledge of English of Servants of the Operational Structure“ started on 11 September 2017. All activities are expected to be completed by the end of 2017.

As regards the IPA II perspective (2014-2020), under the Multiannual Sectoral Operational Programmes for Employment, Education and Social Policy of Montenegro (2015-2017) – SOPEES, in the period 27-31 March 2017 a mission of auditors from the DG NEAR carried out the second audit of the established structures and systems under the Sectoral Operational Programme. In the meantime the structure in charge of the implementation of this Programme has started work on drafting the Operational Identification Forms (OIFs) and the first drafts have been sent for comments to the EU Delegation in July 2017. After receiving comments and suggestions in August 2017, the structure continued its work on further enhancement.

### **3.19.2.5. Social inclusion and protection**

The Law Amending the Law on Social and Child Protection (Official Gazette of Montenegro 1/17) was adopted on 29 December 2016. This Law stipulates that the benefits for having three or more children, for women who have three children and at least 25 years of work service, or women who have 4 or more children and at least 15 years of service is established at the amount of EUR 264 per month, and for women who have three or more children and who have been registered in the Employment Office for at least 15 years at the amount of EUR 144 per month, as well as the manner of adjustment of the benefits. The mentioned Law has postponed the application of the provision of the Law related to the right to children allowance, stipulating that it will be applied as of 1 July 2017.

Law Amending the Law on Social and Child Protection (Official Gazette of Montenegro 42/17) was passed on 30 June 2017, and entered into force on 1 July 2017 so as to additionally improve the fields of social and child protection. One of the reasons for passing this law is the enforcement of ruling of the Constitutional Court of Montenegro of 19 April 2017, within the prescribed deadline, which repealed provisions of this law that were related to fees for mothers of three or more children.

Law Amending the Law on Social and Child Protection (Official Gazette of Montenegro 50/17) was passed on 31 July 2017 in order to make the inspection control more efficient and implement the criminal misdemeanour policy for legal entity and responsible person in that entity.

The following activities are being carried out through the project "Continuation of the social and child protection system reform" which is implemented by the Ministry of Labour and Social Welfare with technical assistance of the UNDP:

- Support has been provided until the end of 2017 to service "Home care for the elderly" in 16 Montenegrin municipalities (northern and central region) through engagement of 120 assisted living caregivers for approximately 1,200 beneficiaries.
- Support has been provided until the end of 2017 to service "National SOS phone line for victims of domestic violence", which is provided by the NGO "SOS phone line for women and children victims of violence" from Nikšić. The National SOS phone line for victims of domestic violence is completely free of charge and available 24/7 through the entire year.
- Support has been provided for the period April-December 2017 to service "Family associate". The purpose of this service is to develop resources in cooperation with the MLSW and social work centres that will enable biological families to develop their own capacities so that the children, particularly the ones who are less than 3 years old could

grow in their own families. Provider of this service is the NGO “Family centre“ from Kotor.

- The following activities are carried out under the project “Building capacities for provision of social protection services in Montenegro“ which is implemented by the MLSW with technical assistance of the UNDP: construction of multipurpose facility in the Municipality of Gusinje, construction of multipurpose facility in the Municipality of Petnjica, reconstruction of Home for the Elderly in Risan, and reconstruction of the Day-care centre for adults with disabilities in the Municipality of Nikšić.

### **3.19.2.6. Anti-discrimination in the field of employment and social protection**

The VI round of educational courses related to antidiscrimination and mechanisms for protection against discrimination was completed in December 2016. This round, which was organised for representatives of social work centres and social protection institutions, consisted of 6 seminars and 6 related workshops which refer to antidiscrimination legislative framework with protection mechanisms, prohibition of gender identity discrimination, health condition discrimination, discrimination of persons with disabilities, racial and RE population discrimination, as well as LGBT discrimination.

The VII round of courses is being carried out in the current year, with participation of representatives of the state administration authorities dealing with vulnerable social groups. The following four workshops were completed until October 2017: general prohibition of discrimination and mechanisms for protection against discrimination, prohibition of gender identity discrimination, prohibition of discrimination against drug addicts, as well as prohibition of discrimination against persons with disabilities. The mentioned round will be completed by the end of November 2017.

Reform of the Minorities Fund is focused on the prevention of possible conflict of interest, introduction of two-instance decision making when it comes to projects financed from the Fund, as well as improvement of quality of monitoring and evaluation of supported projects.

### **3.19.2.7. Antidiscrimination and equal opportunities**

The Department for Gender Equality Affairs in the Ministry for Human and Minority Rights organised campaigns and educational courses in order to raise awareness on the importance of issue of gender equality and equal opportunities, as well as the implementation of the Law on Gender Equality. The emphasis is put on activities that were particularly related to education regarding the national and international antidiscrimination legislation, greater political involvement of women, better economic position of women, and the fight against all forms of violence against women.

The first constitutive session of the Gender Equality Council was held on 24 October 2016. The Council represents a new institutional mechanism for achieving gender equality. As an expert and counselling authority, it was established for the purpose of considering the issue of implementation of gender equality policy at the national and local level. Counselling authorities – committees (8 of them) were established within the Council in order to consider the issues in particular fields important for gender equality. These committees will closely monitor the implementation and improvement of the equal opportunities policy in fields falling under their competence. Presidents of the mentioned counselling authorities were appointed at the session of the Council. Rules of Procedure were adopted as well.

In November 2016, the campaign “ 16 Days of Activism in Montenegro: No Violence against Women” was marked with the following events – conference, workshop for the network of female coordinators at the local level, media workshop, public performances.

The conference regarding improvement of gender equality in the Western Balkans and Turkey, which gathered more than 100 participants in gender equality mechanisms, was organised in Budva in December 2016.

Following submission of the II periodical report on the implementation of CEDAW Convention, Montenegro received additional questions and comments, to which the Ministry for Human and Minority Rights (MHMR) timely responded in cooperation with other competent institutions. Montenegro presented the abovementioned Report to CEDAW committee in July 2017.

The 2016 Report on the implementation of PAPRR was adopted in March 2017, along with the third Action Plan for achieving gender equality in Montenegro 2017 – 2021 and the Implementation Programme 2017-2018, which represents development document for the implementation of gender equality policy in Montenegro with a view to ensuring gender equality in drafting and implementation of all the national and local policies, as well as in the work of all legal entities at the state level.

Meetings are organised regularly with NGOs dealing with the issues of human rights, gender equality, fighting violence against women and domestic violence, economic position of women, etc.

The forum on the topic of “Reporting on the implementation of CEDAW (Committee on the Elimination of Discrimination against Women) Convention“ was organised with NGOs on 5 July 2017.

Activities related to the following fields are continuously implemented under the IPA 2014 project “Supporting antidiscrimination and gender equality policies“, which is implemented by the MHMR in cooperation with UNDP office to Montenegro, and which is financially

supported by the EU Delegation to Montenegro: antidiscrimination, capacity building, political empowerment, economic empowerment and fight against domestic violence and violence against women. External evaluation of the previous Action Plan for achieving gender equality 2013-2017 was performed under the mentioned project.

Rounds of training courses for female entrepreneurs in Podgorica and Nikšić were completed under the programme “Supporting antidiscrimination and gender equality policies” in the field of economic empowerment of women. So far, approximately 50% of participants developed their business plans, while 3 women registered their companies in Podgorica. The research on prevalence, perceptions, cost and multidisciplinary response to domestic violence was carried out under the same Programme and presented to public on 27 September 2017.

When it comes to the part of the programme related to political involvement, a new generation of female trainers (16) – representatives of the Montenegrin political parties was certified; 8 parliamentary parties-coalitions (female party organisations) underwent the trainings (221 participants); 4 political parties integrated gender policies into their election programmes and campaigns; educational programme was implemented in 20 municipalities (213 participants); political visibility of women has been improved/6 female trainers on the electoral lists and candidates for MPs, as well as Female political network, the role of which is to improve legislation related to gender equality through various initiatives.

Through the project “Strengthening gender equality mechanisms at the local level”, the MHMR, in cooperation with OSCE mission to Montenegro implemented the following activities:

- One-day seminar on the topic of gender mainstreaming of policies at the local level, as well as obligations under the Memorandum on Cooperation was held in Podgorica in June 2017 with presidents of Montenegrin municipalities.
- Two-day seminar for the members of network of gender equality coordinators from Montenegrin municipalities on the topic of gender mainstreaming of the budget at the local level was held in Podgorica in June 2017.
- Two-day seminar for the members of network of gender equality coordinators from Montenegrin municipalities on the topic of “Women's involvement in public and political life” was held in Podgorica in October 2017.

On 13 October 2017, the Ministry for Human and Minority Rights organised one-day seminar in cooperation with the Education Office on the topic of “Gender equality in education with special emphasis on gender-based violence”. Target group consisted of



elementary and secondary school teachers of different profiles, particularly teachers dealing with civic education.

### **3.19.2.8. Department for Promotion and Protection of the Rights of Roma and Egyptians**

In the period November 2016 – October 2017, the Ministry for Human and Minority Rights, in cooperation with the Ministry of Interior, Office for the Fight against Trafficking in Human Beings, local self-governments, social work centres, Red Cross of Montenegro and the NGO Centre for Roma Initiatives organised campaigns in Roma settlements on the issues of violence against women and forced marriages among Roma and Egyptians in 11 Montenegrin cities.

Educational workshops were also organised for parents of Roma and Egyptian children, children, Roma female activists, and civil servants on the protection against domestic violence and juvenile and/or forced marriages among Roma and Egyptian population. These workshops were attended by more than 200 participants, including 90 elementary school pupils who attended trainings.

Funds are continuously provided for the procurement of schoolbook sets, which are distributed to Roma and Egyptian pupils of the first, second and third elementary school grades in cooperation with the Ministry of Education. The total amount of EUR 36.358.40 was allocated for the school year 2016/17.

The workshop regarding education of young members of national minorities, primarily female members of Roma and Egyptian population in order to empower them to deal with politics was held in Podgorica on 28 December 2016.

As a continuous activity, in the period 23-30 January 2016 and 15-22 January 2017, free seven-day winter vacation in Ivanova Korita was organised for 50 pupils from seventh, eighth and ninth grades of elementary schools from Podgorica, Nikšić, Herceg Novi and Tivat. Pupils also had the opportunity to learn and recall their knowledge of mother tongue, i.e. Roma language and culture through workshops for informal language learning.

MHMR organises quarterly meetings of the Commission for monitoring of the implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016 – 2020, where they report on implementation of measures from the Action Plan for the implementation of the Strategy, planned for a certain quarter. The commission consists of members from the public institutions and civil sector.

IPA 2015 project “Promotion and protection of human rights of Roma, Egyptians and other vulnerable groups” was presented on 15 February 2017. The mentioned project is financed by the EU funds in the amount of EUR 1.000.000.00. The international organisation HELP is the entity in charge of project implementation, while project partners are the Roma

Education Fund, Red Cross of Montenegro and the Centre for Democracy and Human Rights. Specific goal of the project is to provide better access to exercising their social, economic and cultural rights, as well as building of capacities of the public and local administration for social inclusion of Roma and Egyptian communities in Nikšić, Berane and Podgorica.

On the occasion of the International Romani Day (8 April), awards were granted on 5 March 2017 for the best research article regarding social inclusion of Roma in Montenegro.

In cooperation with the Education Office and Roma Education Fund, and in line with the signed Memorandum on Cooperation, the Ministry for Human and Minority Rights provides and distributes scholarships for high school and faculty students of Roma population in the amount of EUR 60, i.e. EUR 150 for students with high education. The Government of Montenegro allocated EUR 80,000 for the school year 2017/2018.

In order to raise the awareness on the importance of prevention of diseases and preservation of health, preventive gynaecological and ultrasound examinations, laboratory analyses, blood pressure measurement and chest X-ray were organised for women of Roma and Egyptian population in Podgorica, Berane, Bijelo Polje and Nikšić from June until October 2017.

#### **3.19.2.9. Records on unemployed Roma and Egyptians**

On 30 May 2017, there were 1847 unemployed Roma and Egyptians recorded in the Employment Office of Montenegro; 815 of them were women (44.12%).

On the same day, the share of this population in the total number of registered unemployed persons was 3.58%.

When it comes to structure of unemployed members of Roma and Egyptian population, most of them are persons without occupation and professional qualifications, with the share of 95.41% (44.21% are women), followed by persons with completed third level of education, with 2.59 % (31.25% are women), persons with completed IV level of education with 1.19% (54.54% are women), and persons with completed II level of education with 0.81% (60% are women).

When observed by municipalities, the largest number of registered persons, members of Roma and Egyptian population, are entered into records of the regional unit in Podgorica for the municipalities of Podgorica, Danilovgrad, Kolašin and Cetinje and local municipalities of Golubovci and Tuzi – 51.09 % (participation of women 44.00%), followed by records of the regional unit in Nikšić for the municipalities of Nikšić, Šavnik and Plužine 14.34% (participation of women 41.13 %), regional unit in Herceg Novi for the municipalities of Herceg Novi, Kotor and Tivat – 13.15% (participation of women 51.02%), regional unit in Berane for the municipalities of Berane, Andrijevića, Plav, Rožaje, Gusinje

and Petnjica – 9.69% (participation of women 40.78%), regional unit in Bar for the municipalities of Bar, Budva and Ulcinj – 6.60% (participation of women 42.6%), regional unit Bijelo Polje for the municipalities of Bijelo Polje and Mojkovac – 4.38 % (participation of women 43.20%) and the regional unit in Pljevlja for the municipalities of Pljevlja and Žabljak – 0.75 % (participation of women 50%).

In the period 1 January 2017 – 30 May 2017, 72 members of Roma and Egyptian population were entered into records of the Employment Office; 36 of them were women (50%). Out of the total number of newly registered, 69 persons are without occupation and professional qualifications (36 women), while three of them are males with completed III level of education.

Most of the newly registered unemployed persons are from the territory of the municipality of Podgorica – 68.05% of the total number of newly registered (48.97% of women), followed by Nikšić –12.5% (44.44% of women), Herceg Novi – 8.33% (66.66% of women), Bijelo Polje 5.55% (75% of women), Berane 4.16% (male persons) and Bar – (one female person).

In accordance with the annual Action Plan for employment and human resources development for 2017 and the Action Plan for implementing the Strategy for Social Inclusion of Roma and Egyptians 2016-2020 for 2017, the Employment Office planned to carry out the activities related to inclusion of Roma and Egyptians into active employment policy measures.

Financial framework for the implementation of the Employment Office Work Programme for 2017 provides for the amount of EUR 50,000 for the implementation of programmes aimed at Roma and Egyptian population that refer to education, training and public works. Competition notices for the election of the public works contractor in the field of environmental protection, educational, cultural and other programmes of public interest and election of providers of education and training were published on 2 March 2017, while decisions on the appointment were passed on 19 May 2017. Beginning of programming activities and inclusion of unemployed persons are expected.

On 20 March 2017, the Employment Office published two more competition notices, which were primarily aimed at the members of Roma and Egyptian.

#### **3.19.2.10. Seasonal employment**

In the reporting period, there were 25 seasonally employed members of Roma and Egyptian population (15 women).

a) Age structure:

- 15-25 years of age: seven persons (two women);

- 26-35 years of age: ten persons (eight women);
- 36-45 years of age: four persons (three women);
- 46-55 years of age: four persons (two women).

b) Regional overview:

- from the records of the regional unit in Herceg Novi for the municipalities of Herceg Novi, Tivat and Kotor – eight persons (four women);
- from the records of the regional unit in Nikšić for the municipalities of Nikšić, Plužine and Šavnik – six persons (four women);
- from the records of the regional unit in Bar for the municipalities of Bar, Budva and Ulcinj – five persons (four women);
- from the records of the regional unit in Podgorica for the municipalities of Podgorica, Danilovgrad, Kolašin and Cetinje and local municipalities of Golubovci and Tuzi – two male persons;
- from the records of the regional unit in Bijelo Polje for the municipalities of Bijelo Polje and Mojkovac – two female persons;
- from the records of the regional unit in Berane for the municipalities in Berane, Andrijevica, Plav, Rožaje, Gusinje and Petnjica – one male person,
- from the records of the regional unit in Pljevlja for the municipalities of Pljevlja and Žabljak – one female person.

Project aimed at strengthening of social inclusion and employability of Roma and Egyptians by providing conditions for obtaining qualifications for the first occupation, with the total value of EUR 85,000 (EU participation EUR 76,500) is implemented by the Employment Office in cooperation with the Centre for Employment and Education of Adults” ZOPT« from Podgorica. Realisation of activities started in February 2017. The mentioned activities will be carried out for 12 months, in all three Montenegrin regions. Specific goals of the project refer to improvement of skills of members of Roma and Egyptian population through trainings for the first occupation, based on specifically designed occupational standards and encouraging access to labour market and employment of Roma and Egyptians, in line with employer’s needs.

### **3.19.2.11. Associate in social inclusion of Roma and Egyptians in the field of employment**

The training programme for obtaining professional qualifications for the associate in social inclusion of Roma and Egyptians was adopted by the National Education Council in the first quarter of 2017.

The Strategy for the protection of persons with disabilities against discrimination and promotion of equality for the period 2017-2021 with the Action Plan 2017-2018 was adopted in December 2016. The strategy represents the first strategic document in Montenegro that deals with activities for providing complete protection against discrimination and enjoying equal rights for persons with disabilities in all fields of life. Discrimination in the field of professional rehabilitation, work and employment is the one of the fields recognised by this strategy and the action plan.

The Commission for monitoring the implementation of the Strategy has been established, and it consists of representatives of the state administration authorities and NGO sector. The mentioned commission is in its first year of monitoring the implementation.

## 3.20. CHAPTER 20: ENTERPRISE AND INDUSTRIAL POLICY

### 3.20.1. GENERAL READINESS FOR THE MEMBERSHIP

#### 3.20.1.1. Industrial policies and competitiveness

In the field of industrial policy, on 30 July 2016 the Government adopted the Industrial Policy of Montenegro until 2020 with multiannual Action Plan for its implementation. It is a comprehensive strategic document for development of industry and competitiveness of Montenegrin economy that provides the framework for increase in gross added value, employment, export, resolving the issue of regional development and structural harmonisation of the economy, in the process that includes all the relevant actors/public sector institutions, private sector associations and representatives of scientific and research community.

In order to provide conditions for increasing competitiveness of Montenegrin economy, the industrial policy tends to remove the structural and sectoral imbalances. Bearing in mind the nature of Montenegrin economy that is primarily based on services, the policy of modern industrial development will enable the use of new sources of economic growth, with expected effects on the increase in competitiveness of Montenegrin economy, employment, achieving more balanced regional development, overcoming the issue of the narrow production base, encouraging resource efficiency and directing industry towards production with greater added value.

In order to realise the defined goals of the Industrial policy, the implementing multi-annual Action Plan for the period 2016-2020 has been developed; its activities are aimed at the following: **Competitiveness of industry** – with a view to creating better business environment and conditions for industrial competitiveness and sustainability, including tourism and other sectors with high added value; **Investments and finance for modernisation of industry** – with a view to improving investment framework for

modernisation of industry through better approach, as well as availability and access to finance; **Innovation and entrepreneurship** – in the context of promotion of entrepreneurship and entrepreneurial culture for innovation and stable economic growth, increase in productivity and employment and **Access to market** – in the field of simplification of procedures related to trade and better approach to national and international markets.

Industrial policy defines the main structural shortcomings of Montenegrin economy, as well as specific fields which have been recognised as the weak ones, providing, on the other hand, an overview of sectors with growth potentials. In these sectors, in addition to basic restrictions, the opportunities for further growth of the industry have also been provided. In that context, the basic shortcomings of Montenegrin economy are primarily reflected in technological underdevelopment and obsolescence, which lead to low degree of processing in industrial production, high dependence on import and scattered production. By implementing key measures under every individual strategic policy goal, we tend to contribute to overcoming of structural and sectoral imbalances, as well as to encourage further development of sectors with growth potentials. Some of the key measures include revitalisation of energy capacities, establishment of the appropriate ICT infrastructural support, better valorisation of available raw materials, encouraging of investments, investing through grants into the fields of food industry and introduction of modern technologies into industry, alignment of educational curricula with labour market requirements, improvement of business environment, development of business infrastructure, development of new financial instruments for investing into equity capital for innovative and fast growing enterprises, research and development grants and other incentives.

The process of drafting Industrial policy involved representatives of all the relevant institutions, and precisely various activities and mechanisms of the Working team ensured connection with priorities and goals defined through the existing strategic documents, inter alia for the fields of education, science and research, competition, regional policies etc. In addition, in order to implement the policies completely, the previous Working team was transformed into the Coordinating body, which includes also representatives of private sector, providing a good basis for the improvement of the existing dialogue and partnership between the public and private sector. It is expected that involvement of representatives of the private sector will ensure in the forthcoming period the defining/implementation of measures that will result in increased competitiveness of small and medium-sized enterprises, as the key beneficiaries of measures defined in this document.

In the forthcoming period, the priority will be given to successful implementation of policies, which also implies necessity of the permanent dialogue and cooperation between the public and private sector and professional public.

The existing strategic documents are to a large extent characterised by sectoral approach, which results in analysis of the state of play in certain sector, defining of sectoral priorities, as well as measures and activities for the improvement of the state of play in every individual sectoral policy.

However, the Industrial policy is largely horizontal policy and provides conditions for the promotion of sectors with growth potentials and contributes to accelerated industrial development. It defines the sectors recognised for their growth potentials which may represent the driving force of industrial development with potentials for increasing competitiveness on the national market and strong export potentials. In addition, sectors that should contribute to modern industrial development have been defined. As it was already indicated, key sectoral challenges of Montenegro have been defined on the basis of the analyses and identified possible support instruments for industrial modernisation. In addition, policy measures have been proposed for every key sectoral challenge, and they, besides the instruments at the national level, put an emphasis on the use of the relevant EU instruments for financial and technical assistance. Furthermore, the high technology sectors requiring sectoral support have been identified under the Industrial policy.

As regards sustainable development requirements, the need for efficient use of available resources in the process of development of Industrial policy has been recognised, with special emphasis on modernisation of the existing industrial plants and fulfilment of defined requirements of environmental protection and eco-innovations, particularly when it comes to development and adoption of the so-called "clean technologies". Namely, precisely the implementation of measures defined in line with sustainable development principles has been planned for encouraging of the rational use of energy resources in business operations based on environmental protection, as well as the use of renewable energy sources and transfer to low-carbon economy. Furthermore, besides the existing support for development of environmental protection projects, energy efficiency and renewable energy sources at the national level, this document also identified the relevant EU instruments that may be used by Montenegro for supporting the field of environmental protection and sustainable development.

It is important to note that the framework for establishment of Montenegro's Industrial policy, in addition to national umbrella documents, is largely represented by the EU policy principles, which have been defined under the document Europe 2020 and recommendations for the Western Balkans, determined by the Strategy 2020 for South-east Europe. Furthermore, the process of development of the mentioned policy also included the principles of the EU industrial policy which have been clearly defined in the following documents: Industrial Policy for the Globalisation Era (COM(2010) 614)), Industrial policy: Reinforcing competitiveness (COM(2011)642)), a Stronger European Industry for Growth and Economic Recovery: Industrial Policy Communication Update

(COM/2012/582 final)) and "For a European Industrial Renaissance" (COM/2014/014 final)).

As regards the free zones, Montenegro has one free zone – free zone “Luka Bar” which operates within the Port of Bar. In March 2000, by passing Decision approving the establishment of the free zone Port of Bar (Official Gazette of the Republic of Montenegro 24/00) the Government supported establishing of the free zone “Port of Bar”, while passing of the Law on Free Zones provided solid institutional framework and defined Government’s commitment to encourage export-aimed production activities within the zone or storage facility. Establishing of the free zone “New tobacco production plant” Podgorica is underway. **Law on Free Zones** (Official Gazette of the Republic of Montenegro 42/ 04, 11/07, Official Gazette of Montenegro 76/08, 40/11, 40/16) represents the basic legal framework that governs the operational regime in free zones, such as the issues of establishing free zones and storage facilities, management and conditions for performing business operations in these zones and facilities, as well as conditions for cessation of work of a zone or storage facility, and it is completely aligned with EU legislation.

By passing Decision approving the establishment of the free zone Port of Bar, the Government confirmed economic justification for establishment of the zone which may produce substantial effects on export, employment, transfer of up-to-date technologies, and economic restructuring. However, the recent practice showed that the capacities of the free zone “Port of Bar“ are not sufficiently used for production, instead they were mainly used for storage.

### **3.20.1.2. Privatisation and restructuring**

The privatisation process is in the final stage. Since the beginning of 1999, more that 90% state-owned companies or companies where the state owned the largest number of equity stocks have been privatised, including 100% in the banking sector, telecommunications and oil distribution. The largest share of the remaining non-privatised companies has strategic importance for Montenegrin economy in the fields of energy, transport and tourism.

Privatization of companies with share of state capital, including companies from the field of industry is performed in line with the annual Privatisation plans adopted by the Government, which are aligned with FDI policy.

It should be noted that the privatisation also entailed certain structural reforms, but, in order to perform complete evaluation, initial conditions of the privatisation process should be taken into account. Therefore, the reform of the institutions was slower due to inherited circumstances from the period preceding reforms. Economic analyses confirm that Montenegro substantially advanced in the field of institutional reforms and development. The impact of reforms may be measured through GDP growth which is larger than



expected considering the privatisation performed, as well as implemented reforms, share of the private sector and FDI influx.

The results achieved in the banking system reform can be viewed as positive, as a modern banking system has been created, which drives the economic growth and development. Privatisation of banks had a stimulating effect on the revival of the financial system and increased activity of the banking system, and, consequently, on increased activity of the real sector in terms of stable sources of liquidity and investment funds for more efficient economic operations. Surely, privatisation of the banking system by itself could not have led to a substantial growth had it not been followed by the reforms in the real sector, established macroeconomic stability, significant inflow of foreign direct investment, etc.

As regards utility enterprises, the privatisation in this sector has not started yet. The preparation for the privatisation also implies consideration of the privatisation models, one of which is private-public partnership.

At the moment, renationalisation of big industrial enterprises that have been privatised is not in the pipeline, but certainly models are considered for the establishment of new models of functioning and cooperation between the State and these enterprises through private-public partnership and similar models.

In the previous period, Montenegro has fulfilled the obligations laid down in Protocol 5 on state aid in the steel industry, and has accordingly regularly reported to the EC on the activities taken, strictly observing the state aid rules. In that regard, the submitted Restructuring Program of the Steel Company JSC Nikšić is aligned with the Law on State Aid Control, in accordance with the EU state aid policy guidelines. There is only one (the abovementioned) enterprise in the steel sector in Montenegro that underwent the bankruptcy procedure, after which the buyer of assets in bankruptcy did not file a request for state aid, and consequently there was no need to develop a restructuring programme.

#### **3.20.1.2. Entrepreneurship and SMEs**

The new Law on Accounting, passed on 30 July 2016 (Official Gazette of Montenegro No: 52/2016), in Article 5a categorises the legal persons into micro, small, medium, and large, depending on the average number of employees, total annual profit and total assets, thus bringing the criteria regarding the number of employees, as well as the manner of categorisation of SMEs in line with Commission Regulation (EU) 34/2013.

The principles and development trends of the entrepreneurial policy in Montenegro in the previous period have been defined by the Strategy for development of small and medium-sized enterprises 2011-2015, while action plans and reports on the implementation of the tasks from the Strategy have been adopted annually. The Strategy defines four strategic goals: Improvement of the business environment; Strengthening of the financial support;

Strengthening of the competitiveness of SMEs and promotion of entrepreneurship; and Support for beginners in business - start-up. As a continuation of the previous strategic documents in this area, currently ongoing is the drafting of the document “Strategic guidelines for the development of SMEs“, which will be adopted by the end of 2017 and which will include the analysis of the state of the SMEs sector and the achieved results of the Strategy for development of SMEs for 2011-2015.

The specific measures for the development of SMEs are defined in the Strategy for development of women entrepreneurship 2015-2020 and Strategy for promotion of life-long learning 2015-2019 and annual section plans. With the drafting of the Strategy for development of women entrepreneurship, the aim is to create the required preconditions and foundations, on which women will be able to express in an equal manner their entrepreneurial potential and improve their position in the society on all grounds. The goal of this important strategic document is to encourage a faster and facilitated economic empowerment of women, through the creation of a favourable business environment and provision of support to the development of entrepreneurial potential of women, which will at the same time contribute to the development of the existing and opening of the new enterprises, creation of new jobs, and employment growth, and, consequently, of the overall development of the sector of SMEs and entrepreneurship.

The Strategy for development of life-long entrepreneurial learning 2015-2019 defines the measures of entrepreneurial learning on all levels of education, including pre-school. Most of the activities defined under the Action Plan for 2016 of the Strategy for life-long entrepreneurial learning 2015-2019 have been implemented. A significant progress has been achieved in the part relating to the implementation of activities, particularly in the part regarding the introduction of entrepreneurship as a key competency in pre-school, elementary, and secondary vocational education, development of entrepreneurial schools, and training of the teaching staff to carry out entrepreneurial learning.

With a view to affirming entrepreneurship and opening new jobs, a programme was started by the Directorate for development of SMEs and Investment and Development Fund on Support to development of entrepreneurship for the purpose of providing non-financial and financial support to the interested persons who plan to start their own business or to improve the existing one. Furthermore, different strategic documents and various support programmes define the measures for SMEs in the area of innovation policy, research and development, business environment, provision of stimulus for employment and regional development, etc.

When creating the development policy for SMEs, i.e., relevant strategic documents, an important segment is statistical monitoring of the SMEs sector aimed at reviewing the policy success, or evaluation of the achieved effects of created and implemented measures

of support to the SMEs sector, from the aspect of the number of enterprises, employment, share in export, GDP, total investment, turnover, profit, and gross value added (Strategy for development of small and medium-sized enterprises 2011-2015). In this regard, the Statistical Office of Montenegro – MONSTAT publishes the relevant data on the SMEs sector (number and structure of active business entities by municipalities, activities, form of ownership, and by size, gross value of production per class of product, etc.). For the purpose of drafting “Strategic guidelines for development of SMEs“ for the forthcoming period, the official statistical data of MONSTAT will be used, in order to assess the successfulness of the previous strategy and set the goals for the upcoming period.

As regards the entrepreneurship education, Montenegro is the leader in the region in the part of the policy relating to entrepreneurial learning and development of entrepreneurial competencies on different levels of education. Most of the activities defined through the defined general objectives of the Strategy for life-long entrepreneurial learning 2015-2019 have been implemented. A significant progress has been achieved in the part relating to the introduction of entrepreneurship as a key competency in pre-school, elementary, and secondary vocational education, development of entrepreneurial schools, and training of the teaching staff to carry out entrepreneurial learning. Progress has also been achieved in the part relating to the development of entrepreneurial learning of adults, development of entrepreneurial skills through training and mentoring programmes, as well as the vocational training programme for persons with acquired high-level education.

In the upcoming period, the focus should be placed on introduction of entrepreneurship as a key competency on all educational levels (with particular emphasis on study programmes in non-economic faculties), inclusion of the largest possible number of entrepreneurs with a successful business practice in practical classes/conclusion of contracts on cooperation between schools and local business entities, strengthening of cooperation between universities and business entities, development of social entrepreneurship and a larger number of applications for the use of available financial instruments within the EU programmes.

Two business incubators and innovation-entrepreneurship centre within the Science and technology Centre Tehnopolis are operational in Montenegro. Incubator BSC Bar started its operations in 2010 with the main mission of being a support to the promotion of entrepreneurship through a comprehensive and integrated support of BSC. BSC Bar is a general purpose incubator, within which 40 enterprises operate. BSC Bar incubator has implemented various training modules for acquisition and improvement of business skills for beginners in business and women entrepreneurs, it organises fairs for employment of persons with disabilities, international business meetings, fairs in applied arts, etc. At the same time, BSC Bar, being a project-oriented incubator, successfully organises projects in cooperation with the institutions in the country and region.

“Regional business centre” Berane LLC was founded in 2016 under IPA 2011 programme “Inter-municipal development grant programme“, project „Establishment of Regional Business Centre and Incubator for North-East Montenegro“. The regional business centre and business incubator is intended for beginners in business and is of manufacturing and service type. Also implemented through the project is the training of employees in the incubator in order to create preconditions for beginners in business to realise their business ideas. RBC Berane organises different kinds of seminars and training, provides counselling services and information, training courses, organises promotional activities for beginners in business and the existing SMEs.

The Innovation Entrepreneurship Centre “Tehnopolis“ in Nikšić was opened in 2016, has 14 tenants. “Tehnopolis“ has at its disposal a modern and functional space for development of micro, small, and medium-sized enterprises and newly founded companies, with a room for three laboratories for biochemistry, industrial design, and data centre, multimedia room, and a computer room.

For the purpose of continuation of the activities relating to the suppression of informal economy – strengthening of fiscal discipline and elimination of disloyal competition, as well as raising awareness on the importance of legal business, in June 2017, the Government adopted the Action Plan for suppression of grey economy. The measures for suppression of grey economy fall under the competence of different state authorities, and one of the conditions for their successful implementation is a coordinated procedure between competent authorities. The plan sets the measures and activities for suppression of grey economy and establishes the Commission for suppression of grey economy.

The Action Plan for suppression of grey economy for 2017 provides for three kinds of measures: preventive measures, restrictive measures, and stimulus measures. Preventive measures include a set of various activities such as investigating the scale of grey economy in Montenegro, the need for ensuring continuous assessment of the tax gap, which will serve as an information basis for undertaking preventive measures in the fight against grey economy in the upcoming period, establishment of an appropriate institutional model for measuring grey economy and its share in GDP, elimination of administrative burdens in a manner that reduces both the business expenses and time required to fulfil the obligations towards the state, improvement of the regulatory framework in the area of fiscal policy, labour legislation and social policy, etc. Restrictive measures represent a list of activities, i.e., tasks of certain competent authorities on suppression of grey economy, as well as deadlines and objectives that are to be achieved in the formalisation of profits in some sectors. The stimulus measures for suppression of grey economy aim at contributing to the reduction of the fiscal deficit and incentivising business entities through a set of measures so that they would fully or partly move their operations from the grey economy area to the legal flows.

The existing model of fiscalisation applied in Montenegro is, in terms of business processes and procedures, complex and outdated. A large number of actors is involved (servicers, distributors, tax officers, Faculty of Mechanical Engineering), and the records of the existing cash registers are not adequate. Due to these shortcomings, there are many taxpayer abuses in practice, which are very hard to detect, and consequently respond to in a timely fashion.

Unlike this system of fiscalisation that is based on a hardware solution (cash registers), the solution for the system of electronic fiscalisation is a software one and is also based on the established control systems of invoicing. The model of electronic fiscalisation requires the use of software adjusted for the process of fiscalisation, and an obligation would be introduced that invoices must be issued via electronic collection devices, which must enable the use of programme support for electronic signing of invoices, i.e., invoices would be recorded on the server of the Tax Administration through an Internet connection in real time. In addition, electronic fiscalisation will cover all transactions, regardless of whether they are collected in cash or non-cash, unlike the existing solution where only the transaction made in cash is recorded.

Data transfer in real time will also ensure tracking of transactions in real time of any payer, which will be carried out in the business premises of the Tax Administration, and which enables an easier and more cost-efficient process of control, shortens the time required for control, and provides a much bigger coverage of controlled payers. Establishment of a database is the most important basis for setting up the automated system of risk assessment without which no efficient and cost-efficient system of inspection supervision can be established. The Ministry of Finance commenced its work and legal norms are being drafted, and in parallel with this drafting of tendering documentation for procurement of software and hardware required for the functioning of the system of electronic fiscalisation.

In the process of applying the SBA recommendations, according to the official data of **SME Policy Index 2016**, it is stated that Montenegro has made progress relative to the 2012 Report, in the part relating to the institutional, regulatory, and operational environment for SMEs, although small and medium-sized enterprises are still facing the challenges deriving from an uneven economic recovery. It is also stated that technical standards are now largely aligned with the EU acquis, requirements for business registration have been made easier with the e-government service, the tax system has been simplified and electronically available, institutional infrastructure and financial instruments for promotion of innovation in small and medium-sized enterprises have been established, etc.

It is particularly stated that Montenegro has become a leader in the region in the part relating to entrepreneurial learning, where it has achieved the best results relative to other

countries. However, even though Montenegro has a relatively well-developed micro-financial services, access to finance is still the biggest barrier for small and medium-sized enterprises.

The official report gives three main recommendations for further progress of the development policy of small and medium-sized enterprises and improved access to finance: implementation of Basel III directive, establishment of a private credit bureau, and initiative for improvement of financial literacy. In addition, a note was given that it is necessary to intensify the efforts in ensuring horizontal and targeted service of business support, particularly in key areas of support to SMEs in the access to foreign markets, and to consider the opportunity for integration of key competencies of entrepreneurial learning into the curriculum.

The evaluation of the achievement of the results of the recommendations given in SMEPolicy Index 2016 will be done by January 2018, and their publication is expected to take place in the course of March 2018.

Montenegro implements intensive activities on strengthening the innovativeness and encouragement of the SMEs sector to use new technologies through financial and non-financial support programmes, including the following:

**Programme for improvement of innovation in small and medium-sized enterprises** – project of financial support to SMEs from the processing industry sector is being implemented with a view to strengthening the innovation potential of SMEs and modernising business through improvement of products, processes, organisation, or marketing, and is based on the co-financing of expenses for introduction of innovation.

**Programme of support for modernisation of the industry** aims at strengthening the competitiveness of business entities, improvement of business, productivity, and profitability through investment in the equipment, adoption of new technologies so as to ensure modernisation of manufacturing processes, efficient use of available resources, development of new products and services and creation of new jobs. The programme covers co-financing of expenses of equipment procurement.

**Programme for promotion of clusters in Montenegro** aims at providing financial support for entrepreneurs, micro, small, and medium-sized enterprises that form a part of the cluster, through investments in material (*inter alia* equipment procurement) and non-material assets and operating costs of business, for the purpose of strengthening the capacity of clusters and positioning on the domestic and foreign market.

**Programme for increasing regional and local competitiveness through compliance with the international standards requirements** provides support to entrepreneurs, micro, small, and medium-sized enterprises and clusters of small and medium-sized

enterprise, to increase as much as possible their competitiveness, primarily through compliance with the requirements of international product standards and support for obtaining accreditation for conformity assessment. The programme is based on the expenses co-financing scheme.

In addition, within **HERIC INVO project** of cooperation with the World Bank, eight big research grants are being financed, aimed at strengthening exceptional research teams, internationalisation and connecting research and economy. Collaborative grants enable purchase of equipment, which is used for development of research on projects whose main result is innovation. Activities are also ongoing on the implementation of the grant scheme “Knowledge transfer between the high education sector, research, and the economy”; 14 projects are being implemented for strengthening the links between the academic community and the economy (IPA IV – Operational Programme for human resources development 2012-2013). In addition, SMEs are incentivised to use the EU programmes COSME, HORIZON 2020 through organisation of info days, training cycles, etc.

Following a successful participation in the Competitiveness and Innovation Framework Programme CIP–EIP (Entrepreneurship and Innovation Programme), in the new programme cycle, Montenegro joined and signed the Agreement for participation in COSME programme in June 2014 and has continued with the multi-annual implementation of programme activities under the programme cycles of the EEN network. The EEN consortium consisting of the Ministry of Economy – Directorate for development of SMEs (DDSME) as a leader, with its partners, Faculty of Mechanical Engineering, Chamber of Commerce, Business Startup Centre Bar (BsC Bar), in accordance with the framework partnership agreement FPA 677097 and Implementing Strategy 2015-2020 has been successfully implementing the project activities within the EEN network in two programme cycles 2015-2016 and 2017-2018. The activities on the implementation of the project European Entrepreneurship Network (EEN) focus on providing practical information, assistance to business people in finding business partners more easily, establishing business cooperation, accessing information on legal aspects and EU business regulations, getting informed on the support programmes, transfer of technology and knowledge, and innovations. The focus of programme activities of the EEN project is on providing assistance to innovative enterprises and those with the potential for further growth and development. In that respect, significant support was provided towards promotion and best possible use of the biggest Framework Programme and Research and Innovation Horizon 2020, within which the Directorate for development of SMEs is the national contact point for SMEs.

It is also important to note the participation of Montenegro within the component of the COSME programme “Access to finance” and the signed COSME agreement in July 2015 between Crnogorska komercijalna banka (Montenegrin Commercial Bank) and the

European Investment Fund with the agreed portfolio of EUR 30 million for a three-year period. Through the mentioned financial instrument of Loan Guarantee Facility for SMEs, according to the data from the implementation report with the balance as at 30 June 2017, CKB approved a total of 610 loans amounting to EUR 11.6 million. In addition, we also note participation in the ERASMUS project for beginner entrepreneurs in which the Chamber of Commerce of Montenegro as a project partner had a role of an intermediary organisation, which was implemented in the period 2015-2017, and within which the process of training was organised for five candidates in the appropriate enterprises – hosts from Greece, Denmark, and Germany, while one Montenegrin company was a host to a beginner entrepreneur from Italy.

### **3.20.1.3. Compliance**

The legal framework governing the area of Directive combating late payment in commercial transactions (Directive 2000/35/EC and Directive 2011/7/EU) consists of the following laws: Law on Deadlines for Settlement of Monetary Obligations (Official Gazette of Montenegro No. 28/14), Law on Default Interest Rate (Official Gazette of Montenegro 83/09), Law on Payment Operations (Official Gazette of Montenegro No. 62/13 and 6/14), Law on Obligations (Official Gazette of Montenegro No. 47/08, 04/11 and 22/17), Law on Enforcement and Securing of Claims (Official Gazette of Montenegro 36/11, 28/14, 20/15 and 22/17), Law on Public Procurement (Official Gazette of Montenegro No. 42/11, 57/14, 28/2015 and 42/17), and Instructions on the Work of State Treasury (Official Gazette of Montenegro No. 53/14 and 72/15). Each of these acts in some way tackles the issue of late payments in commercial transactions (settlement deadlines, interest rates, etc.), but are not fully aligned with the substantive legal provisions of Directive 2000/35/EC and Directive 2011/7/EU. In the upcoming period it will be determined which institutions will take over the obligation of alignment with the provisions of Directive 2011/7/EU, and deadlines will be set for their transposition.

Various state aid programmes focused on increasing the competitiveness of SMEs that are implemented in different spheres are in compliance with the state aid rules. In this context, continuously implemented are the support programmes laid down in strategic documents by combining the models of financial and non-financial support, focused on increasing regional and local competitiveness through compliance with international business standards, encouragement of clusters development, encouragement of development of entrepreneurship, modernisation of industry in the sector of processing industry, encouragement of investment in the sector of industry and services, etc., in accordance with the Law on State Aid Control and bylaws governing the conditions and process for granting and controlling the use of state aid, aligned with the EU regulation.



### **3.20.2. Implementation of activities from October 2016 to October 2017**

#### **3.20.2.1. Legislative framework**

In the area of principle of **entrepreneurial and industrial policy**, the Action Plan was adopted in March 2016 for implementation of the Strategy for life-long learning 2015-2019 for 2017, while the Report on implementation of the Action Plan for 2016 was adopted in May 2017. In addition, the Action Plan for implementation of the Strategy for development of women entrepreneurship 2015-2020 was adopted in April of this year. Furthermore, in line with the defined obligations, in March 2017, the Government adopted the Report on implementation of the Action Plan for 2016 and the Action Plan for industrial policy for 2017.

With a view to creating conditions for the improvement of the business environment and attracting direct investment, in November 2016, the Government adopted the Decree on business zones. This act defines the model for the establishment of zones, reliefs in business for beneficiaries of business zones, management and functioning of the business zones at national and local level, in terms of business zones of strategic and local importance. The application of provisions defined by the decree, inter alia, have a significant impact on employment growth, improvement of the business infrastructure, encouragement of the development of small and medium-sized enterprises and entrepreneurs, attracting new investments, as well as even development of local self-government units in Montenegro. Furthermore, this bylaw defines the provisions concerning harmonisation of operations by which the founders of business zones that started their operations before entry into force of the Decree are obliged to harmonise the business operation of business zones with the provisions laid down in the valid decree. Since some local self-governments were unable to harmonise their business operations within the statutory deadline due to inability to solve property and legal relations, the Government passed the Decree amending the Decree on business zones (Official Gazette of Montenegro 38/17) extending this deadline to 21 June 2018.

#### **3.20.2.2. Track record**

As regards the implementation of the principles of the Small Business Act, two events have been organised for the purpose of presentation of the new assessment cycle of the indicators of the Small Business Act for Western Balkans, in December 2016 and April 2017 in Paris, in which representatives of Montenegrin institutions and the EC (DG GROV), OECD, and ETF took part. In accordance with this, the December event was divided into two parts:

- 1) Introduction of the new SBA assessment cycle (2016-19);
- 2) Session of the regional dialogue on access to finance – alternative financing instruments.

Within the first event, the new approach was presented along with the planned activities under the new SBA assessment cycle. The second event focused on access to finance of SMEs, particularly through alternative financing instruments. Representatives of OECD, Western Balkans, and Turkey exchanged the examples of good practice concerning innovative alternative financing instruments, with the focus on factoring and leasing, as well as venture capital.

The second event was organised in April 2017 as a high-level conference on the topic “Encouraging investments for competitiveness in South East Europe“. Conference 2017 OECD SEE aimed at raising awareness of the investment policy trends, identification of challenges and consideration of the opportunities of policies for encouraging investment and competitiveness in the region. A forum was organised during the conference in which the participants discussed the reforms and initiatives that could further improve the investment policies and practices in South East Europe countries, contributing to an inclusive growth.

A new assessment period of the Small Business Act for the Western Balkans countries and Turkey (2016-19) was launched in Paris in September 2017, an updated methodology was presented, the main aspect of the assessment process, as well as the final framework for each of the dimensions of the SBA.

On the basis of the activities on the implementation of the Decree on the encouragement of direct investment, on the basis of the Public Announcement of 2015 and signed agreement on the use of funds for encouraging direct investments, currently ongoing is the implementation of three investment projects in the area of wood processing, production of animal feed, and the area of securing persons and goods. On the basis of the Public Announcement of 2016 and signed contracts on the use of funds for encouragement of direct investments, currently ongoing is the implementation of three investment projects in the area of wood processing, tourism, and food industry. The total value of investment projects being implemented in accordance with the case contracts amounts to EUR 7.2 million, providing for the employment of 253 persons for an indefinite period of time. Four investment projects are being implemented on the territory of the central region, and two on the territory of the northern region. The new public announcement was completed on 29 May 2017 and the validity of nine received applications is being assessed.

In addition, the Directorate for development of small and medium-sized enterprises, in cooperation with the Investment and Development Fund of Montenegro, as part of implementation of the Programme of support to development of entrepreneurship through non-financial and financial support, published a new public call for implementation of the Programme in September 2017. The received applications are being evaluated.

The Agreement on cooperation was signed in February 2017 between the Ministry of Economy – Directorate for development of SMEs and JICA for the start of the second phase of the project “Establishment and promotion of mentoring services in Western Balkans countries – Serbia, Montenegro, B&H, and Macedonia“, and the implementation of the project activities started in September 2017.

Within the implementation of the Programme of encouragement of the development of clusters in Montenegro for 2016, six clusters have been supported, and total subsidy for project implementation amounted to EUR 23,687. Programme implementation continued with its adoption for 2017-2020. In the course of 2017, one Public call was announced for participation in the Programme and subsidies were approved for seven clusters, with the contracted value of approximately EUR 98,000, of the available EUR 100,000. The implementation of the majority of projects is ongoing, i.e., thus far one project has been completed and supported with EUR 14,950, and also for two clusters first tranches of subsidies have been allocated, totalling EUR 13,170. Disbursement of the contracted amount of subsidies is planned by the end of the year and it depends on the success of project implementation by the cluster.

On the basis of the implementation of the Programme for increasing regional and local competitiveness through compliance with the requirements of international business standards during 2016, subsidies have been approved for 29 business entities, of which nine subsidies were disbursed in 2016 – EUR 21,712 and for 20 entities in early 2017 – EUR 61,189. Implementation of the Programme continued with its adoption for 2017-2020. In the course of 2017, one Public call was announced for participation in the Programme, with the budget amounting to EUR 70,000. Review of 51 submitted applications is ongoing.

### **3.20.2.3. Improvement of the business environment**

Creation of simplified procedures, modernisation of public administration, as well as extremely efficient administration are the goals of reform measures set by the Government in the previous period as its task, and whose implementation will be further intensified in the upcoming period.

In the part of improvement of the situation in the area of issuance of building permits, the Law on Spatial Development and Construction of Structures (Official Gazette of Montenegro 064/17) entered into force. The key novelties pertain to planning and planning documents, land development, conditions of construction of structures, technical supervision, and legalisation of illegal buildings. In the part relating to planning, the draft Law provides for the introduction of only two types of planning documents in Montenegro – spatial plan of Montenegro and General Regulation Plan of Montenegro. One of the most important novelties provided for by the new law is abolishment of building and use permit and introduction of notice of commencement of works with the documentation stipulated

by the law as a requirement for construction. Instead of a use permit, the solution provides for the consolidation of technical review and professional supervision, freeing the system of duplicate controls. The draft law also addresses the legalisation of illegally constructed structures and in that respect it provides for legalisation only if the illegal structure is foreseen by the valid planning document or the General Regulation Plan of Montenegro.

The reporting period also saw continued implementation of the project “No barriers, so business doesn’t wait” a part of the project Public administration tailored to the needs of citizens and businesses. The project is part of the partnership of the Ministry of Finance with the Office of the United Nations Development Programme to Montenegro, with the support of the British Embassy to Montenegro. The idea for implementation of the project Public administration tailored to the needs of citizens and businesses was launched in October 2014, and was designed in cooperation with South East Europe’s association of public sector communicators (so-called SEECOM), modelled after the British “Red Tape Challenge” project. Following the implementation of the first phase of the project (development of a beta version of the portal and initiation of a public dialogue on the general topic of regulatory and administrative barriers) and second phase of the project (initiation of the dialogue on concrete business barriers via the portal [www.bezbarijera.me](http://www.bezbarijera.me)), a report was prepared summarising the identified barriers (228 barriers classified into eight areas), as well as proposals for further improvement of the business environment at local and central level. Further activities imply consideration of the proposed measures for elimination of detected regulatory and administrative barriers by line institutions and their implementation.

As regards regulatory reforms, continued application of the Regulation Impact Assessment (RIA) carried on, with a view to establishing preconditions for not creating new barriers in regulations. In that regard, since the formal introduction of RIA into Montenegrin regulatory system from 1 January 2012 to 31 June 2017, the Ministry of Finance provided more than 1,930 opinions to proposed acts and accompanying forms of the Report on the conducted analysis of regulation impact assessment, from the aspect of implications on the business environment and impact on the state budget.

In the part of implementation of recommendations of the “Guillotine of regulations”, change of regulations was continued in terms of accepting the recommendations, where the level of implementation, from the first adopted Action Plan up to and including the second quarter of 2017 was 83.4% of recommendations, i.e., from the total of 1,446 recommendations, 1,206 have been implemented.

In addition, as regards the activities for the improvement of environment and business activities, the Ministry of Economy, with the support of the United Nation Development Programme (UNDP), started organisation of the Business Caravan, aimed at visiting all

municipalities in Montenegro, and familiarising in direct communication business people with the programmes of financial and technical support to business development carried out by the Ministry. In addition to its promotional dimension, the project gives the opportunity to provide detailed information on all issues and barriers that may arise when applying or implementing programmes, as well as during business operations.

#### **3.20.2.4. Entrepreneurial and industrial policy instruments**

In the area of entrepreneurial and industrial policy instruments, in the period 1 January - 20 October 2017, the Investment and Development Fund of Montenegro approved a total of 321 long-term and short-term investments valued at EUR 127.9 million. Of this amount 280 long-term loans have been approved valued at EUR 79.8 million, eight short-term loans valued at EUR 3.8 million, and 33 factoring arrangements valued at EUR 44.3 million. These funds provide support for preservation of 6,932 jobs.

In the period from 1 January 2017 to 20 October 2017, the Employment office granted 40 loans totalling EUR 230,000, intended for the opening of 46 new jobs. Of this number, 12 funded loans (30%) are for unemployed persons, and two loans (5%) are for legal persons.

#### **3.20.2.5. Industrial policy**

As regards implementation of the Industrial policy, the Report on implementation of the Action Plan for 2016 and the Action plan for industrial policy for 2017 were adopted in March 2017, with define measures and activities, as well as allocated funds for their implementation, which will contribute to the fulfilment of strategic goals defined by the Industrial policy.

Having in mind the complex nature of the implementation of the Industrial Policy, the efficient coordination on implementation of the activities defined by the Section Plan 2016, as well as definition of activities for 2017 have been provided through the structure of the Coordinating body for implementation of the Industrial policy of Montenegro by 2020 consisting of representatives of the Cabinet of the Prime Minister, Deputy Prime Minister, relevant ministries, and representatives of private sector associations.

On the basis of the results of the implementation of the Action Plan for 2016, of the foreseen EUR 213.5 million, total realised investments amount to EUR 213.5, making for 79.5% of realisation. In the total realised investments, the share of private investors is around 50%, with a decisive impact of investments into the energy sector, public sector funds participate with 45% and they are mostly related to funding by the Investment and Development Fund of Montenegro, 5% have been realised through the national budget, while a significantly lower share is from IPA funds and donor programmes, whose percentage share in total realised investment is below 1%. Observed by strategic objectives, most funds have been invested for implementation of activities within the first

strategic objective, Competitiveness of industry 57% (with dominant investment in the energy sector), followed by the strategic objective 2 Investment and finance for the modernisation of industry, within which 40% of the funds have been invested (dominated by the activities of the Investment and Development Fund of Montenegro), while somewhat fewer funds have been invested in the implementation of activities defined under strategic objectives 3 and 4 Innovations and entrepreneurship and Market access.

As regards the Action Plan for implementation of Industrial policy for 2017, which was prepared in cooperation of all line ministries, key representatives of public and private sector, 66 activities have been defined through 21 measures, and they will be implemented in the course of 2017, in the total amount of EUR 289.6 million. Observed at the level of key strategic objectives, for implementation of activities defined by the first strategic objective Competitiveness of industry, in the part concerning improvement of physical capital, EUR 162.8 million has been allocated, with the predominant position of investments in the energy sector amounting to EUR 149 million. For implementation of the second strategic objective Innovation and finance for the modernisation of industry, EUR 114 million has been allocated, of which EUR 83.6 is related to realisation of credit lines in priority industry areas amounting to EUR 58 million, and financial support for the improvement of liquidity through factoring arrangements amounting to EUR 25.6 million. For implementation of the activities within third and fourth strategic objectives Innovations and entrepreneurship and Market access, EUR 12.03 million and EUR 732,000 have been allocated, respectively. Implementation of foreseen activities is taking place in accordance with the planned pace.

## **3.21. CHAPTER 21: TRANS-EUROPEAN NETWORKS**

### **3.21.1. GENERAL READINESS FOR THE MEMBERSHIP**

#### **3.21.1.1. *Transport networks***

The Transport Development Strategy of Montenegro from 2008 identifies the state in all areas of the transport, establishes the concept of development of the infrastructure and transport and defines the long-term and fixed-term objectives of the transport development. Drawing up of the Transport Development Strategy for the period 2018-2035 is in its final stage and it will incorporate Regulation 1315/2013/EU and the assumed obligations from the Berlin Process. Its adoption has been planned for the second quarter of 2018.

The Strategy of Development and Maintenance of the State Roads (2008-2018) is a strategic document whose adoption has been provided for by the Roads Law (Official Gazette of the Republic of Montenegro 42/04, 54/09 and 36/11), which lays down the objectives and main tasks of development and maintenance of state roads for the period of

10 years, their schedule and the scope of implementation, the framework of the necessary funds and the sources of financing.

The Transport Development Strategy of Montenegro and the Strategy of Development and Maintenance of the State Roads are based on the Memorandum of Understanding on the development of the comprehensive regional transport network. Montenegro actively participates in the work of the Steering Committee of the South-East Europe Transport Observatory for implementation of the Memorandum of Understanding on the development of the comprehensive regional transport network.

Since it is actively participating in the Berlin Process and in the Connectivity Agenda, Montenegro, through its communication with the EC, harmonised the future Trans-European Transport Network in Montenegro with the Regulation 1315/2013 on Union guidelines for the development of the Trans-European Transport Network, and Montenegro and the EC reached an agreement concerning the list of priority projects in the transport sector in accordance with the Regulation 1316/2013 establishing the Connecting Europe Facility. On 30 June 2017, the Government adopted the updated Single list of priority infrastructure projects.

The Core transport network in the area of the Western Balkans was approved at the Western Balkans Summit on 27 August 2015.

The SEETO Comprehensive Regional Transport Network includes two routes in Montenegro:

- Route 1 – the connection through the Adriatic-Ionian corridor (the main road along the coastline) with the Republic of Croatia and with Bosnia and Herzegovina;
- Route 4 – the connection through the Bar-Boljare highway (up to the border with Serbia) with the Republic of Serbia and farther on with Romania.

The SEETO Comprehensive Railway Network includes two routes in Montenegro:

- Route 2 (144 km): Podgorica - Tirana (the connection with the Republic of Albania);
- Route 4 (580 km): Vršac (Romanian border) — Belgrade (Serbia) — Bar (Montenegro).

The Port of Bar is also a part of the SEETO Comprehensive Network.

The Podgorica International Airport is a part of the SEETO Comprehensive Network and it is operated by the Airports of Montenegro JSC, which is 100% owned by the state.

With regard to the implementation of the EU Directive 2002/59/EC, the Ministry of Transport and Maritime Affairs established the VTMS system in Montenegro and it has been fully operated since 30 October 2015.

Also, as a support to this technical system for monitoring and control of the maritime transport, the Rulebook on the manner of monitoring, information and management of the

maritime transport (Official Gazette of Montenegro 34/15) was adopted and it specifies in detail the rights and obligations of all vessels that arrive to or leave Montenegro, as well as the rights and obligations of the VTS Operator as stipulated by the Law on Safety of Maritime Navigation (Official Gazette of Montenegro 62/13). Directive has been transposed into the Law on Safety of Maritime Navigation (Official Gazette of Montenegro 62/13).

In the approximately 41 km long Smokovac-Uvač-Mateševo priority section of the Bar-Boljare highway, due to the configuration of the terrain, there are 20 bridges of the total length of approx. 5.91 km, 16 bi-tube tunnels of the total length of 17.95 km, and the open road route has been designed at the length of about 17 km, while the works are currently being executed on 15 tunnels, 11 bridges and on the entire open section of the road. The contractor executes the works in accordance with its Work Programme. The section concerned is divided in 4 parts, with 19 sub-sections in total. By now, 17 building permits have been issued, while approval of the main designs for the remaining 2 sub-sections is in its final stage. Also, 7 building permits have been issued for 7 dumps for disposal of the excess excavated material.

Strengthening of the administrative capacities in the transportation sector, with a view to fulfilment of the obligations arising from the EU acquis, has been foreseen to be carried out in the following manner:

- By amendments to the Rulebook on the internal organisation and job descriptions and by specifically ascribing a part of duties related to the TEN-T and the Connecting Europe Facility (CEF) to the existing staff's job descriptions. The job description of one civil servant of the Directorate for Railway Traffic included in the Rulebook on the internal organisation and job classification of the Ministry of Transport and Maritime Affairs already incorporates duties related to the obligations arising from the TEN-T and the Connecting Europe Facility;
- By employment of one civil servant by the Directorate for State Roads in the first quarter of 2018.

If the envisaged increase of the administrative capacities proves to be insufficient, establishment of a special Department-Service for the TEN-T will be proceeded with.

### **3.21.1.2. Energy networks**

The national strategic framework for development of the energy infrastructure is composed of the Energy Policy of Montenegro until 2030 (adopted on 3 March 2011); the Energy Development Strategy of Montenegro until 2030 (adopted on 10 July 2014) and the Action Plan for Implementation of the Energy Development Strategy of Montenegro until 2030 for the period 2016-2020 (adopted on 21 January 2016).



Montenegro is a member of the Energy Community in accordance with the Law on Ratification of the Agreement between the European Community and the Republic of Montenegro on establishing the Energy Community (Official Gazette of the Republic of Montenegro 66/06).

In addition to the aforementioned, the Energy Strategy of the Energy Community, adopted on 18 October 2012, is relevant for Montenegro as it is a member of the Energy Community (EC). In accordance with this Strategy, Montenegro took part in the process of nomination and approval of the projects of interest for the EC (PECI). The process of approving the Peci projects was carried out in compliance with Regulation (EU) No 347/2013 on guidelines for Trans-European energy infrastructure.

Under the project of the Ionian-Adriatic Pipeline (IAP), whose total estimated investment amounts to EUR 118,684,220.00, the following implemented activities stand out:

- The IAP route has been incorporated into the Special purpose spatial plan for the coastal area of Montenegro and its incorporation into the municipal spatial plans has been envisaged.
- On 17 June 2016, the WBIF granted funding amounting to EUR 2.5 million for preparation of the Preliminary Design of the IAP – for its part which goes through Albania and Montenegro. The terms of reference have been prepared and submitted to the Albanian and Montenegrin governments, respectively, and the first meeting of the project team is expected to occur. It has been envisaged that the project of preparation of the Preliminary Design will last two years.
- On 26 August 2016, the Ministry of Energy and Industry of Albania, the Ministry of Economy of Montenegro and the Ministry of Economy of the Republic of Croatia signed the Memorandum of Understanding and Cooperation regarding the implementation of the Ionian-Adriatic Pipeline, by which they have given their full support to the construction of the IAP. The Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina announced that they would subsequently sign the Memorandum. The Project Management Unit has been established by the Memorandum, and its Standing Secretariat is in the Ministry of Economy of Montenegro. The PMU is composed of one representative of each state body responsible for the energy sector and one representative of each operator of the gas transmission system from each signatory, while the Azerbaijan state oil company SOCAR and the Secretariat of the Energy Community are members of the PMU in the capacity of observers.

The ministry of Economy is competent for the development of Trans-European Networks for Energy, as a state administration body competent for the energy sector affairs, through the Directorate for Energy. The current Rulebook on the internal organisation and job

descriptions of the Ministry of Economy does not provide for special positions for carrying out the tasks related to the Trans-European Energy Networks. Currently and in addition to other tasks, 3 employees of the Directorate carry out the tasks in the field of Trans-European Energy Networks.

### **Status of compliance with Directives and Regulations**

*Directive 2012/34/EU establishing a single European railway area* – With regard to Recast Directive, a smaller part of Directive has been implemented through the Railway Law (Official Gazette of Montenegro 27/13), while its bigger part will be transposed through amendments to that Law, which will be fully implemented in 2018.

*Directive 2008/57/EC on the interoperability of the rail system* –Directive has been implemented through the Law on Security, Efficiency and Organisation of the Railway Transport (Official Gazette of Montenegro 1/14).

*Regulation 913/2010/EU on rail freight corridors* – The first step towards harmonisation in this field will be taken through amendments to the Railway Law.

*Directive 2008/96/EC on road infrastructure safety management* - Directive 2008/96/EC pertains to safety of road infrastructure and it has been transposed into the Law amending the Roads Law (Official Gazette of Montenegro 36/11).

*Directive 2004/52/EC on the interoperability of electronic road toll systems* –Directive will be implemented through the new Roads Law, which will be adopted within the new time frame - the fourth quarter of 2018.

*Directive 2002/59/EC on VTMS and SafeSeaNet* – As regards the implementation of Directive 2002/59/EC, the Ministry of Transport and Maritime Affairs established the VTMS system and it has been fully operational since 30 October 2015.

Also, as a support to this technical system for monitoring and control of the maritime transport, the Rulebook on the manner of monitoring, information and management of the maritime transport (Official Gazette of Montenegro 34/15) was adopted and it specifies in detail the rights and obligations of all vessels that arrive to or leave Montenegro, as well as the rights and obligations of the VTS Operator as stipulated by the Law on Safety of Maritime Navigation (Official Gazette of Montenegro 62/13).

*Regulation 549/2004/EC on the single European sky* - Regulation has been transposed into the legal system of Montenegro through the Law on Air Transport (Official Gazette of Montenegro 30/17).

*Regulation 552/2004/EC on the air traffic management* –Regulation has been transposed in the legal system of Montenegro through the Law on Air Transport (Official Gazette of Montenegro 30/17).

Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure – Regulation will be transposed through amendments to the Law on cross-border exchange of electricity and natural gas.

### 3.21.2. Implementation of the activities from October 2016 to October 2017

#### 3.21.2.1. Transport networks

On 10 February 2017 Montenegro initialled in Brussels the Treaty on Establishing the Transport Community in the Western Balkans. The Treaty on Establishing the Transport Community in the Western Balkans was signed at the Western Balkans Summit that took place in Trieste on 12 July 2017. After Bosnia and Herzegovina acceded to the Treaty on 18 September 2017 and after the Legal Department of the General Secretariat of the Council of the European Union carried out certain technical alterations of the Treaty in terms of correction of misprints, final versions of the text of the Treaty have been harmonised. The Treaty was signed on 9 October 2017 in Brussels in all languages of the signatory countries. Preparation of the Law on Ratification of the Treaty on Establishing the Transport Community and obtaining of the opinion of the relevant Montenegrin institutions is in progress.

On 30 June 2017, the Government adopted the national Single list of priority infrastructure projects. The transport sector participates with 12 projects:

Sectoral single list of priority infrastructure projects					
Nº	Project name	Sub-sector	Strategic relevance of the project (%)	Maturity of the project according to the Methodology	Total estimated costs (€)
1.	Route 4: Reconstruction and modernisation of the Bar-Vrbnica-the border with the Republic of Serbia railway 1) rehabilitation of the rail track (superstructure), culverts, regulation of watercourses,	Railway	96%	Segments : 1) - 1a 2) - 1b 3) - 2a	246,500,000.00

	reconstruction of steel bridges 2) rehabilitation of the batters 3) rehabilitation of landslides, tunnels, concrete bridges and electric works				
2.	Route 4: the Bar-Boljare Highway, the Mateševo – Andrijevica section	Roads	94%	2b	294,840,000.00
3.	Route 1: Coastal option for the Adriatic-Ionian highway - high speed road along the Montenegrin coast	Roads	94%	Segments:	1,013,001,000.00
3.1	The section from the border with the Republic of Croatia to Bijela (17km) – Herceg Novi bypass road (8km) -Herceg Novi - Bijela (9km)			2c	193,228,000.00
3.2	The bridge over the Bay of Kotor, viaducts and access roads			1b	67,925,000.00
3.3	Tivat bypass road			2a	56,430,000.00
3.4	Budva bypass road (14km, a part of the Tivat-Sozina section 47km long)			2c	158,388,000.00
3.5	Bar bypass road			2a	188,000,000.00
3.6	Tivat-Sozina open road (with the			2c	198,550,000.00

	exception of the Budva bypass road)				
3.7	Bar-border with Albania			2c	150,480,000.00
4.	Route 4: The Bar-Boljare Highway, the bypass road around Podgorica, the Smokovac - Tološi-Farmacaci section	Roads	92%	2b	233,122,000.00
5.	Route 4: the Bar-Boljare Highway, the Đurmani - Farmaci section	Roads	92%	2b	440,640,000.00
6.	Route 4: the Bar-Boljare Highway, the Andrijevica - Boljare section	Roads	92%	2b	731,160,000.00
7.	Route 2: Reconstruction and modernisation of the railway line Podgorica - Tuzi - via border of the Republic of Albania to Tirana	Railway	88%	2a	35,000,000.00
8.	Reconstruction of the Šćepan Polje-Plužine main road (the border crossing with Bosnia and Herzegovina)	Roads	88%	1b	60,000,000.00
9.	Development of the Podgorica Airport	Air traffic	84%	2c	94,842,387.60
10.	Traffic management information system for management (VTMIS) and for reacting to maritime pollution incidents - STAGE II	Maritime transport	84%	1b	4,200,000.00

11.	The Main Design for the railway from Nikšić – via border with Bosnia and Herzegovina – via Trebinje – to Čapljina	Railway	80%	2b	179,597,190.00
12.	Development of the Tivat Airport	Air traffic	76%	2b	55,000,000.00

The short-listed key priority infrastructure projects of the national and regional character for whose implementation it is possible to ensure funds from the budget of Montenegro in the forthcoming three-year period are as follows:

- Budva bypass road, sub-option 1.1 (13km + access roads), as a part of the route of the high speed road along the Montenegrin coast;
- Border section of the Šćepan Polje – Plužine road;
- Bar-Boljare Highway, the Mateševo-Andrijevića section;
- Tivat Airport;
- Bar-Vrbnica railway;
- Construction of the Verige bridge across the Bay of Kotor with access roads.

In April 2017, the first loan facility from the Western Balkans Investment Framework (WBIF) was signed for railway infrastructure projects (EUR 20+20 million) and two tender procedures have already been finished - for the signal box in the Podgorica station and for rehabilitation of 6 batters on the Bar railway's north branch line. Two projects financed from the IPA funds are underway (general overhaul of the railway substructure in the “Sozina” tunnel and installation of the new electric traction substation in the Trebešica station), as well as a number of projects financed from the previous loans of the EBRD and grants of the WBIF fund (rehabilitation of 3 tunnels, rehabilitation of the railway reserve land, installation of the railway switch heaters in the Nikšić and Ostrog stations, general overhaul of the sub-structure of the Kolašin-Kos section, surveying of concrete and steel bridges and the designs for rehabilitation of priority bridges). The investment into the railway infrastructure amounts to approx. EUR 10 million at an annual level.

At the meeting of the Steering Committee of the Western Balkans Investment Framework (WBIF) held in Stockholm on 15 June 2017, a grant was approved for preparation of the Preliminary Design for the Mateševo-Andrijevića section with the accompanying Environmental Impact Assessment Study (EUR 3,100,000) and for preparation of the Preliminary Design for the Smokovac-Tološi-Farmací – Podgorica bypass road section with

the accompanying Environmental Impact Assessment Study (EUR 2,390,000); accordingly, the implementation lies ahead.

Also, in the beginning of September 2017, the Ministry of Transport and Maritime Affairs submitted an application to the Western Balkans Investment Framework (WBIF) for approval of a grant for preparation of the Preliminary Design for the Andrijevića-Boljare section with the accompanying Environmental Impact Assessment Study.

### **3.21.2.2. Energy networks**

At the meeting of the Council of Ministers of the Energy Community held on 14 October 2016, the PECE List has been adopted (which comprises the projects of interest for the Energy Community) and the PMI List (which comprises the projects having the status of projects of mutual interest between the Contracting Parties to the Energy Community and Member States of the European Union).

The PECE list includes the Project of construction of Italy – Montenegro –Serbia – Bosnia and Herzegovina electricity interconnection (the Montenegrin section of the Trans- Balkan corridor), while the PMI List includes the Project of construction of the Ionian-Adriatic gas pipeline (IAP). These projects are also included in the updated national Single list of priority infrastructure projects.

The said Single list of priority infrastructure projects also envisages the projects whose aim is to increase security of electricity supply in the internal market, as follows:

1. Project for improvement of the quality of supply of tourism regions, whose total estimated value of the investment amounts to EUR 48,005,000.00. The segments of the project are as follows:

- 1) Power transformer station TS 110/35kV, 2x40MVA Radovići (Luštica) and connecting cables 110kV;
- 2) Construction of the long-distance transmission line 110kV Vilusi-Herceg Novi and reconstruction of the power transformer station 110/35kV Vilusi;
- 3) Construction of the power transformer station TS 110/35kV Žabljak;
- 4) Construction of the long-distance transmission line 110kV Lastva-Kotor;
- 5) Reconstruction of the long-distance transmission line 110kV Lastva-Tivat;
- 6) Reconstruction of the long-distance transmission line 110kV Lastva-Budva;
- 7) Construction of the long-distance transmission line 110kV Virpazar-Ulcinj.

2. Construction of the long-distance transmission line DV 35 kV Andrijevića – Gusinje, whose total estimated value of the investment amounts to EUR 1,838,749.00.

With a view to increasing the security of supply of electricity to the northern part of Montenegro, the activities are being carried out on construction of the long-distance

transmission line 110 kV Brezna – Žabljak, in parallel with construction of the long-distance transmission line 400 kV Lastva – Pljevlja.

The following activities have been carried out on the projects relevant for the Trans-European energy infrastructure:

- 1) 1. Italy-Montenegro-Serbia-Bosnia and Herzegovina electricity interconnection – the Montenegrin part of the Trans-Balkan corridor (total estimated value of the investment for the completion of the project amounts to EUR 127,122,000.00, Montenegro has been awarded a grant in 2016 through the Western Balkans Investment Framework (WBIF) amounting to EUR 25,000,000.00.). The segments of the project are as follows: Construction of the power transformer station TS 400/110/35 kV Lastva – a significant part of construction and electrical assembly works has been carried out and these are expected to be completed by the end of 2017, while commissioning is expected to be carried out around the middle of 2018;
- 2) Construction of the long-distance transmission line DV 400 kV Lastva – Čevo – a great part of construction and electrical assembly works has been carried out, as well as of the works on preparation of design documents and procurement of equipment, and these are expected to be completed around the middle of 2018;
- 3) Construction of the long-distance transmission line DV 400 kV Čevo – Pljevlja – significant activities related to preparation of the design documents, procurement of equipment and on-site works have been carried out and this segment of the project is expected to be completed by the end of 2019;
- 4) Construction of the long-distance transmission line DV 400 kV Pljevlja – State border with Serbia – with a view to prepare a planning document necessary for construction of the long-distance transmission line DV 2x400 kV Pljevlja 2 - Bajina Bašta, the Ministry of Sustainable Development and Tourism received the data necessary for drawing up of the terms of reference; this segment of the project is expected to be completed by the middle of 2022.

A separate agreement on donation for construction of the Trans-Balkans corridor (I): the Montenegro Section, Part 2, was concluded between the KfW and the CGES on 15 June 2017; the Contract on assignment of non-repayable funds and liabilities between the State of Montenegro (Ministry of Economy) and the CGES was concluded on 4 August 2017; the procedure of selection of the most favourable bid for provision of consulting services has been finished and on 17 October 2017 the Consulting Services Contract was concluded between the CGES and Lahmeyer International GmbH;



Under the Project of construction of the Ionian-Adriatic gas pipeline, three meetings of the IAP Project Management Unit (PMU) were held, where, among other things, the Rules of Procedure and the Action Plan of the PMU were adopted.

The new cycle of creation of the PECEI (Project of Energy Community Interest) list of priority projects was started in September 2017 and the list will be made public in October 2018. The PMU takes active part in this process through participation of its members in the working groups of the Energy Community which are in charge of making selection of the projects in the gas sector. In addition, in the reporting period the PMU dealt with examination of the models for establishment and operation of an IAP company that would take over all the activities on promotion of the IAP project from the PMU in the forthcoming period, and the said activities will consequently lead to construction of the gas pipeline.

## **3.22. CHAPTER 22: REGIONAL POLICY AND COORDINATION OF STRUCTURAL INSTRUMENTS**

### **3.22.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3.22.1.1. Legislative framework**

The guiding framework for action towards aligning with EU law and practice, in addition to the rules for implementation of the Instrument for Pre-Accession Assistance, are requirements contained in Articles 174 and 175 of the Treaty on the Functioning of the European Union and Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (CPR). Compliance with Articles 174 and 175 of the Treaty on the Functioning of the European Union implies a comprehensive coordination of all development policies, strategies and plans as well as development instruments in order to reduce the difference between the levels of development of the various regions and the lagging behind of the least-developed regions. Although statistically classified as NUTS2 region in accordance with Regulation (EC) No. 1059/2003, Montenegro, due to the existing differences and internal regional development, is divided into three regions - northern, central and coastal.

In order to reduce the level of inequality between these regions in Montenegro, different development policies have been prepared and implemented. The main elements of the development policy framework are contained in the following documents:

- *Development Directions of Montenegro 2015-2018*, which contains the vision of socio-economic development and proposes solutions for aligning the goals of national and sectoral strategies. In 2013 the Government adopted this document that is being updated annually, and that provides a comprehensive reference framework for sectoral development strategies and the use of all available resources for development;
- *Regional Development Strategy 2014-2020* approved by the Government in June 2014, with annual action plans. The main objective of the Strategy is to foster a balanced socio-economic development of all regions and local self-government units by improving competitiveness, innovation and employment, while the key priorities of the Strategy are to achieve strong, sustainable and inclusive growth at national level;
- *Economic Reform Program for Montenegro 2017-2019* which is the result of a new approach to economic dialogue between the EC and the candidate countries through the concept of the Economic Reform Program;
- *Sectoral strategies* which are prepared under the jurisdiction of the respective ministries and adopted by the Government. The content of sectoral strategies is broadly aligned with the aim of the Government to stimulate dynamic economic development equally across the entire territory of Montenegro. For example, building infrastructure in the northern region is even now recognized as a priority in sectoral strategies compared to the central and coastal regions in order to reduce the degree of inequality among the regions;
- As far as EU assistance and donor funds are concerned, programming of international assistance follows the rules of individual instruments and donor requirements. However, all donor assistance projects and programmes have been prepared in the context of relevant national strategies, with clear alignment with Montenegro's regional development policy during assistance programming in order to address, *inter alia*, the existing regional differences within Montenegro.

In addition to these existing general development policy mechanisms, an important tool for reducing inequalities between local self-governments is the Equalization fund, which may be used by local self-governments with lower fiscal capacity for mitigating the effects of negative fiscal positions.

When defining the institutional framework for management and implementation of the European Structural Funds (ESI funds), Montenegro plans to rely largely on the existing institutional framework established to manage and implement the EU pre-accession funds.

Respecting the requirements of Regulation (EU) 1303/2013 and taking into account the size of the state, administrative capacity and experience gained during the previous use of

EU financial support, Montenegro plans to establish a centralized system for management of ESI funds that will be composed of:

- 1) Single Managing Authority
- 2) Certifying Authority
- 3) Audit Authority
- 4) Limited number of intermediary bodies

After a detailed analysis of the functions of future bodies in the system, the structure for managing ESI funds in Montenegro will be formally established by adopting the Decree on establishing an institutional framework for cohesion policy instruments. The time needed for adoption of this Decree varies and depends on consultations during the preparation process. Following elaboration of the draft Decree, consultations with the Ministry of Finance for the purpose of carrying out the Regulatory Impact Analysis (RIA) are envisaged, according to the form and methodology established by the Ministry of Finance. The purpose of RIA is to clearly define the fiscal and socio-economic impacts of the policy defined in these documents before submitting it to the Government for adoption. An integral part of the preparation procedure is also consultation with the Secretariat for Legislation, after which the document is sent to the Government for adoption, and thereafter for publication in the Official Gazette. The complete process lasts from 3 to 6 months.

In order to be prepared for implementation of the EU's cohesion policy, Montenegro is working on the fulfilment of preconditions for ensuring that the programs can be planned within a predictable and flexible budget framework, including:

1. Credible medium-term budget planning;
2. Sufficient flexibility in allocating and redistributing budget resources.

In accordance with the Law on Budget and Fiscal Responsibility (Official Gazette of Montenegro 20/14), the medium-term budget framework is defined through adoption of the Fiscal Strategy and the Macroeconomic and Fiscal Policy Guidelines.

Montenegro has adopted the Fiscal Strategy for the period 2017-2020, which defines that the strategic goal of Montenegro's economic policy is smart, sustainable and inclusive growth that will contribute to increasing the quality of life of all citizens, i.e. reducing the development gap of the country compared to the EU average.

As for the future use of ESI funds, it is important to note that the funds required for implementation of EU projects for the next three years are indicated in the Macroeconomic and Fiscal Policy Guidelines, and are recognized under the budget line called "current budget reserve". Allocation of funds required for implementation of EU projects has been

established within the “current budget reserve” in order to ensure adequate flexibility in recognizing the real pace of project implementation. In addition, in the event that funds from this budget line are not used in a given budget year, they are planned as a priority for the following budget year.

In addition to this strategic framework for mid-term budget planning, the amount of funds allocated for financing multi-annual programs is indicated in *the Rationale of the Budget*, which is being submitted to the Parliament together with the draft Law on Budget. However, this document is a legally non-binding explanation that includes a definition of the total value of multi-annual projects with defined sources of funding and the indicated required amount for project implementation in that specific year.

Sufficient flexibility in allocating and redistributing budget funds for programs and projects co-financed by the EU has been provided through various mechanisms. During the fiscal year, funds allocated in the budget for the organizational units, all programs and projects may be redistributed in accordance with the provisions of *Article 45 of the Law on Budget and Fiscal Responsibility*.

Namely, the Government may redirect funds allocated in the Law between consumer units up to 10% of the total funds planned for that consumer unit. Redistribution of funds for certain expenditures, programs and projects is made on the basis of the decision of the Minister of Finance.

It is not allowed to use funds foreseen for co-financing EU projects for other purposes. Flexibility is also assured, so the funds are used in accordance with the actual realization dynamics, focusing on those projects that are progressing faster in implementation.

While *the Law on Budget and Fiscal Responsibility* does not provide the legal basis for redistribution of funds by years, due to the fact that the budget is adopted for a fiscal year and only applies for the year for which it is adopted (where the fiscal year is the same as the calendar year), flexibility has been ensured in the event that certain funds are not used due to delays in a particular year, those funds are planned in the Law on Budget for the following year as a priority. When elaborating the draft Law on Budget, consumer units financed from the state budget plan their necessary co-financing allocations.

Strengthening the capacity of internal control and audit, among other reforms, is important for reducing the rate of irregularities and fraud in the use of state budget resources as well as EU funds. In Montenegro, this area is regulated by *the Strategy of Internal Financial Control in the Public Sector* with an action plan for its implementation, and this policy is based on the COSO (Committee of Sponsoring Organizations of the Treadway Commission) principles, similar to the requirements for IPA management and control systems (and future cohesion policy programmes).

Legal framework regarding financial control and internal audit has been established in the following documents:

- Law on Internal Financial Control System in the Public Sector (Official Gazette of Montenegro 73/08, 20/11, 30/12, 34/14);
- Decree on Establishing Internal Auditing in the Public Sector (Official Gazette of Montenegro 50/12);
- Decree on Titles of Internal Auditors (Official Gazette of Montenegro 23/09);
- Rulebook on the manner and procedure of work of Internal Audit (Official Gazette of Montenegro 32/09);
- Rulebook on the manner and procedure of establishing and implementing financial management and control (Official Gazette of Montenegro 37/10);
- Rulebook on the Program and Examination Procedure for Certified Internal Auditor in the Public Sector (Official Gazette of Montenegro 63/11);
- Rulebook on the methodology for reviewing the quality of internal auditing in the public sector (Official Gazette of Montenegro 11/13);
- Rulebook on the manner and deadlines for keeping the audit documentation (Official Gazette of Montenegro 29/13);
- Rulebook on Methodology for reviewing the Quality of Financial Management and Control in the Public Sector (Official Gazette of Montenegro 26/13);
- Instruction on the content of the report and the manner of reporting on internal audit work (Official Gazette of Montenegro 55/12);
- Instruction on the content of the report and the manner of reporting on the financial management and control system (Official Gazette of Montenegro 55/12).

Pursuant to the provisions of the Law on Internal Public Financial Control System in the Public Sector and the Decree on Establishing the internal audit in the public sector, all state bodies are obliged to establish financial control and independent internal audit units or assign the internal audit function to an already established unit in another body based on the Agreement on assignment of tasks, capacity evaluation and previous approval of the Ministry of Finance.

In addition, the same *Decree* provides in Article 3 that municipalities that have more than 10,000 residents must establish a separate internal audit unit, while municipalities that do not meet this criterion shall establish a separate internal audit unit or internal audit shall be carried out by an internal audit unit revision of another subject under the agreement and with prior approval of the Ministry of Finance.

Legislation related to the division of duties, in particular between payment and approval functions related to funds from the state budget, prescribes the following:

- *Approving Officer* is a person appointed by the Chief Financial Officer to perform financial task in a consumer organization that refers to the function of approving a request for funds reservation and a request for payment to be made by the public money or the accuracy in the collection of public money;
- *Certifying officer* is a person who performs a financial task in a consumer organization that refers to the function of verifying the correctness and validity of the request for fund reservation and the request for payment to be made by the public money;
- *Authorizing Officer* is a person who is deployed by the Minister of Finance to perform a financial task that refers to the function of giving authorization for the withdrawal of money from the state bank account;
- *Payment Request Control Officer* is a person appointed by the General Director of the Directorate of State Treasury to perform a financial task confirming that the request for fund reservation and the request for payment have been properly verified and approved.

#### **3.22.1.2. Institutional framework**

Montenegro has established an institutional framework for using EU funds from the financial perspective 2007-2013 and determined accordingly the structures for the management and implementation of the Instrument for Pre-Accession Assistance (IPA). These structures represent the organizational forerunners of the institutional framework of structural instruments. Management and implementation structures have been established by the Decree on Organization of the Decentralized Management of the Instrument for Pre-accession EU Assistance. The Decree defines key stakeholders (National IPA Coordinator (NIPAC), Competent Accrediting Officer (CAO), National Authorizing Officer (NAO), Strategic Coordinator), as well as operational structures for IPA components II, III and IV with clearly defined rights and responsibilities.

Obligations and responsibilities of all actors of indirect EU fund management during the financial period 2014-2020 are defined in more detail in the Decree on Organisation of the Indirect Management of the EU financial assistance under the Instrument for Pre-accession Assistance (IPA II). The Decree recognizes the National IPA Coordinator and the National Authorizing Officer as the key persons responsible for successful implementation of EU funds, with the support of the management structure and operational structures for specific programs.

The Decision on appointment of persons responsible for indirect and/or decentralized management appoints persons responsible for performing functions that refers to the decentralized and/or indirect management of the EU pre-accession funds.

Coordination between the central and local level in implementation of EU programs and projects has not been established, given that local self-government units are not part of the management system for IPA.

The currently established system for managing the EU funds is stable and no significant changes are foreseen in the forthcoming period.

### **3.22.1.3. Administrative capacities**

Currently, 159 civil servants are involved in implementation of IPA I and IPA II projects. Civil servants engaged in IPA related affairs usually carry out activities related to different components/programs. Taking into account the size of the Montenegrin administration, as well as the need to maintain continuity and maximum use of the acquired experience, persons involved in implementation of IPA I are also engaged in performing tasks relating to IPA II (2014-2020). These persons are regularly trained for the effective performance of their duties in accordance with the provisions of relevant legal acts and manuals on procedures developed for all segments of the structure.

Montenegro plans to gradually develop its administrative capacity for managing the cohesion policy instruments in the three core areas defined by the EU regulation:

1. Structures/architecture - existence of a simple, clear and strong organizational structure with clearly defined roles and responsibilities, as well as communication lines of each segment and between segments;
2. Systems and Tools - appropriate tools enabling impact measurement, monitoring and evaluation, while preventing possible fraud or corruption;
3. Human resources - sufficient number of experienced, professional staff, properly motivated to perform work in accordance with defined procedures that will stay within the system.

Administrative capacity for cohesion policy has been developed through implementation of IPA, but more effort has to be made in the area of national policy planning (sector strategy), implementation of national grant schemes, administration capacity to assess the feasibility of investment projects, public procurement of all contracting authorities in Montenegro, etc. In view of all three mentioned aspects of institution building (structure, system, human resources), IPA management system is, as a whole, seen as being among the most developed in state administration. Over the last few years, in the context of preparation for decentralized implementation, there has been extensive institution building. As a result:

- Relevant institutional structures are defined in detail and established by separate laws;
- The required procedures and rules are defined and described in detailed manuals covering all aspects of IPA management;
- The human resource base available to the IPA structures is determined based on the detailed assessment of functions, tasks and workloads. Human resources management is regulated by special rules and procedures that are updated annually. If necessary, IPA bodies continue to employ and train in accordance with the actual needs. The National Fund constantly monitors compliance with the minimum requirements pertaining to administrative capacity and informs the European Union through its quarterly reports. Officers working within the IPA system attend regular trainings in accordance with the specific requirements relating to their positions and responsibilities.

Montenegro plans to improve and strengthen the existing capacities involved in implementing pre-accession support and to use them as a basis for work in the structures that will be dealing with ESI funds management. This implies constant training and capacity development at all levels of the IPA structure before EU accession, which will continue even after the start of functioning of the ESI fund management system.

In addition to the currently developed capacity to implement IPA, Montenegro will engage additional capacity for future ESI fund management structures. However, a precise assessment of the additional necessary capacities will be carried out within the framework of workload assessment of the bodies designated for ESI fund management. Based on the conclusions of this assessment, an appropriate plan for recruiting new staff will be established and adopted.

Montenegro plans to adopt development strategies for organizations that will be involved in the ESI Fund Management System, and to define an adequate human resource management policy. This policy will also include staff retention policies and career planning systems in structures, since these aspects are recognized as key elements for establishing a sustainable and efficient basis of administrative capacity for successful use of ESI funds.

In order to provide professional and fully-trained capacities, Montenegro will conduct training needs analysis and prepare a comprehensive training plan for civil servants involved in the management structure to be continuously implemented. These measures will ensure constant capacity building and readiness of structures for the operational functioning of ESI fund management systems.



In addition, Montenegro will adopt a recruitment plan whose implementation will gradually provide additional administrative capacity to fill the identified vacancies in the bodies / institutions that will be involved in financial management and control of ESI funds.

#### **3.22.1.4. Programming**

Montenegro has numerous sector strategies that define vision, goals, tasks, responsible bodies, indicators, budget, and an appropriate timeline for achieving precise results within the sector. Furthermore, in Montenegro there are basic types of development policy documents used in EU member states.

The basic requirements for policies, plans, strategies and programs as well as links between them will be further developed through the concept of coordination of public policy planning, which the Government has formally accepted. In order to implement this concept, a special *Directorate for Coordination and Monitoring of the Compliance of Strategies for Determining Public Policies* has been formed. The task of this Directorate is, *inter alia*, to carry out tasks related to: establishment and development of a system of coordination and monitoring of the alignment of strategic documents defining public policies with other national strategy papers and/or EU *acquis*, assessment of performance and monitoring of implementation of strategic documents defining public policies, monitoring EU mainstream policies, and analysing their representation in Montenegro; analysis of policies and their compliance with the goals of key EU documents and coordination of the preparation of guidelines for public administration bodies on the standards to be observed when drafting strategic documents. Gradual establishment of this concept will contribute to the consistency of strategic documents, which will be a solid basis for programming structural instruments.

Preparation of strategies is coordinated by the relevant ministry with the participation of all relevant parties (represented mainly through membership in working groups), aligned in the consultative process with the Ministry of Finance (fiscal aspect) and the Ministry of European Affairs (consistency of priorities and methodological requirements), and adopted by the Government of Montenegro, thus ensuring their compliance.

In the process of drafting a national plan document or sector strategy, the competent ministry is obliged to consult all relevant stakeholders. Consultations are aimed at informing interested parties about the scope of the document, the exchange of opinions and their inclusion in drafting, all with a view to obtaining a high quality document. These consultations are carried out either by organizing an appropriate event (round table or presentation) or online (by publishing the draft document on the website of the competent institution). In both cases, invited interested parties are free to comment, while the competent ministry is required to record all initiatives, proposals, suggestions and comments, and make a report when the consultation is over.

Moreover, when the draft document has a particular impact on citizens' rights and interests, the ministry should organize a public hearing. Call for a public hearing is published on the ministry's website, as well as in at least one print media distributed throughout Montenegro, along with a draft document. A public hearing lasts at least 40 days from the date of the announcement of the call and the document. After the public hearing has been completed, the ministry prepares a report containing information on the number and structure of the participants and given proposals, suggestions and comments, with particular emphasis on accepted proposals and suggestions, and appropriate explanations for those who have been rejected. This report is published on the ministry's website within 10 days of the end of the public hearing.

In preparation for the decentralized management of EU funds for IPA components III and IV, Montenegro prepared and adopted:

- Strategic Coherence Framework;
- Operational Program for Regional Development 2012-2013; and
- Operational Program for Human Resources Development 2012-2013,

which were adopted by the EC.

In the programming process, the line ministry should ensure that all relevant stakeholders, including civil society organizations and local authorities, are timely and properly consulted and informed, enabling them to participate in this process. This applies in particular to the process of developing an operational programme, where an overview of organized consultations should be included in the text of the program itself.

In line with the EC recommendation in the process of improving the functioning of the Western Balkans Investment Framework, in February 2015, Montenegro established the National Investment Committee, as the key government body in charge of infrastructure investment planning. The tasks of the National Investment Committee are:

1. Promotion of systematic infrastructure investment planning and ensuring compliance of different sources of funding (budget, credits and grants) in phases of preparation and implementation of infrastructure projects;
2. Coordination of activities related to preparation of a single list of priority infrastructure projects;
3. Presentation of project realization plans defined by a single list of priority infrastructure projects to development partners and consideration of the proposals and opinions of the development partners related to these projects;
4. Considering various possibilities of financial support for the preparation and/or implementation of infrastructure projects;

5. Considering issues that are of relevance for development of infrastructure;
6. Making conclusions and recommendations related to matters within the competence of the National Investment Commission.

One of the basic goals of the National Investment Committee is to establish a Single Project Pipeline, based on the generally accepted Methodology recommended by the EC. The first Single Project Pipeline was adopted on 2 December 2015, at the third session of the National Investment Commission. The value of 64 projects on this list was EUR 4.3 billion.

### **3.22.2. Realization of activities from October 2016 to October 2017**

During the previous year, activities related to implementation of the Action Plan for meeting the requirements of EU cohesion policy continued.

In the area of the legislative framework, the following measures have been taken:

- passing by-laws on the basis of the amended Law on Public Procurement;
- adoption of the Law Amending the Law on Prevention of Discrimination of Persons with Disabilities;
- adoption of the Law Amending the Law on Gender Equality;
- adoption of the National Strategy and Action Plan for Chapter 27.

The following measures are currently being implemented:

- adoption of the new Law on Public-Private Partnership, which is prepared and is currently in the phase of harmonization within governmental bodies;
- adoption of the new Law on State Aid, which is expected by the end of 2017.

As regards the institutional framework, the Working Group for Chapter 22, in cooperation with SIGMA, prepared the Study on the Future Institutional Framework in Montenegro with options for future institutional arrangements. The results of this study will be presented to the Government in order to decide on the best model, in accordance with the time frame defined in the Action Plan.

In the field of administrative capacities, continuous training of staff within the IPA structure continued, primarily through the project Capacity Building of Montenegrin Institutions for the EU Accession Process and the Use of IPA II. At the same time, the Government is working on defining the most appropriate model for retention of personnel employed within the IPA management structure.

In the area of programming, Montenegro has updated the Single Project pipeline, so the Government adopted the revised Pipeline at the end of June 2017. Through the updating process, in addition to the existing sectors (energy, transport, environmental protection

and social activities), the Single Project Pipeline included an additional sector - other infrastructure. Including the aforementioned five sectors, the updated List contains a total of 57 projects: 9 from the energy sector, 12 from the transport sector, 7 from the environmental protection sector, 13 from the sector of social activities and 16 projects from the sector of other infrastructure. The indicative value of projects from the Single List is approximately EUR 5 billion. Regarding the policy planning coordination, In cooperation with Sigma, preparation of the Methodology on minimum requirements regarding the content of strategic documents for planning public policies continued. According to the new organization of the Government, strategic planning coordination has been assigned to the Ministry of European Affairs, where the special *Directorate for Coordination and Monitoring of Compliance of Strategies determining Public Policies* is set up to continue work on preparation of the Methodology, training of employees in the relevant ministries in order to ensure its proper application in the process of drafting of strategic documents. Furthermore, with the expert support, the first draft dynamic plan for preparation of the Partnership Agreement and the Operational Program was prepared.

When it comes to monitoring and evaluation, regular activities on monitoring and evaluating of IPA programs and projects continued. In this section, it is planned to implement a multi-annual program for on-site verification of project results and check their compliance with the planned results.

## 3.23. CHAPTER 23: JUDICIARY AND FUNDAMENTAL RIGHTS

### 3.23.1. Judiciary

#### 3.23.1.1. Legislative framework

The Parliament passed four laws on 28 March 2017:

- Law Amending the Law on Enforcement and Security (Official Gazette of Montenegro 22/17), which introduced new solutions that the case law indicated, and which will make the enforcement procedure faster, more quality and efficient; norms related to counter-enforcement were specified, and harmonization of terminology with the Law on Payment Operations was made.
- Law Amending the Law on Public Bailiffs (Official Gazette of Montenegro 22/17), which has remedied the shortcomings observed in the previous work of public bailiffs concerning the improvement of conditions for the appointment of public bailiffs and system of their responsibility and equal workload.
- Law Amending to the Law on Obligations (Official Gazette of Montenegro 22/17), which specifies provisions regulating the concept of non-pecuniary damage, whereas improvements were made to the provisions relating to civil legal aspect of the

protection personal rights.

- Law Amending the Law on Lawyer's Profession (Official Gazette of Montenegro 22/17), which removed the shortcomings observed in the previous application; it has been aligned with the EU *acquis*, by providing conditions for performing lawyer's practice for lawyers from EU Member States; when it comes to freedom of competition, a norm has been introduced which provides for the approval of the Government for adopting the lawyer tariff. Provisions related to performance of lawyer's practice when it comes to lawyers from EU Member States will apply on the day of Montenegro's accession to the European Union.

### **3.23.1.2. Strategic framework**

On 24 November 2016, the Government adopted the Fourth Semi-Annual Report on the Implementation of the Measures from the Action Plan for Monitoring the Implementation of the Judiciary Reform Strategy for the period 2014-2018. Out of a total of 139 planned activities in this reporting period, 8 activities (6%) were carried out, 119 activities are being carried out continuously (85%), 7 activities (5%) were partially carried out and 5 activities were not carried out (4%).

On 13 April 2017, the Government adopted the Fifth Semi-Annual Report on the Implementation of Measures from the Action Plan for Monitoring the Implementation of the Judiciary Reform Strategy for the period 2014-2018. Out of a total of 133 planned activities, 2 activities (2%) were carried out during this reporting period, 124 activities are being carried out continuously (92%), 2 activities were partially carried out (2%) and 5 activities were not carried out (4%).

On 28 September 2017, the Government adopted the Action Plan for Implementation of the Judiciary Reform Strategy (for the period 2017-2018). This document identifies the measures, activities, indicators of results and impacts, deadlines, responsible authority and sources of financing required for the implementation of the strategic guidelines defined by the Judiciary Reform Strategy 2014-2018.

On 29 December 2016, the Government adopted the Medium-Term plan for Rationalisation of the Judicial Network (2017-2019).

### **3.23.1.3. Management bodies**

The Budget of the Judicial Council for 2017 amounts to EUR 864,774.43, which is EUR 114,443.13 more than the budget for 2016 (EUR 750,331.30). The budget of courts for 2017 amounts to EUR 26.363.194,66, which is EUR 206.643,30 less than the budget for 2016 (EUR 26.569.837,96).

The budget of the Prosecutorial Council for 2017 amounts to EUR 455,877.98, which is EUR 44,802.98 more than the budget of the Prosecutorial Council for 2016 (EUR 411,075). The budget of the Public Prosecution Office for 2017 amounts to EUR 8,005,799.70, which is

EUR 390,817.66 less than the budget for 2016 (7,614,982.04).

One officer is employed in the Department for Information and Communication Technologies of the Secretariat of the Prosecutorial Council.

On 29 September 2017, the Prosecutorial Council adopted the Rulebook Amending the Rulebook on Internal Organisation and Job Descriptions of the Secretariat of the Prosecutorial Council. The number of posts was increased at the Department for Status Issues and Education, one new working post - Independent Advisor I has been added: in the Accounting and Finance Service two new posts - Independent Advisor III (2 employees) have been added, while the Internal Audit Department which counted 3 employees ceased to exist. The Department for Information and Communication, with 8 employees, has been renamed into the Information Service, with 5 employees, and the job descriptions in this service are aligned with Article 15, par. 2 and 3 of the Rulebook on Internal Operations of the Public Prosecution Office (Official Gazette of Montenegro 6/16 and 29/17). Two new working posts have been envisaged in the Service for General and Human Resources Affairs of the Secretariat of the Prosecutorial Council, whereas one post was abolished. In addition to this, minor changes were made in the name of the vocation and description of posts for the purpose of aligning with the applicable legal regulations and the needs of the Secretariat. The amended Rulebook provides for 26 posts for civil servants and state employees, which means 28 employees in total, which is 2 employees less when compared to the previous rulebook. The procedure for filling vacancies will be initiated following entry into force of this Rulebook.

In August 2017, following completion of the public procurement procedure, the Public Property Administration concluded the lease agreement for business premises of the Secretariat of the Prosecutorial Council and the procedure of furnishing these premises is underway.

The sessions of the Prosecutorial Council are open to public, except in cases prescribed by the law and these Rules of Procedure. The decision on the exclusion of public must be reasoned. The decisions of the Prosecutorial Council are published on the website after the process of anonymisation is performed, except for decisions on disciplinary responsibility. The NGO representative attended two sessions of the Prosecutorial Council.

#### **3.23.1.4. Independence and impartiality**

During the reporting period, the Judicial Council published two internal notices of the following vacancies: a judge at the Misdemeanour Court in Budva, by voluntary seconding from one Misdemeanour Court to another - there were no candidates; and a judge in the High Court in Podgorica, by voluntary seconding from one high court to another - the procedure is underway.

- Furthermore, during the reporting period, the Judicial Council published six public notices:

Two notices for the election of a judge of the Appellate Court - the procedures are underway;

- Announcement for the election of two judges of the Administrative Court - which was annulled by the Judicial Council's decision of 10 April 2017.
- Announcement for the election of a judge of the Court for Misdemeanours (Decision on the election made on 8 May 2017)
- Announcement for the election of a judge of the Supreme Court (Decision on the election made on 13 September 2017)
- Announcement for the election of a judge at the High Court in Bijelo Polje, (Decision on the election made on 13 September 2017).

Another judge of the Supreme Court was elected on 13 October 2017 on the basis of vacancy notice announced at the end of 2016. After assessing the scores for the two female candidates for judges during initial training, based on the reports of the Judicial Training Centre, on 11 October 2017 the Judicial Council made the decision on the election of two judges of the Basic Court.

The total number of requests for exemption of judges in the period from 1 January to 15 October 2017 was 1,134. Out of this number, a decision approving the exemption request was made in 757 cases. Judges submitted 871 requests, out of which 724 were adopted. The parties submitted 263 requests, out of which 33 were adopted.

In the period between 1 and 15 October 2017, a total of 158 requests for pardon were submitted. In one case the decision was positive, and in 129 cases the decisions were negative, 3 requests were dismissed, 2 proceedings were suspended, and 23 are underway. In January 2017, the procedure for the election of 3 public prosecutors through promotion system in the High Public Prosecution Office was completed. In this procedure, an extraordinary evaluation of the public prosecutors - candidates applying for public notice for promotion to the prosecution at the higher level was applied and, on that occasion the improved Rules for the Evaluation of State Prosecutors and Heads of State Prosecution Offices was applied (in October 2016, the Prosecutorial Council issued the Rules for Evaluation based on the pilot rating score).

In January 2017, the Prosecutorial Council issued decision on the election of 4 candidates for the public prosecutor in the Basic Public Prosecution Offices (Podgorica, Berane and Kotor), and deployed them to initial training at the Basic Public Prosecution Office in Podgorica and assigned them the mentors under whose supervision the practical part of the initial training will be carried out.

In April 2017, the Prosecutorial Council conducted an interview with candidates on the basis an internal vacancy notice and made the decision that the candidates will not be permanently voluntarily seconded to the Basic Public Prosecution Office in Podgorica. On that occasion, the Prosecutorial Council reconsidered the list of candidates made by the Commission for Permanent Voluntary Secondment, the report on performance for the last

three years of the applicants, the outcome of the interview and the opinion of the session of the Public Prosecution Office where the candidates perform their function and the Public Prosecution Office to which they will be deployed. Namely, the Prosecutorial Council concluded that permanent voluntary secondment of public prosecutors would hinder the efficient and timely work of the Public Prosecution Office in which public prosecutors perform their function.

In April 2017, the Prosecutorial Council issued a decision on public announcement of public prosecutors' vacancies in basic public prosecution offices under the amended Plan of Public Prosecutors' Vacancies - 8 public prosecutors at the basic public prosecution offices in Montenegro. The Commission for Testing conducted the testing of candidates and their interviewing and election will be carried out in the forthcoming period.

On 12 October 2016, the Prosecutorial Council issued a decision on the seconding 14 public prosecutors from the basic public prosecution offices and two public prosecutors from the high public prosecution offices to the Special Public Prosecution Office, for a period of three months, starting from 12 October 2016 in order to act upon cases of violation of the prescribed electoral rights, that is to perform emergency activities and the increased scope of work, out of which three public prosecutors are still seconded to the Special Public Prosecution Office.

The cases in public prosecution offices, except in the event of specialization of the public prosecution, are allocated in order of receipt, in such a way that the cases received on the daily basis are allocated according to alphabetical order of the initials of the surnames of the public prosecutors. Exceptionally, in the Public Prosecution Offices where the information system is established, the allocation of cases is done through an algorithm for the case allocation that is an integral part of the information system application, immediately upon entering the basic data about the case in the system.

#### **3.23.1.5. Accountability**

During the period 1 January - 15 October 2017, 13 proceedings were launched on the basis of the initiatives for establishing violation of the Code of Ethics by judges. In one proceeding it was decided to dismiss the initiative as it has been already decided in the same legal matter, no evidence of violation of the Code of Ethics Codes was found in three proceedings, while the remaining proceedings are underway. During this period, one proposal for determining the disciplinary accountability of the judge was filed, the same was adopted and a disciplinary sanction was pronounced.

In May 2017, the Prosecutorial Council appointed a disciplinary prosecutor and his deputy, as well as members of the disciplinary council and their deputies, since the predecessors' term of office expired.

In May 2017, a disciplinary proceeding initiated on 9 February 2017 was finalized on the basis of the bill of indictment made by the disciplinary prosecutor for disciplinary offense –



failure to provide the information on income and assets in accordance with regulations governing prevention of conflicts of interest, by imposing disciplinary sanction against the public prosecutor - a fine of up to 20% of earnings for 3 months' period.

In September 2017, a case was filed to the Commission for the Code of Ethics of Public Prosecutors on the initiative of a natural person for assessing whether the conduct of a particular public prosecutor was in accordance with the Code of Ethics of Public Prosecutors. The initiative in question is under reconsideration.

When it comes to **judicial inspection**, the new Rulebook on Internal Organization and Job Descriptions of the Ministry of Justice, which came into force in September 2017, divided the judicial inspection duties into two directorates and increased the number of employees. Within the Directorate for Organization of Justice, Criminal Legislation and Supervision, 4 posts (for a head, 2 inspectors and 1 independent advisor) are envisaged, out of which 2 posts which will supervise the work of the courts, public prosecutors and the Mediation Center have been filled. Within the Directorate for Civil Law and Supervision, 5 posts (for a head, 3 inspectors and 1 independent advisor) are envisaged, out of which 2 posts which will supervise the work of notaries and bailiffs have been filled. In January 2017, the Judicial Inspection established an annual monitoring plan. In the reporting period, the inspection was carried out in all judicial bodies, such as 3 Misdemeanour Courts with 14 departments, and the High Misdemeanour Court, 15 Basic Courts, two Supreme Courts, the Commercial Court, the Appellate Court, the Administrative Court and the Supreme Court of Montenegro, 13 Public Prosecution Offices, two High Public Prosecution Offices, the Special Prosecution Office, and the Supreme Public Prosecution Office. During the performance of supervision over courts, some irregularities have been identified in the application of the Court's Rules of Procedure when keeping the register, which mainly refer to: failure in transmitting the numbers of unsolved cases into the register for the following year, failure in closing certain registers and failure to adopt a decision for placing files in the archive, as prescribed by the Court Rules of Procedure. One irregularity was found during the supervision of prosecution offices which referred to failure in transmitting the number of unresolved cases into the register for the following year, as prescribed by the Rulebook on Internal Operations of the Public Prosecution Office. All judicial bodies in which irregularities were identified acted on the basis of orders issued by judicial inspectors and informed the competent bodies about these actions.

During 2017, the Ministry of Justice carried out *ex officio* nine regular supervisions over the legality of the work of nine bailiffs. Due to the parties' initiative, i.e. on the basis of 36 applications, the conduct of 20 bailiffs in these cases was controlled.

Regular supervisions over the lawfulness of the work of bailiffs identified five irregularities of three bailiffs referring to: 1) failure of a bailiff to act in one case when determining and executing the enforcement on the basis of an executive document of a court or body headquartered in the area for which the bailiff was appointed in accordance with the

competences defined by the Law on Enforcement and Security; 2) lack of evidence in the case files on transferring the funds from the account of the bailiff to the account of the enforcement creditor; 3) calculation of fees for the submission of a documents in accordance with the Decree on the Tariffs of Public Enforcement Officers, which are calculated in accordance with the manner of delivery; 4) failure to conclude the register for the previous year in accordance with the regulations; 5) failure to submit in time the specific case files to the competent court in the event of a complaint, within five days. The Ministry of Justice informed the bailiffs about the irregularities and ordered their removal and some irregularities have been already removed, while the removal of others due to their nature would be controlled through continuous supervision.

In 2017, the Ministry of Justice filed three proposals to initiate disciplinary proceedings against bailiffs. Two disciplinary proceedings were completed by the adoption of a decision to reject the proposals of the Ministry of Justice as ungrounded, while the proceeding against one bailiff is still underway and the First Instance Disciplinary Commission adopted the Decision imposing temporary suspension of the mentioned bailiff.

#### **3.23.1.6. Professionalism and expertise**

The procedure for the regular appraisal of public prosecutors which were elected in 2015 for the first time as public prosecutors for a term of 4 years, after 2 years of work was initiated in July 2017. These are 8 public prosecutors who perform their function in the Basic Public Prosecution Office in Podgorica - 1, Kotor-3, Pljevlja-2, Ulcinj-1 and Rožaje-1.

#### **3.23.1.7. Quality of justice**

In the period October 2016 - October 2017, the Secretariat of the Judicial Training Centre announced 15 vacancy notices, out of which: ten public notices, three internal notices between the public authorities and two internal notices within the public authority. After the conducted procedures, a total of 5 civil servants and state employees have been employed, and therefore 10 out of 19 posts are currently filled. The public vacancy notices for three additional posts are underway, and by the end of October 2017 the Secretariat of the Centre will announce public vacancy notice for one more post.

The Centre moved to its premises in December 2016. The allocated budget for the Centre for 2017 amounts to EUR 447,594.96. In addition to the allocated budget funds, the Centre for implementing the training activities also benefits from the support of international organizations with long-term cooperation. The annual training program for 2017 was adopted at the session of the Steering Committee held on 23 November 2016.

According to the Initial Training Program for public prosecutors candidates and judges candidates, consisting of the practical part (carried out under the supervision of mentors at the Basic Court in Podgorica and the Basic Public Prosecution Office in Podgorica) and the theoretical part (carried out in the Centre), 44-day theoretical training was conducted in

the period from 16 March to 20 October 2017. The training program was attended by the total of 7 participants (four candidates for public prosecutors and three candidates for judges), out of whom two candidates for judges and one candidate for the prosecutor through two-day training modules attended a total of 38 days of theoretical training since the training is carried out by the "shortened procedure". Two candidates for the judges, who completed the Initial Training Program by "shortened procedure", were appointed as judges on 16 October 2017.

According to the Initial Training Program for candidates for misdemeanour judges, which consists of a practical part (carried out under the supervision of the mentor at the Misdemeanour Court in Podgorica) and the theoretical part (conducted at the Centre), during the period from 8 June to 20 October 2017, 22-day theoretical training was conducted. The training program was attended by one trainee (a female candidate for a misdemeanour judge).

The Judicial Council prepared a semi-annual report on the basis of the Instructions for Drafting Reports, which was also published on the portal of the Judicial Council. A project for the development of the new software for the module Judiciary was completed. The Report on Work was adopted by the Committee for Supervision and it was sent to the Government for consideration. Most of the activities have been carried out (only 2 out of 27 planned activities are not completed).

As regards the **court statistics**, on 30 November 2016, the Judicial Council adopted the Methodology of Indicative Benchmarks for Determining the Necessary Number of Judges and the Equal Workload of Judges. The Secretariat of the Judicial Council is in contact with CEPEJ and an expert mission was announced for the first half of 2018. The aim of the mission is to analyze the entire reporting system and to find all errors in the system of collection and methodology, and finally to develop methodologies and implement an improved reporting system. The analysis and methodology will be compatible with the requirements for developing a new system within the ICT Strategy.

In August 2017, a tender for the selection of tenderers for maintenance for the period until 28 February 2018 was finalized as well as upgrading of the information system of the prosecution, which would, inter alia, implement web services for integration with the Ministry of Interior and create a web service for securing the electronic provision of information from the Prosecution Information System. The contract provides for the establishment of web services for integration with the Ministry of Interior (automatic download of personal data, documents - ID cards, passports and driver's licenses) within the specified period, creation of modules for electronic database of the Prosecutorial Council and the Secretariat of the Prosecutorial Council as well as continuous maintenance of the existing system in terms of improving search and reporting function.

### **3.23.1.8. Efficiency**

When it comes to the enforcement cases based on an authentic document, in the Basic Court in Podgorica on 1 October 2017 the number of unfinished "Iv" cases was 12,609.

From 1 January to 15 October 2017, the Basic Court in Podgorica delegated 399 civil cases to the Basic Court in Cetinje, 98 civil and 67 criminal cases to the Basic Court in Kolašin and 590 civil cases to the Basic Court in Niksic. In the same period, the High Court in Podgorica delegated 122 second instance civil cases to the High Court in Bijelo Polje.

From 1 January to 20 October 2017, the Constitutional Court received 815 cases, out of which the majority were constitutional complaints i.e. 738. During the same period, 774 cases were solved.

On 25 July 2017, the Constitutional Court issued a decision on the receipt of six new employees in the Service of Constitutional Court. In October 2017, a vacancy notice was announced.

On 12 July 2017, the Government adopted an Analysis of the Functioning of the Enforcement System (for the period from October 2015 to December 2016).

### **3.23.1.9. Domestic handling of war crimes**

On 3 February 2017, the Special Public Prosecution Office brought an indictment against one person for the criminal offence of *war crimes against civilians*. The main hearing was conducted on 12 September 2017, and the proceeding is still underway. The accused is in custody since the beginning of the trial.

Out of seven cases that were at the preliminary investigation phase, in one case formed on the basis of criminal charge against unknown person for the criminal offence *war crimes against civilians*, after collection of data and evidence, it was assessed that there was no reasonable suspicion that the reported event was committed as the criminal offence of *war crimes against civilians*, as well as any other criminal offence which is prosecuted *ex officio*. Therefore the decision about which the applicant was notified was made on 7 April 2017. The remaining six cases are still in the preliminary investigation phase.

In accordance with the War Crimes Investigation Strategy, the Special Public Prosecution Office established cooperation with the prosecution offices of the neighbouring countries. Two regional consultations were held between relevant prosecutors of Montenegro, Croatia, Serbia and Bosnia and Herzegovina and representatives of the Missing Persons Commission from these countries (14 February 2017 in Zagreb and 19 April 2017 in Podgorica). During the consultations, future cooperation of prosecutors in terms of identifying common regional priorities for improving regional cooperation and a draft regional project document for improving, exchanging data and evidence in prosecuting perpetrators of war crimes were agreed and specified. A project document was adopted to improve the effectiveness and efficiency of cooperation between the four public prosecution offices. The next meeting with the same participants is scheduled for 27

October 2017 in Belgrade.

By 15 October 2017, the courts made 145 final decisions on adopting claims and in total EUR 1,347,080.41 were awarded for compensation. Eight decisions based on which claims were adopted are still not final and they would award EUR 128,530.00. One decision dismissed the claim; four proceedings were suspended while charges were withdrawn in six cases. All cases before the first instance courts have been completed.

### **3.23.2 Fight against corruption**

#### **3.23.2.1. Institutional framework**

##### **Anti-Corruption Agency**

In 2017, the Anti-Corruption Agency estimated the need for staff reorganization and identified the need for additional human resource capacities. In that regard, the new Rulebook on Internal Organisation and Job Descriptions of the Agency was adopted on 27 January 2017, by which the number of employees was increased by 5 posts (total number of employees is 60).

The most important organizational novelties in the new Rulebook are: **the Department of Income and Property Review of Public Officials and Civil Servants** was established in the Sector for the Prevention of Conflict of Interest and Control of Political Entities and Electoral Campaigns, **whose prescribed obligation is to submit income and asset declarations**, without increasing the number of employees. **The Department for Education, Research, Campaign and Analytics was formed** within the Sector for Prevention of Corruption, Integrity, Lobbying and Application of International Standards. The Service for General Affairs and Finance is divided into the Human Resources and Legal Department and Financial Affairs Department. The current number of employees in the Agency is 56 (4 vacancies are not filled and vacancy announcements are still underway).

On 20 January 2017, the Anti-Corruption Agency adopted **the Public Procurement Plan for 2017** in accordance with the Law on Public Procurement. The total value of the public procurement plan is EUR 583,670.00, out of which EUR 239,600.00 is allocated for the procurement of goods and EUR 344,070.00 for the supply of services.

**Twenty nine (29) contracts for public procurement were concluded for nine months of 2017** totalling EUR 379,097.02, while the estimated value was determined by the Public Procurement Plan for the above mentioned: EUR 396,000.00, **which is 67.84% of the implemented Public Procurement Plan for 2017.**

**The budget for the Anti-Corruption Agency for 2017** amounts to EUR 1,666,601.63 and it is possible to ensure the effective execution of the competences of the Anti-Corruption Agency in accordance with the Law on Prevention of Corruption, the Law on Lobbying and the Law on Financing Political Entities and Electoral Campaigns.

**When it comes to development of IT system in the Agency, the Information System Development Plan for 2017 was prepared.** New modules were developed in the

application software and put into operation: **Module - electronic register of lobbyists; Whistle-blowers Module. Changes of the modules of administrative and misdemeanour procedure** were made in line with the needs of the employees. **The Module for the Control of Financing Political Parties and Monitoring of Election Campaign** will be developed in three phases. The first phase has already begun, and financial assets for the implementation of the other phases are planned in 2018.

**The subsystem for data exchange with other public authorities**, which enables the access to databases in real time, **was implemented**. In the reporting period, data were exchanged with the Ministry of the Interior, Tax Administration and the Real Estate Agency and access to the following databases was gained: weapons database, vehicle database, tax income database, legal entities database and real estate databases. The interconnection with the Securities Commission and the Ministry of Justice is underway, through which the access will be provided: to the shares and securities database and the criminal record database.

**The website of the Agency is continuously improved**. During the period, new functions were introduced to the web site of the Anti-Corruption Agency such as RSS and new functions related to site searching. Furthermore, the speed of site performance has been improved. A new electronic form for corruption reporting has also been created, and it will enable a more formal and easier electronic reporting of corruption.

On 16 June 2017, the Agency adopted the three-year Communication Strategy for all areas of work and a one-year Action Plan for its implementation (September 2017-October 2018) was prepared.

With regard to information on **awareness-raising campaigns**, the Agency carries out two campaigns: 1) Information Campaign on competences of the Anti-Corruption Agency (fliers, billboards, telegraphs, bulletins, education); and 2) Anti-Corruption Campaign to Raise Public Awareness on Corruption (billboards, TV videos, education, specialized training).

The Anti-Corruption Agency is the beneficiary of Twinning Project **IPA 2014 "Support to Implementation of Integrity Measures"**, and the project partner from the EU Member State is the National Agency for the Fight against Corruption of the Republic of Italy (ANAC). The aim of the project is to support the implementation of integrity measures in public sector institutions and improve the system for preventing corruption by strengthening the capacity of the Anti-Corruption Agency to carry out its competences, as well as to promote anti-corruption policies and affirm the principles of good governance. The implementation of this project, worth EUR 600,000, has begun at the end of April 2017, and lasts for 18 months. The project has four main components: strengthening the implementation of integrity plans; improvement of the application of whistle blowers-related provisions; strengthening the institutional and administrative capacities of the Anti-Corruption Agency for coordination and supervision over the implementation of lobbying-related provisions; and improving the capacity, efficiency and coordination of the

Anti-Corruption Agency.

### **Inspection Service**

During the period 1 January - 20 October 2017, the Administration for Inspection Affairs recruited 8 inspectors (3 inspectors in the field of education, 2 inspectors for construction, 1 sanitary inspector, 1 health inspector and 1 environmental inspector). During the period from 1 January to 20 October 2017, five inspectors (for the following fields: old-age pension, contractual termination of agreement, death) left the Administration alongside 58 inspectors who were taken over by the Ministry of Agriculture and Rural Development. In this Administration, posts for 122 inspectors are vacant.

### **Agency for Personal Data Protection and Free Access to Information**

In period 1 January - 20 October 2017, 9 new employees were recruited: legal advisor and advisor for cooperation with handlers in the Department for Cases and Appeals, 3 advisors in the Department for Free Access to Information, technical secretary, documentary archivist and the data entry operator.

### **Special Public Prosecution Office**

The new Rulebook on Internal Organization and Jobs Description of the Special Public Prosecution Office, which defines 23 posts for 37 employees, was passed on 31 March 2017. There is an increase in the number of employees who directly assist special prosecutors in their work and who have special professional knowledge. At the same time, abolition of the Public Relations Department avoids duplication of jobs with the Supreme Public Prosecution Office. Until 20 October 2017 the Special Public Prosecution Office has 31 civil servants and state employees, and the recruitment of 4 more employees is in the final stage as the admission procedures have been completed. Two posts are vacant but their filling is currently not required.

#### **3.23.2.2 Track record**

##### *Preventive measures*

In the period 1 January - 1 October 2017, in the area of **prevention of conflict of interests**, at the request of public officials and authorities, the Anti-Corruption Agency gave 81 Opinions on the existence of conflicts of interest that are binding for public officials. The opinions of the Agency referred to possible suspicion on the existence of conflicts of interest of public officials, as well as of the authorities concerning: performing incompatible functions, receiving fees in management bodies, membership to administrative boards, working bodies and commissions, conclusion of contracts.

On the basis of the conducted procedures in the reporting period, the Agency initiated *ex*

*officio* and at the request of other legal and natural persons administrative procedures for determining the performance of incompatible functions by public officials and the prevention of conflicts of interest. Based on the conducted procedures in the reporting period, it issued 3 decisions on conflict of interest and 39 decisions on performance of incompatible function. Also, the Agency initiated the above mentioned procedures based on the request of legal and natural persons, and based on 29 *ex officio* requests.

Following the adoption of the Decisions and the Opinions concerning the prevention of conflict of interest of public officials, 30 public officials resigned to public functions.

The Agency has notified all the authorities when it has been established that a public official is in violation of the law - requests for dismissal, suspension or imposition of disciplinary measures for public officials for which a final decision on violation of the law has been made.

When it comes to the imposition of disciplinary measures, in the area of prevention of conflicts of interest and limitations in the performance of functions, following the adoption of final decisions on the prevention of conflicts of interest of public officials, the authorities acted on the Agency's requests: one public official was dismissed, against 4 public officials the authorities have issued disciplinary measures - a decision on the warning measure, while disciplinary proceeding have been terminated in 1 case by imposing fine of 30% per monthly earnings for 6 months.

In the period from 1 January to 20 October 2017, 6569 **income and property reports of public officials** were submitted, under various reasons, as follows: 4954 regular annual reports on income and property; 643 income and property reports within a legal deadline of 30 days upon taking the office; 192 income and property reports within 30 days in case of an increase of property over EUR 5,000; 56 income and property reports at the Agency's request, in case of initiating administrative proceedings, in accordance with the law; 356 annual reports on incomes and property within the legal deadline of 30 days after the termination of the function; 368 annual reports on income and property after termination of function. All of these reports are processed in the Agency's information system. For the sake of greater transparency, the data from all property cards are published on the Agency's web site and are searchable for those interested parties.

When it comes to conducting administrative proceeding related to income and property reports, the Anti-Corruption Agency finalized 128 cases (87 due to the failure to submit the report, 22 due to submission of inaccurate and incomplete data and 19 for verification of the basis of acquisition of property) after the proceedings had been conducted. Due to the failure to fulfil the legal obligation to submit the report on income and property, 87 proceedings were initiated and finalized.

The Agency *ex officio* and at the request of other legal and natural persons initiated



administrative proceedings for determining the accuracy and completeness of the data reported in the property cards of public officials, and on the basis of the proceedings conducted during the period from 1 January to 20 October 2017, it made 22 decisions on failure to report accurate and complete data. Also, if the Agency determines in the verification procedure that the property and income of a public official and related persons with a public official are higher than real incomes, the public official is obliged to provide detailed information on the grounds for acquisition of income and property at the Agency's request within 30 days. In relation to the above mentioned, the Agency initiated and completed 19 proceedings related to verification of the grounds for acquisition of property and income, and the decisions were made so that the relevant public officials provided detailed data on the grounds of acquisition of property and income, that is justified the grounds for acquisition.

Regarding the **control of financing political parties and election campaigns**, regular control of financing the regular work of political entities was carried out, when it comes to regular payment of funds to political entities and total payments in 2016 and 2017, namely the fulfilment of the authorities' obligations. The proactive approach of the Agency and the engagement of local self-government have greatly reduced the debts of municipalities from previous years. Control of all submitted Annual Reports of Political Entities was carried out in relation to the records held by the Agency (total 54). Supervision of the procedure of leasing and assignment of the use of business premises to political entities at the state and local level, as well as the process of controlling the allocation of budget funds for regular work of political entities were carried out.

The two election campaigns were controlled and supervised. Thus, in accordance with Articles 28 and 32 of the Law (analytical cards and travel orders), 43 reports were prepared, in accordance with Articles 29 and 30 of the Law (social welfare and budget reserves), 18 reports were prepared. As regards Article 33 of the Law (employment), the authorized officials of the Agency carried out control of the entire documentation and every employment during the electoral campaign (total 245). Eleven field inspections were carried out and direct insight into the documentation of 13 political entities was made. In total 541 persons who gave the contribution were verified.

The IT solution was developed for a system for monitoring the application of the Law on Financing of Political Entities and Electoral Campaigns. In order to remove the observed shortcomings and inconsistencies, as well as strengthening the transparency of data on the collected and spent funds of political entities, the Report on spent and collected election campaign resources as well as guidelines for their fulfilment is underway.

**Misdemeanour proceedings were initiated against 13 political entities and related responsible persons.**

From 1 January to 1 October 2017, the **Department for Initiating Misdemeanour Proceedings** submitted 352 requests for initiating misdemeanour proceedings. Due to violations of the Law on Prevention of Corruption, 338 requests for initiating misdemeanour proceedings were filed and 197 sanctions were imposed, while 14 requests for initiating misdemeanour proceedings were submitted for violation of the Law on the Financing of Political Entities and Electoral Campaigns and 87 sanctions were imposed. The imposed sanctions related to the requests filed during the previous year which were finalized in the period from 1 January to 1 October 2017, as well as a number of them was launched in 2017.

During this period, the Agency filed five requests for initiating misdemeanour proceedings for receiving unlawful material and pecuniary benefits in the board of directors of public companies, within which it also ordered the confiscation of property gains. The competent court, resolving on such requests, in one case accepted the request of the Agency and imposed a safeguard measure of confiscation of the property gain in addition to the imposed fines, all in accordance with Article 50 of the Law on Misdemeanours, which stipulates that the property gain obtained by the commission of the misdemeanour will be confiscated.

When it comes to **acting upon the reports of the whistle blowers and their protection**, during the period from 1 January to 20 October 2017, the Anti-Corruption Agency received in total 42 whistle blower reports.

Four reports were assigned to the competent prosecution offices from the beginning of the year and 2 in relation to the cases, while the Anti-Corruption Agency acted for the remaining part. According to the latest information from the relevant prosecution offices, the three requests are under preliminary investigation.

From 1 January to 20 October 2017, 13 requests were assigned to other competent authorities and in 2 cases so far the irregularities were identified, whereas in 3 cases irregularities were not identified; the other proceedings are underway.

Within the period from 1 January to 20 October 2017, a total of 27 proceedings were finalized based on the reports of whistle blowers from 2017 and reports transferred from 2016 (14 cases were transferred from 2016, 13 were finalized while 1 case is underway). In the reporting period, the Agency identified in 2 cases endangering the public interest indicating the existence of corruption and provided three recommendations for removing corruption risks.

In the reporting period, the Anti-Corruption Agency initiated **17 *ex officio* proceedings**. Out of the above mentioned number, 15 proceedings were completed so far, and in 13 cases the existence of endangering of the public interest was identified and in this respect the Agency provided in total 394 recommendations for removing corruption risks. One

misdemeanour proceeding is underway.

In the period from 1 July to 20 October 2017, the Anti-Corruption Agency received 2 requests for the protection of whistle blowers, both of which are ongoing. In one case, expert assistance was given to the whistle blower (protection procedure from 2016) in court proceedings.

In the reporting period, the authorities and the private sector identified 255 persons against whom actions were taken based on the reports of the whistle blowers, which informed the Agency in the form of Decision on appointing the persons.

By 20 October 2017, the obligation to adopt the **integrity plan** was completed by 681 authorities (approximately 700). In total 672 integrity plans were adopted, involving 681 bodies, since 9 bodies were included in the integrity plans of other authorities. In 676 institutions, managers of integrity were appointed. All the authorities that in 2016 brought the integrity plan, they adopted in 2017 the report on the implementation of the integrity plan in the previous year. In 2017, a total of 665 reports on the implementation of the integrity plan were submitted to the Agency.

As for the **Law on Lobbying**, 6 persons passed the exam for conducting lobbying affairs and received a certificate of passed exam.

In cooperation with the Regional Anti-Corruption Initiative (RAI), the Anti-Corruption Agency has developed a Methodology for Assessing the Risk of Corruption in the regulations in Montenegro, in order to cover the regulatory risk of corruption during the legislative process. The methodology was developed within the framework of the Regional Program for strengthening the capacities of anti-corruption institutions and civil society in combating corruption and participation in the process of alignment with the UN Convention. The methodology was submitted to the Constitutional Court, the Parliament of Montenegro, the Secretariat for Legislation, as well as to all ministries and municipalities.

Regarding the obligation to **fulfil the GRECO Recommendations**, the Report from June 2015 refers to the ethics and integrity of the Members of Parliament, prosecutors and judges. Out of 11 recommendations for improvement in this area, 5 recommendations have been rated as fulfilled, 3 partially completed and 3 recommendations have not been met.

According to the Annual Audit Plan for 2016 of the State Audit Institution, 22 audits of the Annual Financial Reports of Political Entities for 2015 are planned. All planned audits were conducted and published on the site. From 1 October to 31 December 2016, 18 audits of the Annual Financial Statements of Political Entities for 2015 were conducted, which are financed from the Montenegrin budget and the local self-government budget based on the seats won for members of parliament or municipal assembly member whose incomes exceed

EUR

10,000.00.

The Annual Audit Plan of the State Audit Institution for 2017 planned 30 audits of the Annual Financial Reports of Political Entities for 2016 that are funded from the Montenegrin budget and the local self-government budget based on the won seats of members of Parliament and or municipal parliament members and whose incomes exceed EUR 10,000.00. From the 1 January to the 20 October 2017, 14 audits of the Annual Financial Reports of Political Entities for 2016 were completed, out of which 12 were published on the web site, while 2 reports were sent to the auditors for obtaining their opinion.

Within the framework of individual reports on conducted audits over political entities, there is a section referring to the implementation of recommendations made to the previous year, which is the way in which the State Audit Institution monitors the implementation of the previously given recommendations.

The State Audit Institution continuously, within its conducted audits, performs as well the audit of conducted public procurement procedures. As part of the audit of the Proposal for the Law on Final Statement of Montenegro, the audit of public procurement system and alignment of public procurement procedures with the Law on Public Procurement, irregularities which repeated in previous years were identified. The State Audit Institution recommends that consumer units should make the public procurement processes transparent and ensure full implementation of the Law on Public Procurement regulating the procurement of goods, services and execution of works for the purpose of lawful spending of budgetary resources.

In 2017, after conducted proceeding of the **audit of performance of "Planning of the public procurement of medical equipment"**, the State Audit Institution established that in the Montenegrin health care system the public procurement of medical equipment was not implemented in a sufficiently successful way and gave recommendations in order to improve the situation in this area. This audit was carried out through **the project of parallel audits of performance (PPA II)**, which is implemented within the VRI Network of candidate countries and potential EU candidates. In addition to the State Audit Institution of Montenegro, six VRI from the region participated in the implementation of this project, **with expert support from the European Court of Auditors and the National Audit Office of Sweden**, on the topic of public procurement.

The audit of the Montenegrin Health Insurance Fund's Information System was completed on 23 October 2017 and it was noted that the Fund's information system provides an updated record of insured persons and data retention, but does not sufficiently provide for the security of the same, established information security measures and standards in this area. The audit identified that the Fund did not adopt the acts timely in accordance with the Law on Information Security, the Decree on Information Security Measures and Standards

in this area, in particular: IT Strategy; Business continuity plan; Disaster Recovery Plan; Risk evaluation; Information Security Policy and IT Security Plan. In order to improve information security, as well as the safety and security of health insurers' data, the State Audit Institution gave in total 15 recommendations.

In 2017, the audit of the final statement of Pljevlja Municipality is underway.

When it comes to **free access to information**, in total 4,436 requests for access to information were submitted, out of which the authorities did not provide the requested information in 1391 cases. Out of a total of 2794 complaints, 840 were adopted (642 due to the administration's silence), 1 was dismissed, 1,010 rejected. The decision on lack of competence was made for 166 complaints, 522 decisions on the suspension of proceedings were made, 157 decisions on the permission to execute the Agency's decision and 143 decisions to suspend the proceedings were made.

In the 55 cases a degree of secrecy was determined.

Out of 572 complaints before the Administrative Court, 500 complaints were adopted (40 decisions and conclusions of the Agency were annulled and in 460 cases it was ordered to make a decision), 1 complaint was dismissed; in 69 cases proceedings were suspended as the applicants withdrew the complaints and 2 complaints were rejected.

148 initiatives have been submitted for filing a request for initiating the misdemeanour proceedings against responsible persons in a legal entity within the Ministry of Public Administration due to the failure to submit requested information to the Agency's Council pursuant to Article 40 of the Law on Freedom of Access to Information.

In 1.015 cases there was a limitation on access to information. The agency identified in 67 cases that the public interest prevails.

There was no violation of the Law on Freedom of Access to Information in the reporting period, so no proceedings or sanctions were imposed.

#### *Repressive measures*

In the Special State Prosecution Office, in the period from 1 January to 1 October 2017, due to commission of corruption offenses in 12 cases, orders on conducting investigations were rendered against 54 natural persons and 4 legal entities. For the same period in 8 cases against 19 natural persons and 2 legal entities, indictments were filed, and in three cases against 3 persons, charges were filed.

Financial investigations into corruptive criminal offenses have been initiated for 25 natural and 3 legal entities:

- Case Kt-S. No. 79/17 - a criminal investigation was initiated on 20 April 2017 against 15 natural and one legal entity for the criminal offense of abuse of authority in the business

organization and the abuse of official position in an organized manner. The financial investigation was launched on 28 April 2017 against 5 natural persons.

- Case no. Kt-S. no. 58/17 - Criminal Investigation was initiated on 29 March 2017 against 2 natural persons for the criminal offense of establishing a criminal organization and the abuse of official position performed in organized manner. The financial investigation was initiated on 26 June 2017 against 2 natural persons.
- Case Kt-S. no. 68/17 - Criminal Investigation was initiated on 14 June 2017 against 18 natural and two legal persons for the criminal offense of abuse of office in business organization. The financial investigation was initiated on 26 June 2017 against 17 natural and 2 legal entities.
- Case Kt-S. no. 67/17 - The criminal investigation was initiated on 10 April 2017 against 1 natural person and 1 legal person for the criminal offense of abuse of the position in business organization. The financial investigation was initiated on 26 June 2017 against 1 natural and 1 legal entity.

In the "Zavala" case, the judgment of the Court of Appeal was rendered on 1 February 2017 and 10 persons were sentenced to imprisonment, and one person was acquitted of charges.

In the case of "CKB" the submitted complaint of the public prosecutor was dismissed on 1 June 2017 and a judgment of the Court of Appeal was rendered confirming the judgment of the High Court.

In the "TQ Plaza" case in the reporting period, based on a plea agreement, judgments were rendered in relation to a prison sentence for 2 natural persons and a judgment with suspended sentence and a fine in relation to one legal person.

In the "WTE" case in the reporting period, on the basis of the plea agreement, the judgments on a prison sentence against 3 natural persons, and judgments on suspended sentence in relation to 2 legal persons were made.

In the case against the former mayor of the Municipality of Bar, a judgment was made on a prison sentence of 28 February 2017.

In the period from 1 January to 15 October 2017, 5 **temporary measures** were taken in corruption cases under the Law on Confiscation of the proceeds of crime.

When it comes to the **permanent confiscation of property** in the period from 1 January to 15 October 2017, one decision was made to reject the request and it became final. In one case the proceeding is ongoing. In the "Pima" case, on 20 April 2017, a decision was made on rejecting proposal of the Special Public Prosecution Office for permanent confiscation of property. This decision was confirmed by the decision of the Court of Appeal on 21 August 2017. The Special State Prosecutor filed a request for permanent confiscation of property

for M.M., convicted by the judgment of the High Court in Podgorica on 14 September 2017 for the criminal offense of abuse of official position via aiding in an organized manner. The hearing is scheduled for 27 October 2017.

### **3.23.3 Fundamental rights**

#### **3.23.3.1 Alignment with the *acquis* and international standards**

The Coordination Body for Monitoring the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence) on 10 October 2017, before the GREVIO Committee of the Council of Europe, had the first evaluation of the implementation of this Convention in Montenegro carried out on the basis of the previously submitted national report.

A second Interim Report on the implementation of the CEDAW was prepared and it was reconsidered in July 2017, afterwards the CEDAW Committee gave key considerations and recommendations submitted to contact persons for gender equality at the relevant institutions at national and local level. It is also planned to hold a session of the Gender Equality Council, at which it is expected from the members of the Council, each from their jurisdiction, to comment on the recommendations and propose steps towards their implementation. Within the programming of IPA 2018, activities are planned towards the implementation of the recommendations from the CEDAW Committee report.

The Report of the European Committee on Racism and Intolerance of Montenegro (ECRI), which was adopted on 19 September 2017, was submitted to all the authorities and institutions involved in ECRI monitoring in order to get acquainted with the given recommendations and planned activities for their implementation.

The third report on the implementation of the Framework Convention for the Protection of National Minorities was prepared in June 2017.

#### **Cooperation with the European Court of Human Rights**

Before the Committee of Ministers of the Council of Europe - the Department for the Execution of Judgments of the European Court of Human Rights, 11 cases are currently under supervision as follows: Siništaj and Others v. Montenegro, Radunović and Others v. Montenegro, Stanka Mirkovic and Others v. Montenegro, Svorcan v. Montenegro, Djukovic v. Montenegro, Tomašević v. Montenegro, Jovović v. Montenegro, Sinex DOO v Montenegro, Vučinić v. Montenegro, Randelović and Others v. Montenegro and Nedić v. Montenegro. In relation to all the above mentioned cases, the Committee has been referred the Action Plans or the Action Reports. Out of the aforementioned 11 cases in which the judgments were rendered, 9 verdicts were brought in 2017: Stanka Mirković and Others v. Montenegro, Đuković v. Montenegro, Tomašević v. Montenegro, Svorcan v. Montenegro, Jovović v.

Montenegro, Sinex DOO v Montenegro, Vučinić v Montenegro, Randelović and Others v. Montenegro and Nedić v Montenegro. In the course of 2017, the Committee of Ministers issued Resolution on Closure in 7 cases, and they are no longer under the supervision of the Committee: Živaljević v. Montenegro, Stakić v. Montenegro, Novović v. Montenegro, Bujkovic v. Montenegro, Vukelić v. Montenegro, Bulatović v. Montenegro, Mugoša vs. Montenegro.

When it comes to decisions on inadmissibility brought by the European Court of Human Rights in relation to Montenegro, in 2017, 6 decisions were brought: Šćepanović v. Montenegro, Minić Darinka v. Montenegro, Darmanović and Others v. Montenegro Petrović v. Montenegro, Čalović v. Montenegro and Kolosov v. Montenegro.

As for the decisions of the Court made on the basis of friendly settlement in 2017, 7 decisions were brought: Bulatović v. Montenegro, Pavlović v. Montenegro, Rakočević v. Montenegro, Minić v. Montenegro, Čorović v. Montenegro, Jovičević v. Montenegro and Jović v. Montenegro, while 1 decision was made on the basis of unilateral declarations, that is the decision Kljajević v. Montenegro.

### **3.23.3.2 Effective exercise of human rights**

On 30 June 2017, the Parliament adopted the Law on Amendments to the Law on Prohibition of Discrimination (Official Gazette of Montenegro 42/17). The amendments to the Law have been fully aligned with the legal framework of the European Union. Specifically, the Law deals with the issue of the protection of sexual minorities in Article 2, which prohibits any direct or indirect discrimination on any ground, including gender identity, sexual orientation and/or intersexual characteristics. In addition, for the first time, the "child discrimination" is normatively defined and penal sanctions provided for the offense on this basis have been prescribed. The same law has recognized and regulated the discrimination of the disabled child in the proceedings before the bodies.

In the Institution of Protector of Human Rights, in 2017, two new employees were recruited (temporary employment in the area of protection of the rights of the child and permanent employment in the area of protection against discrimination). The Annual Report of the Protector for 2016 was submitted to the Parliament in the first quarter of 2017. From 1 January to 1 October 2017, the Human Rights and Freedoms Protector had 581 complaints. The proceedings were completed in 355 cases. In other cases, the proceedings are ongoing.

From 1 January to 19 October 2017, the Constitutional Court received 815 cases, out of which the majority were the constitutional complaint i.e. 738. 774 cases were solved during the same period.

During 2017, the Judicial Training Centre, in cooperation with numerous partners,



delivered the training on hate crimes for trainers for four members of the judiciary; IV Module from the EU Law Training Program through the TAIEX expert program on the EU rights protection program for the protection of fundamental rights for 21 members of the judiciary; The first of the three planned trainings in 2017, on "Hate crimes - Training for Judiciary Representatives", attended 25 participants; Training for human rights and anti-discrimination lecturers for 10 judges and prosecutors.

In 2017, the Protector recorded 96 complaints. Out of that number, 54 cases have been completed: 16 opinions are given with the recommendation; four cases have been completed by reference; 7 cases by referring to other means of legal protection; suspension of 7 cases, failure to perform 9 cases, no discrimination or violation of the other rights was established. Other proceedings are pending.

### **Prevention of torture and inhuman treatment**

Institution for Enforcement of Criminal Sanctions adopted on 1 June 2017 the Instructions on the Health Care of Detained Persons and Prisoners in the Institution for Enforcement of Criminal Sanctions which defines the procedures of medical examinations and health protection of convicted and detained persons and introduces a physical outline of the injuries upon admission and injuries during the time of serving prison sentence or detention.

In the period from 1 January 2017 to 15 October 2017, the following cases were presented before the courts:

- In the criminal proceeding against the prison officer for a serious criminal offense *infliction of a serious bodily injury* which resulted in a final sentence of imprisonment of 5 (five) months, 23 March 2017.
- The main hearing is ongoing in the criminal proceeding against 10 officers of the Institution for the Execution of Criminal Sanctions for the criminal offense of *torture* and criminal offense *infliction of bodily injuries*.
- A judgment was made on 7 December 2016 by which the accused police officer was acquitted of charge that he had committed the criminal offense of *extortion of testimony*. The case is referred to the High Court in Podgorica in order to make a decision on appeal.
- The criminal proceeding is underway against 2 persons before the Basic Court in Kotor for criminal offense *ill-treatment* under Article 166a of the Criminal Code of Montenegro.

In June 2017, the Protector of Human Rights and Freedoms submitted to the Parliament the Annual Report relating to prohibition of torture, as well as the Report on the Conditions of the Work of Security and Treatment Officers at the Institution for the Execution of Criminal

Sanctions.

In 2017, the Protector had five ongoing cases relating to the prohibition of torture (two on the basis of his own initiative and three on the basis of submitted complaints). The proceedings have been completed in three cases. In two cases no violation of the law was established, in one case the proceeding was suspended because a court proceeding was initiated and in two cases the proceedings are ongoing.

Trainings for employees in bodies, organizations and institutions with persons deprived of liberty or persons with limited mobility were carried out in February 2017 by the Protector of Human Rights and Freedoms, in co-operation with NGO "Civic Alliance" on the topic "Standards in the fight against torture and other forms of inhumane treatment". The training was attended by 20 police officers and 20 officers of the Institution for Enforcement of Criminal Sanctions. Training on the topic "Basic human rights and human dignity - forced returnees and monitoring system" was also held in September 2017 for 40 police officers at the First National Training for Police Escorts.

The Ministry of Justice and the Institution for the Execution of Criminal Sanctions organized training for prison medical staff on the topic of "Prevention of ill-treatment in the prison, with a focus on medical examination when receiving, keeping records and reporting ill-treatment".

The Judicial Training Centre and the Public Prosecution Office organized the following trainings during 2017: training for lecturers on Article 3 of the European Convention on Human Rights (prohibition of torture and inhumane and degrading treatment and punishment) for 7 judges and prosecutors; Training on Prohibition of Torture and Inhuman and Degrading Treatment and Punishment attended by 20 participants (17 judicial representatives and 3 officers of the Police Directorate); Training on Prohibition of Torture and Inhuman and Degrading Treatment and Punishment, attended by 20 participants (17 representatives of the judiciary and 3 representatives of the Police Directorate); as well as pilot training for trainers on the prohibition of torture and inhuman and degrading treatment and punishment for seven members of the judiciary.

### **Reform of the prison system**

On 29 December 2016, the Government adopted the Strategy for the Execution of Criminal Sanctions (2017-2021), setting strategic goals for the reform of the execution of criminal sanctions, while on 31 March 2017 it adopted the Action Plan for Implementation of the Strategy for the Execution of Criminal Sanctions 2017-2021.

The Ministry of Justice issued the Rulebook on the content and manner of keeping records on the use of means of coercion in the performance of the securing the detained and convicted persons (Official Gazette of Montenegro 41/17), Rulebook on detailed manner of

seconding prisoners to work outside the prison (Official Gazette of Montenegro 44/17), Rulebook on the detailed manner of execution of security measure *removal from a flat or other housing premises* (Official Gazette of Montenegro 12/17), Rulebook on a detailed manner of execution of security measure *restraint order* (Official Gazette of Montenegro 12/17). The Institution for the Execution of Criminal Sanctions on 1 June 2017 issued the Instruction on the Health Care of Detained and Convicted Persons in the Institution for the Execution of Criminal Sanctions with accompanying forms of records and protocols.

In March 2017, the Ministry of Justice and the Institution for the Execution of Criminal Sanctions drafted the conceptual design for the construction of a Special Health Institution in the Institution for the Execution of Criminal Sanctions, and within the Horizontal Project of the Council of Europe "Enhancing human rights protection for detained and sentenced persons" the Feasibility Study for the Construction of a Special Health Institution in the Institution for the Execution of Criminal Sanctions is underway.

Within the Horizontal Program of the Council of Europe:

- in the period 30-31 January 2017, the report of the mission on assessment of health care in prisons in Montenegro;
  - in the period from 13 to 14 February 2017, evaluation of trainers training program;
  - in the period 20-21 February 2017, evaluation of existing rehabilitation and reintegration programs of Inmates;
  - in the period 28 February to 1 March 2017, analysis of prison overcrowding;
  - In June 2017, the assessment report after the visit to Montenegro to consider the procedures and arrangements for emergency situations planning in relation to the management of the rioting situations and to review and make recommendations for new procedures for possible extraordinary situations in Montenegro;
  - in the period 29-30 June 2017, report on strengthening inter-institutional cooperation between internal and external bodies for the supervision of the work of psychiatric institutions.
  - in the period 16-19 May 2017, training was organized for trainers/future trainers on the prevention of abuse.
- in the period 4-5 September 2017, training of prison officers on the subject of actions in emergency situations was organized.
- Through a pilot project which began to be implemented on 28 April 2017, ten prisoners were trained for specific professions that could serve as a basis for employment after serving sentence. The project provides for the provision of appropriate trainings and

psycho-social support to enable prisoners to easily resocialize.

As part of the project carried out by NGO "Civil Alliance" in May 2017, a report on the prison system in Montenegro was carried out in terms of security and procedures.

In order to reduce the prison population, the Ministry of Justice has continued to strengthen the system of alternative sanctions in terms of creating the conditions for the execution of community service sentence and house arrest. Concerning the execution of community service sentence, during the reporting period 126 persons successfully finished the community service sentences, for 80 convicts the execution of the community service sentence is ongoing, 26 convicted persons are interviewed and in the following month they will conclude the contract and will be deployed for the execution of this sentence, while interviews are scheduled with 49 convicted persons after which they will be proposed to conclude the contract on the execution of this sentence. Also, during the reporting period, a system of electronic monitoring of the persons who are sentenced to house arrest which is executed in the residential premises is procured, which should be tested in November 2017, so that the beginning of the execution of this sentence is expected by the end of 2017.

### **Freedom of expression**

In the period from 1 January to 15 October 2017, the following cases in which journalists suffered the damage are in progress:

- Regarding the threats against a female journalist of the daily newspaper "Pobjeda" A.G, the defendant was fined in the amount of EUR 350.00 due to the threats against the journalist. The decision became final on 2 June 2017;
- The proceeding due to the threats against a journalist is in progress before the Court for Misdemeanours in Podgorica;
- Criminal proceedings before the Basic Court in Herceg Novi due to threats against the journalist were finished by the acquittal judgment made on 20 December 2016 and the judgment was confirmed by the judgment of the High Court in Podgorica made on 5 April 2017.

The Prosecution Office formed a case on the threat against a journalist of the daily newspaper "Dan" namely person V.O. based on a newspaper article. Namely, in a telephone conversation dated 11 September 2017, citizen V.M. made threats against the journalist of the daily newspaper "Dan", which conversation was recorded by the journalist.

A 24-hour protection for a journalist of the daily newspaper "Vijesti" T.S. from Berane, was abolished after a security assessment was made, about which he was personally informed on 13 December 2016.

Within the joint project of the Council of Europe and the EU "Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)" from 6 to 10 March 2017, a training course for trainers/lecturers dedicated to freedom of expression was organised, attended by judges and public prosecutors from Montenegro. The training was attended by 11 participants (9 judges and 2 state prosecutors).

### **Women rights and gender equality:**

In March 2017, the Government adopted the Third Action Plan for Gender Equality in Montenegro 2017 - 2021 with the Implementation Program for the period 2017-2018.

The National Council for Gender Equality was established in October 2016 and represents a new institutional mechanism for achieving gender equality. The Chairman of the Council is the Minister for Human and Minority Rights. Within the Council, apart from the representatives of relevant institutions, there are four representatives of NGOs as well.

In November 2016, a campaign of 16 days of activism to combat violence against women is continually being celebrated.

After the parliamentary elections in October 2016, in the current convocation of the Parliament (26<sup>th</sup> convocation) of 81 MEPs, there are 19 females or 23.46%, which is an increase compared to the 25<sup>th</sup> convocation when there were 15 women or 18.5%.

Although this is the best result in the history of Montenegrin parliamentarianism, the international standard of at least 30% has not yet been achieved.

In the field of economic empowerment of women, entrepreneurship training cycles were finalised in Podgorica and Nikšić - each city has 4 cycles of four-day training - 60 women in Podgorica and 78 women in Nikšić. So far, about 50% of attendees of the educations have made business plans, 3 women registered businesses in Podgorica.

During the period from 1 January to 30 September 2017, the Protector on the gender basis recorded 11 cases including gender-based violence. Eight cases were completed, out of which in 7 cases recommendation were given, in one case no violations were found, and other cases are still in progress.

### **Children's rights**

On 10 June 2017, the Parliament passed the Law on Amendments to the Law on education and upbringing of children with special educational needs (Official Gazette of Montenegro, no. 47/17). The main amendments to this Law are: the introduction of an Individual Transition Plan, the introduction of integrated classes in Resource Centres where joint

classes are conducted for individual subjects with peers in regular classes in accordance with the Individual Developmental Education Program (IROP) and the classes schedule, and a new way of engaging teaching assistants as technical support for children with special educational needs.

In the period from 1 January to 30 September 2017, the Protector had 141 cases in total. Out of that number, in 10 cases the Protector was not competent to act, 2 cases did not meet the procedural preconditions, and in 88 cases the proceedings were terminated after the test procedure was conducted. In other cases, the proceedings are ongoing.

The most recent amendments to the Law on Anti-Discrimination, passed in June 2017, have for the first time normatively regulated "child discrimination" and criminal provisions prescribe fines for misdemeanours on this basis. The same law has recognised and regulated **discrimination of children with disabilities** in the proceedings before the bodies.

### **Persons in social need and persons with disabilities**

In December 2016, the Government adopted the Strategy for Protection of Persons with Disabilities from Discrimination and Promotion of Equality for the period 2017-2021 together with the Action Plan 2017/2018. In order to monitor the implemented activities, the Ministry for Human and Minority Rights has established the Commission for Monitoring, composed of representatives of line ministries and civil society representatives.

In accordance with the implementation of the Action Plan for the adaptation of publicly accessible facilities for access and movement of persons with reduced mobility and persons with disabilities, in 2016 the following facilities were completed as stated above: Podgorica Health Insurance Fund, Basic Court in Podgorica, and Faculty of Economics in Podgorica.

In 2017 works were started and they are in final phase in the following buildings: Public Health Institution - Hospital for Pulmonary Diseases - Brezovik (Administrative Building and 5 Pavilions), Public Health Institution - Health Centre in Nikšić, Public Health Institution - General Hospital in Berane, Public Health Institution - Health Centre "Dr Niko Labović" in Berane, Public Health Institution - General Hospital in Nikšić, Ministry of Finance in Podgorica.

In the period between 1 January and 30 September 2017, the Protector of Human Rights and Freedoms recorded 9 cases on the basis of disability. The proceedings in five cases are in progress, in 2 cases the proceedings were suspended (1 - the violation was removed during the proceeding and 1 - premature complaint), in one case no violation was found and in 1 case the applicant was referred to other means of protection.

**Lesbian, gay, bisexual, transgender and intersex (LGBTI) persons:**

In Podgorica, on 23 September 2017, the fifth Pride Parade was held under the slogan "Combat against Violence". The Pride was organised by Kvir of Montenegro, and it was held without incidents, and according to evaluations of the Police Directorate there were about 300 participants.

In order to implement the Strategy for the Improvement of the Quality of Life of LGBT persons in Montenegro for the period 2013-2018, the Government issued on 2 March 2017 the Action Plan for 2017.

The Protector of Human Rights and Freedom in cooperation with civil society organisations which promote and protect the rights of LGBTIQ population at the end of 2016 held a seminar on "Prosecution, material and legal framework and prosecution of hate speech", which included the presentation of the translation of General Recommendation no. 15 on the suppression of hate speech brought by the EC against racism and intolerance (ECRI).

**Labour and trade union rights:**

The Ministry of Labour and Social Welfare registered 24 trade union organisations and 11 representative trade unions in the period from 1 October 2016 to 1 October 2017.

**Protection of minorities:**

The Law on Amendments to the Law on Minority Rights and Freedoms (Official Gazette of Montenegro 31/17), which was aligned with the recommendations of the EC and the Venice Commission, was adopted on 27 April 2017. The main reasons for the adoption of this Law are directed towards an intervention in the area of institutional support for the exercise of minority rights and freedoms, transparency and efficiency of procedures for allocating funds for the implementation of projects intended for activities important for the preservation and development of national or ethnic special features of minority peoples and other minority national communities and their members in the area of national, cultural, linguistic, and religious identity. The reform of the Fund for Minorities is focused on preventing an objectively possible conflict of interest, introducing two-instance decision-making on projects funded from Fund's assets, as well as raising the quality of monitoring and evaluation of supported projects. The Fund is financed from Montenegro's budget with at least 0.15% of the current budget funds.

### **Roma and Egyptians:**

The Action Plan for Education of the RE population for 2017 was adopted by the end of 2016 and the main carried out activities are: the campaign for enrolment of the RE students in the first grade of elementary school; promoting the enrolment of RE students in secondary schools; provided free textbooks for RE students in elementary school (from 1st to 3rd grade, financial resources are provided by the Ministry for Human and Minorities Rights); the Working Group prepared the Protocol on the Treatment and Prevention of Early School Abandonment; a preparatory nursery for children of the RE community lasting a month was organised in June 2017.

In this school year, 127 children of the RE community were enrolled in pre-school education and education. 1,630 children of the RE population were enrolled in the elementary school (of which 181 were first grade students). The ninth grade of elementary school was completed by 73 students of the RE community and 64 students were enrolled in the first grade of secondary schools, and the total number in secondary schools was 127 students of the RE community. In the first year of study, 7 RE students have been enrolled, whereas in all faculties of this academic year there are 24 RE students.

In cooperation with health institutions in Nikšić and Nikšić Municipality, 15 members of the Roma population were engaged in the familiarization with and methodology of the health care institutions so that they could transfer their experiences to the Roma population. The engaged young Roma are funded with the monthly fee paid by the Municipality of Nikšić.

At the Health Centre in Podgorica, three mediators are employed to mediate and work with the Roma population, and they are permanently employed. At the Health Centre in Nikšić and Berane, one mediator is engaged, which is funded by HELP for one year.

### **Internally Displaced Persons (IDP):**

In the period from 7 September 2009 to 20 October 2017, displaced persons and internally displaced persons submitted in total 14,653 applications for obtaining the approval for permanent residence and temporary stay of up to three years. Out of this number, 14,223 applications have been resolved, while 430 requests are ongoing. Out of the 14,223 resolved applications, 11,963 persons were granted the permanent residence, whereas 225 applications were rejected, while 2,035 cases were rejected/suspended (duplicates or incomplete claims). In the period from 16 to 19 October 2017 the 14th visit of the mobile biometric Kosovo team was organised.

**Registration of displaced persons** - Pursuant to Article 33, paragraph 1 of the Law on Registers (subsequent entry after the 30 day deadline) for the period from 1 January to 20 October 2017, 154 applications were submitted, out of which 143 were resolved (139



applications were accepted and 4 were dismissed), 11 applications are in progress. Pursuant to Article 19, paragraph 1 of the Law on Birth Registers (births in health care centres), for the period from 1 January to 20 October 2017, 5,994 applications were filed, 5,961 applications were resolved (5,843 applications were accepted, 117 applications were dismissed, 1 proceeding was suspended), proceedings are conducted against 33 applications.

**Housing programme** - Under the project MNE2 "Construction of 120 housing units at the Konik Camp", due to the good practice of design, savings amounted to EUR 1,950,977.11, so the Assembly of Donors approved the extension of the project of housing construction at Konik MNE5 "Construction of 51 housing units in Konik" - Continuation of the IPA Project. The works officially started on 18 May 2017, and the deadline for completing the works is ten months.

At the last Assembly of Donors' session held on 1 December 2016 in Paris, two more projects for Montenegro were approved: MNE7 "Purchase of apartments in Herceg Novi for 36 socially disadvantaged families"; MNE8 "Construction of 50 houses throughout Montenegro for landowners and building permits".

The project MNE6 "Reconstruction of the Existing Military Facilities - Military Complex of Trebjesa for the construction of a Home for the old and disabled adults in Nikšić Municipality" for the total amount of EUR 5,178,743.7 was presented, while donor funds amounted to EUR 2,317,274.7. The project was positively evaluated by the CEB and the Technical Committee, and the decision of the Donors' Assembly is expected.

**Voluntary return** - In 2017, eight families with 29 members returned to Kosovo and one (two members) family returned to Serbia. Currently 80 families with about 400 people want to return to the country of origin. By the end of this month, the return of three families is expected.

**Protection of personal data**

On 28 March 2017, the Parliament passed the Law on the Amendments to the Law on Personal Data Protection (Official Gazette of Montenegro 22/17).

REGULAR AND EXTRAORDINARY INSPECTION – Reporting period 1 January – 20 October 2017

	REGULAR INSPECTIONS	INSTITUTION	GROUND	REPEATED INSPECTION

	23	23	ex officio	14
<b>TOTAL</b>	37	23		14

	EXTRAORDINARY INSPECTIONS	INSTITUTION	GROUND	REPEATED INSPECTION
	10	10	At requests for protection of rights	
	35	35	On initiatives	
<b>TOTAL</b>	35	35		

## 3.24 CHAPTER 24: JUSTICE, FREEDOM, AND SECURITY

### 3.24.1. MIGRATIONS

#### 3.24.1.1. Strategic framework

On 23 February 2017, the Government adopted the Strategy for Integrated Migration Management in Montenegro for the period 2017-2020, together with the Action Plan for the Implementation of the Strategy for 2017. The main objective of the Strategy is to fully harmonize and establish the legal framework as well as to strengthen the institutional framework which provides the possibility for effective implementation of the control policy of migration flows in accordance with the rules and standards of EU *acquis*, and the establishment of a monitoring system for supervising the Strategy and implementation of the Action Plans. On 30 August 2017, the Interagency Working Group for monitoring the implementation of the Strategy was established.

#### 3.24.1.2. Legislative framework

In July 2017, the Draft Law on Foreigners was prepared, which will better regulate issues related to entry, exit, movement, stay, and work of foreigners in Montenegro, in accordance with international standards and the EU *acquis*. Among other things, it includes standards and procedures established in the Member States for returning illegally staying third-country nationals, in particular Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States

for returning illegally staying third-country nationals. The standards of Directive 2008/115 are fully met with the Draft, in particular the provisions relating to the rights and protection of minors and families.

### ***Bilateral agreements with third countries - readmission***

The Agreement between the Government of Montenegro and the Government of the Republic of Turkey on readmission (return and acceptance) of persons whose entry or stay is illegal, signed on 18 April 2013, entered into force on 1 December 2016 (Official Gazette of Montenegro - International Agreements 8/13).

The Protocol between the Government of Montenegro and the Government of Hungary on the Implementation of the Agreement between Montenegro and the European Community on the readmission (return and acceptance) of persons without a residence permit was signed on 24 February 2017. The Decision on the publication of this Protocol was published in the Official Gazette of Montenegro - International Agreements, no. 6/17 of 11 August 2017.

The Agreement between the Government of Montenegro and the Government of the Republic of Azerbaijan on readmission (return and acceptance) of persons without a residence permit was signed on 27 April 2017. On 27 July 2017, the Government established the Proposal for the Law on Ratification of this Agreement.

### **3.24.1.3. Statistics – readmission**

#### ***MONTENEGRO-EU***

In the period between 1 January and 20 October 2017, a total of 334 requests for readmission were received by the EU Member States, relating to the acceptance of 665 persons. Out of the number of received requests, 237 requests were positively resolved, i.e. the consent was given for the acceptance of a total of 483 persons. 93 requests were resolved negatively i.e. there was no consent to accept 176 persons, while the four requests for readmission of six persons are still ongoing.

#### ***MONTENEGRO-NEIGHBOURING COUNTRIES***

In the regular procedure, Montenegro received a total of five requests for acceptance of 23 persons by the neighbouring countries. Four requests for acceptance of 19 persons were positively resolved. One request was negatively resolved, i.e. there was no consent to accept four persons. All requests were from Bosnia and Herzegovina. In a regular procedure, between 1 January and 20 October 2017, a total of 47 persons were returned to the neighbouring countries of Montenegro, while the proceeding for six persons are still ongoing.

#### **3.24.1.4. Statistics – displaced and internally displaced persons (DP/IDP)**

In the period from 7 November 2009 (date of entry into force of the Law on Amendments to the Law on Foreigners), up to 20 October 2017, displaced persons and internally displaced persons submitted a total of 14,653 requests for granting permanent residence permit and temporary residence permit of up to three years. Out of this number, 14,223 requests were resolved, while 430 requests are ongoing. Out of the 14,223 resolved cases, 11,963 persons were granted a permanent residence permit, 225 requests were rejected, while 2,035 cases were rejected/suspended (duplications or incomplete claims). Sorted by category, these are the statistical data:

##### ***Displaced persons***

During the reporting period, displaced persons submitted a total of 4,718 requests for approval of permanent residence. Out of this number, 4,689 requests were resolved, while 29 requests are ongoing.

##### ***Internally displaced persons***

During the reporting period, internally displaced persons submitted a total of 8,345 requests for approval of permanent residence. Out of this number, 8,047 requests were resolved, while 298 requests are ongoing.

##### ***Temporary residence of up to three years – displaced persons***

During the reporting period, displaced persons submitted a total of 316 requests for approval of temporary residence of up to three years. Out of this number, 304 requests were resolved, while 12 requests are ongoing.

##### ***Temporary residence of up to three years – internally displaced persons***

During the reporting period, internally displaced persons submitted a total of 1,274 requests for approval of temporary residence of up to three years. Out of this number, 1,183 requests were resolved, while 91 requests are ongoing.

#### **3.24.1.5. Track record**

##### ***Illegal crossing of the state border***

During the period from 1 January to 1 October 2017, 437 persons were prevented from illegally crossing the state border, out of which 159 on border crossings and 278 outside border crossings.

##### ***Centre for Foreigners***

Between 1 January and 1 October 2017, a total of 174 persons were accommodated in the Centre for Foreigners, while the repatriation of 68 persons was carried out.

**Fight against smuggling of migrants (detection, police operations and cases before the judicial system)** (See Section 3.24.6.5).

### **3.24.2. ASYLUM**

#### **3.24.2.1. Legislative framework**

On 29 December 2016, the Parliament passed the Law on International and Temporary Protection of Foreigners. The Law entered into force on 18 January 2017, and its application is planned from 1 January 2018. The Law implements the standards of the following international documents: the UN Universal Declarations of Human Rights, the UN Convention relating to the Status of Refugees (1951) so called Geneva Convention supplemented by New York Protocol of 31 January 1967, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child with its two protocols, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This law defines the following institute of European legislation: acts of persecution; persecutors; reasons for exclusion; safe country of origin; safe third country; safe European third country; unacceptable requirements; border procedure, judicial protection. Special procedural guarantees provide adequate support to foreigners seeking international protection in view of their particular circumstances, including age, sex, sexual orientation, gender identity, serious illness, mental health or the consequences of torture, rape or other serious forms of psychological, physical violence or violence based on sex and gender, for the purpose of exercising rights and obligations under this Law. The Law on International and Temporary Protection of Foreigners creates a clear distinction between the categories of foreigners seeking international protection and persons with approved protection. The persons with approved protection will enjoy all the rights as "their own citizens" (social protection, health care, right to education, right to recognition of diplomas and cases where no material evidence exists).

When it comes to bylaws for applying the laws, three rulebooks were adopted (Official Gazette of Montenegro 61/17) as follows: the Rulebook on rules of residence and house rules in the centre for foreigners, the Rulebook on content and form of application for international protection of foreigners, the Rulebook on the detailed manner of taking fingerprints and photographs of a foreigner intending to apply for international protection. The Rulebook on the layout and content of the form and manner of issuing a document for a foreigner who filed an application for international protection, asylum seeker and foreigner under subsidiary protection has been completed and its publication is expected.

### **3.24.2.2. Statistical data**

During the period between 1 January and 19 October 2017, 552 applications for asylum were filed. During this period, 21 decisions on refusing asylum applications were issued, seven additional protections were granted, proceedings for 281 persons were suspended, while 248 applications are in the decision-making process. The State Commission for Deciding upon Asylum Appeals is responsible for the procedures upon appeals against decisions of the first instance body. During this period, 69 complaints were filed, out of which 23 were rejected as unfounded and 46 are in the decision making process.

#### ***Centre for Asylum Seekers***

During the period between 1 January and 19 October 2017, a total of 507 persons were accommodated in the Centre for Asylum Seekers, out of which: adult males - 438; juvenile males with escort - 19; juvenile males without escort - 1; females with escort - 18; females without escort - 15; juvenile females with escort - 16. Out of 507 asylum seekers, 136 adult males were accommodated in alternative accommodation starting from 11 August 2017, while one juvenile was accommodated in the Public Institution *Ljubović*.

### **3.24.2.3. Overview of conducted training courses**

Two officers of the Directorate for Asylum on two occasions, i.e. 11-12 April and 25-26 April 2017, participated in the Regional Workshop for Template Development/SOP for identifying vulnerable categories of migrants. One officer of the Directorate for Asylum participated in training on the topic "Voluntary Return of Migrants to Montenegro", which was held in the period 8-9 June 2017. An officer of the Directorate for Asylum participated in the Regional Training for managers, held in the period 17-18 May 2017, organised by EASO.

## **3.24.3. VISA POLICY**

### **3.24.3.1. Legislative framework**

On 23 March 2017, the Government adopted the amendments to the Decree on Visa Regime (Official Gazette of Montenegro 23/17), and it came into force on 15 April 2017. The amendments to the Decree suspend obligations of possessing visas to citizens of seven countries: Kiribati, Marshall Islands, Micronesia, Palau, Solomon Islands, Kingdom of Tonga and Tuvalu. Citizens of these countries are therefore allowed to enter and stay in the territory of Montenegro for up to 90 days with a valid visa-free travel document.

Pursuant to the Government Decisions on Temporary Visa Waiver, nationals of the following countries are exempted from obtaining short-stay visas during the summer season: Decision on Temporary Visa Waiver for Citizens of the Republic of Armenia (Official Gazette of Montenegro 23/17); Decision on Temporary Visa Waiver for Nationals

of the Republic of Kazakhstan (Official Gazette of Montenegro 23/17); Decision on the Temporary Visa Waiver for Citizens of the Russian Federation (Official Gazette of Montenegro 23/17); Decision on Temporary Visas Waiver for Citizens of Georgia (Official Gazette of Montenegro 37/17).

### **3.24.3.2. Overview of statistical data**

In the period from 1 January to 1 October 2017, six visas were issued at border crossings (five visas of Type C and one visa of Type B to a sailor). Montenegro continues to implement the measures recommended in EC monitoring reports after visa liberalization.

From 1 January to 1 October 2017, 15,630,478 passengers were controlled on border crossings in Montenegro. No entry to Montenegro was allowed to 1,729 passengers. For 725 passengers, it was not approved to leave Montenegro.

### **Visa Information System (VIS)**

The Visa Centre, established at the Ministry of Foreign Affairs as the central visa issuing body, continues the procedure of installing the Visa Information System (VIS) in diplomatic and consular missions. In the period from 1 October 2016 to 20 October 2017, VIS included Embassies of Montenegro in the United Arab Emirates (7 May 2017), the Republic of Turkey (1 June 2017), the Russian Federation (2 June 2017) and the People's Republic China (7 September 2017) in which visas are issued in the form of visa stickers, in line with the Schengen standards. The conditions were met for the Ministry of Interior/Police Directorate, from the domain of their competence, to provide approvals through the VIS for issuing of visas. By networking the Visa Centre with diplomatic and consular offices in which VIS is installed and the Ministry of Interior/Police Directorate, the conditions are fulfilled for securing data exchange in the visa issuing process. The Ministry of Foreign Affairs conducted a technical analysis of the adequacy of the premises in all Montenegro's diplomatic and consular offices and the process for defining the necessary measures and adaptation of the premises is ongoing in order to achieve the objectives defined by the SAP.

### **3.24.4. EXTERNAL BORDERS AND SCHENGEN**

#### ***Establishing border crossings and determining the regime of border traffic with neighbouring countries, closure of alternative routes***

##### **Bosna and Herzegovina**

In Podgorica, on 5 and 6 September 2017, at the joint session of the Commission for the Border of Montenegro and the State Commission for the Border of Bosnia and Herzegovina, in accordance with the concluded Agreement, the Guidelines for the Marking the State Border between Montenegro and Bosnia and Herzegovina were harmonized and signed as well as the Technical Guidelines for the Development of Documentation on the State Border

between Montenegro and Bosnia and Herzegovina, Also, the Joint Working Body for Marking the State Border defined by the Agreement was established, which will prepare the project for marking the common state border, with financial indicators and deadlines in accordance with Agreement.

### **Republic of Albania**

On the basis of the previously submitted Initiative for Negotiating the Harmonization of the Draft Agreement on the State Border between Montenegro and the Republic of Albania, the Joint Montenegrin-Albanian Border Commission conducted during 2017 the recording of the border markings along the borderline, looked at the situation in order to restore and align the coordinates of border markings. Currently, the Montenegrin-Albanian Border Commission is identifying the borderlines from the external border of the territorial sea in the Adriatic Sea to the trisection point between Montenegro, the Republic of Albania and the Republic of Kosovo.

### **Republic of Serbia**

At the meeting held on 25 April 2017, with the Assistant Minister of the Interior of the Republic of Serbia, on topic of the consultation on preparations for closing of the alternative roads suitable for illegal crossing of the state border between Montenegro and the Republic of Serbia, it has been suggested that this activity must be agreed after the signing the agreement on regulating regime of border traffic.

### ***Joint cooperation with neighbouring countries***

The Initiative of the State Commission for the Border of Bosnia and Herzegovina and of the Republic of Serbia, on the subject of the Agreement between the Government of Montenegro, the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Serbia in relation to determining the trisection border point between Montenegro, Bosnia and Herzegovina and the Republic of Serbia, was sent on 10 April 2017 and the Draft of Agreement was submitted. The date of the trilateral meeting is being agreed in order to harmonize and initiate the text of the Agreement.

On 23 March 2017, the Government adopted the Plan of measures and activities for simplifying border procedures during the summer tourist season, which provides for coordination and synchronization of border police activities and cooperation with the border police forces of the neighbouring countries in order to harmonize passenger and goods traffic, particularly at the most frequent border crossings. On 22 June 2017, the Government adopted the Report on the Implementation of the Plan of measures and activities.

The Protocol between the Ministry of Interior of Montenegro, the Ministry of Interior of the Republic of Albania and the Ministry of Interior of the Republic of Kosovo on the



establishment and functioning of the Joint Centre for Police Cooperation in Plav was signed on 30 May 2017. Activities are underway to create preconditions for the functioning of the Centre which should be implemented by the end of 2017.

#### **3.24.4.1. Strategic framework**

On 30 March 2017, the Report on the Implementation of the Action Plan for the Implementation of the Integrated Border Management Strategy in 2016 was adopted and the Action Plan for 2017 was prepared. When it comes to the Action Plan for 2016, 96% of the measures were fully implemented. On 3 October 2017, the Report on the implementation of the Action Plan for enforcing the Integrated Border Management Strategy for the 1st, 2nd and 3rd quarter of 2017 was drafted. In that regard, 61% of activities were carried out, 39% of the activities were partially carried out, while there were no activities that were not carried out.

The Joint Plan of Measures for the Prevention and Repression of Corruption at the Border was signed on 28 February 2017 by the directors of the Police Directorate, the Customs Administration, the Administration for Food Safety, Veterinary and Phytosanitary Affairs, and the Administration for Inspection Affairs.

#### **3.24.4.2. Overview of statistical data**

In the period between 1 January and 1 October 2017, based on the Protocols of the border police forces on joint patrols, the following patrols were carried out: the Republic of Albania - 196 patrols, the Republic of Serbia - 156 patrols, B&H - 283 patrols, the Republic of Kosovo - 73 patrols and the Republic of Croatia - 11 patrols.

### **3.24.5. JUDICIAL COOPERATION IN CIVIL AND CRIMINAL MATTERS**

#### **3.24.5.1. Legislative framework**

On 29 December 2016, the Parliament adopted the Law on Ratification of the Agreement on Cooperation between Montenegro and Eurojust (Official Gazette of Montenegro - International Agreements, no. 1/17). On 26 July 2017, the Parliament passed the Law on Ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (Official Gazette of Montenegro - International Agreements, no. 6/17). On 5 October 2017, Montenegro signed the Hague Choice of Court Convention.

#### **3.24.5.2. Track record**

In April 2017, Montenegro appointed two contact persons for cooperation with the European Judicial Network in Civil and Commercial Matters. In September 2017, Montenegro appointed a public prosecutor for liaison with Eurojust.

#### **3.24.5.3. Overview of conducted training courses**

In the period from October 2016, the following training courses were organised:

- 28-29 November 2016 – in Bar, the Centre for Training in Judiciary and State Prosecution organised a seminar for judges on International Legal Assistance in Civil and Commercial Matters. The seminar was attended by 28 representatives of the judiciary (5 judges of the High Court in Podgorica, 21 judges of the Basic Courts and 2 advisers);
- 1-2 December 2016 – in Danilovgrad, the Centre for Training in Judiciary and State Prosecution, in cooperation with the Police Academy in Danilovgrad, organised a seminar on the subject of Measures of Secret Surveillance - use of evidence in court and cross-border cooperation. The seminar was attended by 8 participants of the judiciary, that is 6 representatives from the Prosecution Office (2 public prosecutors and 4 advisers) and 2 representatives of the judiciary, i.e. advisers;
- 26-27 January 2017, in Podgorica, the Centre for Training in Judiciary and State Prosecution, in cooperation with the International Development Law Organization/IDLO from Rome, with the financial support of the European Bank for Reconstruction and Development (EBRD), organised a seminar on the subject of contracts in international sales of goods and applicable law. The seminar was attended by 19 representatives of the judiciary (17 judges and 2 advisers);
- 13-14 March 2017 – in Budva, the Centre for Training in Judiciary and State Prosecution, in cooperation and with the support of the US Embassy in Podgorica, i.e. Bureau of International Narcotics and Law Enforcement Affairs (INL Program), organised a seminar entitled *International Financial Investigations*. The seminar was attended by 36 participants, including 11 representatives of the Prosecution organization (7 public prosecutors and 4 professional associates), 6 judges and 19 representatives of other state institutions (the Ministry of the Interior, the Anti-Corruption Agency, the Administration for Prevention of Money Laundering and Financing Terrorism, Tax Administration, Public Property Administration, Customs Administration and Inspection Directorate);
- 21-22 March 2017 – in Podgorica, organised a regional seminar for judges on the topic: *Practical Issues in the Field of Judicial Cooperation in Civil, Commercial and Family Affairs*. From Montenegro, the seminar was attended by two judges (the High Court in Podgorica and the judge of the Basic Court in Cetinje);
- 3-4 April 2017 – in Herceg Novi, the Judicial Training Centre, in cooperation with the US Embassy in Podgorica, i.e. Bureau of International Narcotics and Law Enforcement Affairs (INL Program), organised *the Conference on the suppression of cross-border crime between Montenegro and Croatia*. Besides the colleagues from Croatia, 15 Montenegrin representatives (6 public prosecutors and 1 advisor, 4 judges, 2 representatives of the Ministry of Justice and 2 representatives of the Anti-Corruption Agency) attended the conference.

- May 2017 – in Podgorica, seminar organised by the Judicial Training Centre, and within the framework of the theoretical part of the Initial Training Program, held within the *EU Law Training Program*; the first training day from the module entitled: *Cooperation of Courts in Civil and Commercial Procedures in EU*. The module was attended by all seven participants of this program: four candidates for public prosecutors and three candidates for judges;

- 16-17 May 2017 – in Podgorica, the Judicial Training Centre organised the fifth (V) module from the EU Law Training Program entitled *Mutual Recognition and Enforcement, Recognition and Enforcement Instruments in Civil and Economic Matters within the EU Judicial Cooperation - modified EU Brussels I-bis Regulation and European Procedures*. The seminar was attended by 17 participants (8 judges, 4 public prosecutors and 5 judges);

- 19 May 2017 – in Podgorica, organised by the Judicial Training Centre, and within the framework of the theoretical part of the Initial Training Program, held within the framework of the EU Law Training Program; the first training day from the module entitled *Judicial and Police Cooperation in Criminal Proceeding in the European Union*. The module was attended by all seven participants of this program: four candidates for public prosecutors and three candidates for judges;

- 26-30 June 2017 – in Ohrid, organised by the GIZ - Legal Reform (ORF LR) under the project "Strengthening Regional Cooperation of Training Institutions in the Judiciary of the Western Balkan Countries", the regional seminar on *Strengthening Judicial Cooperation in Civil and Economic Matters in the EU*. In front of Montenegro, through the Judicial Training Centre, three judges (a judge of the High Court in Podgorica, a judge of the Basic Court in Podgorica and a judge of the Montenegrin Commercial Court) attended the Regional Seminar.

### **3.24.6. POLICE COOPERATION AND FIGHT AGAINST ORGANISED CRIME**

#### **3.24.6.1. International cooperation**

Activities on meeting the standards and best practices regarding international police cooperation are continued. In May 2017, the Interpol WiSdm system was set up and put into operation for automatic entering of invalid documents into the Interpol database. Montenegro is the only one of all "third partners" with Europol (and one of six at Europol), which in the course of 2017 integrated SIENA web services into a national case management application for the purpose automatic communication from national databases with Europol. Activities on the establishment of UMF (Universal Message Format) - for Siene communication, which will enable the direct and automatic entry of entities into the Criminal Intelligence System are in progress, which will facilitate and accelerate the processing of data obtained through international police cooperation.

Montenegro is a member of the 3 Europol Analytical Projects (Kola (Cocaine), Travelers (Foreign Fighters) and Smoke (cigarette smuggling), which continuously exchanges intelligence related to smuggling of narcotics and cigarettes and data related to foreign fighters. The process of joining the Sustrains Analytical Project (in connection with suspicious transactions and money laundering) is underway.

During the period from 1 January to 20 October 2017, 2795 information were exchanged (sent 618, received 2177) through EUROPOL. During the period from 1 January to 20 October 2017, 30,780 pieces of information were exchanged via Interpol.

In February 2017, the state-of-the-art AFIS system (Sagem Morpho) for direct checks of fingerprints obtained through international police cooperation was established, and one AFIS unit is assigned to International Police Cooperation, whereas officers of the Division for International Police Cooperation are trained to use AFIS.

Activities for the preparation of automatic data exchange for DNA, fingerprints and vehicle identification documents are in progress on the basis of the Schengen model, and based on the Convention on Police Cooperation. All technical prerequisites (databases for DNA, fingerprints and vehicle identification documents) are ready for networking, while the approval of the EC for the use of the secure system sTESTS through which the data will be exchanged is being awaited, as well as the signing and ratification of multilateral automatic data exchange agreements which will be completed through the PCC convention.

#### **3.24.6.2. Human resources capacities of the police and prosecution offices in the fight against crime**

The new Rulebook on Internal Organisation and Job Descriptions of the Special State Prosecution Office was passed on 31 March 2017, which defines 23 posts with 37 employees. There is an increase in the number of employees who directly assist special prosecutors in their work and who have special professional knowledge. At the same time, by abolishing the Public Relations Department, duplication of posts with the Supreme State Prosecution Office is avoided. Until 20 October 2017, 31 civil servants and state employees were employed in the Special State Prosecution Office, and the employment of four more employees is in the final stage because the admission procedure has been completed. Two posts are vacant but their filling is currently not necessary.

#### **3.24.6.3. Data exchange between police and prosecution offices**

*The agreement on Improving Cooperation in the Area of Crime Repression*, which is the legal basis for IT linking and secure exchange of information between the bodies in the field of combating crime, was signed on 16 October 2017 and entered into force on the day of its signing. The Agreement was signed by the Ministry of Justice, the Ministry of Interior, the Supreme State Prosecution Office, the Supreme Court and the Ministry of Finance, and

established institutional cooperation for the automatic exchange of information and exchange of information with the foreign element through the contact persons of the signatories. Pursuant to the Agreement, the heads of the signatory bodies will appoint contact persons within 30 days, through whom automatic exchange of information and data will be performed.

#### **3.24.6.4. Serious and Organised Crime Threat Assessment (SOCTA)**

The interagency team composed of representatives of the Montenegrin intelligence and security sector prepares the Serious and Organised Crime Threat Assessment SOCTA MNE, whereas the Criminal Intelligence Department is responsible entity for this activity. A working version of the document was prepared, which should be verified by the competent authorities in the forthcoming period.

#### **3.24.6.5. Track record**

According to the data of the Special State Prosecutor's Office, during the period from 1 January to 20 October 2017, 63 persons were investigated for the criminal offense of organised crime, indictments were brought against 43 persons including terrorism, and 16 judgments were pronounced (out of which 15 were based on the plea bargaining agreement, all judgments imposed imprisonment). In total 16 financial investigations (15 plus one extended) were launched against 97 entities, out of which four legal entities. For the criminal offense of money laundering, investigations were launched against 24 persons whereas preliminary investigation is launched against two persons. According to the notifications of the Administration for the Prevention of Money Laundering, 22 criminal cases were formed.

In 2017, 11 proceedings were initiated before the Special Department of the High Court in Podgorica for the criminal offense of establishing a criminal organisation from Article 401a of the Criminal Code of Montenegro, one of the proceedings for the criminal offense of establishing a criminal organisation concurrent with criminal offence of terrorism referred to in Article 447 of the Criminal Code of Montenegro, as well as one proceeding for the criminal offense of participation in foreign armed formations referred to in Article 449b of the Criminal Code of Montenegro. Before the High Court in Podgorica, there are also two cases from the group of criminal offenses - crime cybercrime - computer fraud referred to in Article 352 of the Criminal Code of Montenegro, one of them is concurrent the criminal offense of criminal association referred to in Article 401 of the Criminal Code of Montenegro. In 2017 no criminal proceedings for money laundering referred to in Article 268 CC were initiated.

**Two plea bargaining agreements** were concluded in the High Court in Podgorica for the criminal offense of establishing a criminal organisation referred to in Article 401a of the Criminal Code of Montenegro.

The officers of the Police Directorate are currently conducting cases aimed at detecting and prosecuting perpetrators of criminal offenses who are members of organised criminal groups. The case "**Maestro**" is being conducted against seven persons who organised a criminal organisation for the purpose of carrying out criminal offenses under Article 401a of the Criminal Code of Montenegro *establishing a criminal organisation, extortion, unauthorized possession of weapons and explosives*. The case "**Hotel**" is conducted in cooperation with the police of Slovenia and Bosnia and Herzegovina (Ministry of Interior of the Republic of Srpska) in order to collect evidence and prosecute Montenegrin and Bosnian citizens who organised a criminal organisation with the aim of committing criminal offenses under Article 401 of the Criminal Code of Montenegro - establishing criminal organisation, criminal offence under Article 164 of the Criminal Code of Montenegro - kidnapping, criminal offence under Article 250 of the Criminal Code of Montenegro - extortion, both on the territory of Montenegro and in the Republic of Slovenia and Germany.

In relation to the cases from the previous period, i.e. case of "**Šarić**", the Court of Appeal made a decision on 27 September 2017 by which the accused in the present case were acquitted of the charges.

In the case **Ruta II**, the judgment of the Special Department of the High Court in Podgorica made on 25 April 2016 was overturned by the decision of the Court of Appeal made on 22 December 2016 only on the part of the legal assessment of the offense.

In the field of the fight against **smuggling of people**, in May 2017, the case "**Kolosjek 2**" was processed by filing criminal charges against six persons due to reasonable suspicion that they committed the criminal offense of illegal crossing the state border and smuggling of people.

In September 2017, an international police action "**Dardaneli**" was carried out, processing six persons before the Special Public Prosecution Office (two citizens of Turkey, one Bulgarian citizen and one Serbian citizen temporarily resident in Montenegro, as well as one Montenegrin citizen) because of the suspicion that committed the criminal offense of *establishing a criminal organisation*. The international OCG which in an organised manner committed criminal offenses of smuggling of people (Turkish citizens) through the territories of Montenegro, Bosnia and Herzegovina and Croatia, was dismantled. A total of 21 persons were arrested through a joint action that was simultaneously implemented in all three countries.

In October 2017, the case "**Centar**" was carried out referring to the criminal group that smuggled asylum seekers from Montenegro to Croatia. The criminal charge encompassed six persons, out of whom four persons were deprived of their liberty, due to the suspicion that they committed the criminal offenses of illegal crossing of the state border and

smuggling of persons in an organised manner. Within the case, the members of the criminal group were identified as Montenegrin citizens, as well as persons who have the status of asylum seekers in Montenegro.

In the area of the fight against **loan sharking**, there is an increasing number of cases against several persons due to reasonable suspicion that they deal with loan-sharking, among other things the "**Mimoza**" case, which was carried out in October 2017 by deprivation of liberty of three persons, members of the organised crime group who are suspected for the commission of this criminal offense.

#### **3.24.6.6. Temporary and permanent seizure of assets**

During 2017, the Special Public Prosecution Office filed a proposal to the High Court in Podgorica for imposing a **provisional measure of the prohibition of disposition and use**, in three cases for money laundering and one case for the criminal offense of unauthorized production, possession and distribution of narcotic drugs, which were accepted by the court.

When it comes to **property confiscation**, in the case "Zelena milja", where the defendants are charged with having committed the criminal offense of *establishing a criminal organisation* under Article 401a paragraph 2 in conjunction with paragraph 1 of the Criminal Code of Montenegro and *unauthorized production, possession and releasing into circulation the narcotics* under Article 300 of the Criminal Code of Montenegro, the request for the property confiscation was filed to the High Court in Podgorica. In the proceedings before the court, a residential space of 53m<sup>2</sup> and a plot of 3,063m<sup>2</sup> were confiscated. The decisions made on these requests are final.

#### **3.24.6.7. Witness protection**

In the period from 1 January to 20 October 2017, the Witness Protection Unit carried out witness protection measures against eight persons - three persons in the cases falling within the jurisdiction of the Special State Prosecutor's Office and five persons in war crimes cases in court proceedings for damage compensation.

#### **3.24.6.8. Developments in the field of small arms and light weapons**

From 1 January to 1 September 2017, the police seized 246 pieces of firearms. Out of this number, 140 pieces of firearms were found and seized in the illegal possession of the citizens. 926 pieces of weapons and 128 parts of arms were destroyed in Nikšić, while the collected 21.5 thousand pieces of ammunition of various calibers were destroyed during September 2017. These were weapons that were seized in final criminal, misdemeanour and administrative procedures, as well as arms which was returned or found. The action organised on the occasion of the International Day of the Destruction of Weapons was carried out by the Ministry of Interior, supported by the European Union (EU) and the

Central and Eastern European Small Arms Control Centre (UNDP / SEESAC). The event was supported by the Mission of the Organization for European Security and Cooperation in Montenegro (OSCE), as well as the non-governmental organisation Centre for Democratic Transition (CDT). During 2017, citizens have voluntarily returned 274 pieces of firearms, 128 parts of weapons, 23 mine explosives and 5093 bullets of different calibers ("Respect life, return weapons").

#### **3.24.6.9. Prevention and capacities in in the field of cyber crime**

The officers of the Police Directorate participated in the international action for closing the internet domain "**AVALANCHE**", in which in December 2016 more than a million Internet domains from the world were shut down, and in Montenegro alone more than 35,000 domains. These domains were supposed to be used for hacker attacks, as well as for stealing personal information from internet users.

As regards the crime enabled through information technology, in February 2017, officers of the Police Administration deprived of liberty one person on grounds of suspicion that he committed two criminal offenses of endangering security against two persons.

The officers of the Police Directorate, in coordination with the Basic State Prosecution Office, in the action "**Posmatrač**", in March 2017, deprived two persons of liberty for suspicion of committing criminal offenses of child pornography. In these cases, apart from the deprivation of liberty of persons, several digital devices were seized in which more than 350,000 files (videos and photos) that contained children in unauthorized sexual poses were found.

#### **3.24.6.10. Prevention and capacities in the field of money laundering**

##### ***Strategic framework***

In November 2016, the Government adopted an Action Plan for the Implementation of Resolution SBUN 1373 in order to address the shortcomings identified in the Report of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) after the Fourth Round of evaluation of money laundering prevention and financing of terrorism in Montenegro. On 27 July 2017, the Government adopted the XII Report on the Implementation of the Strategy for Prevention and Suppression of Terrorism, Money Laundering and Financing of Terrorism 2015-2018. and the Action Plan 2017-2018, for the period January - June 2017.

##### **Legislative framework**

In order to address the shortcomings identified in MONEYVAL IV report, align with Directive (EY) 2015/849 and the new FATF (Financial Action Task Force) Recommendations, the Administration for Prevention of Money Laundering and Financing



Terrorism established in January 2017 a Working Group for drafting the Law on Amendments to the Law on Prevention of Money Laundering and Financing of Terrorism and its harmonization with relevant international regulations in this area.

### ***Track record***

In order to address the deficiencies identified by the MONEYVAL report in relation to FATF's key and basic recommendations, the Government adopted the Action Plan for the Implementation of SBUN 1373 Resolution in November 2016. The aforementioned Action Plan defines the obligations and activities of the competent state bodies necessary to remedy the above mentioned deficiencies. In addition, the Action Plan provides for the amendments to the following laws: the Law on International Restrictive Measures, the Law on the Prevention of Money Laundering and Financing the Terrorism, the Criminal Code, the Law on Misdemeanours, the Law on the Basics of the Intelligence and Security Sector of Montenegro.

As the said Action Plan was adopted by the Government of Montenegro in November 2016, the shortcomings in the implementation of SBUN 1373 and 1267 Resolutions could not be resolved by December 2016. Accordingly, at the 52nd Plenary Session of MONEYVAL it was decided that Montenegro will be covered by "step 2 "procedures for improving compliance. In accordance with the above mentioned procedures, it is underlined the obligation of Montenegro to remove the shortcomings as soon as possible, in particular in the application of the abovementioned resolutions. At the beginning of May 2017, representatives of MONEYVAL visited Montenegro in order to identify on the spot the level of progress achieved and the commitment of relevant ministries (Ministry of Finance, Ministry of Justice and Ministry of Foreign Affairs) to address these shortcomings.

In accordance with the experts' report made after the visit, Montenegro was obliged to amend the relevant laws and align them with the IV Directive (Directive (EU) 2015/849) and the new FATF Recommendations and submit the report to the 53rd Plenary Session of MONEYVAL held in period from 30 May to 1 June 2017. At the aforementioned plenary session, the Montenegrin delegation reported that drafts of amendments to the relevant laws were prepared and that their adoption would be done in an urgent procedure. It is also stated that the Law on Amendments to the Law on the Basics of the Intelligence Security Sector of Montenegro (Official Gazette of Montenegro 31/17), which entered into force on 20 May 2017, was adopted.

Taking into account the extreme importance of fulfilling the obligations from the MONEYVAL IV Round Report and the recommendations given after the visit of the MONEYVAL experts, the following laws were adopted: the Law on Amendments to the Law on International Restrictive Measures (Official Gazette of Montenegro 42/17); the Law on Amendments to the Criminal Code (Official Gazette of Montenegro 44/17); the Law on

Misdemeanours (Official Gazette of Montenegro 51/17). In addition, the draft Law on Amendments to the Law on Prevention of Money Laundering and Financing of Terrorism was drafted. By implementing the above mentioned measures and activities, Montenegro has made progress in eliminating the identified shortcomings. Also, the implementation of the measures defined by the Action Plan for the application of Resolution SBUN 1373 is ongoing.

Consequently, at the 54<sup>th</sup> Plenary Session of MONEYVAL, held in the period 26-28 September 2017, the delegation of Montenegro presented a report on fulfilled obligations and activities undertaken with the aim of upgrading the system of prevention of money laundering and terrorism financing in Montenegro. According to the conclusions of the aforementioned session, Montenegro is obliged to remove all the deficiencies identified in the above mentioned Report after the Fourth Round of evaluation of the money laundering and financing of terrorism system by April 2018.

### ***Overview of statistical data***

In the period from 1 January to 18 October 2017, the Administration for Prevention of Money Laundering and Financing Terrorism temporarily blocked (for 72 hours) 11 transactions in total amount of \$ 3,425,783.00 and EUR 2,164,327.3.

In the period from 1 January to 18 October 2017, 232 cases were opened in the Sector for Analytical Affairs and Control. In the same period, a total of 187 reports on suspicious transactions were received, i.e. 176 reports from legal entities and competent state bodies (159 from banks, 11 from Montenegro Transfers Agent for Montenegro, 1 from real estate agent, 5 reports from the Customs Administration), while the Administration for Prevention of Money Laundering and Financing Terrorism analysts outlined 11 suspicious transactions from regular reports. Also, 69 information and notifications were forwarded to other competent state bodies (Prosecution Office-42, Police Directorate-11, Agency for National Security-12, Tax Administration-4). In total 87 controls were carried out against taxpayers over which the Administration for Prevention of Money Laundering and Financing Terrorism exercises direct supervision on the basis of the Law on the Prevention of Money Laundering and Financing of Terrorism. Out of the above mentioned number of controls, 4 requests for initiation of misdemeanour proceedings were filed, in respect of one warrant a fine of EUR 1.750 was imposed. In addition, the Administration for Prevention of Money Laundering and Financing Terrorism' inspectors issued 42 misdemeanour orders in the amount of EUR 64,900.00 and 31 misdemeanour charges in the amount of EUR 32,281.98 were collected. Foreign financial intelligence services were forwarded 111 requests, while foreign FIU received 36 requests for provision of financial intelligence. In early July 2017, the Administration for Prevention of Money Laundering and Financing Terrorism and FIU of the South African Republic signed the Agreement on

Exchange of Financial Intelligence. Accordingly, the Administration for Prevention of Money Laundering and Financing Terrorism has so far signed 35 Cooperation Agreements with Foreign Financial Intelligence Services.

In the area of anti-money laundering, the "**Sydney**" case was processed due to the suspicion that several affiliated persons are smuggling narcotics at the international level and the money obtained through the commission of this criminal offense is legalized in the territory of Montenegro (suspicion of committing the criminal offense of money laundering). The case was carried out by depriving one person of liberty, according to the order issued by the Special Public Prosecution Office.

### **3.24.6.11. Prevention and capacities in the field of trafficking in human beings**

#### ***Strategic framework***

In the reporting period, five regular meetings of the Working Group on Monitoring the Implementation of the Strategy for Combating Trafficking in Human Beings were held: 22 November, 26 December 2016, 13 February, 2 June and 9 October 2017. On 2 February 2017, the Government adopted the Action Plan for the Implementation of the Strategy for Combating Trafficking in Human Beings for the period 2017-2018. The Action Plan identified a total of 96 measures in the areas of prevention and education, identification, protection of victims, prosecution of perpetrators, coordination and partnership, international and regional cooperation.

On 10 March 2017, the Government adopted the Report on the Implementation of the Strategy for Combating Trafficking in Human Beings and the Action Plan for the period from 1 July to 31 December 2016. Out of a total of 83 measures defined by the Action Plan, during this period, implementation of 58 measures was monitored, out of which 14 measures were implemented, six were partially implemented, 35 measures were implemented in continuity or if necessary, while three measures were evaluated as not carried out.

On 31 August 2017, the Government adopted the First Semi-Annual Report on the Implementation of the Strategy for Combating Trafficking in Human Beings and the Action Plan for 2017/2018. A total of 96 measures were defined by the Action Plan, and in the period from 1 January to 30 June 2017, implementation of 57 measures was monitored. Fifteen measures were implemented, three measures were partially implemented, 37 measures were implemented in continuity or if necessary, while two measures are not carried out.

In order to improve the mechanism for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings and the accompanying Action Plan, a Working Group meeting held on 9 October 2017, in line with recommendations from the expert

mission held in July 2017, a new methodological guidance on reporting was adopted, within which framework the impact indicators should be clearly stated in relation to each planned activity.

### ***Legislative framework***

On 29 June 2017, the Parliament adopted the law on Amendments to the Criminal Code, which contains amendments in relation to Article 210 *mediation in prostitution* and Article 444 *trafficking in human beings*, as well as some new related articles, but also those that are directly related to the protection of women's rights, and thus also trafficking in human beings.

Amendments to Article 210 of the Criminal Code *mediation in the conduct of prostitution* refer to organised prostitution by several persons for the purpose of obtaining profits as well as for the length of the sentence punishable by the law. In Article 210, paragraph 1, the words "a fine or imprisonment of up to one year" will be replaced with the words "imprisonment from three months to two years". Paragraph 2 is amended and it reads: "(2) If the offense referred to in paragraph 1 of this Article is committed against a minor or is committed by several persons in an organised manner, the perpetrator shall be punished by imprisonment for two to ten years." After paragraph 3, a new paragraph is added as follows: "(4) Mediation in the conduct of prostitution, for the purpose of this Article, is the use of persons for sexual activities by giving or promising money or any other form of remuneration or fee for the involvement of that person in sexual activities, regardless of whether this payment, promise or award is given to that person or to a third person. "

In Article 444, paragraph 1, the words "withholding of personal documents" shall be replaced with the words: "withholding, seizing or destroying personal documents, falsifying personal documents, obtaining or producing falsified documents".

Two new articles are added: "The illegal taking of human organs or parts of the body, Article 293a and the Preservation, transportation, import and export of human organs or parts of bodies obtained by commission of a criminal offense, Article 293b".

In line with the recommendations of the expert group of the Council of Europe GRETA, with the support of the OSCE Mission to Montenegro, in the period 26-27 June 2017, the National Office for Combating Trafficking in Human Beings delivered a two-day expert workshop for developing guidelines on the implementation of provisions on impunity of victims of trafficking in human beings. A preliminary draft of guidelines for the implementation of the provision on impunity of trafficking victims was prepared, which are expected to continue until the end of 2017, after which the implementation by the police, prosecution and judiciary will be started. Currently, the activities for the preparation of the Report on the Implementation of Recommendations from the II Report of the Expert Body

of CoU GRETA are in progress. This report will be submitted to the GRETA expert body until 6 November 2017 after their adoption by the Government.

### ***Institutional framework***

Pursuant to the Decree on Amendments to the Decree on Internal Organisation Criteria and Job Descriptions of State Administration Bodies, which was adopted by the Government on 16 March 2017, as well as the Decree on Amendments to the Decree on Organisation and Working Method of Public Administration (Article 68o) which the Government adopted on 23 March 2017, the Office for Combating Trafficking in Human Beings was dislocated from the General Secretariat of the Government to the Ministry of Interior.

### ***Track record***

As regards **the prevention plan**, the National Office for Combating Trafficking in Human Beings, in coordination with other competent institutions, carried out activities aimed at informing the general public of all aspects of the human trafficking phenomenon. With the support of IOM, the Directory of Institutions/Organisations directly involved in the process of assistance, protection and reintegration of victims of trafficking in human beings in Montenegro was published. The directory contains a brief description of the activities that the signatories of the Cooperation Agreement undertake to assist, protect and reintegrate victims of trafficking as well as their contact information.

Given the particular vulnerability of children in relation to trafficking in persons, the Ministry of Interior/National Office for Combating Trafficking in Human Beings in cooperation with UNICEF Representative Office in Montenegro in August 2017 started the implementation of the project "Developing Standard Operating Procedures for Children separated from parents or unaccompanied with a special emphasis on proactive identification of potential and victims of trafficking." In the first phase of the project, an international expert was hired to draw up a draft document that would be adapted to the use within the national framework through several meetings with delegated representatives of institutions (18). In the second phase of the project, activities will be carried out on the direct familiarisation of representatives of institutions with materials that will be a useful tool for dealing with cases of increased influx of migrants and refugees in the territory of Montenegro, in more sensitive approach to children at risk from various forms of exploitation in the context of trafficking.

Representatives of the Ministry of Interior - National Office for Combating Trafficking in Human Beings and the Ministry of Human and Minority Rights continuously conduct education and lectures for elementary school students on topics such as: "Protection against Domestic Violence, Violence against Children and Forcible Marriages of Minors among Roma Populations" and "The Importance of Education for the Roma Population".

Within this activity, a door-to-door campaign was carried out in eight Roma and Egyptian settlements in local environments.

A campaign to celebrate the October - month of the fight against human trafficking was organised, with special emphasis on strengthening the resistance of young people in relation to the phenomenon of trafficking in human beings, as well as greater involvement of the media in strengthening the level of awareness of the general public in relation to this phenomenon. A competition contest on "Stop trafficking in human beings" was organised for high school students and a seminar was held for media representatives on the topic "The role of media in the fight against human trafficking". Also, media events were organised to inform the public about this issue.

In the area of **international and regional cooperation**, representatives of the National Office for Combating Trafficking in Human Beings and other bodies involved in the implementation of activities in the field of combating trafficking in human beings took part in a number of regional and international gatherings addressing these issues.

In order to monitor the implementation of the signed bilateral Protocols on cooperation in the fight against trafficking in human beings with Albania and Kosovo, a third Regional Meeting of Montenegro, Albania and Kosovo delegations was held with the aim of defining and adopting the Standard Operational Procedures for Cross-Border Trafficking in Human Beings with a special focus on protection victims of trafficking. As a continuation of the aforementioned, national coordinators of Montenegro, Albania and Kosovo on 19 December 2016, in Tirana, signed the Declaration on the Application of Standard Operating Procedures for Identification, Referral, Voluntary Return and Protection of Victims of Trafficking in Human Beings. Operational procedures will be applied in cross-border human trafficking cases, based on the Protocol on Cooperation in Combating Trafficking in Human Beings, signed bilaterally by Albania, Montenegro and Kosovo.

In the area of **protection of victims**, the allocated budget funds of the National Office for the Fight against Trafficking are used to continue the provision of safe operation of the Shelter for Victims of Trafficking in Human Beings, in which, since October 2016, there stayed a total of five female inmates.

### ***Statistical data***

On 6 July 2017, the High Public Prosecution Office in Podgorica brought an indictment against two persons for the criminal offense of *Trafficking in Human Beings* under Article 444, paragraph 3, in conjunction with paragraphs 2 and 1 of the Criminal Code. The injured person is a child of 12 years of age. The Centre for Social Welfare and the Professional Service of Prosecution Office are involved.

During 2017, a total of four female inmates/potential victims of trafficking were in the Shelter, namely: one of the inmates stayed in the period between 13 and 19 January 2017, for this case there were no elements of trafficking in the territory of Montenegro. At the request of the Centre for Victims of Trafficking in Human Beings in Serbia, she was found in Podgorica and returned to Serbia, to the competent Centre for Social Welfare in Subotica; one potential victim of contracted/forced marriage in Nikšić stayed in the period 2 February – 20 February 2017, after which she was handed over to Centre for Social Welfare in Nikšić which provided her with accommodation in Nikšić, under their supervision. She is transferred to Centre for Social Welfare in Šabac on 9 March 2017. Ongoing case of the Basic Public Prosecution Office in Nikšić. The indictment for criminal offence *unauthorized sexual actions* was brought, under Article 208, paragraph 1, in conjunction with Article 206, paragraph 1, against a person to minor was “married”; one potential victim of trafficking (contracted marriage). She was accommodated at the Shelter on 23 July 2017, voluntarily left the Shelter on 26 July 2017; one potential victim of sexual exploitation, stayed in the period from 19 July to 1 August 2017. Ongoing case of the Basic Public Prosecution Office in Bar.

### **3.24.7. FIGHT AGAINST TERRORISM**

#### **3.24.7.1. Strategic framework**

On 26 July 2017, the Parliament adopted the Law on Ratification of the Additional Protocols to the Council of Europe Convention on the Prevention of Terrorism (Official gazette of Montenegro - International Agreements, no. 6/17). The purpose of this Protocol is to supplement the provisions of the Council of Europe Convention on Terrorism Prevention, opened for signature in Warsaw on 16 May 2015 with regard to the incrimination of offenses described in Articles 2-6 of this Protocol, which will strengthen the efforts of foreign signatories to prevent terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, measures to be taken both at the national level and through international cooperation, with respect to the valid multilateral or bilateral agreements and agreements between the signatories.

#### **3.24.7.2. Track record**

In September 2016, officers of the Police Directorate deprived of liberty one person due to the existence of a reasonable suspicion of having committed the criminal offense of participating in foreign armed formations, as he joined the foreign terrorist organization "ISIL" in Syria in the course of 2015.

In September 2016, the officers of the Police Directorate filed a criminal complaint against one person to the High State Prosecutor in Podgorica due to the existence of a reasonable suspicion of having committed the criminal offense of participating in foreign armed

formations, as he travelled to Ukraine in 2015 to join the self-proclaimed army of the People's Republic of Donetsk and participated in the war conflicts.

In September 2017, a charge was filed against one person on suspicion of endangering the safety of employees and guests of the hotel by entering the hotel's hostel holding unknown item similar to the switch with cable that was connected under his wardrobe and on that occasion he addresses threats of jihadist content threatening to allegedly trigger an explosive device.

The **ATEDANT** case is currently underway, referring to three persons - Montenegrin citizens who are suspected of recruiting, assisting, financing the departure of our nationals to foreign armed formations in Syria, and in relation to which there are grounds for suspicion of committing the criminal offense of participating in foreign armed formations. Also, case **PLANER** is in the process of dealing with two persons for the same criminal offense.

### **3.24.7.3. Overview of statistical data**

On 16 March 2017, the Government adopted the Report on the Situation in the Army of Montenegro. There is around 2,975.60 tons of ordnance in the Army's warehouses. Out of this, the Army's needs are around 804.67 tons, while 2,170.93 tons are in surplus. The process of resolving the surplus will continue in the next period. During the period from 1 January to 20 October 2017, approximately 573 tons of ordnance were sold. On the basis of contracts from the previous period, from the commissioners and buyers, it received about 326.78 tons of ordnance. There is around 970.86 tons of deadly ordnance sold in military warehouses that are sold and still are not taken. Within the demilitarization program "MONDEM", from 1 January to 24 October 2017, neutralization of 81.67 tons of ordnance was carried out. So far, this program has totally neutralized 1,623.80 tons of ordnance and 825 pieces of various outdated weapons. From 2006 to today, surplus of ordnance have been reduced by 9,169.10 tons. There are 29,049 pieces of different weapons in the Army's warehouses. Out of these, 17,680 pieces make up the reserve of the Ministry of Defense and the Army. During the year 2016, 8,422 pieces of arms were sold, while in 2017 there was no sale of weapons.

The Group for the Destruction of Unexploded Ordnance of the Ministry of Interior, and the members of the Group for Unexploded Ordnance, during 2016 carried out 221 different interventions and collected about 11 tons of different unexploded ordnance. During the reporting period, this Department carried out a collection of about 14 tons of unexploded ordnance and all the assets that were collected until 30 June 2017 (about 12 tons) were given for destruction, while the warehouse contains about 2 tons of unexploded ordnance, which will be destroyed next year.



### **3.24.8. COOPERATION IN THE FIELD OF DRUGS**

#### **3.24.8.1. Strategic framework**

Based on the mid-term external evaluation of the Strategy for the Prevention of Drug Abuse 2013-2020, carried out during 2016 by an expert TAIEX team, on 16 February 2017, the Government adopted a new Action Plan for the Implementation of the Strategy for the period 2017-2018, in accordance with TAIEX Team Recommendations and the Council of EU Decision: CORDROGUE 70 SAN 279. The next external evaluation of the Strategy is planned with the TAIEX Team, which will be in line with the EU Evaluation Methodology.

#### **3.24.8.2. Track record**

In addition to the TAIEX support, in the second half of 2016, a document entitled "Guidelines for the Establishment of the Early Warning System for the Emergence of New Substances", as well as the document "Guidelines for Establishing a National Drug Information System" was drafted. During 2016 and 2017, Montenegro has continued to develop a rapid action mechanism in the event of the emergence of new psychoactive substances, by rapidly supplementing the control list of substances, whenever necessary (Early Warning System for New Psychoactive Substances - EWS). National contact persons for the EWS, representatives of the Ministry of Health, the Ministry of Interior, the Police Directorate and the Forensic Centre of the Police Administration have also been identified. The list of substances under legal control is being updated, according to information from the EU EWS, in cooperation with the Ministry of Interior - Police Directorate - Department for Combating Drugs - Forensic Centre and Agency for Drugs.

In order to prepare for future membership and participation in the work of the EU Agency for Drugs Monitoring (EMCDDA), Montenegro has participated in the previous IPA 5 Cooperation Project with EMCDDA during 2016 and 2017. In October 2017, participation in the new IPA 6 Project was initiated, with the aim of further improving the capacity for collection and analysis of data according to EU indicators. National data on EMCDDA indicators were also collected and compiled, and the annual report is in the final stage of development in cooperation with the EMCDDA.

#### **3.24.8.3. Overview of statistical data**

From 1 January to 1 October 2017, police officers filed 135 criminal reports against 179 persons, due to the perpetration of 201 criminal offenses related to narcotic drug abuse. In total 383 misdemeanour charges were filed against 383 persons, due to the violation committed under Article 52, paragraph 1, item 5, in conjunction with Article 45 paragraph 1 of the Law on the Prevention of Drug Abuse. The number of seized drugs from January to October 2017 is 669.

In the period from 1 January to 1 October 2017, 2 656 kg of narcotic drugs were found and seized in the territory of Montenegro: marijuana (2 615 kg), heroin (19.10 kg), cocaine (1.09 kg), hashish (2.06 kg), hashish oil (18.22 kg).

During the period from October 2016 to October 2017, the officers from the Drugs Department conducted 18 long-term investigations with the use of secret surveillance measures. Three cases were carried out, one of which one was of international significance, the case of "**Australia**", conducted in cooperation with the Federal Police of Australia, the Australian Crime Commission and the Australian Customs, with the Special Public Prosecution Office of Montenegro, in the period from July 2007 to May 2008. On 29 August 2017, police officers of the Drugs Department, in cooperation with the Special Public Prosecutor, filed a criminal charge against one person for the criminal offense referred to in Article 300, paragraph 1 of the Criminal Code of Montenegro.

In May 2017, a police operation was conducted under the code name "**Šado**", which was conducted by the Criminal Police Department - Special Police Department and the Department of Drugs in the period from April 2016, in cooperation with the Special Public Prosecutor. The investigation was conducted in cooperation with an international partner. In this police operation, 23 persons from the territory of Tuzi, Podgorica and Berane were deprived of liberty. During operation, about 77 kilograms of marijuana and skank were seized. Within this action, a case has been resolved and a person was deprived of liberty due to the act of setting a fire on the official vehicle of the Head of the Department for Combating Drugs.

The case "**Torni**" was also carried out. Following the initial information of the Montenegrin police sent to the Office for Combating Organised Crime of the Republic of Serbia, in the period from 2014 to 2017, an investigation was conducted in the Republic of Serbia and Montenegro with the aim of identifying members of an international organised criminal group consisting of Albanian, Montenegrin and Serbian nationals, involved in smuggling drugs across Montenegro and Serbia to Western Europe. Montenegrin and Serbian acting police officers agreed to conduct a joint operation under the name of "Torni". Special investigative measures were applied in parallel on the territories of both countries. A large number of narcotic drugs marijuana, amphetamines, MDMA (methylenedioxy-methamphetamine) and small amounts of cocaine were seized, as well as firearms. During the investigation, ten persons were deprived of liberty, out of whom seven were in Montenegro and three in the Republic of Serbia.

In May 2017, officers of the Border Police of the Police Directorate prevented the smuggling of large quantities of marijuana from Albania to Italy. At 8 nautical miles on the ramp of the ship, two Albanian nationals with 78 plastic bags containing marijuana were noticed. The officers of the Department for Combating Drugs will, in co-ordination with

colleagues from Albania and Italy, as well as with the competent prosecution offices, take further measures and actions in this case.

### **3.24.9. CUSTOMS COOPERATION**

#### **3.24.9.1. Track record**

The Customs Administration continuously enhances the capacity of the Risk Management System with a special focus on IT support for the operation of the system. On 5 December 2016 RUR (Electronic Risk Management Register) has become operational, which through the IT application enables the implementation and recording of all activities in risk analysis, including information gathering, recording, analysis and evaluation, risk profile, evaluation and reporting. The implementation of the new Inspection Report is currently underway, which will enable that risk analysis has all data for drafting, evaluation and reporting on risk profiles, which are foreseen by the standards of the World Customs Organization and the European Union (completion of the project is planned by the end of 2017). These projects are carried out with technical assistance from TAIEX, which ensures compliance with the best practices in the EU countries in this area.

#### **3.24.9.2. International cooperation**

From 1 January to 16 October 2017, the Customs Administration participated in six international joint customs operations: "SMART CAT II" organised by the World Customs Organization, "Opson VI" organised by Interpol, "Thunderbird" organised by the World Customs Organization, "PEGASUS" organised by SCO, "ECLIPSE II" organised by SELEC, "PANGAEA X" organised by the World Customs Organization and Interpol. The subject of these activities was the fight against the illicit trade in psychoactive substances, counterfeit cigarettes, illegal trade in herbal and animal species, etc. On 20 and 21 October 2017, a joint action was carried out by the Customs Administration of Montenegro and Albania under the name "NORTH1". Mobile teams to combat the smuggling of two customs jointly conduct controls at the border crossings of Božaj and the Sukobin as well as the green line near these crossings.

The Customs Administration cooperates intensively with partner services in EU countries and international organisations and law enforcement institutions. During the period from 1 January to 16 October 2017, 174 information was received, processed and distributed in cooperation with OLAF, Interpol, SELEC, HMRC, WCO and others.

During the period from 28 May to 31 May 2017, a working visit of mobile teams (six officers) was made to the Customs Administration of Croatia. During the visit, the mobile teams together with their counterparts from the Republic of Croatia implemented joint control actions in the customs area of Croatia.

### **3.24.9.3. Overview of statistical data**

From 1 January to 16 October 2017, the customs officers performed 56,117 detailed vehicle and goods controls as well as 481 inspections. In total 391 irregularities were detected. Then, 284 misdemeanour warrants and fines of EUR 109,500.00 were issued. There were 4 criminal charges filed to the competent public prosecutor. The smuggled goods worth EUR 4,200,729.00 were seized. The value of subsequent customs debt collection is EUR 133,506.89. Extraordinary results were achieved in the fight against smuggling of narcotics. In 33 cases, the officers of the Customs Administration seized 386,784 kg of skank, 17.23 kg of heroin, 18.225 litres of hashish oil, 0.12 kg of hashish and 0.5 kg of cocaine.

In the period from 1 January to 16 October 2017, 79,382,620 pieces of cigarettes worth EUR 3,979,002.50 were seized. Also, 207.5 kg of cut tobacco worth EUR 1.739 was seized; 569.3 litres of alcohol worth EUR 2.651.00 was seized. Through the measures taken, a persistent, multi-annual trend of decline in income of excise duty on cigarettes and other excise products was ceased.

In the area of Intellectual Property Rights (IPR) in the reporting period from 1 January to 20 October 2017, the Customs Administration suspended 38 customs procedures and temporarily kept the goods in the total amount of 1,955 pieces. Under customs control, falsified goods were destroyed in the total quantity of 5,664 pieces.

In line with increased powers, the Customs Administration intensifies cooperation with the Prosecution Office in customs investigations. Between 1 January and 16 October 2017, two working meetings were held with the Special Public Prosecution Office. Three responses were submitted on the request of the Special Public Prosecution Office. Four criminal charges were filed.

## **3.25. CHAPTER 25: SCIENCE AND RESEARCH**

### **3.25.1. GENERAL READINESS FOR THE MEMBERSHIP**

The strategic framework in Science and Research was set by the Strategy of Innovation Activity (2016-2020) and the accompanying Action Plan. The Strategy of Scientific-Research Activity of Montenegro (2012-2016) with the accompanying Action Plan has been offered to public discussion on draft **Strategy of Scientific-research Activity (2017-2021)** which is to be adopted by the end of the last quarter of 2017. The Strategy will define goals, research priorities, monitoring and other issues of importance for the performance of research activities at both national and international level. The

Government will be monitoring the implementation of the Strategy annually. The activities to prepare the Strategy for Smart Specialisation -S3 (2017) got underway.

Montenegro has been carrying out international programmes and cooperation projects: the International Atomic Energy Agency – IAEA (since 2006); NATO's Science for Peace and Security (SPS) Programme (since 2006); the European Organization for Nuclear Research – CERN (since 2007); COST programme (since 2011); EUREKA programme (since 2012); the Instrument for Pre-Accession Assistance - IPA (since 2012); The International Centre for Genetic Engineering and Biotechnology – ICGEB (since 2012); HORIZON 2020 (since 2014); The United Nations Industrial Development Organization - UNIDO (through UNDAF - The United Nations Development Assistance Framework for Montenegro 2017-2021); and the Joint Research Centre - JRC.

The process of the accession of Montenegro to the membership of The European Molecular Biology Laboratory – EMBL and The European Molecular Biology Organization - EMBO got underway.

National programmes have been government-funded (annual call on co-financing scientific research activities), whilst also being funded from the budget of scientific research institutions; and INVO project BIO-ICT Centre of Excellence; 8 major research grants; the National Excellence Scholarship Programme.

The activities got underway to establish the Science and Technology Park of Montenegro in Podgorica (2017) within the campus of the University of Montenegro (the building was provided, the Terms of Reference are being written for expert consideration with the next step being the calls for conceptual design and the main design).

PSF (Policy Support Facility) - Montenegro is the first country in the region to have applied for this mechanism within the Specific Country Support in September 2017. The support is the expert assistance of the European Commission to the country in the field needing the most support in its opinion. Montenegro has opted for the support in the field of the “development of legislative framework and an ecosystem model to support start-ups in Montenegro”. Once the Commission has responded, the procedure is expected to begin by the end of the year.

### **3.25.2. Activities carried out from October 2016 to October 2017**

On September 2017 the Rulebook was adopted on the Conditions of Approval and the Manner of Use of Funds for the Programmes of General Interest – the Centres of Excellence.

In June 2017 the Ministry of Science published the 2015 R&D statistics results:

The key results of the 2015 research indicate the following:

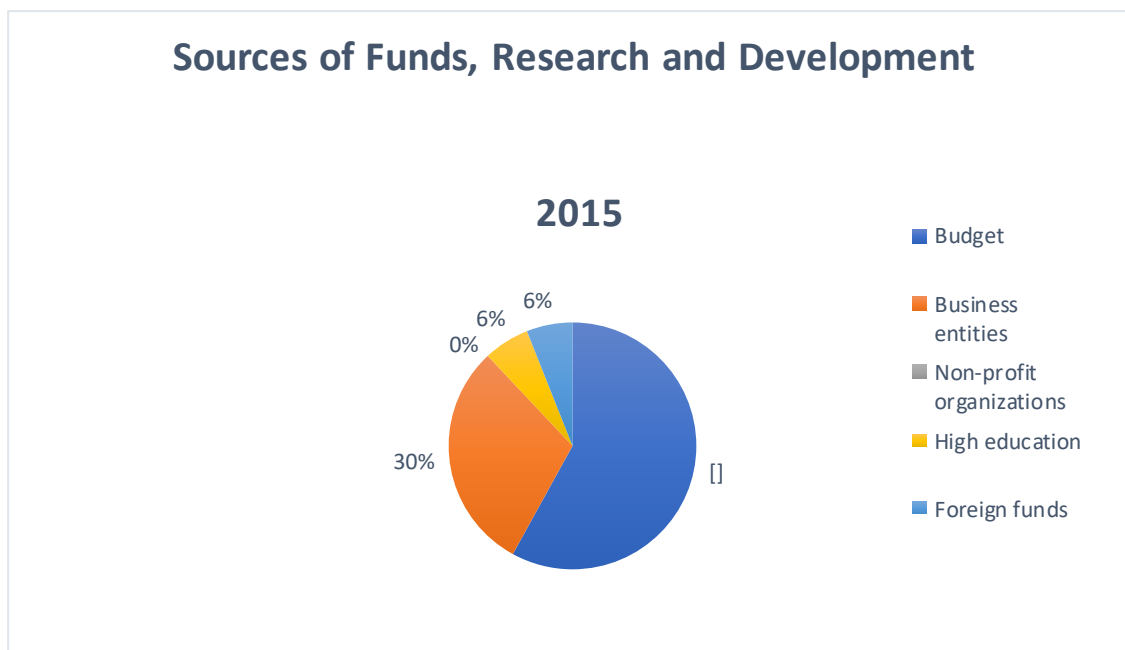
- Gross domestic expenditure on R&D in 2015 equals 0.38% of GDP, i.e. EUR 13,667,834 in gross R&D expenditures. Although the nominal funds were higher as compared to 2014, percent allocation was not significantly higher, due to the fact that the country's GDP was higher in 2015 than in 2014.
- In 2015 there were 2,356 employees engaged in R&D in the organisations, institutions and the undertakings active in the field, 1,766 of which were researchers, 386 expert associates and technicians and 204 auxiliaries.
- Expressed in full-time equivalent, there were 637 full-time equivalent employees engaged in R&D in 2015.

**Table – Percentage of Investment in R%D during 2011-2015**

<b>Indicator</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Gross Expenditure on R&amp;D (GERD) (% GDP)</b>	0.31	n.a	0.37	0.36	0.38
<b>GERD acc. to Source of Funds – Government Funding (% GDP)</b>	0.15	n.a	0.12	0.17	0.22
<b>GERD acc. to Source of Funds - Undertakings (% GDP)</b>	0.11	n.a	0.14	0.10	0.11
<b>GERD acc. to Source of Funds – Foreign Funding (% GDP)</b>	0.06	n.a	0.08	0.08	0.02

*Source: Monstat (2011-2014), Ministry of Science (2015)*

- According to the source of funds, the Government provided the largest percentage of the funds followed by the commercial entities funding and foreign funding which was in decline as shown in the chart below:



In the period from 1 October 2016 to 20 October 2017, there were **12 national patents** registered where the holders are natural and legal persons from Montenegro, 1 national patent registered where the patent right holder is a foreign natural or legal person and 272 extended European patents registered.

As regards smart specialisation, the activities got underway to prepare the Strategy for Smart Specialisation – S3 and the deadline for its adoption is set for the last quarter of 2018.

In the period 2018-2022 the S3 will be based on available resources and the potential of Montenegro to use them, identification of competitive advantages and technological specialisation as a basis for future innovation activities. An inter-departmental workgroup has been set up to prepare the S3 document. Through the TAIEX Instrument, an expert mission was carried on 21 and 22 February 2017 so as to prepare the S3.

The JRC has provided support to Montenegro to prepare the S3 and Montenegro joined the S3 Platform in September 2017. Along with Serbia, it is the only country in the region which has joined the Platform.

#### **3.25.2.1. Promoting research in education**

Science and research have traditionally been promoted through the festival “Open Days of Science”, celebrating the UNESCO World Science Day for Peace and Development, other promotional activities and winter and summer science schools. In 2017, on the basis of the **Memorandum of Understanding for the Maintenance and Operation of the CMS**

**detectors**, Montenegro acquired a full membership of the CMS experiment, one of the largest LHC experiments at the CERN.

The seventh festival “Open Days of Science” was held in 10 towns from 9 to 11 October 2017.

On 10 October 2016, the Ministry of Science, in cooperation with the UNESCO Regional Bureau for Science and Culture in Europe (Venice Office) and the National Commission for UNESCO, celebrated the UNESCO World Science Day for Peace and Development dedicated to the topic “Science Centres and Museums”.

In May 2017, the following promotional activities were carried out: “First Lego League”, “Young Inventors Fair” and “Science on the Move”. In February and August there were winter and summer school of science held by the Science Promotion Foundation PRONA on Lovcen.

Montenegro has no accurate data on “brain drain” as there have been no adequate statistics to define emigration and immigration. Enrolments at foreign universities have been up, with a number of students deciding to stay abroad.

In the Draft Strategy for Scientific-Research Activity 2017-2021 a series of mechanisms of promoting diaspora cooperation is provided, first of which is a conference in Montenegro, on 2-3 November 2017.

The National Scholarship Excellence Programme was carried out providing EUR 568,000 of funds for 32 doctoral candidates (25 abroad and 7 at Montenegrin Faculties) and 14 postdoctoral candidates abroad with the aim to prevent further brain drain.

As regards the European Charter for Researchers and the Code of Conduct for Research Integrity, the umbrella organisation for **Euraxess** service is the University of Montenegro with all universities as its members. The Euraxess Portal in Montenegro is administered by the University of Montenegro. As the system of free international advertising of job vacancies did not live on, so the Euraxess portal does not entirely fulfil its purpose. The University of Montenegro, as an umbrella organisation, currently participates in the EU project Euraxess TOP.

All three Montenegrin universities: The University of Montenegro, the University of Donja Gorica and Mediteran University are signatories to the European Charter for Researchers and the Code of Conduct for Research Integrity. The next stage recommended to the universities by the EU is to prepare the Human Resources Strategy for Research and gain the “HR Excellence” registered mark. The University of Montenegro began preparing the strategy in 2013, but it has not been finished.



In addition to the set models of cooperation between the business and academic community, there are new instruments in the institutional framework for science and development to promote such cooperation:

- BIO-ICT Centre of Excellence:
  - Organises the fourth research year which is to end on 1 June 2018;
  - Carries out the activities related to the possible transfer of research results to business entities and other prospective users;
  - Undertakes activities to protect intellectual property rights;
  - Realises legal status for the purpose of further operation.
- Final research year is funded by eight large research grants with the participants in research being from academic and commercial sector.
- On 17 September 2016 the Innovative Entrepreneurship Centre “Tehnopolis” in Nikšić was opened to provide pre-incubation and incubation services with incentive measures. This method brings research and economy closer together and provides better conditions to commercialise the research. The investment in the new “Tehnopolis” building was government-funded and its total value was EUR 2 million.
- Through the IPA grant scheme “Transfer of Knowledge between the Sectors of Higher Education, Research and Industry” the main criterion for awarding 14 grants was cooperation of academic and industrial sector;
- A series of activities got underway to establish Scientific and Technological Park (STP) in Podgorica with the aim to strengthen the relation between academic and economy sector and encourage innovation.
- STP will be set up in cooperation with the University of Montenegro as a major partner, all Montenegrin universities, and a significant number of MSP from the field of high technologies.
- The Government consented to repurpose the building of the University of Montenegro which had previously been intended to service three faculties so as to be used for the STP. The STP co-founders should be the Government and the University of Montenegro.
- The main design of the STP which shall define the funds needed for the completion of the building and its equipment will be funded through the “INVO” Project.
- The Terms of Reference are being written for expert consideration who will prepare the call for the conceptual design. The call for conceptual design will be followed by the call for the main design.
- The level of investment for this capital project is EUR 8 to 10 million.

### **3.25.2.2. International cooperation**

Previous activities of research institutions from Montenegro within the project “Horizon 2020” totalling 107 applications and 10 awarded projects indicate that the results are less than satisfactory. The Ministry has therefore undertaken the following activities:

- Through the IPA I Financial Perspective 2007-2013 Component IV “Operational Programme for Human Resource Development” 2012-2013 it has collected EUR 299,000 from the EC so as to increase competence for preparing project proposals for H2020, research teams, commercial entities (SME) and public administration. The Project of National Participation Strengthening in the program Horizon 2020 was carried out in the form of a framework contract (FWC) through the expert support of a consulting house from Brussels. Through this project over 80 people were trained for the development and implementation of the project ideas within the programme “Horizon 2020”) while the teams were given mentor support from 10 research/academic institutions.
- Got underway the activities to organise a special organizational unit within the Ministry of Science for H2020 to particularly focus on providing support to Montenegrin participants in the process of accession to the H2020 Programme.
- As of December 2016 it began a new internationalisation programme through the mechanism of including Montenegrin researchers into international collaborations within the renowned science institutes in Europe (CERN, EMBL, EMBO, ESA, GSI-FAIR and other), which should provide Montenegrin scientists with the opportunity to network and improve competitiveness on submitting applications to the H2020 through partnerships with other institutions;
- It reorganised the system of national contact points for the H2020 and delegates to programme committees of the H2020.
- The implemented activities have already started to yield results – the project of Clinical Centre of Montenegro has been approved, IT, the number of applications for the upcoming H2020 calls is on the rise.

### **3.25.2.3. Internationalisation Programme**

Since December 2016 The Ministry of Science has begun to implement a new **internationalisation programme** through the mechanism of including Montenegrin researchers into international collaborations within the renowned science institutes in Europe (CERN, EMBL, EMBO, ESA, GSI-FAIR and other), which should provide Montenegrin scientists with the opportunity to network and improve competitiveness on submitting applications to the H2020 through partnerships with other institutions;

The process began by submitting the application of Montenegro for the membership of the EMBL and EMBO. The Ministry is going to start the procedure of the accession of

Montenegro to the full membership of the largest European institutions in molecular biology and closely related research fields, the The European Molecular Biology Laboratory (EMBL), and the European Molecular Biology Conference – EMBC (membership of the EMBC is a prerequisite for the membership of the EMBL).

The Government was first amongst the countries in the region to begin the **Initiative to establish the International Institute for Sustainable Technologies in Southeast Europe** (with the mission “Science for Peace”) at the proposal put forward by Prof. Herwig Schopper, a former CERN director, and remains open to collaborations regardless of the prospective seat of the Institute while being ready to host the platform.

Two expert commissions were set up to prepare the “Conceptual design report” for both options of this Institute, one of which is “Synchrotron Light Source” and the other “Hadron Therapy for Cancer Treatment and Biomedical Research”. On 7 and 8 September 2017 the Ministry of Science organised a scientific conference in Budva where the representatives from the relevant Southeast Europe Ministries harmonised the text of the Declaration of Intent to consent to the Initiative to establish the International Institute for Sustainable Technologies in Southeast Europe. It was assessed at the Conference that the Institute would contribute to the development of economic situation in the countries of the region, life standard growth, creating appealing vacancies particularly for the young and preventing “brain drain”.

On 5 October 2017 the Government consented to the Declaration of Intent to establish the International Institute for Sustainable Technologies in Southeast Europe. On 25 October 2017 the relevant ministers of the countries of the region signed the Declaration of Intent at the Ministerial Conference in CERN.

Two expert commissions are currently working to prepare concept studies for both options of the Institute and the experts are due to come forward with the relevant technical details on 30-31 October 2017 in Montenegro.

#### **3.25.2.4. Research and Innovation**

##### **The International Atomic Energy Agency (IAEA)**

The most significant and intensive cooperation of Montenegro with the IAEA is through the technical cooperation programmes of the Agency.

Montenegro has been participating in projects in medicine, biotechnology, agriculture, environment, veterinary medicine, cultural heritage. The following Institutions have been included in cooperation on projects: The Ministry of Sustainable Development and Tourism, the Ministry of the Interior, the Environment Protection Agency of Montenegro, the Centre for Ecotoxicological Research – CETI, the University of Montenegro, PI “The

Institute for Public Health”, the Specialist Veterinary Laboratory, the Clinical Centre of Montenegro and Montenegrin Academy of Sciences and Arts.

Carrying out the national project “Radon mapping in Montenegro” was continued with €219,600.00.

Three national projects were being carried out over the period of 2016-2017:

- MNE9005 „Radon in schools and kindergartens in Montenegro“, funded with €121,500.00,
- MNE5003 „Improving nuclear and molecular diagnostic techniques to improve diagnosis of animal diseases and pathogens in food” funded with €225,000.00 and
- MNE9006 „Improving Regulatory Infrastructure in the Field of Nuclear Safety and Radiation Protection” funded with €192,500.00.

On the basis of the call for the 2018-2019 project cycle, the institutions of Montenegro submitted the following three project proposals to the IAEA: “Improving CT diagnostics in children in Montenegro”, “Strengthening the Capacity of the National Metrology Institution through Establishing Ionizing Radiation Calibration Laboratory – SSDL” and “Strengthening technical and institutional capacity of the national referent food control laboratory”. As the National Metrology Institution decided to withdraw from the project, the IEAE will have the remaining two evaluated. Results of the evaluation are due in November 2017.

On the basis of national, regional and interregional projects, there were professional trainings organised for Montenegrin employees abroad in terms of scientific visits, scholarships, training courses, seminars, workshops and meetings.

Yearly contribution to the IEAE totals €4,753.80 for 2017, the sum being equally contributed by the Ministry of Science, Ministry of Tourism and Sustainable development, Ministry of the Interior and Ministry of Health.

### **The NATO Science for Peace and Security (SPS) Programme**

Montenegro designated its representative to the Interdepartmental Commission for the NATO as well as its national contact point, and it regularly informs the NATO Committee on the established priorities of cooperation and the activities carried out within the programme. Montenegrin scientific research institutions may propose new projects, the coordinators of approved projects take part in the presentation of projects organised in the meetings of the Committee and the Committee science forums organised on request, with an opportunity to take part in conferences and seminars in other Member States and partners of NATO.

The following NATO SpS projects were carried out:

- „Increasing capacity for Unexploded Ordnance Clean-up in Montenegro” 2013-2016, EUR 300,000.00 in total.
- “Atmospheric pressure plasma jet for neutralisation of chemical/biological weapons”, 2013-2016, the amount of the approved funds EUR 95,345.00 in total.

### **The European Organisation for Nuclear Research -CERN**

Cooperating with the CERN, the Ministry of Science ensured the presence of Montenegrin participants in the programmes of this institution through the following: the call to take part in “CERN 2017 Summer Student Programme” and the call for “High School Physics Teachers Programme” for 2017.

In 2017 the Ministry provided funds for one student of engineering sciences to participate in the “CERN 2017 Summer Student Programme” while the CERN provided funds for another physics student and one high school physics teacher.

On 7 July 2017 the Government concluded the Memorandum of Understanding with the CERN for the Maintenance and Operation of CMS Detectors. Montenegro thus gained a full membership to the CMS experiment, one of the largest LHC experiments at the CERN.

For the participation in the CMS detector experiment in 2017, an initial sum of EUR 43,898.00 was paid along with a deposit of EUR 31,570.00.

### **COST Programme**

The membership of Montenegro of the COST contributes to the strengthening of international cooperation in science, creating new research networks, high reputation of the COST Programme, and cooperative environment in the COST activities which have been primarily open to young researchers. Full membership of the COST shall enable Montenegrin researchers, in particular young scientists, to network with their colleagues from Europe.

From April 2011 to date Montenegrin research teams have taken part in 67 activities in total, 17 of which have been completed.

Full membership of this association since 2015 has provided Montenegro with the opportunity to host high-tier meetings of one of the most prestigious EU programmes in science and research.

No yearly contribution is required to the COST Programme.

## **EUREKA Programme**

Montenegrin undertakings ensured partnership participation in the following three EUREKA Programmes: MG Soft in ELDORO and LAEDOC projects and “13. Jul Plantaže” in WINEREST project.

By virtue of the 2016 call for co-financing scientific-research activities there are two projects underway:

- COMPLANT (Comprehensive Processing of Plant Extracts for High Value Products) – The research carried out by: the Metallurgy-Technology Faculty of the University of Montenegro, and
- PROBEV (Novel Functional Fruit Beverages with Consumers Health Impact) –The research carried out by: the Faculty for Food Technology, Food Safety and Ecology, the University of Donja Gorica

Annual contribution for participation in the EUREKA Programme totals EUR 3,398.16 (for 2017).

## **The International Centre for Genetic Engineering and Biotechnology – ICGEB (as of 2012)**

Montenegro has been continually cooperating with the ICGEB. The Ministry of Science was actively promoting postdoctoral scholarships and research grants of the International Centre for Genetic Engineering and Biotechnology – ICGEB over the year of 2016.

Annual contribution for participation in the ICGEB Programme totals €4,685.00.

**IPA Component IV Operational Programme: Human Resource Development 2012-2013 and Financial Perspective (2007-2013)** – The Ministry of Science, the Ministry of Labour and Social Welfare, Ministry of Education and Ministry of Finance are part of the Operating Structure for IPA “Human Resources Development” Component 2012-2013.

Activities have been undertaken to implement the measure 2.2. “Improving the Innovation Capacity in Higher Education, Research and Economy”. Within that measure and through the grant scheme “Knowledge transfer between Higher Education, Research and Economy” the following has been awarded:

- 14 projects for strengthening the relation between academic community and economy. Total value of awarded grants, mostly funded by the EC with national participation of Montenegro, is EUR 354,598, and
- A Framework Agreement to support the participation in the Horizon 2020, a total of EUR 299,000.

Within the 2014-2020 financial Perspective (IPA II), the Ministry of Science participates in two sectors, namely:

- “Education, Employment and Social Policy“ with the 2015-2017 Operational Programme awarded by the EC. The EC will thus support the activities in science and research related to the employment of young researchers in academic and economic sectors; There is a revision underway of Operation identification Sheets (OIS) for the entire Operational Programme, including the activities of the Ministry of Science 2.4. “Employment of PhDs in academic and/or economic sector”.
- “Competition and Innovation” which shall entail activities related to the IPC “Tehnopolis” in Nikšić (staff training/equipment specification and equipping laboratories), as well as the activities which will be carried out in the STP Podgorica, Centre of Excellence BIO-ICT and the activities aimed at strengthening research infrastructure.

Bidding documents are being prepared as well as the activities to collect/evaluate bids for the implementation of AD 2014 (“Competition and Innovation” Sector).

## 3.26. CHAPTER 26: EDUCATION AND CULTURE

### 3.26.1. GENERAL READINESS FOR THE MEMBERSHIP

Montenegrin Education System is currently undergoing the reform aimed at improving the quality of education and better positioning of Montenegrin system in the European Education Area. There are activities undertaken towards the implementation of dual education, introducing the English language, ensuring practical knowledge and skills at all levels of education, establishing the Agency for Control and Quality Assurance in Higher Education and other activities undertaken due to amendments of regulations with the aim to achieve compliance with the EU recommendations in the field.

To carry out structural reform, the Parliament adopted a series of laws in education in July.

To that end, the amendments to the *Law on Preschool Education* provide the possibility for children of three to six to learn the English language in preschool institutions. Learning English also became mandatory from the first grade of elementary education, and there is a possibility to deliver classes in English.

By the General Part of Education Programme for Elementary Education which is already being implemented, the total class load was reduced by 10%, which is one of the elements of education reform which provides that students be unburdened. Improved curricula being taught in elementary schools and innovated syllabuses and curricula for secondary schools are already being implemented.

For the first time schools are required to include in the process of self-evaluation anonymous student surveys on the curricula, teacher's work and working conditions of the institution in all grades at least once a year, except in the first cycle of elementary education.

By the amendments to the Law on Elementary Education weekly norm of classes for subject teachers was reduced to 18 classes, while the norm for grade teachers was complied with the curriculum. Reducing the number of students in the first grade classes from 30 to 28 will improve the working and learning conditions and the quality of classes. Learning English became mandatory from the first grade, while the mandatory second foreign language classes are delivered as of the sixth grade.

Schools employ teaching assistants to support children with special educational needs as technical assistance on the basis of employment fixed-term contracts which entail all their guaranteed rights and significantly higher salaries.

By the amendments to the *Law on High Schools* and with the possibility of setting up general and specialist high schools offering various first specialisms (mathematics, philology, sports, etc.), students are offered the opportunity to choose according to their affinities. There is an option to sit graduation exam (in mathematics and foreign language) at basic and senior level.

By the amendments to the *Law on High Schools* and *Law on Vocational Education* it was provided that a point limit should be introduced at enrolment in high school first grade and four-year vocational schools on the basis of results achieved at external graduation at the end of elementary education and the performance in two subjects relevant to education continuation; and

By the amendments to the Law on Vocational Education incentives to employers were introduced to ensure the implementation of dual education, i.e. the Ministry will provide funds for the pay for students in the first and second grade in dual education. The pay in the third grade is the responsibility of an employer. The pay for first grade students is a minimum of 10% of average net pay, a minimum of 15% for second grade students and a minimum of 20% for third grade students.

A new concept of sitting graduation and vocational exam was established. Examination shall be entirely exterior. Students will sit three instead of four exams. This year's generation of high school students who enrol in the first grade will sit the exams on the new concept.

Pursuant to amendments to the General Law on Education Montenegro will set up its first Quality and Talent Fund which will ensure that the best students and teachers are awarded



and that tuition and working conditions in schools are improved. The funds from the Fund will be provided from the budget and relocation of assets within the departments.

*The Law on Higher Education* provides free tuition in public education institutions for undergraduate students enrolled in 2017/2018 while the reformed graduate master studies will be free to attend as of 2020/2021.

In order to provide quality education to teachers in lower grades the Programme of Study “Education of Teachers in Lower Grades” was innovated to become a five year study at undergraduate level.

A major change was to introduce mandatory practical training in the programme of study. It comprises 25% of workload.

The amendments provided introducing contract financing in higher education. A public institution, i.e. the University of Montenegro will be concluding Financing Agreement to carry out its programmes of study. With the aim to carry out and promote EU programmes and other international programmes in science, education, training and the young the National Agency for European Union Programmes is going to be established. Pursuant to Law on Higher Education, by the time Montenegro becomes a member to the European Union, the Government will have done all preparatory activities for the establishment of the Agency.

### **3.26.1.1. Equal Access to Education and Improving Infrastructure for Persons with Special Needs**

Major education activities from the Action Plan for the Implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020 that were carried out in 2017 include: Organizing a campaign for enrolment of RE population students in elementary school; Contribution to enrolment of RE population students in secondary school; Providing free books for RE population students for elementary school; preparing the Protocol on Preventing Early School Drop-out.

Foreign citizen students are entitled to enrol in the programmes of study offered at our Institutions under the same conditions as home citizen students. It is also prescribed that students exercise their rights of student standard regardless of whether they study at public or private institutions and whether they are Montenegrin or foreign citizens.

Resource Centres are transformed special institutions currently offering services of assistive technologies, sign language, picture exchange communication systems, prepare, adapt, making Braille publications and other teaching aids, lending didactic and teaching aids, teaching materials, equipment, assistive technologies.

Pursuant to Law on Higher Education, an institution can be set up and perform its activities if it has, among other conditions, met the requirements for accessibility of disabled persons.

### **3.26.1.2. The Youth**

The Youth Strategy for 2017-2021, which was adopted on 29 September 2016. created an adequate formal framework for systematic improvement of the position of youth in Montenegro. The Strategy defined six key priorities (outcomes) regarding Montenegrin youth: employment, access to quality education, activism, transition to adulthood, culture and legislative and institutional framework for implementation of youth policy.

### **3.26.1.3. Culture**

Following the National Programme for the Development in Culture which had been in effect by 2015, a Programme for the Development in Culture was adopted for 2016-2020.

### **3.26.1.4 UNESCO Convention 2005**

In order to implement the 2005 UNESCO Convention, the Ministry of Culture will continue to carry out measures in the following culture fields:

- Transparent financial support to programmes and projects in culture and arts through public calls to develop and affirm cultural biodiversity,
- Carrying out the Programme to Protect and Preserve Cultural Heritage,
- Co-financing media content of public interest (education, programs in minority languages, etc.),
- Supporting amateur expressions and creative industries,
- Improving social and economic status of artists,
- Improving cultural values of importance for the acceptance and social inclusion of LGBT population and their expressions
- Achieving greater participation of the young and gender equality in Montenegro
- Improving international cooperation through participation in International organisations programmes, signing bilateral agreements and cooperation programmes, as well as the continuity of participation and new initiatives in regional and international partnerships.

Pursuant to the Agreement on Participation of Montenegro in “Creative Europe” Programme which was signed in 2014, the Ministry of Culture established a Creative Europe Desk as an implementation body of two sub-programmes Culture and MEDIA. The main measures of Programme promotion carried out by the Desk are: organising workshops, info of the day, presentation of EU programmes in all Montenegrin towns, cooperation with the desks from other participating states through mail lists and direct

talks and meetings, publishing promotional material (brochures, flyers, etc.) with the data on programmes and possibilities to make use of the EU programmes.

The activities of the programme are also being promoted on web and Facebook pages.

### **3.26.2. Carrying out activities in the period from October 2016 to October 2017**

On 10 July 2017, The Parliament adopted a series of laws amending Education Laws. These are:

- General Law on Education
- The Law on Preschool Education
- The Law on Elementary Education
- The Law on Education of children with special educational needs
- The Law on High Schools
- The Law on Vocational Education
- The Law on Adult Education
- The Law on Higher Education
- The Law on Academic Integrity

There were 727 students enrolled in three-year programmes of vocational education in 2017/2018 school year, which is a 15% increase as compared to the previous year.

In 2017/2018 school year 264 students signed individual contracts on practical education with employees. Out of 264 students, 175 students attended the first grade, 83 students were second grade students and 6 of them are from the third grade. The number of employers who signed individual contracts with the students is 97, for a total of 14 education programmed in 17 vocational and mixed schools.

In 2017/2018 school year, the Ministry of Education cooperated with the Chamber of Economy of Montenegro to award 119 scholarships to vocational school students who were in their first grade attending three-year programmes of study in demand on labour market. In addition to that, the Ministry of Education announced a call to award 35 scholarships to talented students in the second and third grade for the qualifications that are in short supply such as: cook, waiter, confectioner, baker and fitter in construction.

In adult education in 2017/2018 school year, 10 credit-based modular programmes were started which were based on study performance and prepared within the IPA Project, Component IV: Human Resources Development. A training course was organised for teachers in study performance, key competencies, grading, etc.

In 2017/2018 school year the records kept on employers and student apprentices can be followed on the MEIS portal.

In December 2016 the Strategy for Teachers' Education (2017-2024) was adopted along with the accompanying Action Plan for Strategy Implementation for 2017 and 2018.

On 28 December 2016 the National Council for Education adopted the Standards for Professional Development of teachers (with descriptions and indicators).

The third issue was prepared of the Manual on Professional Development at School Level to include, among other, new chapters on evaluating the impact of professional development of teachers on improving teaching/learning.

The School Portal for teachers is in operation.

There was a system established to train teachers at employers for 10 days in civil and machine engineering, electrical engineering, informatics, agriculture, tourism, hospitality. Two such cycles were carried out in 2017/2018 school year.

Pursuant to the Rulebook on the types of vocations, terms, methods and procedure for proposing and awarding the title of teachers, teachers obtained higher titles (teacher-mentor, teacher-advisor, teacher- senior advisor and teacher- researcher).

Over 3,500 students were enrolled in the first undergraduate year at the University of Montenegro on free tuition plan.

As of 2017/2018 school year, studies at University of Montenegro are being realised according to a new structure of study programmes 3+2+3 (undergraduate, master and doctoral studies) while, in accordance to the Law, other institutions of higher education shall have that structure implemented by 2020/2021 at the latest.

Pursuant to the Feasibility Study prepared to establish a Graduate Career Tracking System (Tracer study), a survey was conducted amongst the students having graduated in 2009 and 2013. Detailed analytical report based on the data which had been collected in the survey was finished and presented on 24 October 2017.

In June 2017 an agreement was signed with "Turnitin LLC" from the United Nations of America on purchasing software to detect plagiarism (iTenticate) which will be used as of November 2017. In a two-year period, it will be able to examine 5,600 papers.

Over the period from 15 September to 16 October, within the Professional Training Programme for Higher education Graduates, employers announced more than 10,000 vacancies for professional training in 2017/2018.

In 2016/17 employers announced 9,173 vacancies for professional training, while a total of 3,439 applicants applied for the programme. In 2017 there are 3,274 higher education graduates at professional training providers which will have completed their nine-month training by the end of October and will be able to sit a state-licence exam or a vocational exam.

According to the last Tax Administration analysis, out of 14,252 users who have participated in the Programme over the last four years, 6,856 of them (48%) remained in employment at the training providing employer. 2,447 users (35.64%) is in public sector, while 4,418 (64.35%) is in private sector.

Preparatory kindergarten for Roma and Egyptians training was carried out in June 2017 and lasted a month. A workgroup was formed to prepare the Protocol on Prevention of Early Drop-out and the drafting is in its last stage.

In this academic year there has been a total of 127 RE population children enrolled in preschool institutions, 1,630 has been enrolled in elementary schools (181 first graders). 73 RE population students completed the ninth grade in 2016/2017 and 64 have been enrolled in secondary education institutions. There are 127 RE population students in secondary schools in total. Seven RE population students have been enrolled in the first year of study, with the number totalling 24 RE population students at all faculties in 2017/18 academic year.

In view of providing support to the students of other minorities, there was a satellite classroom open to "Vasa Pavić" Art School of Music in Tuzi. Primer books in Albanian were distributed among the students of Albanian nationality. Improving both working conditions and teaching/learning conditions is underway at schools which are attended by the minority students.

In accordance with accessibility standards defined by the legal framework, there have been 107 education institutions adapted to ensure unimpeded access to disabled persons, 62 institutions had their restrooms adapted, there are lifts at nine of them and a platform at one (three are underway). There are signboards in Braille hung in the building of the Ministry of Education and a legend. There are signboards and specialised didactics in Braille at four schools. Instructions on accessibility of education institutions and process were prepared and distributed to education institutions. School directors were given advice on accessibility of education institutions and education process and non-discrimination.

Construction works are being carried out to alter the buildings of four faculties of the University of Montenegro (the Faculty of Philosophy, Faculty of Civil Engineering, Faculty

of Law and Faculty of Tourism and Hotel Management) so that they meet accessibility requirements for the disabled. The works are worth EUR 220,000.00. The completion of construction works is due in the middle of 2018.

### **3.26.2.1. ERASMUS +**

#### **Key Action 2 – Capacity Building in Higher Education**

Higher education institutions in Montenegro have taken part in 12 projects within the Action of Capacity Building in Higher Education being worth a total of EUR 10.2 million. In the call for 2015 there were 4 projects selected, in the call for 2016 there were 5, and in the call for 2017 there were 3 projects selected.

The Faculty of Law of the University of Montenegro has been coordinating the Project of Reform of Law-related Programmes of Study, while the University of Donja Gorica has been cooperating with the Faculty of Medicine of the University of Montenegro to coordinate the Project of Enhancement of Programmes of Study in Public Health Management.

#### **Key Action 1 – Erasmus Joint Master Degrees**

For the first time The University of Montenegro is part of Erasmus Mundus Joint Master Degrees Programme as an associated partner in the Central and East European, Russian and Eurasian Studies Programme of Study (CEERES). The programme is being coordinated by the University of Glasgow. The Consortium includes 8 full HEI partners from (the United Kingdom, Estonia, Hungary, Poland, Georgia, Kazakhstan, Russian Federation and Ukraine), as well as 48 associated partners from (the United States, Brazil, Canada, Thailand, France, Germany, China, Belgium, Mexico, Serbia, Bosnia and Herzegovina, and Montenegro). The budget of the programme totals EUR 3.1 million.

As regards Joint Master Degree Scholarships, 32 Montenegrin students applied for the 2017 scholarships, three of which were granted. Over the period from 2007-2017, 48 students from Montenegro were granted scholarships for two-year master degree courses at the EU Universities.

#### **Key Action 1 – International Credit Mobility**

In 2015 and 2016 calls for proposals there were 104 International Credit Mobility Projects awarded to Higher Education Institutions from Montenegro, which required signing of bilateral agreements with the EU Universities. There were 762 mobilities envisaged by these bilateral agreements (there were 505 outgoing mobilities and the remaining were incoming mobilities). Total worth of the mobility projects in which Montenegrin HEIs

participate amounted to cca. EUR 2.5 million. Final results of the call for proposals for 2017 International Credit Mobility Projects have not been announced yet.

### 3.26.2.2. Jean Monnet

Two projects in this field have been carried out to date – one module was established and one department in the field of European Integrations at the Faculty of Economy of the University of Montenegro.

A Jean Monnet project “Communication Europe in Pan-European Societies” was approved in the 2017 call for proposals with an awarded budget of cca. EUR 40,000. The Project is being coordinated by the Montenegrin Pan-European Union.

### 3.26.2.3. Youth

Through the annual call for funding and co-funding of youth projects, the Ministry of Sports – the Directorate for Youth and Sports supported 36 projects with the total worth of EUR 170,000.00 following the priorities of economic and social security through ease of access in employment market, access to quality education, active citizenship, adequate system to support transition into adulthood and self-actualisation, access to cultural content and adequate institutional and legislative framework for the implementation of youth policy.

In 2017, the Rulebook on Funding and Co-funding of Youth Projects was adopted, the annual call for allocation of funds was announced, Interdepartmental Coordination Body was set up, Guidelines for Opening and Managing Youth Clubs and Centres were prepared, Local Youth Cooperation Office for the Western Balkans was opened while there was successful cooperation in youth policy with home and international partners.

## 3.27. CHAPTER 27: ENVIRONMENT

### 3.27.1. GENERAL READINESS FOR MEMBERSHIP

By adopting the *National Strategy for Transposition, Implementation and Enforcement of the EU Acquis in the area of Environment with the Action Plan for the period 2016-2020* (Strategy with AP), at the session of the Government held on 28 July 2016, fulfilling the opening benchmark, Montenegro demonstrated its strategic approach to transposition and implementation of the EU *acquis* for this area.

In March 2017, Montenegro was informed by the EU Council of Ministers that after considering the Report on fulfilment of the initial benchmark for Chapter 27, the EU **concluded that Montenegro is considered sufficiently prepared to start negotiations at this stage in Chapter 27.** By this, Montenegro was formally invited to submit the

## **Negotiating Position in order to hold the Intergovernmental Conference to open the chapter.**

In addition, a mechanism has been established for continuous monitoring of the realization of all measures and levels of achieving the projected goals defined in the Action Plan of the Strategy through regular quarterly reporting to the Government and the EC.

In the area of **horizontal legislation**, transposition of the INSPIRE Directive has been achieved by adoption of the Law on Spatial Data Infrastructure (Official Gazette of Montenegro 37/17), which will be fully transposed by elaboration of by-laws. Realization of the project named “**Program for establishment of the Eco Fund in Montenegro**” is in its final phase and it will result in the creation of a comprehensive model for establishment of the Eco Fund in Montenegro.

Progress has been made in the area of **air quality**, in terms of further alignment with the Directive relating to a reduction in the sulphur content of certain liquid fuels, while the Action Plan for the period 2017-2020 has been adopted for the National Air Quality Management Strategy, which is the mechanism for continuous monitoring of implementation of the measures. Implementation of the IPA Project “**Strengthening the capacities for air quality management in Montenegro**” has been initiated, which will provide for better implementation of Directive 2008/50/EC on ambient air quality and cleaner air for Europe and Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.

When dealing with **waste management**, implementation of the Law on Waste Management has been improved, especially in the area of illegal waste disposal, temporary landfills and continuation of the construction of supporting infrastructure, through implementation of numerous projects. Furthermore, attention is also devoted to adoption and implementation of local waste management plans.

A significant step forward in the area of **water quality** has been achieved through adoption of the Law on Management of Municipal Waste Water (Official Gazette of Montenegro 2/17), which transposed Directive 91/271/EEC concerning urban waste-water treatment. Furthermore, in 2017 the Strategy on Water Management was adopted as well as the Decision on Determining Vulnerable Areas in the Danube and the Adriatic Basin. Construction of the Wastewater Treatment Plant (WTP) as well as sewerage and water supply networks continued. Implementation of the project “**Strengthening the Capacities for Implementation of the Water Framework Directive**” is underway.

As far as **nature protection** is concerned, activities on implementation of the IPA project “Establishment of NATURA 2000 network” have been intensified, while a set of regulations was adopted for further transposition of the Council Directive 92/43/EEC and Directive 2009/147/EC, as well as subordinate legislation related to the Convention on International



Trade in Endangered Species of Wild Fauna and Flora (CITES). Strong efforts have been made to establish the protection of Ulcinj Saline through development of the Protection Study that is in the final phase.

In the field of **industrial pollution**, activities on realization of the project with the World Bank “Industrial Waste Management and Clean-up” intensified, with the aim of rehabilitation and remediation of 4 identified so-called “ecological hot points”. Furthermore, alignment with the EU *acquis* continued with adoption of a series of legal acts.

Regarding **chemicals**, adoption of the new Law on Chemicals (Official Gazette of Montenegro 51/17), as well as numerous by-laws achieved further transposition of regulations in this area and created a basis for implementation. The Government adopted the Report on Implementation of the Chemicals Management Strategy 2015-2018 for 2016. The Law on ratification of the Amendments to the Stockholm Convention on Persistent Organic Pollutants adopted at the Sixth and Seventh Session of the Conference of Parties was adopted. Implementation of the projects: “**Preparation for ratification and implementation of the Minamata Convention on Mercury - Initial Assessment for Montenegro**” and “**Revision of the National Plan for Implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs)**” is underway.

In the area of **noise**, further harmonization of regulations continued, while development of strategic maps will start in 2018, when financial resources for the same will be available.

In the area of **civil protection**, activities on harmonization of national regulations with EU regulations in this area intensified.

When it comes to **climate change**, with ratification of the Paris Agreement Montenegro started providing its contribution, in line with the Climate and Energy Framework of the EU by 2030. Additional efforts have been made towards alignment with the EU *acquis* in this area.

### **3.27.2. Implementation of activities from October 2016 to October 2017**

#### **3.27.2.1. Horizontal legislation**

##### ***Strategic framework***

On 2 February 2017, the Government adopted the Report on Implementation of the National Strategy for Transposition, Implementation and Enforcement of the EU Acquis in the area of Environment and Climate Change with the Action Plan for the period 2016-2020 (Strategy with the AP) for the reporting period July 2016 - December 2017 (I Report).

On 20 April 2017, the Government adopted the Report on Implementation of the Strategy with the AP for the reporting period January - March 2017 (II Report).

On 12 July 2017, the Government adopted the Report on Implementation of the Strategy with the AP for the reporting period April – June 2010 (III Report).

On 12 July 2017, the Government adopted the Plan of Institutional Adjustment and Strengthening of Administrative Capacities for Environment and Climate Change Sectors in Montenegro for the period 2017-2020, the preparation of which was foreseen by the Strategy with the AP.

### **Legislative framework**

On 14 June 2017, the Parliament adopted the Law on Spatial Data Infrastructure (Official Gazette of Montenegro 37/17). This Law has been aligned with Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Spatial Information Infrastructure (INSPIRE).

In January 2017, the Government adopted the Environmental Monitoring Program for 2017.

In April and September, the Government adopted the Report on Implementation of Measures from the Action Plan for Reduction of the Negative Environmental Impact for the period June-December 2016 and January-June 2017 respectively.

The Ministry of Sustainable Development and Tourism has adopted the Rulebook on the criteria to be met by the Reference Environment Monitoring Laboratory (Official Gazette of Montenegro 11/17).

At its session held on 19 October 2017, the Government adopted the Information on the State of the Environment with the Proposal of Measures for Reduction of the Negative Environmental Impact.

### **Track record**

Establishment of the Eco Fund, which is envisaged by the Law on Environment (Official Gazette of Montenegro 52/16) by August 2018, is taking place through the project “**The Program of Establishment of the Eco Fund in Montenegro**”, whose implementation began on 1 April 2017. The project resulted in preparation of the Situational Analysis of the Montenegrin legislative, financial and institutional framework for establishment of the Eco Fund in Montenegro, as well as the Proposal for the potential models of functioning of the Eco Fund. Furthermore, the project prepared the Proposal for the Work Program and the Financial Plan of the Eco Fund, as well as the Proposal of legal acts necessary for establishment and functioning of the Eco Fund.

### 3.27.2.2. Air Quality

#### Legislative framework

On 17 March 2017, the Government adopted the Decree on Limit Values for Pollutants in Liquid Petroleum Fuels (Official Gazette of Montenegro 17/17). The Decree completely transposes the EU Directive 2016/802 relating to a reduction in the sulphur content of certain liquid fuels and the EU Decision / 2015/253 laying down the rules concerning the sampling and reporting on the sulphur content of marine fuels.

On 19 May 2017, the Ministry of Sustainable Development and Tourism adopted the Program of Monitoring the Quality of Liquid Fuels of Petroleum Origin for 2017 (Official Gazette of Montenegro 33/17).

#### Track record

On 20 April 2017, the Government adopted the **Fourth Report on Implementation of the National Strategy for Air Quality Management** and adopted **the Action Plan for the period 2017-2020**, in line with which the degree of implementation of the measures envisaged in the Strategy over the last four years (2013-2016) is as follows: out of 52 planned measures, 76,9% is fully implemented, 8% is underway, while 8% is transferred to the Action Plan for the period 2017-2020. The new Action Plan foresees implementation of 43 measures for whose implementation the amount of EUR 23,287,500 is required. A significant portion of these funds (EUR 13,992,500 or 60%) has already been provided through a credit arrangement with the World Bank and IPA instrument.

The Agency for the Protection of Nature and Environment in cooperation with the Ministry of Sustainable Development and Tourism and the Municipality of Pljevlja, with the participation of other relevant institutions and representatives of the civil sector, adopted the Short-term Action Plan for the Municipality of Pljevlja for the case of exceeding or risk of exceeding the threshold limit value of sulphur (IV) oxide (SO<sub>2</sub>), pursuant to Article 23 of the Law on Air Protection (Official Gazette of Montenegro 25/10 and 43/15), or Article 24 of the Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

By signing the contract on 20 July 2017, the first phase of implementation of the IPA project **“Capacity Building for Air Quality Management in Montenegro”** started (2014/032-803.09/ENV/SER). The project will provide a better implementation of Directive 2008/50/EC on ambient air quality and cleaner air for Europe and Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, through the revision and extension of the air quality monitoring network in Montenegro and procurement of the missing equipment.

### **3.27.2.3. Waste management**

#### **Legislative framework**

The Ministry of Sustainable Development and Tourism has adopted the following regulations:

- Rulebook on the content of applications and documentation for issuing permits for processing and / or disposal of mining waste (Official Gazette of Montenegro 78/16);
- Rulebook on Waste Classification and Waste Catalogue (Official Gazette of Montenegro 83/16)
- Rulebook on more detailed content of documentation to be submitted with the application for the issuance of permit for import, export and transit of non-hazardous waste and waste export and transit, waste classification list and the content and manner of keeping the issued permits register (Official Gazette of Montenegro 83/16).

On 21 April 2017, the Government adopted the Decree on the Criteria for Termination of Waste Status for Certain Waste Types (Official Gazette of Montenegro 26/17).

#### **Track record**

On 19 September 2017, the Ministry of Sustainable Development and Tourism implemented the project of rehabilitation of the unmanaged landfill in the municipality of Zabljak. Funds in the amount of EUR 485,000 were provided through the International Cooperation Program of the Republic of Slovenia and Montenegro.

At the beginning of August 2017, construction of a facility for treatment of drinking water at the “Livade” landfill in the Capital City of Podgorica was completed. Funds in the amount of EUR 1.9 million were secured through the European Investment Bank's loan.

### **3.27.2.4 Water Quality**

#### **Legislative framework**

The Ministry of Agriculture and Rural Development has adopted the Operational Plan for the protection against harmful effects of water for waters of importance for Montenegro for 2017 (Official Gazette of Montenegro 78/16).

In December 2016, the Parliament adopted the Law on Municipal Waste Water Management (Official Gazette of Montenegro 2/17).

On 9 February 2017 the Government adopted the General plan for the protection against harmful effects of water for Waters of Importance for Montenegro for the period 2017 - 2022 (Official Gazette of Montenegro 17/17).

On 23 March 2017, the Government adopted the “Projection of Long-Term Water Supply in Montenegro until 2040”.

On 22 June 2017, the Government adopted the Decision on determining vulnerable areas in the Danube and the Adriatic Basin (Official Gazette of Montenegro 46/17).

On 30 June 2017, the Government adopted the Water Management Strategy.

On 28 September 2017, the Government established the Proposal for the Law on Provision of Healthy Water for Human Use.

The Ministry of Health has adopted the Program of water quality testing at the water intake points in 2017 (Official Gazette of Montenegro 12/17)

### **Track record**

Wastewater Treatment Plant (WTP) was built in the Municipality of Herceg Novi, with a capacity of 65,300 population equivalent in the amount of EUR 8 888 million;

17.6 km of sewerage and 14.5 km of water supply network in the municipality of Tivat were built in the amount of EUR 9.5 million.

The WTP was built in the municipality of Savnik in the amount of EUR 250 000.

Realization of a large number of infrastructure projects which have a multi-annual character continued (WTP in Pljevlja and Berane, sewerage network in Herceg Novi, Bar, Bijelo Polje etc.).

Contracts have been signed for projects in the area of waste water for the Capital City of Podgorica (WTP, collector system, sewage sludge treatment system) in the amount of EUR 50.35 million and are implemented with the support of KfW Bank through:

- grant funds in the amount of EUR 10.15 million (EUR 1.15 million for consultancy services and EUR 9 million of WBIF grant funds);
- loan contract with the KfW bank in the amount of EUR 35 million;
- remaining financial needs of approximately EUR 5.2 million will be provided by the Capital City of Podgorica from its own funds.

A tender for the design and construction of the WTP and the collector system in Danilovgrad was announced in the amount of EUR 3.95 million. Funds are secured from EBRD loan.

The project “**Strengthening the Capacity for Implementation of the Water Framework Directive in Montenegro**” began with realization on 27 February 2017 and will last for 3 years. The project aims to contribute to implementation of the Water Framework Directive (WFD), covering the territory of Montenegro, including both basins with larger rivers: the Danube Basin (Piva, Tara, Cehotina, Lim and Ibar) and the Adriatic Basin (Zeta, Moraca, Bojana, Cijevna and Suturina).

### 3.27.2.5. Nature protection

#### Legislative framework

On 10 November 2016, the Government adopted national park management plans for the period 2016-2020.

The Ministry of Sustainable Development and Tourism has adopted the following regulations:

- Rulebook on more detailed content of the Assessment of Eligibility for the Ecological Network Area (Official Gazette of Montenegro 45/17);
- Rulebook on the Criteria for Determining the Ecological Network Area (Official Gazette of Montenegro 45/17);
- Rulebook on more detailed conditions for transport of protected wild species of plants, animals and mushrooms (Official Gazette of Montenegro 61/17).

#### Track record

On 13 February 2017, the Ministry of Sustainable Development and Tourism started implementation of the project “**Finalization of the Protection Study for Ulcinj Saline**” for which funds amounting to EUR 300,000 through the European Integration Instrument were provided, and whose implementation is planned until November 2017. The project will result in concrete proposals for establishment of the Ulcinj Saline management model in order to ensure sustainable protection of this area, defining at the same time the necessary funding for initial investment in infrastructure necessary for salt production, its maintenance and annual operating costs, as well as potential sources of funding.

Final draft of the Protection Study was completed on 16 September 2017, while collection of proposals and suggestions is underway.

On 23 February 2017, the Government adopted the Decision on the Urban Spatial Planning Plan of the Municipality of Ulcinj, which provides protection of the Saline area.

With the contract annex signed in August 2017 the Public Enterprise of the National Parks of Montenegro extended the rent of the Ulcinj Saline for a period of one year. Furthermore, on 23 September 2017, a new pump at the Djerane pumping plant was commissioned, which will ensure, in addition to the existing one, establishment of the necessary water regime in the most demanding periods for maintaining the biological optimum needed to preserve the biodiversity of the Saline.

As part of the project “**Establishment of the NATURA 2000 Network**”, which started on 26 April 2016, the following activities were carried out during the reporting period:

- Glossary related to Natura 2000 was drafted;

- Guidance on obligations, main activities and phases has been developed in accordance with the Birds Directive and the Habitats Directive;
- Checking and supplementing of reference lists for species and habitats is underway;
- Establishing of the concept for Natura 2000 is underway;
- Experts for habitats, fish and other species started field activities during the period January – May 2017;
- The final reference list of avian species in Montenegro was prepared;
- Criteria for the selection of SPA areas in Montenegro have been developed and adopted;
- Field researches of ornithologists began during March 2017 and are ongoing.

Furthermore, through the project **“Promoting Protected Areas Management through Integrated Marine and Coastal Ecosystems Protection in Coastal Area of Montenegro”**, which will be funded by the Global Environment Facility (GEF), a database on marine habitats and species will be improved and will contribute to the collection of additional data for defining proposals of the marine areas that will form an integral part of the Natura 2000 project. The project was approved on 21 July 2017. Additional data on marine habitats and species are also expected through the project **“Implementation of Ecosystem Approach in the Adriatic Sea through Marine Spatial Planning”** (of importance for the Marine Strategy Framework Directive (MSFD), as well as the Habitats Directive) approved by the GEF. Realization of both of these projects is expected soon.

At the proposal of the Secretariat of the Convention on Biodiversity, in order to improve biodiversity policy, application has been made for a voluntary **peer review for the National Strategy for Biodiversity with the Action Plan for the period 2016-2020**. The first of the three phases of the peer review process has been completed, which relates to the collection of relevant documents in the field of nature protection, while implementation of the second phase is expected in the period 19-25 November 2017.

The United Nations Environment Program (UNEP) provided support with the financial contribution of the GEF for preparation of the **VI National Report on Implementation of the Biodiversity Strategy**. In September 2017 funds amounting to EUR 100,000 were approved, while the start of the preparation is expected.

### **3.27.2.6 Industrial pollution**

#### **Legislative framework**

The Ministry of Sustainable Development and Tourism has adopted the following regulations:

- Rulebook on Quantities of Hazardous Substances by Categories Determining the Degree of Risk of SEVESO Plant (Official Gazette of Montenegro 63/16)

- Rulebook on more detailed content of the Accident Prevention Plan and Accident Protection Plan (Official Gazette of Montenegro 67/16).

On 26 July 2017, the Parliament adopted the Law on Ratification of the Protocol on Pollutant Release and Transfer Registers (Official Gazette of Montenegro - International Treaties 6/17).

The Ministry of Sustainable Development and Tourism has adopted the following regulations: Rulebook on more detailed conditions, criteria and procedure for acquiring the right to use an ecological symbol (Official Gazette of Montenegro 50/17) and the Rulebook on more detailed content and manner of management of environmental pollutants cadastre (Official Gazette of Montenegro 45/17).

### **Track record**

The Government, i.e. the Ministry of Sustainable Development and Tourism and the Agency for the Protection of Nature and Environment as Implementing Bodies, in cooperation with the World Bank, carry out the project “Industrial Waste Management and Clean-up”. The project is aimed at rehabilitation and remediation of 4 identified so-called “ecological hot points”: Aluminium Plant Podgorica, Shipyard in Bijela (grit and contaminated land), Thermal power plant Pljevlja (ash and slag landfill Maljevac) and Suplja Stijena Mine in Pljevlja (Gradac flotation tailings pond), as well as addressing the issue of hazardous waste treatment, through the selection of sites for construction of a national landfill for hazardous industrial waste. Tender for execution of works at the Shipyard Location was completed on 23 October 2017, when the bids were opened. In addition, selection of the developer of the main design for remediation of the Gradac tailings pond, activities on signing the subcontracting agreement with the EPCG for rehabilitation of the Maljevac landfill, as well as preparation of the Rehabilitation plan for the Aluminium Plant are underway.

### **3.27.2.7. Chemicals**

#### **Legislative framework**

The Ministry of Sustainable Development and Tourism has adopted the Rulebook on Amendments to the Rulebook on the Content of the Chemical Safety Sheet (Official Gazette of Montenegro 083/16 of 31 December 2016), which transmitted Commission Regulation (EU) 2015/830 of 28 May 2015 amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), the Rulebook on more detailed content of the Prior Informed Consent for Chemical Export (Official Gazette of Montenegro 61/17 of 2 October 2017) which transmitted all amendments to Annex I of the Regulation (EU) No 649/2012 concerning the export and import of hazardous chemicals and the Rulebook on List of Substances of Very High Concern (Official Gazette of Montenegro 65/17 of 13 October



2017), which transmitted Commission Regulation (EU) 2017/1999 on Amendments to the Annex XIV of the REACH Regulation.

Based on the Law on Biocidal Products (Official Gazette of Montenegro 54/16), the Ministry of Sustainable Development and Tourism has adopted the following regulations:

- Rulebook on the types of biocidal products (Official Gazette of Montenegro 66/16);
- Rulebook on the content of the report on the import of biocidal products (Official Gazette of Montenegro 69/16);
- Rulebook on lists of active substances allowed for use in biocidal products and biocidal products of lesser risk (Official Gazette of Montenegro 72/16).
- Rulebook on more detailed content of the technical dossier and basic biocidal product data (Official Gazette of Montenegro 05/17);
- Rulebook on methods of biocidal product efficiency testing (Official Gazette of Montenegro 05/17);
- Rulebook on the content of the application for a biocidal product authorization (Official Gazette of Montenegro 17/17);
- Rulebook on the requirements regarding the staff, space and equipment to be met by Legal Persons using biocidal product for professional use (Official Gazette of Montenegro 26/17).

These rulebooks transmitted the Biocidal Products Regulation (BPR, Regulation (EU) 528/2012).

On 6 April 2017, the Government adopted the Report on Implementation of the Chemicals Management Strategy 2015-2018, for 2016.

On 26 July 2017, the Parliament adopted the new Law on Chemicals (Official Gazette of Montenegro 51/17). The main changes introduced by the Law are further harmonization with the EU legislation (Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals, Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents and Directive 2004/9/EC of the European Parliament and of the Council of 11 February 2004 on the harmonization of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances), as well as the division of inspection supervision over the implementation of this Law between environmental and sanitary

inspections. Furthermore, the novelties are registration of internal and transported isolated intermediates into the register, advertising of chemicals, obligations of producers' representatives, the disclosure of risks to the public and other responsibilities.

On 11 October 2017, the Parliament adopted the Law on ratification of the Amendments to the Stockholm Convention on Persistent Organic Pollutants adopted at the Sixth and Seventh Session of the Conference of Parties.

### **Track record**

Through the project “**Preparation for ratification and implementation of the Minamata Convention on Mercury - Initial Assessment for Montenegro**”, the Draft Initial Assessment in Montenegro was prepared.

Furthermore, updating of the inventories of POPs, inventories of new POPs, as well as assessment of the national infrastructure and capacity, drafting of action plans and development of an updated National Implementation Plan (NIP), through the project “**Revision of the National Plan for Implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs)**” are underway.

In cooperation with the Ministry of Agriculture and Rural Development and the Ministry of Sustainable Development and Tourism, the **Guidelines for Differentiation of Plant Protection Products from Biocidal Products** have been prepared.

### **3.27.2.8. Noise**

#### **Legislative framework**

The Ministry of Sustainable Development and Tourism has adopted the Rulebook on the methods of calculation and measurement of noise levels in the environment (Official Gazette of Montenegro 17/17), which fully transposes Directive (EU) 2015/996 establishing common noise assessment methods according to Directive 2002/49/EC.

#### **Track record**

Funds for this area, including **development of strategic noise maps**, are planned in the amount of EUR 352,000 through the IPA II - Action Document for 2016 adopted on 2 December 2016, while funds will be available after the signing of the Financial Agreement during 2018.

### **3.27.2.9. Civil protection**

#### **Legislative framework**

On 30 July 2016, the Parliament adopted the Law on Amendments to the Law on Protection and Rescue (Official Gazette of Montenegro 54/16), application of which began on 1 July

2017. The main changes that amendments to this Law introduced are as follows: management and coordination of protection and rescue, protection and rescue planning, establishment of the Protection and Rescue Fund, as well as creation of a legal framework for adoption of by-laws in the area of protection and rescue.

The Ministry of Interior has adopted the following regulations:

- Rulebook on civil protection booklet (Official Gazette of Montenegro 13/17);
- Rulebook on the content and methodology of drafting, the method of harmonization, updating and keeping the risk assessment report on the basis of which the protection and rescue plans are developed (Official Gazette of Montenegro 31/17);
- Rulebook on more detailed content and methodology of drafting, harmonization, updating and keeping of protection and rescue plans (Official Gazette of Montenegro 34/17);
- Rulebook on unique alarm signs, and the manner of notification and alerting (Official Gazette of Montenegro 34/17);
- Rulebook on the manner of organization and engagement of civil protection units (Official Gazette of Montenegro 38/17);
- Rulebook on the amount and method of determining compensation for performance of material obligations in protection and rescue (Official Gazette of Montenegro 39/17);
- Rulebook on the content and form of the register of issued licenses for elaboration of protection and rescue plans for companies, other legal persons and entrepreneurs (Official Gazette of Montenegro 48/17);
- Decision on appointment of the Protection and Rescue Coordination Team (Official Gazette of Montenegro 52/17);
- Decision on appointment of the Operational Protection and Rescue Department (Official Gazette of Montenegro 52/17 of 8 August 2017).

### **3.27.2.10. Climate change**

#### **Legislative framework**

The Parliament adopted the Law of ratification of the Paris Agreement on 11 October 2017, prompting Montenegro to reduce GHG emissions by 30% compared to the base 1990, i.e. at least 1,572 kilotons, at a level of 3,667 kilotons or less.

The Ministry of Sustainable Development and Tourism has adopted the following regulations:

- Rulebook on more detailed content of labels, guides, posters, displays and promotional literature and materials on fuel consumption and carbon dioxide emissions from new passenger vehicles (Official Gazette of Montenegro 040/17 of 27 June 2017) thus achieving harmonization with Directive 1999/94/EC relating to the availability of

consumer information on fuel economy and CO2 emissions in respect of the marketing of new passenger cars

- Rulebook on the methodology for calculating the impact of biofuels on greenhouse gas emissions (Official Gazette of Montenegro 45/17), thereby achieving further harmonization with Directive 2009/30/EC introducing a mechanism to monitor and reduce greenhouse gas emissions.
- Rulebook on the method of making and content of gaseous gas emissions inventory (Official Gazette of Montenegro 66/17).

### **Track record**

The Ministry is currently implementing three projects in the field of climate change:

- Elaboration of the Third National Report of Montenegro on Climate Change;
- Elaboration of the Second Biennial Updated Report of Montenegro on Climate Change;
- Adaptation to climate change through the management of flood risks in Western Balkan countries.

The Ministry of Sustainable Development and Tourism has made a financial ***Analysis of the manner and cost of implementing the Paris Agreement*** and the Intended Nationally Determined Contribution (INDC), with a view to ratification of the Paris Agreement.

The Ministry of Sustainable Development and Tourism has conducted the **Comparative Analysis of National Legislation and EU Regulations in the Field of Climate Change**, which is the basis for further development of the Law on Climate Protection.

#### **3.27.2.11. Strengthening of administrative capacity**

Regarding the strengthening of administrative capacity, two vacancies have been filled:

- Independent Advisor III - the Ministry of Sustainable Development and Tourism, Directorate for EU Integration and International Cooperation;
- Environmental Inspector III for Chemicals Management – the Administration for Inspection Affairs, Ecological Inspection Department.

## **3.28. CHAPTER 28: CONSUMER AND HEALTH PROTECTION**

### **3.28.1. GENERAL READINESS FOR MEMBERSHIP**

#### **3.28.1.1. Horizontal Issues**

The main organisations responsible for implementation of consumers protection are the

Ministry of Economy and Administration for Inspection Affairs, as well as other ministries and state bodies responsible for trade, electronic trading and communications, tourism, health, transport, agriculture, justice, internal affairs, etc. as well as agencies and local self-governments, Central Bank, consumers organisations, and others. Currently, all three job posts according to systematization in Directorate for consumer protection at the Ministry of Economy are filled.

The key body in implementation of consumer protection legislation is the Administration for Inspection Affairs, through inspections under its jurisdiction. According to the (new) Systematization Act, the total number of inspectors in the Administration is 307, and 203 inspectors are employed, out of which: in Market inspection 45 inspectors, Health-sanitary inspection 20, Tourist inspection 19, Ecological inspection 8, Inspection for electronic communications and postal affairs 1, Inspection for information society services 1, Electro – energy 2, Thermal energy inspection 1, Inspection for protection at work 8, Safety at work 8, Construction inspection 6, Mining inspection 2, Housing inspection 2, etc. The above mentioned inspections perform surveillance in territory of economic interest for consumers, and safety of products, as well as other administrative areas from its jurisdiction.

As of 1 June 2017, inspections in charge of food control are part of the Administration of food safety, Veterinary and phytosanitary affairs.

The Council for consumers protection, Coordination Body for market surveillance, Banking Ombudsperson and System for consumer protection, as well as Committee for out-of-court consumers dispute resolution established in 2009 (no longer in function), have a significant role in strengthening, coordination and improving consumers protection.

Consumer rights in Montenegro are mainly protected in the administrative procedure (inspection surveillance by relevant inspections), as well as by the agencies that deal with consumer complaints. The authorities prepare reports on the supervision in the field of consumer protection, including the resolution of complaints.

NGO sector also deals with consumer rights protection, among which the main actor is the Centre for Consumer Protection (CEZAP). As part of its organisation, CEZAP has created a mechanism to help consumers with regard to their disputes related to food safety and quality (Consumer Dispute Resolution Scheme). Support projects have also done a lot in raising the level of consumer awareness in the field of food safety. In the part of the treatment of consumer complaints, it should be pointed out that a consumer can file an appeal and/or request to CEZAP: in person, by e-mail, telephone, sending complaints via mail, etc., which is entered into the database. This organisation provides consumers with advice, mediates in resolving problems with traders and service providers, issues complaints to competent inspection services, as well as letters to certain institutions in charge of this area. In addition, it cooperates with the Ministry of Economy (Directorate for the

Development of the National Brand and Consumer Protection) and the Inspectorate for Consumer Complaints, as well as with other bodies and institutions (e.g. Agency for Electronic Communications, etc.).

In addition to this, consumers are also provided with court protection. Namely, there were no candidates who applied for the open call (and repeated) for the election of committee members.

In order to inform consumers and raise awareness about the importance and manners of protecting consumer rights, in addition to regular communication with consumers through the media, activities are carried out in the framework of support projects. Through the CEZAP partnership relation with the Ministry of Economy, the Inspectorate and other institutions in charge of consumer protection, projects are implemented, aimed at raising public awareness and awareness on the need for consumer protection in Montenegro. The regular activity of CEZAP is to inform consumers about current problems in the field of consumer protection (telecommunication, energy, utilities, financial services, rights based on different forms of purchasing, etc.) through various media - TV, radio, press, etc.

### **3.28.1.2. Safety Issues**

The area of general product safety is regulated by the Law on General Product Safety, as well as by-laws issued pursuant to this Law. One of the key documents for planning supervision in this area is the General Market Surveillance Programme, which is adopted on an annual basis and encompasses a plan of activities for monitoring product groups of all institutions in charge of market surveillance in Montenegro. The above mentioned programme is adopted by the Market Surveillance Body, based on the Law on Product Surveillance on the Market, starting from sectoral programmes. Competent inspection submits a report on implemented surveillance to the Coordination Body and prepares a general (annual) Market Surveillance Report. The Coordination Body that coordinates market surveillance is formed by the Government, consisting of representatives of the authorities responsible for market surveillance, the Inspectorate, the Ministry of Transport and Maritime Affairs and the Ministry of the Interior, the customs authority and the Ministry of Economy as competent for quality infrastructure. Powers and measures of inspectors, in addition to the Law on General Product Safety, are prescribed by the Law on Product Surveillance on the Market, which is partially harmonized with Regulation 765/2008, as well as the Law on Inspection Control.

In accordance with the Regulation on the manner of exchange of information on products that pose a risk, Montenegro has established the National System for the rapid exchange of information on dangerous products. The Inspectorate Administration, as the contact point of the national system for rapid information exchange, regularly inspects the RAPEX database and other databases from the region. Through the national system for rapid exchange of

information on dangerous products, the contact point of the system forwards to the competent inspectors (system members) information on dangerous products within their jurisdiction for which there is a presumption that they can be found on the market. After inspections, information about the undertaken activities is entered in the system. Data on products that are withdrawn from the market (permanently and temporarily) are displayed on the public part of the site. Products withdrawn temporarily, after complying with the prescribed requirements, are removed from the site. The annual report on the functioning of the contact point and system is submitted to the Government, and the exchange of data on dangerous products is carried out at the regional level (Regional Network for Exchange of Information on Dangerous Products).

### **3.28.1.3. Non-safety related issues**

The area and issues that are not related to product safety are regulated by the Consumer Protection Law, the Consumer Credit Law, the Law on Tourism, the Law on Electronic Communications, the Law on Information Society Services, etc. In addition, the Law on Obligations as a general law regulates contractual relations irrespective of the legal status of the contracting parties and as such is subsidiary applied to all issues related to consumer protection not regulated by the above mentioned special laws.

The Market Inspection (Administration for Inspection Affairs) is one of the key inspections in the protection of the economic interests of consumers, which controls the compliance with the prescribed obligations in terms of the prices of consumer products, as well as the issue of invoices for purchased goods - service.

### **3.28.1.4. Public Health**

The basic laws regulating the area of public health are: the Law on Health Care (Official Gazette of Montenegro 3/16, 39/16 and 2/17 14/10), the Law on Health Insurance (Official Gazette of Montenegro 6/16 and 2/17), the Law on Emergency Medical Assistance (Official Gazette of Montenegro 49/08), the Law on Patients' Rights, (Official Gazette of Montenegro 40/10 ), the Law on Health Care of Patients (Official Gazette of Montenegro 25/10), the Law on Data Collection in the Field of Health (Official Gazette of Montenegro 80/08), the Law on Health Inspection (Official Gazette of Montenegro 30/17), the Law on Inspection Surveillance (Official Gazette of the Republic of Montenegro 39/03 and Official Gazette of Montenegro 76/09 and other laws.

## **3.28.2. Implementation of activities from October 2016 to October 2017**

### **3.28.2.1. Horizontal Issues**

The Law on Illegal Advertising (Official Gazette of Montenegro 30/17) and Rulebook on the list of products, the manner of notification and the type of objects in which the notice on

goods in Braille letter (Official Gazette of Montenegro 30/17 ) were adopted on 10 March 2017.

The Action Plan for the Implementation of the 2006/2004 Regulation on Cooperation between National Authorities for the Implementation of Consumer Protection Law has been adopted. On 22 July 2017, the Government adopted a new act on internal organisation and job descriptions of the Directorate for Inspection Affairs, which, according to Chamber of Economy of Montenegro 2017-2018, increased the number of inspectors for supervision in the field of consumer protection and for implementation of market surveillance.

In September 2017, the Memorandum of Cooperation was signed between the Ministry of Economy and Tehnopolis Nikšić (an entrepreneurial innovation centre), which will be implemented with the opening of a consumer advisory centre in the Nikšić municipality. Also, the Ministry of Economy participated in the evaluation of the project "Support to civil society organisations and strengthening their capacities in the community and raising awareness and improving the provision of services to citizens in the field of consumer protection", coordinated by CEMI. As a result, we have three projects that are implemented in 2017, which relate to raising awareness and informing consumers (production of two short documentary films on consumer protection, while the third project refers to the organization of a quiz of knowledge in secondary schools in Nikšić municipality, on the subject of consumer rights).

In the organisation of the Directorate for Inspection Affairs and the EU Info Centre, on 11 July 2017 press conference dedicated to the safety of toys in Montenegro was held. Within the campaign, an information leaflet with important information on the functioning of control and protection mechanisms in the field of toy safety, as well as advice for the purchase of toys was produced.

### **3.28.2.2. Safety Issues**

#### **Surveillance Implementation**

In the period from January to September 2017, 1,070 inspections were carried out in this area, out of which 317 inspections in proactive control (according to the programme - regular, extended) and 753 inspections in reactive supervision (according to RAPEX notifications 594 inspections, according to the notice of the manufacturer/distributor 7, according to the information of the inspector from the supervision of 32 inspections, according to information from other sources (Regional network for the exchange of information on dangerous products - 115 inspections, consumer reports - 4 inspections, information of the Customs Administration - 1 inspection).

On the Montenegrin market, in proactive and reactive control, 126 types of dangerous products were found in the total quantity of 2,978 pieces. Of these, 58 species in the



quantity of 1,774 pieces represent dangerous products with serious risk, while dangerous products that do not represent a serious risk of 68 species in the total quantity of 1,204 pieces.

At the request of the inspector, 32 types of hazardous products in the amount of 394 pieces (children's clothes, electric cookers, bunk beds, swimwear for children, extension electric cables, angular grinder) were returned to the supplier/distributor. One request has been submitted to the misdemeanour court.

### **3.28.2.3. Non-safety related issues**

#### **Surveillance Implementation**

The largest number of inspections that supervise the implementation of the Law on Consumer Protection and other laws that contain consumer protection provisions are in the Administration for Inspection Affairs (Market Inspection, Tourist, Inspection for Electronic Communications and Postal Services, Electric Energy, Thermal Energy, Environmental and Health-Sanitary inspections), which in the period January - September 2017 carried out a total of 11,247 inspections in accordance with the Law on Consumer Protection, in which 2,851 irregularities were found, for which the administrative measures were imposed (1,341 indications and 1,341 decisions). For violations committed, 1,860 misdemeanour orders were issued and 22 requests for initiation of misdemeanour proceedings were filed.

Inspections exercising supervision over other laws that contain consumer protection provisions (Law on Tourism, Law on Internal Trade, Law on Electronic Commerce, Law on Medicines, Law on Energy, Law on Patients' Rights, Law on Restriction of Use of Tobacco Products, Law on Rafting, Law on Ski slopes and the Law on Air Protection) carried out a total of 28,295 inspections in the period from January to October 2017, in which 7,913 irregularities were identified, for which the administrative measures were imposed (2,535 indications and 4,750 decisions). For committed offenses, 5,788 misdemeanour orders were issued and 51 requests for initiation of misdemeanour proceedings were filed.

Inspection Administration received 929 complaints from consumers (691 referred to a violation of the rights from the Consumer Protection Act and 238 to violations of rights from other laws that contain consumer protection regulations). Out of 691 complaints under the (CPL), 24 appeals were forwarded to another competent authority for treatment, while in 18 cases consumers withdrew from filed complaints. Accordingly, the inspections (Market, Tourism, Inspectorate for Electronic Communications and Postal Services, Thermal Energy and Health and Sanitation) processed 649 complaints, of which 201 were accepted, 22 were partially accepted, while in 426 cases the appeal was rejected as unfounded.

Out of a total of 238 complaints received (according to other laws that contain consumer protection provisions - Law on Tourism, Law on Internal Trade, Law on Electronic

Commerce, Law on Medicines, Law on Energy, Law on Restriction of Use of Tobacco Products and Law on Food Safety) six complaints were forwarded to another competent authority for action, while in four cases consumers withdrew from filed complaints. Accordingly, inspections by the Administration for Inspection Affairs (Market, Tourist, Inspection for Information Society Services, Electricity and Health-Sanitary Inspection) dealt with 228 complaints, of which 87 were accepted, 10 partially accepted, while 131 appeals were rejected as unfounded.

The market inspection carried out 7,150 inspections (in accordance with the Law on Consumer Protection), which is more than 63% of the total number of inspections. 2,032 irregularities were found, which accounts for 71% of the total number of detected irregularities. In order to eliminate irregularities, this inspection issued administrative measures (837 indications and 1,173 decisions). For violations committed, 1,398 misdemeanour orders were issued and 22 requests for initiation of misdemeanour proceedings were filed. In accordance with other laws that contain provisions on consumer protection (Law on Internal Trade, Law on Medicines, Law on Energy and Law on Restriction of Use of Tobacco Products), the Market Inspection carried out 14,658 inspections, in which 6,565 irregularities were identified, for which removal administrative measures were imposed (1,234 indications and 5,271 decisions). For committed violations 5,424 misdemeanour orders were issued and 57 requests for initiation of misdemeanour proceedings were filed.

In the period January - September 2017, the Agency for Electronic Communications and Postal Services received 296 complaints from consumers - users of public electronic communications services on the decisions of the operator on user complaints, of which seven complaints were forwarded to another competent authority for processing, and in 92 cases consumers gave up of the filed complaints. The Agency issued 190 decisions on user complaints, 87 decisions which adopted the appeals (of which four were partially adopted) and 103 decisions rejecting the users' complaints, while for seven appeals the procedure is ongoing. During this year, an increase in the number of complaints in relation to the previous year was determined, and the largest number of complaints relate to the bill for provided services.

In period January-September 2017, the Insurance Surveillance Agency received a total of 25 complaints, out of which the procedure was concluded for 22 complaints. Ten complaints referred to car liability insurance, five to insurance against accidents, two for kasko insurance, two to insurance of property, two to health insurance (voluntary and travel), one to life insurance and one to liability insurance. Out of the total number of complaints, in three cases the undisputed part (additional amount/corrected company failure) was paid to the complainant, while in nine cases the complaint was rejected as unfounded. On one complaint the proceedings were interrupted, while in nine complaints the applicant was

directed to submit additional documentation.

During the reporting period, the Central Bank acted upon 8 complaints submitted by banking services users. In the process of direct control of the three banks it was established that business operations should be harmonized with the provisions of the Law on consumer loans in terms of: the level of consumer information at the pre-contracting phase, the essential elements of the contract, the calculation of fees in case of early repayment of loans, the content of the balance sheet and account balance of consumers for a loan in the form of the allowed overdraft, calculation and display of EKS, the removal of established irregularities and activities undertaken in order to initiate misdemeanour proceedings before the competent court for minor offenses. Also, the Central Bank performs continuous monitoring of the content of advertising messages related to consumer loan agreements, which are provided to consumers through the media and the bank's website.

In the period January-October 2017, 370 clients and pensioners requested reception with the Banking Ombudsman. Most users of loans were indexed in CHF, due to the implementation of the Law Amending the Law on the Conversion of Swiss franc loans to Euros. There were no reports of forged guarantors. This phenomenon is significantly suppressed or completely eliminated with banks and MFIs. In the reporting period, 28 requests were processed, of which 24 were related to the work of banks, and four appeals were made to the work of the MFIs. Submitted complaints refer to the use of all types of banking products, primarily: loans, deposits, cards, accounts, etc. Of the total number of clients and citizens who addressed the Banking Ombudsman, a significant number of them (120) were directed to conduct an internal procedure before a bank or MFI. Clients and guarantors who had objections to slow court proceedings were sent to the Ombudsman for Human Rights and Freedoms.

The largest number of clients were loan users indexed in CHF, due to non-fulfilment of the rights under the laws regulating this matter. A number of clients and guarantors sought protection because their earnings or pensions were blocked for more than 50% of the income, to repay the loan, or have other problems with current account funds or bank cards. In the system [www.potrosac.me](http://www.potrosac.me), 269 complaints and six questions were registered, of which 132 complaints were in the competence of the market inspection, 85 inspectors for electronic communications and postal services, 21 electric energy inspection, 13 tourist inspections, eight metrological inspections, and four complaints were within the jurisdiction of the health and sanitary inspection and the Agency for electronic communications and postal services, and one within the competence of the Ministry of Transport and Maritime Affairs - Inspections for Road Traffic. One complaint is unallocated.

### **3.28.2.4. Public Health**

#### ***Tobacco Control***

The Draft Law on Restriction of Use of Tobacco Products is being prepared in which Directive 2014/40/EU will be transposed. This law will propose the termination of the implementation of the Law on taxes on the use of tobacco products and electro-acoustic and acoustic devices in hospitality service facilities (Official Gazette of Montenegro 37/17) use of tobacco products in catering facilities in relation to the smoking allowance in hospitality facilities, with tax payment on the use of tobacco products.

Within the framework of activities aimed at preventing diseases caused by the use of tobacco products, the Centre for Health Promotion of the Institute of Public Health conducts education for young people in schools, and also informs the population through printed and electronic media about the harmful effects of tobacco smoke, and in counselling centres for youth in health centres, within the prevention centres, are promoted activities to help young people to quit smoking. The public institution for accommodation, rehabilitation and re-socialization of users of psychoactive substances in Kakaricka Gora organizes workshops and educational lectures in order to prevent all forms of addiction.

The data on the prevalence of smoking in the general population in Montenegro, i.e. the population aged 15 to 64, from the "Survey on the quality of life, lifestyles and health risks of the population of Montenegro", according to all relevant indicators, conducted in 2017. More than a third (35.4%) of adults (aged 15 to 64) reported active smoking; 17.1% smoked at some point in their life and later stopped smoking, while 47.6% of respondents reported smoking abstinence throughout their lives. In the subpopulation of young adults (ages 15 to 34), every fourth (25.5%) reported active smoking, 13% had smoked, while most respondents in this subpopulation never smoked (61.4%). Almost one in five young people between 15 and 24 years of age actively smokes (18.7%). Every tenth person of this age has smoked once and has quit. 71% of young respondents never smoked. Regarding the presence of smoking among members of the different sexes, 36.2% of adult men in Montenegro actively smoke, as opposed to 34.5% of women. More men than women have quit smoking (17.5% compared to 16.6%), and more women than men abstained from smoking throughout their lives (48.9% of women and 46.3% of men). The incidence of smoking among smokers is expressed as the amount of cigarettes consumed per day for the last 30 days. 3% of adult smokers (3.0% of men and 2.9% of women) do not smoke every day, and 4.4% (4.6% of men, 4.2% women) smoke up to five cigarettes a day. 12.6% of adults smoke from five to ten cigarettes a day. Most smokers smoke significantly more - almost half (46.6%) smoke from ten to twenty cigarettes a day, while more than a third - 33.4% - smokes more than one pack of cigarettes per day. Among them, one in twenty smokers (4.7%) smokes more than two packs a day.

Inspectors of the health and sanitary inspection carried out 928 inspections and found 17 irregularities related to the non-compliance of labels on the smoking ban and the use of tobacco products in the work area and 14 fines were imposed. Market inspection carried out 453 inspections, in which 7 irregularities in the lack of a ban on the sale of persons under the age of 18 were established.

### ***Blood, Tissues, Cells and Organs***

In the area of blood, the Rulebook on amendments of the Rulebook on the scope of the medical examination and criteria for determining the suitability of blood donors or blood components \* (Official Gazette of Montenegro 62/16) was adopted. A number of activities have been undertaken to increase voluntary donation of blood, in cooperation with the Red Cross, media, educational institutions and other organization, therefore it is expected that the level of voluntary donation in 2017 will be close to 3%. Within the framework of continuous medical education, two educations were organised for the employees of the Institute for blood transfusion on the topic of implementation and further improvement of the Quality System and one education for clinicians of various specialties who use blood in treatment from public health institutions and medical specialists of transfusiologists of the Institute on the topic of Hemovigilance and establishing a system of mandatory reporting of serious unwanted events and serious adverse reactions as well as establishing reporting system; the participation of representatives of the Institute in the course of two-day education for the certification process for obtaining the ISO 9001: 2015 and 27001 standards; participation of 3 doctors specialised in transfusion medicine at a three-day training seminar for quality control trainers organised by the EDQM Council of Europe; participation of representatives of the Institute at ABBOT's annual meeting and introduction to the latest technology in the field of testing of blood transmissible diseases; participation of 3 doctors of Special Transfusion Medicine at the European Congress of ISBT in Copenhagen; training of medical technicians and doctors of the Institute for work on the new HemoQHb201 + apparatus for the determination of the pre-donation haemoglobin of blood donors. Participation of representatives of the Institute on training "Creation and implementation of integrity plans in the institutions of Montenegro", organised by the Agency for Prevention of Corruption; participation of the five-member team of the Institute involved in the quality assurance system at the three-day working seminar "Sharing Best Practices: Quality Risk Management, Change Control, Validation and Qualification in Blood Establishment" organised by the EDQM Council of Europe; participation of 3 doctors of Special Transfusion Medicine at the Regional Congress of BiH; participation at the VI Medical Fair in Podgorica within the framework of a transfusion session with five presentations.

In the area of institutional capacity building, back-up support has been established for the IHA 1000 device, the BioRad manufacturer, for the work of ABO / RhD blood groups and the

blood supply provider screening in Montenegro, by purchasing IHA 500 device; back-up support for the Architect 2000i, manufacturer Abbot, has been established for blood-borne HIV, HBV, HCV and Syphilis transmissible diseases, by purchasing apparatus of the same characteristics; the method of introducing the method for the pre-donation determination of haemoglobin to blood donors by the HemoQHb201 + apparatus is validated. The procedure was put into operation in all organizational units of the Institute on the territory of Montenegro. A three-day visit of the Council of Europe expert team within the EDQM QM-BMJV activities was organised. The external control of the laboratory work of the Institute was carried out through the participation of the Institute in the EDQM program of the B-PTS study of the Council of Europe (5 studies). Automation of the work process for the patients of the Clinical Centre of Montenegro was implemented. Internal control for the certification of ISO 9001: 2015 and 27001 standards was implemented. An application for external verification and certification procedure for the ISO 9001: 2015 I 27001 standard was submitted. The completion of the process and obtaining a license is expected by the end of the current year. The procedures for determining HCT and determining the Hb method of CuSO<sub>4</sub> that were in use were discontinued.

The inspectors of the Health Sanitary Inspection carried out two inspections in the field of sex cells and control of implementation of the Law on Infertility Treatment with Assisted Reproductive Technologies, and no irregularities have been identified during the examination.

The Law on Health Inspection (Official Gazette of Montenegro 37/17) was adopted, in which Decision 2010/453/EU was transposed.

### ***Infectious Diseases***

An Action Plan for Implementation of the International Health Regulations (IHR 2005) 2017-2018 was adopted. Preparation for the nomination process of the Podgorica airport in accordance with IHR is in progress.

On 1 June 2017, the Institute of Public Health received the World Health Organization's Act on the appointment of the National Influenza Centre at the Centre for Medical Microbiology. In terms of strengthening the epidemiological services, epidemiology specialties are in progress: 3 doctors from the Institute of Public Health, one from GH Bar, GH Bijelo Polje, GH Berane, GH Kotor, GH Cetinje, HC Tivat, HC Ulcinj, two doctors from the HC Nikšić, and three doctors from the KCCG. The hygienic-epidemiological services electronically monitor the illness from infectious diseases in the territories they cover.

The national correspondent for ECDC for Montenegro, in accordance with ECDC

requirements, has nominated national focal points for surveillance for certain categories of communicable diseases and suggested representatives for required meetings. The nominated representatives attended the meetings that were held so far.

In accordance with the conclusions of the "Workshop on monitoring and evaluation surveillance systems with emphasis on influenza sentinel surveillance (Sarajevo, BIH, February 2017)", activities of monitoring and evaluation of the flu control system have been initiated.

In October 2016, a two-member delegation from the Robert Koch Institute in Berlin visited the Institute for Public Health in order to strengthen capacities in controlling infectious diseases, establishing cooperation and signing a cooperation agreement. In December 2016, a two-member delegation from the Public Health Institute visited the Robert Koch Institute in Berlin. In February 2017, a workshop was held at the Institute of Public Health: Exchange of epidemiological information on a weekly basis in the form of teleconferencing, attended by epidemiologists from all over the country. In June 2017, a two-day meeting of representatives of the Robert Koch Institute from Berlin and representatives of the Podgorica airport, the Army of Montenegro, the Emergency Directorate, the Ministry of Health and epidemiologists related to emergencies were held.

The national correspondent for ECDC, the national focal point for microbiology and the epidemiologist, attended the two-day meeting: ECDC Multi-country workshop for EU enlargement countries on microbiology laboratory systems supporting public health (June 2017 Ohrid Macedonia).

The IHR focal point was a member of the WHO mission under the "Joint external evaluation mission Slovenia", which visited Slovenia in June 2017.

The meeting of the national antimicrobial resistance monitoring network was held on 14<sup>th</sup> November 2016. Educational seminar: Antibiotics - valuable heritage for future generations was held on 18<sup>th</sup> November 2016.

The Institute of Public Health has established cooperation with the National Public Health School in Athens

The Ministry of Health has adopted a plan for continuous medical education (CME) for 2016 and 2017, and its implementation is ongoing. During the CME for 2016, relevant institutions from the countries of the region had study visits to the Institute of Public Health. The expert team From the Clinical Centre of Serbia had a five-day working visit to the Institute of Public Health and the Clinical Centre of Montenegro in the framework of control over intra-hospital infections. During 2017, two five-day education in the field of intra-hospital infections was held in cooperation with the expert team for hospital infections from the CC of Serbia

(March, June 2017). Three workshops for epidemiologists in the field of epidemic research were held.

In accordance with the Action Plan 1, an epidemiology specialist is included in the MediPIET program, and several other doctors have attended MediPIET courses.

Pursuant to the International Health Regulations (IHR) and the Law on the Protection of Populations from Infectious Diseases, a system for warning, response and surveillance for infectious diseases is functional. There is no general national plan regulating READINESS for contagious disease epidemics, but there is a Plan of READINESS and response to a pandemic flu in Montenegro. The pandemic plan is in line with the implementation of IHR. According to the Law on Population Protection against Infectious Diseases, it is mandatory to report antibiotic resistance. The SOP for collecting data on resistance to antimicrobial drugs of clinically significant bacteria, handling and reporting, adopted at the Association of Physicians of Microbiologists, is under consideration by the National Commission for the Quality and Safety of Health Care for adoption and publication on the website of the Ministry of Health. The data collection system is organised through a network of microbiological laboratories composed of all Microbiological Laboratories in the public sector. The data is collected on the basis of the above mentioned SOP, which means that the Reference Laboratory for the monitoring of bacterial resistance to antibiotics is a place for collecting data and reporting on resistance. The first data were collected for 2016 and will be published in the WHO report for that year. Also, there is a Decision on the appointment of a Reference Laboratory by the Ministry of Health.

Below is an overview of the number of confirmed cases, incidence rate/100.000 inhabitants and coverage of vaccinations against certain infectious diseases:

Disease	Number of confirmed cases	Incidence rate /100.000 inhabitants
Diphtheria	0	0
Morbili	0	0
Neonatal tetanus	0	0
Tetanus (total)	0	0
Pertussis	8	1.28
Parotitis	5	0.8
Rubella	0	0



Congenital rubella syndrome	0	0
Varicella	6057	969.1
Hepatitis A	43	6.88
Hepatitis B	27	4.3
Vaccine	Scope (%)	
BCG	85	
DTP1	96.56	
DTP3	89.07	
DTP4 (R1 – first re-vaccination)	67.68	
IPV1	96.56	
Polio3 (IPV3)	89.07	
HepB 1	95.28	
HepB 3	75.27	
MMR 1	46.58	
MMR 2	86.4	
Hib 3	89.07	

The Rulebook on supplementing the Rules on the form and contents of prescriptions, the criteria for the classification of medicinal products, as well as the manner of prescribing and dispensing medicines (Official Gazette of Montenegro 59/17), created the conditions that a renewable recipe can also be a manual prescription when prescribing antiretroviral medicines used in the treatment of HIV infections, which is an improvement in the HIV prevention and treatment process, and the setting of conditions that at any time a renewable manual prescription may be issued for the patient's needs. The National Interdisciplinary Committee for Antibiotic Resistance (NIKRA), the National Commission for the Control of Hospital Infections, the National Commissions for Infectious Diseases, the National Coordinating Body for the Elimination and Eradication of Certain Infectious Diseases, and the Working Group for development of guidelines for the secondary prevention of sexually transmitted infections, have been formed at the Ministry.

### ***Mental Health***

Action Plan for the Promotion of Mental Health in Montenegro 2017-2018. was adopted on 22<sup>nd</sup> December 2016, which sets a number of measures and activities for mental health

improvement. A mental health commission was established, as well as a working group for the preparation of the Mental Health Strategy for the period 2018-2021. Administrative capacity building was implemented in the Special Psychiatric Hospital Kotor and 4 specializations were approved (three from general specialization and one from child and adolescent psychiatry), and one graduate psychologist and one graduated social pedagogue are employed. Two psychologists with fixed term employment were employed for an indefinite period of time. Six medical technicians are employed for an indefinite period of time. Employees were educated on several occasions, both in Montenegro and the region. The donation of the Government of Japan, worth about 61,000 Euros, was implemented, a new hybrid vehicle was purchased, 5 ECG machines, 2 washing and drying machines and one machine - a washing line in the kitchen. An information network system was installed throughout the hospital. The tender value of EUR 20,000 for works on replacement of windows and ceramics in hospital kitchen and warehouse was completed.

The adaptation of one prefabricated facility for the needs of the Daily Hospital, worth up to EUR 50,000, has been completed, and funds have been provided from the "Be responsible" Project.

In 2016, NGO Human Rights Action carried out significant activities through the "Outside of isolation" Project, and monitoring in accordance with the signed Memorandum of Cooperation with the Ministry of Health. Activities of the NGO sector in the process of improving the Action Plan for work occupational therapy are under way, following a public call by the NGO Human Rights Action. Protocols have been established for cooperation and exchange of information with several psychiatric hospitals in the region.

### ***Prevention of Drug Abuse***

The Action plan for 2017 for implementation of Strategy of Montenegro for prevention of drug abuse was adopted in February 2017 (2013 – 2020).

In May 2017, the Ministry of Health issued the Buprenorphine drug guidelines for all health institutions, which was delivered to all health institutions with organised psychiatric services and mental health centres. In accordance with the guidelines, the Buprenorphine drug can be administered in/at doses prescribed by a psychiatrist for each user, in a health institution, with an organised psychiatric service, which means that patients consume the drug directly, without providing a prescription.

The Rulebook on amendments of rulebook and detailed requirements regarding terms of standards, norms and methods of primary health care through selected team of doctors or a doctor (Official Gazette of Montenegro 64/17), introduced a new "Assertive team" service, which introduces to psychiatric centres, i.e. mental health centres, an obligation to educate a team for psychiatric home visits. The team consists of one psychologist, one social worker and a nurse, and home visits would be provided for the most serious psychiatric patients

who were hospitalized, and after completion of hospital treatment, the team is obliged to make a first visit up to 15 days from leaving the hospital, and a repeated visit 30 days after completion of hospital treatment. During house visit, the team has a task to get familiar with health situation of a patient, socio-economic position, family relations and relations of patients' communication, both with the team and with the family, in order to create preconditions for patient's re-socialization and avoid repeated and prolonged hospitalization and patient's adaptation to family living, and normal communication with family and environment. Therefore, the Ministry of Health has issued the Instruction for work of the Assertive Team, which regulates the procedure of work and activities of every team member individually as well as joint work, as well as rights and obligations of a patient, i.e. guardian, proxy or legal representative, if necessary. The Commission for Mental health was formed, Work Group for preparation of the Mental Health Strategy 2018-2020, as well as WG for preparation of Guidelines for Addiction Disease (drug addiction – opiate dependence), and the Suicide Prevention plan.

Participation in the new IPA 6 Project, which aims to further improve the capacity for collecting and analysing data according to EU indicators, has started. The combined national data according to EMCDDA indicators were collected, and the annual report is in the final phase of development in cooperation with the EMCDDA. With expert and financial support, the first general population survey on drug abuse was implemented. National experts have passed EMCDDA training, in the field of individual indicators of this agency, which are necessary for monitoring the situation in the field of drugs, as well as for the purpose of training. Cooperation with UN Office for Drugs and Crime (UNODC) continued in the area of reduction of supply and demand reduction. In cooperation with the UNODC and the Ministry of Health, a two-day seminar was held on the 26<sup>th</sup> June 2017 in Podgorica, targeting drug addiction experts, with "UNODC - International Treatment Standards" topic. Training was attended by 30 psychiatrists. The prevention programs implemented in the education system are standardized UNODC programs. The MILDECA standardized prevention program is also applied by the trained officers of the Police Directorate for Drugs Control in cooperation with the Municipal Offices for prevention. Cooperation with the Council of Europe - Pompidou Group (CoE PG) continues. The Ministry of Health participates in the work of the international expert working group of the Pompidou Group on the development of an on-line intervention in the area of drug use disorders identification tests (DUDIT).

### ***Reducing harmful effects caused by alcohol use***

In September 2017, the Action Plan for the Implementation of the National Strategy for the Prevention of Alcohol Abuse and Alcohol-Caused Disorders in Montenegro (2013-2020) was adopted for 2017-2018, which includes a series of activities and measures to prevent the harmful use of alcohol and alcohol-induced disorders. Also, in the Ministry of Health, a working group was formed for the implementation of the Action Plan for the use of alcohol

and alcohol-induced disorders.

### ***E-health***

The Ministry of Health has initiated activities to assess the status of the health information system and has engaged an expert team that will determine the situation and make recommendations for its further development and upgrading, as well as the development of e-health services. This assessment will be the basis for the confirmation and/or revision of the already prepared draft strategic development of an integral health information system and e-health. In order to improve the quality of health care and reduce waiting times for examinations, a software solution for central patient scheduling has been developed and implemented, with the possibility that the doctor at the primary level of health care directly schedules patients' examination by a specialist. Improvement of electronic reporting system from information system is continuous, for the needs of the registers of diseases (electronic application), programme screening and statistical reports.

### ***Nutrition***

The Food Action Plan 2017-2018 was adopted, which envisaged a series of measures and activities to improve the quality of nutrition of the population. The Code of Health Institutions and Health Workers has been adopted to promote breastfeeding, anytime and anywhere, in order to ensure that as many babies as possible are fed breast milk. The Institute of Public Health is conducting a continuous education of the population through the Specialist of the Ambulance for Nutrition and through the media, and carries out the education of organisations in the food and water business. During October 2017, representatives of the Public Health Institute educated medical staff on nutrition in the prevention and treatment of diabetes and cardiovascular diseases, as well as the nutrition of children. Regarding the school hygiene, the Institute of Public Health actively participated in defining the nutritional composition of primary school pupils' diets in the territory of Podgorica, and also examined the quality and nutritional composition of meals in preschool institutions, as well as education in terms of hygienic minimum, planning and type meals in public institutions. Within the framework of continuous medical education, knowledge in terms of proper nutrition, food safety and disease prevention have been improved through visits by experts from the region and through participation in a significant number of congresses, workshops and conferences dedicated to various aspects of food and food safety.

### ***Health inequalities***

In accordance with the strategic commitments and action plan for 2017 for Roma integration, in the health sector, in cooperation with the Ministry for Human and Minority

Rights, preventive examinations of women of the Roma population were conducted in the Health Centre Berane (25) in the Health Centre Bijelo Polje (26) and the Health Centre Nikšić (22). In cooperation with health institutions in Nikšić and the Municipality of Nikšić, 15 members of the Roma population are engaged in familiarization and methodology of work of health institutions, for the purpose of transferring it to the Roma population. The Municipality of Nikšić pays monthly compensation for these persons. In addition to three mediators for mediation and work with the Roma population, who have been employed for indefinite time in the Health Centre Podgorica, Health Centre Nikšić, and Health Centre Berane, one mediator was engaged for each centre, which is financed by HELP for a year.

### **3.29. CHAPTER 29: CUSTOMS UNION**

#### **3.29.1. GENERAL READINESS FOR MEMBERSHIP**

##### **3.29.1.1. Customs legislation**

###### ***General customs rules***

The Montenegrin customs system is regulated by the Customs Law (Official Gazette of Montenegro 62/13), the Customs Tariff Law (Official Gazette of Montenegro 28/12) and the Customs Service Law (Official Gazette of Montenegro 3/16). The most important by-laws for the implementation of the aforementioned regulations are: Customs Law Implementing provisions (Official Gazette of Montenegro 40/17), Regulation on the Treatment of a Customs Authority with Goods for which there is a reasonable doubt that it infringes intellectual property rights (Official Gazette of Montenegro 48/16), the Regulation on the Conditions for Approval of the Status of an Authorized Economic Operator in the Customs territory of Montenegro (Official Gazette of Montenegro 38/15), Regulation on conditions and procedure for exercising the right to exemption from payment of customs duties (Official Gazette of Montenegro 20/15) and the Rulebook on the form, content, manner of submission and filling of the customs declaration and the summary declaration (Official Gazette of Montenegro 48/07).

The Ministry of Finance is responsible for the customs policy. Within the Tax and Customs System Directorate of this Ministry was established the Department of Customs System and Customs Policy. The Customs Administration is responsible for the implementation of customs policy, which is supervised by the Ministry of Finance.

When placing goods into free circulation, the taxpayer is obliged to pay the customs debt in which are included the customs duty, the value added tax, excise tax, if the excise goods are imported. At the request of the participants in the customs procedure, the goods can be cleared outside the working hours and/or outside official premises. The customs duty is

charged in a fixed amount per engaged customs officer per hour, whereby each started hour is counted as a whole hour.

The Law on Administrative Procedure and the Law on Administrative Disputes regulate the system of administrative and judicial protection of the participants in the customs procedure. On the basis of these regulations, an unsatisfied party may file an appeal to the Ministry of Finance to the first instance decisions of the Customs Administration. Against the second instance decisions of the Ministry of Finance, the party may initiate an administrative dispute before the Administrative Court of Montenegro.

### ***Customs procedures***

The Montenegrin customs system differentiates the external and internal transit procedure.

The external transit procedure allows the transport between two places in the customs territory of the foreign goods and such goods are not subject to the collection of import duties and other charges or measures of commercial policy or domestic goods for which the export procedure has been carried out. The transport takes place according to the provisions on external transit, TIR Carnet, ATA Carnet, Post (including postal parcels, Form 302 provided by the North Atlantic Treaty of 19 June 1951.

The internal transit procedure allows the transport of domestic goods from one place to another in the customs territory, with the passage through the territory of another country, without changing its customs status. Transport may be carried out on the basis of a transit procedure, provided that such an option is prescribed by an international agreement; based on TIR Carnet; based on ATA carnets used as a transit document and Post (including postal parcels).

The EC approved the IPA 2014 project "Support to the Customs Administration", by which implementation will be fulfilled all conditions for Montenegro's accession to the Convention on the Common Transit Procedure and the Convention on Facilitation of Trade in Goods. The project is divided into three contracts: an IT implementation contract, a business support contract, for which the start of the realization is planned at the end of 2017, or in the beginning of 2018, depending on the duration of the tender procedure and the contract for procurement of server equipment, the realization of which was planned at the end of 2018. PIN (prior information notice) for the IT Implementation Contract and the Business Support Contract PIN have been published (on 30 June 2017 for Support and on 3 August 2017 for IT Implementation), and the Contract Notice for both contracts as well as the ToRs are delivered to the SPO at the Ministry of Finance on further jurisdiction regarding publication. The Ministry of Public Administration has agreed to establish an information system in the Customs Administration, which is a precondition for the implementation of this project.

Provisions governing customs warehousing, free zones, temporary admission, end-use, inward and outward processing are largely in line with EU regulations. Customs regulations have been harmonized with EEC Regulations 2913/92 and 2454/93. Further harmonization with the UCC and its by-laws is in progress.

In accordance with customs regulations, simplified customs procedures may be conducted on the basis of an incomplete customs declaration, commercial documents (invoices) and on the basis of the accounting entry.

Simplified invoice-based procedures are approved for simple goods, which are not accompanied by special certificates, which are cleared on the basis of invoice at the border crossing point, after which, during a certain time period, the importer submits a supplementary declaration for all customs clearance in the previous period.

The application of simplified procedures based on the accounting entry enables the procedure for declaring the goods at the location of the holder of the authorization, which includes the electronic submission of a customs declaration with the obligation of the holder of the authorization to personally archive the accompanying documentation. No supplementary declaration is submitted because the holder of the authorization sends the declaration filled in as in the regular procedure (with all data). These procedures are not yet widely used.

The manner and conditions for acquiring the status of an authorized exporter are laid down in the Article 54 of the Customs Law Implementing provisions and the free trade agreements that Montenegro applies. "Authorized exporter" means a person to whom the Customs Administration issues an Authorization and assigns an authorization number for the application of a simplified procedure for proving preferential Montenegrin origin. "Authorized exporter" may be authorized to make an invoice declaration of the origin of goods on an invoice, delivery note or any other commercial document, and in accordance with agreements expressly providing for this possibility, regardless of the value of the goods being exported. Notice on the conditions and method of obtaining the status of "authorized exporter" is posted on the website of the Customs Administration.

### ***Classification and tariff***

The provisions of Article 1 of the Customs Tariff Law (Official Gazette of the Republic of Montenegro, No. 75/05 and 17/07) prescribe that customs duties shall be paid on goods imported into the customs territory of Montenegro at rates and in the amounts determined by the Customs Tariff, which is printed along the law and makes it an integral part.

The structure and level of customs rates are determined taking into account the principles of domestic production protection and market regulation in line with the framework and

rules of EU customs system, thus allowing the implementation of the liberalization measures planned by the Stabilization and Association Agreement.

Customs duties are calculated and collected at a percentage rate in relation to the value of goods (ad valorem) and in a specific amount per unit of measure for the mass of goods (specific customs duty). For a part of agricultural-food products, a combined customs duty is established, i.e. at the same time are collected "ad valorem" and specific customs duties. It should be noted that, in accordance with the obligations laid down in the Protocol on Accession to the WTO, for products for which the combined customs duty is applied, an upper limit of customs charge was established when importing them into Montenegro.

The rates of customs duty prescribed by international treaties apply only to goods with preferential origin from the countries covered by the contract.

The provisions of Article 22 of the Customs Law provided the authorization for the Government to approve, for certain goods, due to the type or use for certain purposes, to pay more favourable customs duties than those prescribed by the Customs Tariff for those goods. A more favourable duty means the reduction or abolition of import customs duties and other duties payable on the import of goods.

The Customs Tariff of Montenegro is familiar only with the customs quantitative quotas for certain agricultural-food products, as defined by the SAA and the Free Trade Agreement between Montenegro and the Republic of Turkey (Official Gazette of Montenegro-International Contracts, No. 3/09). The monitoring of the utilization of quotas is done through the customs information system of the Customs Administration. The use of quotas is done according to the "first come-first serve" principle.

There are no provisions related to the ceilings/customs duty limits in the Customs Tariff Law.

Montenegro publishes binding information on classification of goods under the Customs Tariff on the website of the Customs Administration and on the Notice Board of the Customs administration. In accordance with the standard, the Customs Administration does not publish binding information on the origin of goods.

So far, Montenegro has not ruled on issuing binding information on the classification of goods under the Customs Tariff, and European judgments and notices are not published in the official gazette.

### ***Customs origin***

The Customs Law and the Customs Law Implementing provisions prescribe rules on non-preferential origin for the purpose of application of the customs tariff, the application of other measures determined by the provisions of special regulations in the field of trade in



goods and issuing certificates of origin. The basic rules for acquiring Montenegrin non-preferential origin are:

- Full obtained product;
- The rule of last sufficient working or processing<sup>5</sup>.

On October 16, 2017, the Parliament adopted the Law on Amendments to the Customs Law, which delete the so-called. "negative list" for the acquisition of non-preferential origin.

Certificates of non-preferential Montenegrin origin are issued by the Chamber of Commerce of Montenegro. The Government of Montenegro, by applying the provisions of the Law on Foreign Trade related to the introduction of safeguard measures (anti-dumping and compulsory customs duties, quantitative restrictions, etc.), has so far failed to determine the types of goods whose importation is required to submit a certificate of origin, and therefore the customs administration has not been in a position to control non-preferential origin.

### ***Customs value***

The provisions for determining the customs value of goods in Montenegro are largely in line with the provisions on the determination of customs value in Section II of Chapter 3 of the European Union Customs Law. The difference in compliance relates to the simplification facility referred to in Article 73 of the UCC, which provides for the possibility of simplifying the declaration of elements of the customs value which are included or not included in the customs value. Montenegro does not use the minimum value for determining customs value. Reference values are used in Montenegro in cases of determining the customs value of fruits and vegetables, but only as a comparative figure, and final determination of the customs value for these types of goods is done as for other types of goods, based on identical or similar goods methods, for which was accepted transaction value during the appropriate time period.

Montenegro has the capacity to implement EU rules on customs value, with some improvements in administrative capacity.

### ***Exemption from payment of customs duties***

Regulations related to exemption from payment of customs duties are in line with the acquis, while the grounds for exemption not covered by the acquis until the date of

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<sup>5</sup> This rule does not apply to textile products (section XI of the Customs Tariff) and a number of products, for which the conditions for obtaining non-preferential origin are prescribed by separate Annexes (Annexes 3, 4 and 5 of the Regulation) within the framework of the Customs Law Implementing provisions.

accession to the EU are kept. Exceptions to the payment of customs duties which are not provided for by the EU acquis are for goods intended for the provision of museum, archival, restoration, literary, artistic, musical and scenic and cinema activities; for goods used for the renovation, maintenance and restoration of protected cultural monuments; for goods representing cultural grants, for fire prevention and extinguishing equipment, for goods (fixed assets) imported as foreign investment; passenger vehicles for persons with disabilities, equipment for the needs of state authorities. Duty free shops do not exist at road border crossings. The Customs Law provides for the possibility of opening duty free shops at airports and seaports open to international traffic.

### ***Enforcement aspects***

The risk analysis system is fully integrated into the organizational structure, customs procedures and the Customs Information System. The system enables the risk analysis of all boxes of the customs declaration, in all customs procedures, including export and transit. During customs clearance, the customs officer receives a Risk Analysis message with a description of the risks and instructions on what to do. Depending on the degree of risk, the message appears in the red, yellow or green channel.

The risk analysis system is automated. There is a special SAT application where risk profiles with all the necessary data (Risk description, Instructions to intervention, Risk level, Control rate, Activation period, Declaration type, Customs procedure, Customs office, Random controls, etc.) are created.

There is an integrated RUR database (Risk Management Register) in which data on all stages of the risk analysis work are entered (receiving information, records, analysis, creating a risk profile, status, evaluation, search). All organizational units have access to the RUR database and can directly submit proposals for risk profiles within their jurisdiction (for example, customs value profiles, tariff profiles, prohibition and restrictions profiles, etc.), and can then track and evaluate the effectiveness of the risk profile through reports for the purpose of updating. RUR database has the ability to create reports and search queries according to the pre-defined parameters.

Within the RUR database there is an ERI database, which contains information on misdemeanours, seizures, criminal charges, IPR infringements, narcotics smuggling, suspicious activities, etc. Every customs officer has the ability to enter new information into this database, as well as to search for data by pre-ordered filters.

The selectivity criteria are established at the central (national) level, and include the customs tariff, type and description of goods, country of origin, country of dispatch, customs value, information on traders, means of transport and other criteria; The system gives the opportunity to create a Local Risk Analysis by a customs officer, which is also

automated. If the customs officer decides to independently control the declaration, he/she is obliged to enter the Risk Description and the Control Manual into the system.

After the control has been carried out, it is mandatory to fill out an Inspection report in the information system containing data on the type of control, the result of control and the description of the control result.

There is a system of evaluation of the results of controls, both those that are set at the central level and the controls that are created at the local level. Through the Reports module, it is possible to obtain all data on controls of customs declarations: data on the type of conducted control, the results of control, a descriptive comment on the control results, and other data. Reports enable efficient evaluation of control results.

The SAT application allows the creation of random controls, the evaluation of which is carried out through existing reports. The realization of the project for the development of a new IT solution for the Inspection Report in customs clearance and transit is in progress, which is in line with the best EU practice. A Risk Management Framework has been developed (with technical assistance through the WBG IFC project), which defines the Organizational Structure, Work Process, Monitoring and Continuous Improvement of RMS.

In accordance with the provisions of Article 25 of the Customs Service Law, traders are obliged to provide information prior to arrival / before departure (prior to import / export). In accordance with the aforementioned authorization, the Customs Administration has signed Memoranda of Understanding (MOU) with significant companies in the field of air and maritime traffic in order to obtain information on shipments before arrival of goods and to carry out adequate risk analysis.

A safety summary declaration, by which the importer / exporter informs the customs authority that the goods will be imported / exported from the customs territory of Montenegro, is prescribed by the Customs Law and the Customs Law Implementing provisions. The application of the provisions relating to this type of declaration has been postponed until 1 January 2019.

The Customs Administration uses the SEED system - Regional system for electronic exchange of information on consignments - announcement of consignments before arrival in road traffic.

### ***Specific sectoral customs rules***

The Regulation on the procedure of a customs authority with goods for which there is a reasonable doubt that it infringes intellectual property rights ('Official Gazette of Montenegro 48/2016) is largely in line with the Regulation of the European Parliament and of the Council no. 608/2013 on the Customs Enforcement of Intellectual Property Rights

and Commission Regulation 1352/2013 on the establishment of the forms set out in Regulation No. 608/2013. The Regulation is in force as of 1 January 2017.

The Law on the Protection of Cultural Property, as well as the Rulebook on Detailed Conditions and Methods for Issuing Approvals for the Temporary Export of Cultural Property Abroad, are not harmonized with Regulation (EC) 116/2009. Bearing in mind the above, the Ministry of Culture has undertaken activities for amending and supplementing the relevant regulations, which will include, inter alia, harmonization with the said Regulation. It is planned that the said regulations will be adopted in 2018.

National legislation on drug precursors is in line with the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. Legislation is partially in line with the Regulation 1258/2013 and Regulation 1259/2013. The adoption of the Law on Amendments to the Law on Control of Production and Trade of Substances that Can Be Used in the Production of Narcotic Drugs and Psychotropic Substances and the Regulation on Amendments to the Regulation on the List of Substances that Can Be Used in the Production of Narcotic Drugs and Psychotropic Substances is planned for 2018, which would be fully compliant with the above mentioned Regulations.

Regulations relating to goods transported in the passenger baggage are in line with EU regulations. Control of luggage and personal baggage in air traffic is organised through red and green channels. As far as consignments of insignificant value are concerned, the amount to which these consignments are exempt from VAT payment is not harmonized. Pursuant to the Value Added Tax Law, consignments of insignificant value up to 75 euros are exempt from payment of VAT.

There is a wide degree of compliance with the EU acquis in the part of the control of transborder movement of cash.

### ***Administrative and operational capacities***

The Customs Administration is an authority within the Ministry of Finance, which carries out operations through the Headquarters and the Regional Customs Units – Customs houses. The Rulebook on Internal Organization and Job Descriptions of the Ministry of Finance, established the organizational structure of the Customs Administration. The referred Rulebook systematized 606 employees, while the current number of employees is 504.

In accordance with the Law on Civil Servants and State Employees is conducted the process of recruitment and selection of personnel. After the decision of the Minister of Finance to initiate the procedure for the filling of the post, and after the published announcement, the Human Resources Management Authority forms a list of eligible candidates that are subject to compulsory examination of the ability to perform job positions before the Commission

established by the Human Resources Management Authority. Checks are made in written form and an oral interview, after which the Commission makes a report. Based on the above report, the Human Resources Management Authority, within three days from the day of writing the report, determines the ranking list for the selection of candidates and submits it to the Minister of Finance who, as a rule, selects the best-ranked candidate from the selection list.

The Minister of Finance is obliged to make a decision on the selection of candidates and disseminate it to the Human Resources Management Authority within 30 days from the date of receipt of the Ranking list of candidates, after which the decision on the employment and allocation is made. After the employment is made, the monitoring of the work performance is carried out through probationary work and continuous professional education through training.

In accordance with the provisions of the Law on Civil Servants and State Employees and the Law on Customs Service, customs officers continuously complement their expertise, they are being trained and participate in the proficiency check organised and implemented by the Customs Administration.

In order to strengthen the knowledge and skills of officers based on the competency framework, the Customs Administration has defined 2016-2018 Training Strategy, which is in line with the EU best practices. Adhering to the strategic objectives, the Customs Administration strengthens the training unit, develops a sustainable training system based on the EU competency framework, conducts general and specialized training organised independently, in cooperation with other state authorities, as well as through international cooperation.

Pursuant to the provisions of the Law on Civil Servants and State Employees, vacancies in the Customs Administration are, inter alia, filled with an internal advertisement within the state authority, to which interested officials of this administration apply. After conducting the internal advertising procedure and checking the capabilities, the Minister of Finance selects the candidate, i.e. the officer who is best rated and highest-ranked. In this way, an officer can be promoted to a higher position.

Montenegro expects the tender procedure to be completed shortly, after which the projects will be implemented to ensure the implementation of the new Reporting System, WEB data exchange with other state institutions, a new application system for Inspection supervision in the Customs Information System (CIS).

On 18 July 2017, the Customs Administration adopted an updated Action Plan for the Business Strategy 2016-2018, which was approved by the Ministry of Finance. On 4 October 2017, the Customs Administration adopted an updated IT strategy. In this strategy, a correlation was made with the points from the Action Plan in Business Strategy 2016-

2018 and expressed the level of support provided by the ICT Sector to the business sectors. In the updated IT strategy, the MCA defined and requested the budget funds for further implementation of national IT projects: full implementation of E-certificates, e-archives for the declaration system, implementation of new rules close to the EU procedures, Implementation of Disaster Recovery location, migration of Application and WAN solutions to new modern technology platforms.

Representatives of the Customs Administration attend and monitor the work of experts on the application of MASP and the new UCC at meetings in Brussels. Bearing in mind that the EU has prepared for support to the UCC, the complete MASP 2017 with the date of implementation of certain projects even after 2020, the Customs Administration will continue to monitor the activities of the EU and will accordingly define the order and pace of implementation of all functionalities from the MASP. As soon as the business plans related to the UCC / MASP are clearly defined, the business and IT strategy will be re-updated to further adapting to EU systems.

Customs Administration promotes integrity and contributes to reducing the risk of corruption through a range of activities by strengthening institutional and administrative capacities. The Customs Administration is implementing the Integrity Plan, which is an internal anti-corruption act and contains a set of measures of a legal and practical nature that prevent and eliminate the possibilities for the emergence and development of various forms of corruptive behaviour.

Within the Integrity Plan, systematic analysis within the institution is carried out through the assessment of the risk of corruption occurrence both in individual workplaces and organizational units and, in this regard, is created a Risk Map.

Moreover, the improvement of the concept of integrity development is also realized through Integrity tests as a novelty in order to improve integrity and efficient human resources management, and reduce the risk of illegal behaviour. Based on them, precise personality profiles are obtained from several aspects, and thus represent the input to the customs administration for the efficient management of human resources.

In order to fight corruption, the Law on Customs Service introduced an obligation for customs officers to submit a report on revenues and assets to the Agency for the Prevention of Corruption.

An important segment from the domain of preventive mechanisms is the Code of Ethics for Customs Officers and State Employees. The Ethics Committee and Ethics Trustees carry out monitoring of the application of ethical norms through joint action with representatives of the business community, at the local level, contributing to the creation of anticorruption pressure and more efficient application of the customs administration's anti-corruption strategy.

Within the customs exams, specific thematic areas related to ethics and integrity are included as a special subject.

The analysis of samples for customs purposes can be carried out by private and state accredited laboratories. Types of goods that are most frequently analysed are agricultural food products and mineral oils and petroleum products.

### **3.29.2. PROGRESS MADE IN THE LAST 12 MONTHS**

#### ***Legislation harmonisation***

On 16 October 2017, the Parliament adopted the Law on Amendments to the Customs Law. This law further harmonizes with European customs legislation, with the aim of creating the conditions for accession to the Common Transit Convention and the Convention on reliefs in trade in goods, which prescribe measures for the simplification of formalities in trade in goods. In addition to the above, the Draft Law creates preconditions for the full implementation of European standards relating to the institute of an authorized economic operator.

The following bylaws have entered into force:

- Regulation on the procedure of the customs authority with the goods for which there is a reasonable doubt that it infringes intellectual property rights (Official Gazette of Montenegro 48/2016). The Regulation is in force from 1 January 2017.
- Regulation on the Customs Tariff for 2017 (Official Gazette of Montenegro 9/17 of 6 February 2017) and the Regulation on Amendments to the Customs Tariff Regulation (Official Gazette of Montenegro 43 of 4 July 2017).
- Regulation on Amendments to the Implementing provisions to the Customs Law (Official Gazette of Montenegro 40/17, of 5 July 2017). The regulation has been amended in the part of the provisions governing the handling of express consignments and the status of authorized consignor and consignee.

On 29 December 2016, the Customs Administration adopted the Public Relations Strategy, and on 4 October 2017 the Strategy for the Improvement and Modernization of the Technical Equipment Infrastructure

#### ***Administrative capacities***

Implementation of the project "Implementation of pre-processing of express consignments in accordance with the WTO Agreement on Trade Facilitation" is in progress. The project is

implemented under the support provided by the Government of the Republic of Germany to the Customs Administration, and is the result of a private-public partnership between the Government of Germany and DHL-Germany. The test phase was completed, which consisted of electronic exchange and analysis of express consignments data between DHL and MCA. A tender procedure for the selection of contractors for the implementation of IT solutions is currently underway. Functional application and completion of the project is expected by the end of the year. The application will be open to other express consignments operators.

The Customs Administration is without difficulty applying Protocol 3 of the Stabilization and Association Agreement concerning the definition of the term "originating products" and methods of administrative cooperation, including the legal link with the Annex I of the Regional Convention on Pan-Euro-Mediterranean Preferential Rules on the Origin of Goods.

In March 2017, the Customs Administration issued instructions to the organizational units on the application of the diagonal cumulation of origin based on the Regional Convention on Pan-Euro-Mediterranean Preferential Rules on the Origin of Goods, following the publication of the Diagnostic Cumulation Matrix in the Official Journal of the European Union C Series No 73.

At its meeting in May 2017, the PEM Committee adopted amendments to Annex II of the Regional Convention on Pan-Euro-Mediterranean Preferential Rules on the Origin of Goods, incorporating into the Annex CEFTA Decision 2/2017 introducing full cumulation and prohibition of duty drawback between CEFTA countries.

The provisions of the Protocol on Mutual Assistance in Customs Matters (Protocol VI) are also implemented without difficulty. To the greatest extent, administrative assistance from EU customs services is required when there is a doubt in the field of value of goods, and to a lesser extent the requested assistance relates to the verification of evidence of preferential origin.

At the CEFTA Ministerial Meeting, held on 26 May 2017 in Belgrade, the Additional Protocol 5 to the CEFTA Agreement was concluded. Ratifications in the parliaments of the CEFTA countries are currently ongoing. In accordance with the SEED project "Maintenance and Development", preparatory activities for the implementation of AP5 are being implemented, after its entry into force.

The Customs Administration suspended 38 customs procedures and temporarily retained goods in the total amount of 1,955 pieces of goods (clothing, footwear, bags, watches,



jewellery, bedding, towels, etc.). Goods were destroyed under customs control in the total quantity of 5,664 pieces of goods.

Representatives of the Customs Administration are members of the Coordination Team for the Implementation of Intellectual Property Rights, which was established on 29 March 2017 by the Ministry of Economy.

In the period from 1 January 2017 to 16 October 2017, customs officers conducted 56,117 detailed controls of vehicles and goods, as well as 481 inspection controls. 391 irregularities were identified. 284 misdemeanour orders were issued and imposed pecuniary fines in the amount of 109,500.00 Euro. 4 criminal charges were filed with the competent state prosecutor. The smuggled goods worth 4,200,729.00 euros were retained. The value of the subsequent payment of customs debt is 133,506.89 euros. In 33 cases, officers of the Customs Administration seized 386.78 kg of skunk, 17.23 kg of heroin, 18.225 litres of hashish, 0.12 kg of hashish and 0.5 kg of cocaine.

In this period, 79,382,620 pieces of cigarettes worth 3,979,002.50 euros were seized. Also, 207.5 kg of cut tobacco in the amount of 1,739 euros and 569.3 litres of alcohol worth 2,651 euros were seized. The implemented measures have stopped the permanent, multi-annual trend of decreasing excise revenues on cigarettes and other excise products

The Customs Administration intensively cooperates with partner services in the EU countries and international law enforcement organisations and institutions. 174 pieces of information was received, processed and distributed in cooperation with OLAF, Interpol, SELEC, HMRC, WCO and other organisations.

The Customs Administration carried out 12 audit controls related to the control of the implementation of the procedure for placing goods into free circulation, the procedure of temporary admission, transit, as well as the control of the work of customs offices for the customs administrative procedure in the customs houses.

In May this year, in cooperation with the World Customs Organization (Integrity support mission to Montenegro), the Customs Administration successfully conducted training on the topic "Fighting corruption, improving integrity and ethics". The training was organised for the officers of the Internal Control Department, Heads of Customs Offices and customs inspectors, with the aim of improving the integrity, ethics and professional standards of customs officers, through the exchange of experiences and best practices, as well as familiarizing participants with the World Customs Organization's innovative anti-

corruption strategies and presentations of instruments and tools for integrity development and corruption prevention.

In March 2017, the Customs Administration submitted a Report on the implementation of the 2016 Integrity Plan to the Agency for the Prevention of Corruption. The plan noted the progress in the implementation of measures by 16.3% compared to 2015. Also, the Customs Administration has designated a person for receiving and acting upon the reports of the whistle-blowers.

The Joint Plan of Measures for Prevention and Repression of Corruption at the Border Crossings for 2017 was adopted by the Border Police Sector of the Police Directorate, Customs Administration, the Administration for the inspection affairs and the Administration for Food safety, Veterinary and Phytosanitary Affairs.

Pursuant to the Law on Civil Servants and State Employees, against 13 officers of the Customs Administration was initiated the procedure for determining disciplinary responsibility due to the serious violation of official duty (abuse of office, non-execution and negligent performance of official duties). A disciplinary measure was sentenced for 8 officers, a fine of two or three months in the amount of 20% of the salary paid for the month in which serious violation of official duty was committed, while 1 official was acquitted of disciplinary responsibility. The procedure for determining disciplinary responsibility against the four officers is in progress.

### 3.30. CHAPTER 30: EXTERNAL RELATIONS

#### 3.30.1. GENERAL READINESS FOR MEMBERSHIP

##### 3.30.1.1. World Trade Organisation (WTO)

On 29 April 2012, Montenegro became the 154<sup>th</sup> member of the **World Trade Organisation (WTO)**.<sup>6</sup> With its membership of the WTO, Montenegro assumed all agreements, decisions, and declarations from the Uruguay Round of multilateral trade negotiations, and the obligation to access the plurilateral agreements. In accordance with the aforementioned, and after becoming a full-fledged member, Montenegro joined the following: the Agreement on Trade in Civil Aircraft (2012), the Ministerial Declaration on Trade in Information Technology Products (2012), the Protocol Amending the TRIPS Agreement (2013), and, in 2015, the Government Procurement Agreement. Regarding the Agreement on Trade in IT Products (ITA/ITA 2) and the Agreement on Trade in Civil

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<sup>6</sup> The Parliament enacted the Law on Ratification of the Protocol on Montenegro's joining the Marrakesh Agreement Establishing the World Trade Organisation (OGM – International Agreements 3/12 as of 8 March 2012).

Aircraft (CV), Montenegro further liberalized access to the commodity market in the part of information technology products and civil aircraft (Decree Amending the Decree on Customs Tariffs for 2016, OGM 46/16). Also, the Decree on the Customs Tariff for 2016 (OGM 4/16) provides for the implementation of the Decision from the Ninth Ministerial Conference of the WTO (*Duty Free and Quota Free Market Access for Least-Developed Countries - DFQF*), which will, upon completion of the notification and exchange of necessary information, provide free market access for 97% of products (by tariff lines) originating in the LDC.

In the WTO context, and in relation to access to the commodity market, the List of concessions includes all products of the customs tariff. Access to the service market is defined by the List of specific commitments in services and the Exemption List of Article II of the MFN GATS. Montenegro has committed itself to 11 of 12 sectors and 136 out of a total of 166 sub-sectors. Negotiations with WTO members have been conducted in consultation with the European Commission.

After joining the EU, Montenegro will apply all commitments arising from the WTO agreement in which the EU is a party.

#### **3.30.1.2. Dual-use goods**

As the public administration authority responsible for foreign trade affairs, the Ministry of Economy, (hereinafter: the Ministry), issues the license for the export of dual-use goods, the license to provide brokerage services, and the license to provide technical assistance. Pursuant to the Act on the Internal Organisation and Job Classification, 1 employee in the Ministry is in charge of monitoring EU regulations in this field, harmonization of the national regulations regarding the list of goods, and issuing licenses, i.e. compliance with the legal norms in the respective area.

Before deciding on a license application, the Ministry obtains opinions of the public administration authorities responsible for foreign affairs, defence, and internal affairs. Depending on the type and purpose of dual purpose goods, the Ministry may obtain opinions from other competent authorities as well.

The customs authority may, within its competence, restrict or prohibit exports, the provision of brokerage services, technical assistance, and transit of dual-use goods, and it must inform the Ministry thereof immediately. The Customs Administration and the Ministry of Economy are informationally connected so the database on dual-use goods licenses can be accessed.

Denial of licence for the export of dual use goods is governed by Article 21 of the Law on Control of Export of Dual Use Items (OGM 30/12) which prescribes that the Ministry shall deny a license application, if:

- 1) Authorities referred to in Article 16 of this Law give negative opinion;
- 2) It is confirmed that items for which the license has been requested are subject to the court dispute;
- 3) A person provides false data in the license application and in requested documentation;
- 4) An exporter fails to ensure inspection of the items or the related documentation, at the request of the Ministry.

In case of denial of license application the Ministry shall notify the applicant on the reasons thereof, without disclosing confidential or classified data, in accordance with the law.

In early 2015, Montenegro started the initiative for joining the International Control arrangement -WA<sup>7</sup>, and it will consider joining other arrangements in accordance with its needs and possibilities.

### **3.30.1.3. Export credits:**

The Investment and Development Fund of Montenegro (IDF MN) provides export loans, either directly or through commercial banks.

The IDF MN is a legal person with rights and obligations specified in the law and general acts of the IDF MN. It was established and operates as a joint stock company, in accordance with the law. The establishment, activity, powers, and organisation of the IDF MN are regulated under the Law on Investment and Development Fund of Montenegro. The Fund is accountable for its obligations with all its assets. Montenegro guarantees for the IDF MN obligations unconditionally and irrevocably.

The Fund acquires assets for its operation:

- 1) from revenues generated from operations of the Fund;
- 2) from the sale of equity shares and holdings from the Fund's portfolio;
- 3) from the remainder of liquidation or bankruptcy estate, the sale of the remaining property in case of liquidation or bankruptcy of a company owned by the Fund;
- 4) from the profit of companies where the Fund has equity shares or holding;
- 5) by issuing securities;
- 6) from annuities arising from credit placements and investment activities of the Fund;
- 7) from domestic and foreign loans and borrowings, as well as through donations;
- 8) from other sources, in accordance with the law.

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<sup>7</sup> The objective of the **Wassenaar Arrangement** is to contribute to promote transparency and greater responsibility in transfers of goods, conventional arms, and dual-use goods and technologies, as well as the maintenance of agreed control list of military goods and dual use goods. The Wassenaar Arrangement currently has 41 participating members that meet regularly in Vienna.

The Fund's activity involves:

- 1) granting loans, factoring and other forms of purchase of receivables, and issuing guarantees that particularly:
  - encourage the establishment, development and sustainability of micro, small and large business entities and entrepreneurs;
  - provide support to infrastructure projects, water supply projects, and environmental protection projects;
  - finance projects of local, regional, and national importance;
  - foster exports;
  - encourages employment;
- 2) performing activities related to the sale of capital from the Fund's portfolio;
- 3) other activities that support economic development, in accordance with the law.

Regarding ensuring export security, the process of enactment of the Law Amending the IRF CG Law is under way and it will provide the Fund with the authorisation to perform insurance activities for commodity and services exports from Montenegro from non-market risks.

Secondary legislation which to be adopted on the basis of the Law Amending the Law on IRF CG will regulate in detail the conditions and manner of providing export insurance and export credit approval, which will be harmonized with the relevant EU regulations and which will ensure full alignment with the commitments assumed within the negotiations on Chapter 30 - External relations. This will ensure the fulfilment of Montenegro's obligations in the process of EU accession within Chapter 30.

#### **3.30.1.4. Preferential trade agreements**

Montenegro applies Free Trade Agreements (FTA) with the following non-EU member states:

- Free Trade Agreement with the Russian Federation (Law on Ratification of the Agreement between the Federal Republic of Yugoslavia and the Government of the Russian Federation on Free Trade between the Federal Republic of Yugoslavia and the Russian Federation, "Official Gazette of FRY - International Agreements" 1/01), signed on 28 August 2008 and effective as of 19 May 2001;
- Agreement on Amendments and Accession to the Central European Free Trade Agreement - CEFTA 2006 (Law on Ratification of the Agreement on Amending and Accession to the Central European Free Trade Agreement, "Official Gazette of the Republic of Montenegro" 18/07). The agreement was signed on 19 October 2006 and it entered into force on 22 January 2007.

- Free Trade Agreement with Turkey (Law on Ratification of the Free Trade Agreement between Montenegro and the Republic of Turkey, “Official Gazette of Montenegro - International Agreements” 3/09), signed on 26 October 2008 and effective as of 1 May 2010;
- Free Trade Agreement with Ukraine (Law on Ratification of the Free Trade Agreement between the Government of Montenegro and the Government of Ukraine, “Official Gazette of Montenegro - International Agreements” 3/12) signed on 18 January 2011 in Kiev and effective as of 1 January 2013;
- Free Trade Agreement with EFTA countries (Law on Ratification of the Free Trade Agreement between Montenegro and EFTA countries, “Official Gazette of Montenegro - International Agreements” 8/12), signed on 14 October 2011. The agreement entered into force in 2012: on 1 September with Switzerland and Liechtenstein, on 1 October with Iceland, and on 1 November with Norway;
- The free trade agreements that Montenegro has signed are based on the relevant WTO agreements (the legal basis is: Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services). All the aforementioned free trade agreements have been notified to the WTO in accordance with established procedures, with the exception of the FTA with the Russian Federation. Also, it is important to emphasize that all FTAs contain an automatic cancellation clause on the day of the Montenegro’s accession to the EU, with the exception of the FTA with the Russian Federation where the specified cancellation period is 6 months.

### **3.30.1.5 Other trade agreements**

#### **Economic cooperation agreements**

<b>Country</b>	<b>Agreement</b>	<b>Effective date</b>
<b>Albania</b>	Agreement on economic cooperation between the Government of Montenegro and the Council of Ministers of the Republic of Albania	20 November 2015
<b>Argentina</b>	Agreement on economic and trade cooperation between the Government of Montenegro and the Government of Argentina	17 January 2017

<b>Austria</b>	Agreement on economic, agricultural, industrial, technical, and technological cooperation between the Federal Government of the Federal Republic of Yugoslavia and the Government of Austria	1 May 2002
<b>Azerbaijan</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the Republic of Azerbaijan	3 October 2012
<b>Bulgaria</b>	Agreement on economic cooperation between the Government of Montenegro and the Republic of Bulgaria	30 May 2007
<b>Czech Republic</b>	Agreement on economic and industrial cooperation between the Government of Montenegro and the Government of the Czech Republic	22 September 2011
<b>Greece</b>	Agreement on economic cooperation and trade exchange between the Federative National Republic of Yugoslavia and the Kingdom of Greece	* in force on the basis of the Agreement between Montenegro and the Republic of Greece on succession of bilateral agreements, signed in the form of exchange of notes on 4 October and 28 October 2011;
<b>Croatia</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the Republic of Croatia	1 October 2013
<b>Qatar</b>	Agreement on economic, commercial, and technical cooperation between the Government of	18 September 2009

	Montenegro and the Government of Qatar	
<b>PR China</b>	Agreement on economic and trade cooperation between the Government of Montenegro and the Government of the People`s Republic of China	29 August 2006
<b>Hungary</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the republic of Hungary	29 March 2012
<b>FYRO Macedonia</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the Republic of Macedonia	14 September 2011
<b>Germany</b>	Agreement on economic cooperation	21 January 1957
<b>Slovenia</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the republic of Slovenia	28 April 2012
<b>Kingdom of Spain</b>	Agreement on economic and industrial cooperation between the Socialist federative republic of Yugoslavia and the Kingdom of Spain	25 November 1987
<b>Serbia</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the Republic of Serbia	10 September 2010



<b>Turkey</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the Republic of Turkey	25 November 2010
<b>UAE</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the United Arab Emirates	30 July 2012
<b>Romania</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of Romania	14 May 2014
<b>Slovakia</b>	Agreement on economic cooperation between the Government of Montenegro and the Government of the republic of Slovakia	9 June 2015

The main aim of economic agreements is to establish an institutional form of cooperation through the strengthening and enhancement of economic interests. Agreements define the areas of mutual interest and particular attention is given to: industry, agriculture, forestry, water resources, energy sector, research and development, construction industry and infrastructure, transport and logistics, environmental protection, tourism, investment promotion, cooperation in the area of small and medium-sized enterprises, as well as information and communication technologies and services.

The countries with which economic agreements will be negotiated are not indicated. The initiative for the signing of economic agreements is started on the basis of analysis of economic worthiness.

### **3.30.1.6. Bilateral investment agreements**

Montenegro has 23 bilateral investment agreements that are in force, more than half of which have been concluded with the EU member states. By signing an agreement on mutual promotion and protection of investments, further development and expansion of mutually beneficial cooperation between two countries is ensured, thus establishing a proper legal framework for its strengthening in the field of investments. These agreements

regulate the conditions of investments between countries, national treatment, promotion and protection of investments, ensure free transfers of payments, regulate the right of subrogation, compensation in case of expropriation, and settlement of disputes.

All the agreements listed above include the national treatment clause, which ensures the same treatment of foreign and domestic investors. Also, all agreements include the clause on the protection and promotion of investments. As for the automatic renewal procedure, in most cases, the agreements remain in effect after the specified period of validity, i.e. they are automatically extended over successive periods of 10 years, until any of the party sends a 6-month or 12-month notice to the other party of its intention to terminate the agreement.

Below is the list of bilateral investment agreements in force:

<b>COUNTRY</b>	<b>EFFECTIVE DATE</b>	<b>VALIDITY PERIOD (in years)</b>
<b>1. Austria</b>	1 August 2002	10
<b>2. Azerbaijan</b>	2 November 2012	10
<b>3. Cyprus</b>	5 November 2008	10
<b>4. Czech Republic</b>	29 January 2001	10
<b>5. Denmark</b>	23 October 2009	10
<b>6. Finland</b>	29 April 2010	15
<b>7. France</b>	3 March 1975	10
<b>8. Germany</b>	25 October 1990	10
<b>9. Greece</b>	8 May 1998	10
<b>10. Israel</b>	7 February 2006	10
<b>11. Lithuania</b>	2 December 2005	10
<b>12. FYRO Macedonia</b>	30 September 2011	10
<b>13. Malta</b>	19 July 2011	10
<b>14. Moldavia</b>	23 June 2015	10
<b>15. Netherlands</b>	1 March 2004	15
<b>16. Poland</b>	23 January 1997	10
<b>17. Qatar</b>	23 October 2009	10
<b>18. Romania</b>	16 May 1997	10
<b>19. Serbia</b>	9 October 2010	10
<b>20. Slovakia</b>	16 July 1998	10
<b>21. Spain</b>	31 March 2004	10
<b>22. Switzerland</b>	11 July 2007	10

23. UAE	1 March 2013	10
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All of these investment agreements, except the agreement signed with France, contain the REIO clause that defines that the rights and obligations arising from membership in the economic union, customs union, free trade zone, monetary union or other forms of international cooperation shall not affect the rights and obligations arising from the relevant agreements on mutual promotion and protection of investments.

The bilateral investment agreements do not include sensitive sectors not covered by the specific agreement.

Montenegro decided to define a new BIT model and it gave the official instruction to its embassies via the Ministry of Foreign Affairs to suspend the conclusion of new bilateral investment agreements as of 14 April 2016. The investment agreements signed with the EU member states will be repealed as of Montenegro's EU accession date. As for the agreements signed with third countries, they will be cancelled or re-negotiated "six months before the Montenegro's EU accession date" or "as of Montenegro's EU accession date", subject to the provisions of the relevant agreements.

### **3.30.1.7. Prevention of death penalty and torture**

Foreign trade in goods whose import and export are not prohibited may be performed on the basis of a license issued by the Ministry of Economy, in accordance with the Government regulation. Goods that could be used for murdering a person, administering lethal injection (an anaesthetic such as barbiturates with short-term or medium-term effect) whose exports and imports are not prohibited, are prescribed by the Government.

### **3.30.1.8. The Kimberly process**

Montenegro supports the primary goal of the Kimberley Process Certification Scheme, i.e. preventing the flow of "conflict (bloody) diamonds", i.e. rough diamonds used to finance rebellion wars against legitimately elected governments. Accordingly, the Law Amending the Law on Foreign Trade (OGM 57/14) adds Article 28a which regulates the import and export of rough diamonds. On this basis, the Government adopted the Decree on the conditions for foreign trade in rough diamonds (OGM 40/15), which stipulates the conditions and manner of performing foreign trade in rough diamonds.

Through the process of EU accession, Montenegro committed to passing a regulation on foreign trade in rough diamonds (the Kimberley Process) and to align its legislation with EU regulations.

The reasons for adopting the proposal of the aforesaid decree on the conditions for foreign trade in rough diamonds are therefore contained in the need for harmonizing the national

legislation with the relevant EU regulations.

The proposal has been harmonized to the largest possible extent with the mentioned EU regulations, while full compliance of the currently non-transposable provisions will be achieved as at Montenegro's EU accession date.

### **3.30.1.9. Development policy and humanitarian aid**

Since regained independence in 2006, Montenegro has carried out certain forms of international development cooperation and it has been sending international humanitarian aid to other countries. However, no centralized records was maintained on these activities, while coordination was carried out on ad hoc basis, and in 2010, in accordance with the Law on Foreign Affairs (OGM 46/10), the Ministry of Foreign Affairs (MFA) was entrusted with the tasks of implementing and monitoring this policy. Bearing in mind the above, Montenegro has been working on the preparation of the Law on international development cooperation and international humanitarian assistance. At the same time, we are also working on drafting the national strategy for the respective area.

Regarding the preferential trade policy in the context of development, the 2016 customs tariff regulation represents the legal basis for applying the generalised scheme of preferences to the least developed countries (LDCs)<sup>8</sup>, which is in accordance with the Decision of the Ninth Ministerial Conference of the WTO on granting customs benefits to least-developed countries.

With regard to financial capacity to assist developing countries, there is currently no item in Montenegro's budget for development cooperation and humanitarian aid (with the exception of contributions for membership in international organisations). In its proposal for the next year's budget, the Ministry of Foreign Affairs plans to allocate funds for development cooperation and humanitarian assistance. Other departments and public administration bodies designate funds for development cooperation and humanitarian aid on ad hoc basis, but there is no centralized database on these activities. The database is under construction, and the new law on international development cooperation and the provision of international humanitarian aid will prescribe that the MFA shall keep records and report on international development cooperation and humanitarian assistance on the basis of contributions to be provided by all participants in development cooperation and providers of humanitarian aid. Montenegro will use the OECD/DAC methodology to develop the database, as envisaged by the draft law.

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<sup>8</sup> The Generalised Scheme of Preferences (GSP) covers the least developed countries such as ACP countries (Africa, Caribbean, and Pacific) as well as some Latin American, Asian, and Mediterranean countries.

### **3.30.2. Implementation of activities from October 2016 to October 2017**

#### **3.30.2.1. World Trade Organization (WTO)**

The Trade Facilitation Agreement (TFA) was the first multilateral agreement adopted after the Uruguay Round of multilateral trade negotiations. It was finalized at the Ninth Ministerial Conference of the WTO. In order for this Agreement to come into force it was necessary that at least two-thirds of the WTO members should submit a ratification instrument. The agreement officially entered into force on 22<sup>nd</sup> February 2017. Bearing in mind that WTO members are not at the same level of development, the Agreement (in Section II) provided for the possibility that members, based on the results of the comparison of domestic legislation and the Agreement through the so- the self-assessment procedure should determine which articles of the Agreement shall apply from the date of its entry into force (category A), for which provisions the transition period of implementation (category B) will be required, and for which the provisions in addition to the transitional period will also be required for donor assistance C). Montenegro submitted to the WTO Secretariat a notification for categories B and C in May 2017.

Trade policy research is carried out on a periodic basis and is binding for all WTO members. The first review of trade policies for Montenegro refers to the period from Montenegro's accession to the WTO (i.e. from 2012) to date. The proceedings started in March 2017, followed by the first visit of the WTO Secretariat (April 2017).

#### **3.30.2.2. Export credits:**

On 19 October 2017 the Government adopted the Bill on Amendments to the Law on Investment and Development Fund of Montenegro. These amendments will regulate the manner and conditions for the issuance of export credits, as well as the regulation of legal regulations that will specifically define the method of financing export credits.

#### **3.30.2.3. Free Trade Agreements (FTA)**

Montenegro has started an initiative to amend the free trade agreement with Turkey.

#### **CEFTA**

During 2016, Montenegro was chairing CEFTA. In this period, Montenegro has organised more than 40 CEFTA working bodies meetings, including the Ministerial Meeting in November and the CEFTA Week, in December 2016, which gathered the businessmen of the Region. During the Montenegrin presidency, the tenth anniversary of the signing of the CEFTA 2006 Agreement was marked.

CEFTA Additional Protocol 5 was adopted on 26 October 2017 in Belgrade. Considering that Additional Protocol 5 forms an integral part of the CEFTA 2006 Agreement, ratification of the Protocol is necessary in order to ensure its smooth implementation. The Government

has established the Bill on the Confirmation of Additional Protocol 5 on 5 October 2017. Implementation of the CEFTA Additional Protocol 5 will lead to simplification of inspection and customs procedures, which will reduce the time of retention of goods at the border. Transit and trade will be facilitated by connecting all border services into a unified information system, which will lead to an increase in the competitiveness of national economies.

#### **3.30.2.4. Development policy and humanitarian aid**

##### **Development policy**

Regarding the administrative capacities, in accordance with the current Rulebook on Internal Organisation and Job Descriptions of the Ministry of Foreign Affairs since March 2017, the Directorate General for Economic and Cultural Diplomacy is in charge of coordinating international development cooperation and humanitarian assistance in the Government. With the aim of strengthening administrative capacities for the subject area, within the aforementioned Directorate, in April 2017, the Directorate for International Development Cooperation and Humanitarian Aid was formed, in which 4 job posts were systematized, of which 2 employees are currently employed. In addition to the Ministry of Foreign Affairs, which is the national coordinator, and other ministries provide various forms of development support (e.g. the Ministry of Education - scholarships for students from third countries on the list of recipients of development support to the OECD, the Ministry of European Affairs: technical and expert support in the area of European integration, etc.). Montenegro, in accordance with the principles of transparency and inclusive partnership for sustainable development, established the Inter-Ministerial Working Group for International Development Cooperation and Humanitarian Assistance, consisting of representatives of all ministries, then the Assembly, the Statistical Office, the Municipalities of Montenegro, the NGO sector (NGO "Zid"), The Red Cross of Montenegro, the Chamber of Commerce and the Central Bank.

### **3.31. CHAPTER 31: FOREIGN, SECURITY, AND DEFENCE POLICY**

#### **3.31.1. GENERAL READINESS FOR MEMBERSHIP**

##### **3.31.1.1. Common foreign and security policy**

Montenegro, especially the Ministry of Foreign Affairs and the Ministry of Defence, have continuously worked on strengthening the legal framework, institutional structure and equipment that have enabled us to participate fully and actively in the Common Foreign and Security Policy of the EU, as well as the Common Security and Defence Policy, from the

accession date. Montenegro now follows the Common Foreign and Security Policy, as well as the Common Security and Defence Policy, and fully complies with the EU's views (100% compliance). In accordance with the stated commitment to join EU decisions in the area of foreign and security policy, as a candidate for membership, deep in the process of accession negotiations, Montenegro supports the Global Strategy for the European Union's Foreign and Security Policy, adopted in June 2016. The goals of Montenegro in the field of foreign policy and political dialogue outside the EU are further activities on the basis of NATO membership, as well as the preservation and development of good neighbourly relations.

Montenegro is a very active participant in the work of the United Nations and its constituent parts, including the World Bank and the International Monetary Fund, Council of Europe, Organisation for Security and Co-operation in Europe, and the World Trade Organisation. Montenegro has maintained continuous political dialogue with the UN at high level through regular meetings with the UN Secretary General, the Chairman of the General Assembly and officials of key agencies / programs / funds from the UN system. Also, Montenegro is a member of the UN Women Executive Board 2017-2019 and the Peacebuilding Commission 2016-2017. In 2016, it became a member of the Global Equality Partnership (GEF), Equal Rights Coalition (ERC) and Equal Futures Partnership (EFP). It has the status of the observer in the Non-Aligned Movement (NAM), the Organisation for Francophony (OIF) and the Organisation of American States (OAS).

As far as cooperation with the International Criminal Tribunal for war crimes in the Hague is concerned, the Special Public Prosecutor's Office has established cooperation with the ICTY - Prosecutor's Office, in order to clarify and resolve war crimes.

Montenegro has not entered any agreements concerning the implementation of restrictive EU measures. In the process of accession to the European Union in the field of conflict prevention, Montenegro has implemented EU measures taking into the account the European Security Strategy and the EU Anti-Violence Prevention Program. In this respect, it has ongoing cooperation with the EU within the UN and other international organisations. Montenegro is a member of the Group of Friends of Mediation and participates in the Initiative on Mediation in the Mediterranean as well. It regularly participates in the meetings of the Group of Friends of Mediation that take place on the margins of the UN General Assembly sessions in New York.

When it comes to international regimes/instruments relating to non-proliferation of weapons of mass destruction, Montenegro is not a member of the Australia Group, Missile Technology Control Regime (MTCR), Nuclear Suppliers Group and Zangger Committee. Montenegro is a member of the largest number of international treaties relating to the non-proliferation of weapons of mass destruction, such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Comprehensive Nuclear-Test-Ban

Treaty (CTBTO), Chemical Weapons Convention (CWC), Biological Weapons Convention (BWC), Hague Code of Conduct (HCOC) and others. Also, Montenegro has joined the Global Initiative to Combat Nuclear Terrorism and the Proliferation Security Initiative. Checklists of Montenegro are fully harmonised with the EU List of Strategic Military and Dual-Use Items. Montenegro is a member of the Convention on Conventional Weapons (CCW) and annexed Protocols. In relation to Montenegro, the Arms Trade Treaty (ATT) entered into force on 24 December 2014. Montenegro has, in accordance with Article 13 of the Treaty, submitted 2016 National Annual Report, as it had done the previous years. In September 2015, Montenegro applied for membership in the Wassenaar Arrangement, and submitted the national dossier for membership in the Wassenaar Arrangement on 10 October 2016.

In accordance with the obligations arising from the Chemical Weapons Convention (CWC) and membership to this organisation, Montenegro does not own or produce chemical weapons, and strictly controls transfers of chemicals prescribed by the Verification Annex of the Convention. Control of foreign trade in chemicals in accordance with the CWC is regulated by the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods and the Law on the Control of Exports of Dual-Use Goods, while the national control lists of weapons, military equipment and dual-use goods have regularly been updated and harmonised with EU lists. In accordance with Article VI of the Convention, which relates to the regular reporting of the turnover of these chemicals, the state administration authority in charge of foreign trade noted that in the previous period Montenegro did not import or export quantities of these chemicals exceeding the threshold that would entail the obligation to inform in detail the Organisation for the Prohibition of Chemical Weapons. Legislation that complies with EU regulations have been adopted at the national level, in order to ensure the protection of environment and human health, but also to prepare administrative structures and private sector for the full implementation of the legislation. Montenegro has adopted the Strategy for the Control and Reduction of Small Arms and Light Weapons and Ammunition for the period 2013-2018. In accordance with the Strategy, the Commission was formed, with the task of managing and coordinating the activities of the competent authorities in the implementation of the Strategy. There exists the stockpile management of small arms and light weapons which functions in an adequate way, including national registration system and database. The exchange and protection of classified information with the EU has been regulated on the basis of the Agreement between the European Union and Montenegro on Security Procedures for Exchanging and Protecting Classified Information (concluded in 2010), Security Arrangements for Implementation of the Agreement, agreed by the Directorate for the Protection of Classified Information with the EU Council General Secretariat Security Office (GSCSO) and the European



Commission Security Directorate (ECSD), which have established standards for mutual exchange and protection of classified information between Montenegro and the EU, as well as on the basis of the Law on Data Confidentiality. Chapter X, Articles 76 to 79, of the Law on Data Confidentiality lay down that the exchange of classified information with the EU is carried out via the Central Register, managed by the Directorate for Protection of Classified Information and the sub-register of classified information in the Mission of Montenegro to the European Union. Upon receipt of EU classified information in the Central Register, dissemination is carried out and the information is delivered to end users in Montenegro through registers within these bodies. In accordance with Article 80 of the Law on Data Confidentiality and the provisions of the Agreement between the European Union and Montenegro on Security Procedures for Exchanging and Protecting Classified Information, inspection control regarding the protection of EU classified information in Montenegro is to be conducted by the Directorate for Protection of Classified Information.

### **3.31.1.2. Common Security and Defence Policy**

#### **Management of civil and military crises**

Montenegro has continued developing operational capacities for multinational operations, with regard to civilian and military crisis management operations, as well as UN peacekeeping missions, with its participation, resulting in members of the Military of Montenegro being engaged in four missions of NATO and EU. Montenegro has successfully completed its engagement in the ISAF mission and has actively participated in the non-combat mission Resolute Support (RS) since 1 January 2015, and the 18 members of the VII contingent of the Military of Montenegro have been currently engaged in this mission. The task of the contingent is to fulfil the obligations of transport and provision of international teams for training and advising of the Afghan National Security Forces. In addition to its active participation in the mission, Montenegro will financially support the sustainability of the Afghan National Security Forces with USD 400,000 annually in the period 2017-2020 and has already started implementing the accepted commitments. One officer of the Montenegrin Navy is on duty at the Atalanta Operations Headquarters in Northwood. In addition, the independent team of the Military of Montenegro participated in the mission from April to August 2017. Under the A-5 Initiative, starting from March 2015, Montenegro has deployed additional three officers and non-commissioned officers of the Military of Montenegro to the RS Mission, together with B&H, Croatia, Macedonia and Albania, who had been hired as staff elements in the Operation Centre (SAROC) in the Regional Command North. Montenegro has also participated in the EU NAVFOR - Operation ATALANTA in the waters of Somalia / Indian Ocean, as well as in the EU Training Mission in Mali (EUTM). On 17 June 2016, the Parliament adopted the Decision on deploying members of the Military of Montenegro to the United Nations Mission for the Referendum in Western

Sahara - MINURSO ("Official Gazette of Montenegro", No 38/16). There are currently two officers of the Military of Montenegro serving in that mission. Four officers of the Police Administration have currently been engaged in the UN Peacekeeping Mission in Cyprus (UNFICYP). We also demonstrate commitment to regional and global peace and stability through the engagement of members of the Ministry of Defence in the observation mission in Ukraine, as part of the inspection teams of the USA and Canada.

### **3.31.2. Implementation of activities from October 2016 to October 2017**

#### **3.31.2.1. Common Foreign and Security Policy**

When it comes to the measures that Montenegro has harmonised since the beginning of the reporting period, with regard to restrictive measures, from 1 October 2016 until 20 October 2017, there have been 47 HRVP declarations, common positions and Council decisions on restrictive measures, with the same amount of requests from the European External Action Service, with the aim to comply with these declarations, common positions and EU decisions. The trend of 100% compliance was continued, that is, Montenegro aligned every time it was asked to.

#### **Cooperation with international organisations**

##### **Cooperation with the United Nations**

In the capacity of an observer, Montenegro has participated in the work of three regular (March, June, September 2017) and two special sessions of the Human Rights Council (on the state of human rights in Southern Sudan on 14 December 2016 and the deterioration of the human rights situation in Syria and situation in Aleppo on 21 October 2016). Montenegro joined all EU statements and positions during the sessions in relation to the resolutions that were the subject of decision-making in the regular and special sessions of the Human Rights Council. It participated in interactive discussions for 11 countries during the 26<sup>th</sup> Session (November 2016) and 14 countries during the 27<sup>th</sup> Session (May 2017) of the Universal Periodic Review (UPR). As a country that will be the subject of consideration within the third UPR cycle during the 29<sup>th</sup> Session in January 2018, Montenegro has submitted the 2013-2017 Third National Report on the State of Human Rights to the UPR Working Group on 20 October 2017. On 18 September 2017, Montenegro joined the initiative of the European Union, Argentina and Mongolia "Global Alliance to end the trade in goods used for capital punishment and torture". In order to formalise membership in the initiative "Global Partnership to End Violence against Children", a road map has been developed to end violence against children.

##### **Cooperation with the OSCE**

Montenegro has actively participates in the meetings of the Sub-Regional Consultative Commission and the Standing Working Group and has reached political and other

important decisions with the aim of improving processes and more efficient and thorough implementation of the Agreement. In the previous period, Montenegro has cooperated with the OSCE in the field of analysing the situation in the field of media freedom.

### **Cooperation with the Council of Europe**

The Parliament adopted the Law on Amendments to the Law on International Restrictive Measures on 29 June 2017 (Official Gazette of Montenegro 42/17). The Law incorporates corrections following Moneyval Committee and FATF Recommendations, introducing a system of automatism into the procedure of freezing the assets of persons from the national list. At the 54<sup>th</sup> Plenary meeting of the Moneyval Committee, at the end of the period of 25-28 September 2017, Montenegro presented the progress made, in accordance with the Moneyval Recommendations, concerning the future status of Montenegro in this Council of Europe Committee.

In the context of cooperation with international organisations, Montenegro joined the Initiative of Argentina, Belgium, the Netherlands and Slovenia in June 2017, in order to conclude a new international agreement on mutual legal assistance and extradition for the most serious international crimes (MLA Initiative).

### **Implementation of sanctions and restrictive measures**

Pursuant to the Law on International Restrictive Measures (Official Gazette of Montenegro 3/15), the Government changed its decisions on restrictive measures and sanctions in line with their amendments by the Council of the EU:

- Decision on Amendments and Supplement to the Decision on the Introduction of International Restrictive Measures established by the decisions of the Council of the European Union 2014/145/CFSP of 17 March 2014, 2014/151/CFSP of 21 March 2014, 2014/238/CFSP of 28 April 2014, 2014/265/CFSP of 12 May 2014, 2014/308/CFSP of 28 May 2014, 2014/455/CFSP of 11 July 2014, 2014/475/CFSP of 18 July 2014, 2014/499/CFSP of 25 July 2014, 2014/508/CFSP of 30 July 2014, 2014/658/CFSP of 8 September 2014, 2014/801/CFSP of 17 November 2014, 2014/855/CFSP of 28 November 2014, 2015/241/CFSP of 9 February 2015, 2015/432/CFSP of 13 March 2015 and 2015/1524/CFSP of 14 September 2015 and 2016/359/CFSP of 10 March 2016 in relation to activities undermining or jeopardising the territorial integrity, sovereignty and independence of Ukraine – 28 October 2016 (Official Gazette of Montenegro 72/16);
- Decision on Amendments and Supplement to the Decision on the Introduction of International Restrictive Measures established by the Council of the European Union 2011/72/CFSP of 31 January 2011, 2011/79/CFSP of 4 February 2011, 2012/50/CFSP of 27 January 2012, 2012/724/CFSP of 26 November 2012, 2013/72/CFSP of 31 January 2013, 2013/409/CFSP of 30 July 2013, 2014/49/CFSP of 30 January 2014,

2015/157/CFSP of 30 January 2015 and 2016/119/CFSP of 28 January 2016 in relation to the situation in Tunisia – 13 April 2017 (Official Gazette of Montenegro 29/17);

- Decision on the Introduction of International Restrictive Measures established by the decisions of the Council of the European Union 2014/119/CFSP of 5 March 2014, 2015/143/CFSP of 29 January 2015, 2015/364/CFSP of 5 March 2015, 2015/876/CFSP of 5 June 2015 and 2015/1781/CFSP of 5 October 2015 and 2016/318/CFSP of 4 March 2016 in relation to the situation in Ukraine – 13 April 2017 (Official Gazette of Montenegro 29/17);

- Decision on Amendments and Supplement to the Decision on the Introduction of International Restrictive Measures established by the Council of the European Union 2014/145/CFSP of 17 March 2014, 2014/151/CFSP of 21 March 2014, 2014/238/CFSP of 28 April 2014, 2014/265/CFSP of 12 May 2014, 2014/308/CFSP of 28 May 2014, 2014/455/CFSP of 11 July 2014, 2014/475/CFSP of 18 July 2014, 2014/499/CFSP of 25 July 2014, 2014/508/CFSP of 30 July 2014, 2014/658/CFSP of 8 September 2014, 2014/801/CFSP of 17 November 2014, 2014/855/CFSP of 28 November 2014, 2015/241/CFSP of 9 February 2015, 2015/432/CFSP of 13 March 2015 and 2015/1524/CFSP of 14 September 2015 and 2016/359/CFSP of 10 March 2016 and 2016/1671/CFSP of 15 September 2016 in relation to activities undermining or jeopardising the territorial integrity, sovereignty and independence of Ukraine – 4 May 2017 (Official Gazette of Montenegro 34/17).

On 11 May 2017, the Government adopted the Decision on the Introduction of International Restrictive Measures established by UN Security Council Resolutions 1988 (2011), 2255 (2015) and 1452 (2002) towards the members of organisations Talibans and related individuals, groups, entities and organisations. (Official Gazette of Montenegro 34/17).

The Ministry of Foreign Affairs regularly informed the state authorities of modifications in the lists of persons and entities from the sanctions lists of the UN Security Council Committee in relation to ISIL and Al Qaeda, as well as in relation to North Korea.

New solutions in the Law on Amendments to the Law on International Restrictive Measures (Official Gazette of Montenegro 42/17) prescribe, *inter alia*, the setting up of a national list of legal and natural persons designated as terrorists, terrorist organisation and terrorist or terrorist organisations financiers, as well as the criteria on the basis of which legal or natural persons can be designated as terrorists, terrorist organisations or terrorist financiers. Due to the necessity of cooperation with the partner states in this area, the procedures of actions of Montenegrin competent authorities at the requests of other states are also prescribed.

## **Arms control**

Following the adoption of the Strategy in September 2016, the Government adopted in June 2017 an Action Plan for the Implementation of the Strategy for Non-Proliferation of Weapons of Mass Destruction, based on the Action Plan for the implementation of the United Nations Security Council Resolution 1540 for 2014-2018, as well as on the National Action Plan for the Protection of Chemical, Biological, Radiological and Nuclear Threats and Risks for the Period 2016-2020. The Action Plan comprises of two parts: the general one, which is a public document and available to the general public, and the internal one, which contains concrete measures and is available only to the institutions participating in their implementation.

On 6 July 2017, the Government adopted the Decision on the Establishment of the National Coordination Body for Non-Proliferation of Weapons of Mass Destruction, which will be in charge of monitoring the implementation of the Strategy against proliferation of Weapons of Mass Destruction for the period 2016-2020. The Coordination Body will monitor and coordinate activities regarding the implementation of the Action Plan for the Implementation of the Strategy for Non-Proliferation of Weapons of Mass Destruction (2016-2020), the Action Plan for the implementation of the UN Security Council Resolution 1540 (2014-2018) and the National Action Plan for the Protection of chemical, biological, radiological and nuclear threats and risks (2016-2020). It will extend its scope of responsibilities and thus monitor and coordinate activities related to the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and the Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their destruction. By adopting the Strategy and the associated Action Plan, as well as by establishing the National Coordination Body for their implementation, a national framework has been finalised, that is, the necessary components and conditions have been completed and the conditions created for successful dealing with the WMD proliferation. On the occasion of membership in the Wassenaar Arrangement, on 24 and 25 May 2017, co-rapporteurs in the process of accession to the Wassenaar Arrangement (Republic of Bulgaria, Republic of Slovenia and the Federal Republic of Germany) visited Montenegro. Montenegro fully complies with the obligations arising from the "Vienna Document 2011", the Sub-Regional Arms Control Agreement of ASAC-DAYTON, as well as with the obligations related to compliance with the signed conventions and other agreements and documents. In this context, we can point out that Montenegro conducted an annual exchange of military information with all OSCE members in accordance with the Vienna Document 2011 and the Sub-regional Arms Control Agreement ASAC-DAYTON.

During March-June 2017, the annual information for 2016 on cluster munitions, the Ottawa Convention, the Convention on Certain Conventional Weapons - Protocol II - CCW, Small

Arms and Light Weapons - SALW, Transfer of Small Arms and Light Weapons and Conventional Weapons, as well as questionnaires on anti-personnel mines and the Code of Conduct in the Political and Military Aspects of Security were submitted. The information were submitted to the OSCE and the UN through the MFA. All scheduled meetings of the Permanent Working Group (PWG) and Sub-Regional Consultative Commission (SRCC) as per SPKN-DAYTON were held with the purpose to coordinate and implement activities on the implementation of the ASAC-DAYTON Agreement for 2017 and 2018 (2 PWG meetings and 2 SRCC meetings). The annual inspection regime based on SPKN-DAYTON was fully implemented, on which occasion the inspection was received by Bosnia and Herzegovina, and inspections were carried out in the territories of the Republic of Serbia and Bosnia and Herzegovina. In line with the Vienna Document 2011, the inspections were accepted by the Russian Federation and the Republic of Macedonia. Bilateral cooperation in the areas of defence and arms control was established with Hungary and Federal Republic of Germany, and with reference to the activities we can emphasise the Evaluation visit in the territory of Germany in April 2017, participation in the arms control training in Hungary in February and participation in the German language course for the verification personnel in the FR Germany, the implementation of which is underway until the end of December 2017. The procedure of destruction of surplus lethal weapons through the MONDEM program is ongoing.

The implementation of the III7 phase of the MONDEM program for the quantity of 54.84 tons was finalised. The value of the works in this phase amounts to EUR 222,999.94, out of which the OSCE and the UNDP paid EUR 198,638.91, while EUR 24,361.03 were contributed by the Ministry of Defence of Montenegro through the funds of the obtained secondary raw materials. So far, total of 1,715.21 tons of surplus ordnance have been destroyed through the MONDEM program. The quantity of 90.41 tons of surplus ordnance remains to be destroyed. Also, the project of destroying the surplus munition should commence through the NATO Trust Fund (NTF) by the end of this year. Funds from donors from NATO countries were provided in the amount of EUR 700,000. Within this project, 403 t of munition of various caliber are planned to be destroyed. The destruction is envisaged to be completed in 2018.

### **3.31.2.2. Common Security and Defence Policy - Contribution Capacities**

#### **Civil Crises Management**

##### **Legislative framework**

On 27 April 2017, the Parliament adopted the Law on Amendments to the Law on Explosive Substances (Official Gazette of Montenegro 31/17). The principal reasons for adopting amendments to the Law are based on the need to harmonise the legal framework in the internal legal system of Montenegro, by means of: harmonisation with the Law on

Adult Education; harmonisation with the Law on Administrative Procedure and harmonisation with other laws. The implementation of the Law on Amendments to the Law on Protection and Rescue (Official Gazette of Montenegro 54/16) commenced on 1 July 2017. Amendments include in a more comprehensive manner the regulation of civil protection, management and coordination in protection and rescue, system financing, etc. Also, the following secondary legislation was adopted: Decision on the Amendment to the Decision on the Establishment of Coordination Team for Management in Emergency Situations (Official Gazette of Montenegro 15/17); Rulebook on Production and Stockpiling Facilities for Explosive Substances (Official Gazette of Montenegro 4/17); Rulebook on the Civil Protection Guidebook (Official Gazette of Montenegro 13/17); Rulebook on content and methodology of drafting, manner of harmonisation, updating and keeping of the risk assessment study on the basis of which plans for protection and rescue are being drafted (Official Gazette of Montenegro 31/17); Rulebook on more detailed content and methodology of drafting, method of harmonisation, updating and keeping of protection and rescue plans (Official Gazette of Montenegro 34/17); Rulebook on unique warning signs and methods of alerting and warning (Official Gazette of Montenegro 34/17); Rulebook on the manner of issuing approvals for the transit and transport of weapons and military equipment by land (Official Gazette of Montenegro 34/17); Rulebook on more detailed content and application form for the issuance of a permit for storage and transfer of flammable liquids and gases (Official Gazette of Montenegro 23/17); Rulebook on the method of organisation and engagement of civil protection units (Official Gazette of Montenegro 38/17); Rulebook on the amount and manner of prescribing the fees related to the performance of material obligation in protection and rescue (Official Gazette of Montenegro 39/17); Rulebook on contents and registration form on issued licenses for the development of plans for protection and rescue of companies, other legal entities and entrepreneurs (Official Gazette of Montenegro 48/17); Decision on appointment of the Coordination Team for Protection and Rescue (Official Gazette of Montenegro 52/17) and Decision on appointment of the Operational Protection and Rescue Staff (Official Gazette of Montenegro 52/17).

### **Track record**

In the period from 1 January to 20 October 2017, the Operation Communication Centre 112 (OCC 112) of the Directorate for Emergency Management within the Ministry of Interior coordinated 42 rescue operations in the mountains, where 54 persons were rescued. Also, during July and August 2017, requests for international aid in extinguishing forest fires from the air in the coastal and central part of Montenegro were sent through this centre. In July 2017, assistance in extinguishing fires was provided by Ukraine (Antonov aircraft), Switzerland (multi-purpose helicopter "Super Puma"), Republic of Bulgaria (MI17 helicopter), Israel (two air-tractors) and Republic of Croatia (1 canader). On that occasion,

3125 fires were registered in the open areas. In the framework of the *IPA FLOODS multi-beneficiary program*, which deals with prevention, readiness and reaction in the event of floods in the Western Balkans countries and Turkey, the equipment for two modules/flood rescue teams using dams and for pumps with high water pumping capacity of the value of EUR 215,000 has been purchased. Montenegro took part in the regional field exercise "IPA FLOODS - VARAŽDIN 2017" on 9-13 October 2017, which served to train rescuing, evacuating and taking care of endangered persons and physical assets from the areas threatened by floods, as well as activation and mobilisation of international operational forces for the protection of civilians through the EU Civil Protection Mechanism. Within the project "*Strengthening CBRN first response capabilities and regional cooperation in South East Europe, Southern Caucasus, Moldova and Ukraine*", a national staff exercise for testing national plans for protection and rescue in Montenegro (TTX) was held on 6-7 December 2016. In the framework of this project, a national field exercise "*CBRN LAZINE 2017*" was held on 26 May 2017.

### **NATO exercises**

A Montenegrin team composed of two different segments, i.e. teams/modules for: flood protection and rescue team using boats and team for action in the event of chemical, biological, radioactive and nuclear (CBRN) accidents with the joint management made of representatives from the Directorate for Emergency Management in the Ministry of Interior, took part in the *NATO EADRCC international consequence management field exercise called "BOSNIA AND HERZEGOVINA 2017"*, on 24-29 September 2017 in Tuzla. The field exercise was aimed at training to provide assistance to national institutions in order to build disaster resistance through the enhancement of planning, prevention, readiness and response to disasters.

**Destruction of unexploded ordnance (UXO)** – In the period 1-20 October 2017, UXO Department collected 14 tons of UXO from the entire territory of Montenegro, in compliance with the procedures. All ordnance collected by 30 June 2017 (12 tons) was handed over to the company Poliex for destruction. Actions of searching around 400,000m<sup>2</sup> of Tara riverbed were carried out for the needs of the construction of the motorway.

## **3.32. CHAPTER 32: FINANCIAL CONTROL**

### **3.32.1. Public internal financial control (PIFC)**

On 22 June 2017, the Government adopted the Consolidated Report on the PIFC System for 2016.



In October 2016, the Ministry of Finance updated the Guidelines for the establishment of the risk management process in the public sector, as well as the Instruction for the preparation of plan for the improvement of public finance management and control.

The Central Harmonization Unit (CHU) had prepared the Decree amending the Decree on the Establishment of Internal Audit in the Public Sector (Official Gazette of Montenegro, 7/17) that was adopted by the Government on 29 December 2016.

The Ministry of Finance prepared the Analysis of obstacles for the establishment of managerial responsibility which gives an overview of legislative solutions in place in the public sector of Montenegro from the perspective of responsibility and also gives recommendations for improvement.

### **Financial management and control**

Certain progress was made in the area of financial management and control through the implementation of activities listed below:

	<b>Central level</b>	<b>Local level</b>	<b>Central level -legal persons-</b>	<b>Local level - legal persons -</b>	<b>TOTAL:</b>
FMC persons	87	19	10	22	138
Risk officer	43	8	7	22	80
Risk register	28	6	2	11	47
FMC Plan	54	5	1	2	62
Book of procedures	64	13	1	/	78

### **Internal audit**

In accordance with the Decree on the establishment of internal audit in the public sector (Official Gazette of Montenegro, 50/12 and 7/17), 30 public sector entities (15 at the central and 15 at the local level) are obliged to set up a separate organisational internal audit unit. Other public sector entities must ensure the exercising of the internal audit function by establishing a separate organisational internal audit unit or by providing agreement-based performance of internal audit by internal audit unit of another entity, subject to the Ministry of Finance approval.

Of 30 entities, 29 (15 at the central and 14 at the local level<sup>9</sup>) have set up a separate internal audit unit.

Of these 29 entities that have established the internal audit unit:

- 13.79% or 4 units have no internal auditor;
- 13.79% or 4 units have one internal auditor;
- 44.83 % or 13 units have two internal auditors;
- 27.59% or 8 units have three or more internal auditors (two units have five internal auditors, two units have four internal auditors, and four units have three internal auditors each).

Of the remaining entities, another ten have established a separate internal audit unit and appointed 17 internal auditors.

The internal audit function covers over 96% of Montenegro's budget funds, and only smaller budget users have not ensured the internal audit function.

**Table 1: Basic information on audits**

	No. of auditors	No. of audits	Recommendations given	Implemented recommendations	Partially implemented recommendations	Non-implemented recommendations
<b>2016</b>	77	160	710	61.37%	12.80%	25.83%
<b>October 2017</b>	77					

In the public sector of Montenegro, 124 employees have acquired the certificate of the authorised internal auditor. Of this number, 69 have acquired the international CIPFA certificate and 67 have acquired the national certificate of the authorised internal auditor. Twelve internal auditors have been awarded both the national and international certificates for internal auditor in public sector. As of the beginning of 2017, 6 candidates have been awarded the national certificate (they passed both the written and oral exams).

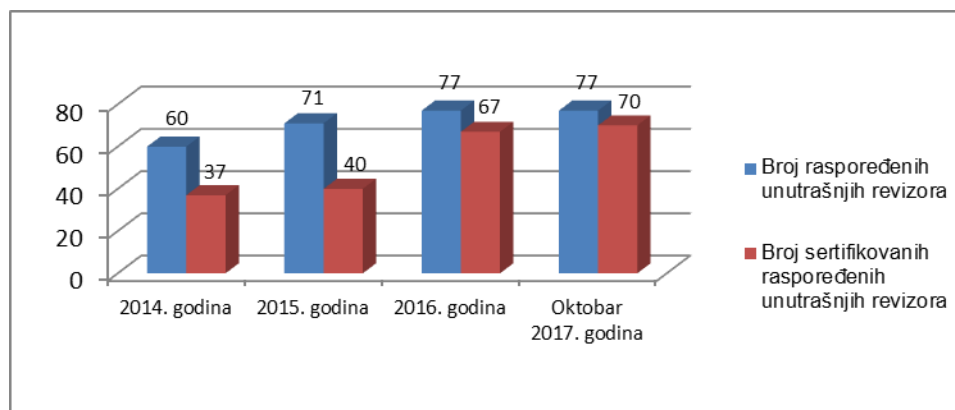
<sup>9</sup> The municipality of Plav has not established the internal audit unit.

**Table 2: Overview of internal audit certification, 2012-2016**

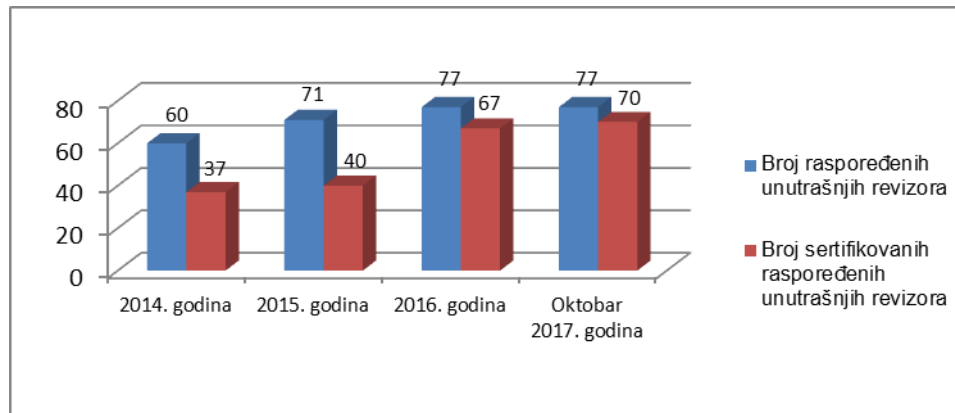
	2012	2013	2014	2015	2016	2017
<b>National certificate</b>	7	14	26	31	61	67
<b>International CIPFA certificate</b>		16	44	44	69	69

According to the CHU records, of 77 appointed internal auditors in the public sector (90.90%), 70 have acquired the national or international certificate or both. Also 45 hold the national certificate and 34 have been awarded the international certificate, while 9 hold both certificates.

**Figure 1: Overview of certification of appointed internal auditors, 2014 - October 2017**



Legend: blue column – Number of appointed internal auditors  
red column – Number of certified appointed internal auditors



Within the Program of Continuing Professional Development of Authorized Internal Auditors, 14 workshops (for four groups of internal auditors) at both central and local levels were held as of the beginning of 2017, with the following topics: “A new international framework of professional internal audit practice with a special focus on management, risk management, internal control and fraud”, “Internal Audit Planning and Performance”, “Practical Exercise on example of concrete audit”, “Internal Audit of EU-funded Programs and Projects”. Over 80% of the appointed internal auditors attended these trainings. The aim of these trainings was to improve knowledge and skills for performing internal audit activities in accordance with the International Framework for professional practises of internal audit.

On the basis of information from submitted annual internal audit reports for 2016, 28 out of 29 internal audit units (96.55%) adopted the strategic internal audit plan, and the annual internal audit plan was also adopted by 28 internal audit units. These plans cover all processes that are carried out in the respective entities, including IPA funded processes and activities.

During 2017, internal audit quality reviews were carried out in the internal audit departments in the municipalities of Pljevlja and Tivat. Quality reviews in another three units have been planned to be carried out by the end of the current year.

### 3.32.2. External audit

During the reporting period, namely in March and July 2017, the Parliament appointed two members of the Senate, thus meeting the constitutionally established number of 5 members.

There were 65 employees in the State Audit Institution (SAI) as at end-October 2017. The total number of employees performing audits is 46.

### Audit staff statistics in October 2017

<b>Position</b>	<b>Number</b>
<b>Senate member – Head of Sector</b>	5
<b>State Auditor – Head</b>	5
<b>State auditor – Head of Department</b>	13
<b>State auditor</b>	15
<b>Senior associate to State auditor</b>	6
<b>Associate to State auditor</b>	2
<b>Total:</b>	<b>46</b>

The total number of employees involved in tasks related to the development of horizontal functions, administrative issues, and internal audit is 19.

During the reporting period, the SAI announced 5 job vacancy advertisements and hired 5 persons: 2 associates of State auditor, 2 independent advisors III, and one senior officer.

The following job vacancy announcements are under way: State auditor – three officers; Head of Department – one officer; Associate to State auditor – one officer; Independent advisor I – Advisor for general and personnel issues - one officer.

In October 2016, the State Audit Institution published the Annual Report on Performed Audits and Activities for the period of October 2015 – October 2016, in accordance with the obligation specified in the Constitution of Montenegro and the Law on the State Audit Institution. The Parliament discussed the SAI's Audit Report on the Proposal Law on the Final Statement of Accounts of the Budget of Montenegro for 2015 and the Annual Report on Performed Audits and Activities of SAI for the period of October 2015 – October 2016 and adopted relevant conclusions.

The SAI prepared and published the Audit Report on the Proposal Law on the Final Statement of Accounts of the Budget of Montenegro for 2016 that contains 16 recommendations. The SAI communicated an unqualified opinion of the financial audit and a qualified opinion on regularity audit of the Draft Law. Also, the SAI prepared and published 38 audit reports.

### **Overview per audit type**

<b>Audit type</b>	<b>Number</b>
<b>Financial audit and regularity audit</b>	14
<b>Performance audit</b>	4

<b>Audit of political parties in 2016</b>	12
<b>Audit of political parties in 2015</b>	9

### Overview of issued opinions

<b>Audit type</b>	<b>Unqualified opinion</b>	<b>Qualified opinion</b>	<b>Adverse opinion</b>	<b>Disclaimer of opinion</b>
<b>Financial audit and regularity audit</b>	10	11	4	0
<b>Audit of political parties in 2016</b>	16	7	1	0
<b>Audit of political parties in 2015</b>	6	7	3	2

When it comes to performance audits, the SAI prepared and issued the following performance audits:

- Effects of activities of the Council for improvement of business environment, regulatory and structural reforms;
- Efficiency of internal audit in the public sector;
- Energy efficiency in the public sector institutions;
- Planning of public procurement of medical equipment.

The performance audit “Planning of public procurement of medical equipment in Montenegro” was carried out as a part of the parallel performance audit (PPA II) project covering the public procurement theme and it was implemented by six supreme audit institutions from the region and with the expert support of the Swedish National Audit Office and the European Court of Auditors. Recognizing the importance of performance audit in the context of EU negotiations, in cooperation with the Swedish National Audit Office and the European Court of Auditors, the SAI held a Conference where it presented the findings from the performance audit report “Planning of public procurement of medical equipment in Montenegro” to representatives of the Parliament of Montenegro and the audited entities.

In April 2017, the SAI adopted the Guidelines for Assessing Fiscal Responsibility Criteria, and in June this year it issued a new Performance Audit Manual.

In accordance with the Training plan, four training courses were conducted: Real sector accounting; Financial audit; Risk, materiality and sampling: English language. The SAI organised state audit examinations in December 2016 and February 2017 and 14 persons were awarded the certificate for the professional title of State auditor.

In January 2017, together with experts from SIGMA, the SAI held a workshop on the implementation of the international standard of supreme audit institutions (ISSAI 1600) "Auditing group financial statements".

Through cooperation with the supreme audit institutions at the regional and international level, the State Audit Institution has continued to improve the professional skills of its auditing staff. The audit staff has attended a series of public sector auditing trainings through cooperation with supreme audit institutions from the region on the implementation of the information system audit and auditing of the state budget annual accounts. Training courses were implemented within the framework of international cooperation related to the issue of municipal audit and financial audit.

### **3.32.3. Protection of the EU's financial interests**

Montenegro's legislation is largely aligned with the EU acquis. Since Member States are required to transpose Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 into the national legislation by 6 July 2019, as a future Member State, Montenegro will gradually work on the harmonization in the upcoming period, to the same extent as it was done with the previously valid PIF Convention.

Regarding the activities in this sub-area in the previous period, the AFCOS Office and other bodies within the AFCOS network maintained regular communication and cooperation with OLAF representatives who were familiar with all activities related to the operation of this network, and all requested information was forwarded without unnecessary delay, which will be continued in the following period.

The EC was furnished with four quarterly reports on the non-existence of irregularities in the IPA system for programs that we have been managing, these being:

Q3 2016 report – submitted on 30 November 2016;

Q4 2016 report – submitted on 28 February 2017;

Q1 2017 report – submitted on 31 May 2017;

Q2 2017 report – submitted on 31 August 2017.

So far, there have been no detected irregularities so there is no need for onsite checks relating to irregularities and frauds, but Montenegro stands ready to provide full support and cooperation in the future to resolve these issues.

As of 2017, Montenegro has been granted access to the IMS (Irregularity Management System) that allows electronic sending of reports on irregularities and frauds.

In the area of administrative capacity, the number of staff within the AFCOS Office increased, with additional employment planned in line with growing work load. The new Rulebook on Internal Organisation and Job Descriptions of the Ministry of Finance envisages the position of the Head of the AFCOS Office, as well as three additional Independent advisors. The Office currently has two employees.

The second Report on the implementation of measures set out in the Action Plan for the implementation of the 2015-2017 Strategy for the fight against frauds and management of irregularities aimed at the protection of EU's financial interests, which covers the period 1 January 2016 – 30 June 2017, was adopted by the Government on 22 June 2017.

The annual AFCOS seminar was held on 7-9 June 2017 in Montenegro and it gathered representatives from countries in the region, EU Member States, and EU candidate countries. The participants addressed all problems faced by the countries in the fight against irregularities and fraud and they were given useful instructions that will contribute to the improvement of the AFCOS system in every participating country.

#### **3.32.4. Protection of euro against counterfeiting**

During the reporting period, activities on the protection of euro against counterfeiting primarily focused on the training of cash handlers, representatives of the Police Administration, as well as on introduction of the cash handling standards, in line with the harmonised legislation and EU standards.

### **3.33. CHAPTER 33: FINANCIAL AND BUDGETARY PROVISIONS**

#### **3.33.1. GENERAL READINESS FOR MEMBERSHIP**

##### **3.33.1.1. Traditional own resources**

The Customs Administration is responsible for the collection of revenues, which is paid into the EU budget on the basis of the customs duty calculated according to the common customs tariff and agricultural levy as own source revenues. Revenues for sugar are not collected in Montenegro.



The organisation for the establishment of traditional own resources in Montenegro is defined by the Action Plan for implementation of own resources system of the European Union in Montenegro.

### **3.33.1.2. Collection, accounting and control procedures**

When it comes to Chapter 29 - Customs union, Montenegro's legislation is aligned with the acquis in the field of customs, but certain processes and procedures must be defined, uncertainties and ambiguities in the interpretation of certain provisions of the Customs Law must be eliminated, appropriate systems for calculating and making available of traditional own resources must be put in place. Furthermore, the write-off customs system should be aligned with Article 17 of Regulation 1150/2000 for those customs debts deemed irrecoverable.

The Customs Administration must have in place the necessary procedures in order to clearly and accurately determine and enter the customs debt in the accounts, in a correct and timely manner, within the time limits laid down in the EU' Customs Act.

In order to ensure collection of traditional own resources, the Customs Administration should have appropriate procedures in place in order to ensure that the customs duties, for goods that are undergoing a particular customs procedure, are either paid or provided in accordance with the rules laid down for that particular procedure. In this regard, imported goods cannot be released for free circulation before the prescribed duties are paid, or, if deferred payment has been approved to the importer, the goods are released for circulation only in case the customs debt is fully covered by a customs debt security, i.e. security for payment must be provided if the procedure requires a guarantee (risk analysis for procedures for which the security is a matter to be decided by the customs authorities).

As regards the accounts to distinguish debts and outstanding liabilities, it should be pointed out that no separate accounts are in place to distinguish between recovered/guaranteed and outstanding debts. Only recovered and guaranteed debts are taken into consideration (influx in the statement of accounts of the Customs Administration). However, the outstanding debts are also recorded and can be identified in the existing Financial Module-claims at any time. Any outstanding debt has its own mark (indicators) that allows the status of such debt to be identified, i.e. activities that have been undertaken for the recovery of that debt in the Financial Module.

Separate accounts need to be kept to distinguish between recovered/guaranteed and outstanding debts as required by Regulation (EC) No 1150/2000.

### **3.33.1.3. VAT resource**

#### **Indirect taxation –Value Added Tax** (for more details, see 3.16. Chapter 16: Taxation)

Transactions exempted from VAT with the right of input deduction are not fully aligned with Article 169 (b) of Council Directive 2006/112/EC, while the tax legislation does not recognise the institute of VAT refund for tourists.

According to the provisions of Article 25 paragraph 3 and of Article 30 of the Law on Value Added Tax, goods entered into a free customs zone, i.e. free customs warehouse intended for the exportation, i.e. importation of products, as well as supply of services linked to supply of those goods intended to be entered into a free customs zone, i.e. free customs warehouse, are exempted from VAT.

#### **The definition "taxable person" is aligned with the acquis**

Article 13 of the Law on Value Added Tax lays down that state bodies and organisations and bodies of local self-government unit and other public bodies shall not be considered taxpayers within the framework of their activities on the basis of public functions even if, in connection to these activities, taxes, fiscal stamps, contributions and other duties are being collected. Political parties, trade unions and chambers shall not be considered as the taxpayers, if they carry out activities within their scope of work, i.e. authorisations.

Furthermore, the same Article provides for that state bodies and organisations and bodies of local self-government unit and other public bodies shall be considered as taxpayers if they are performing supply of goods or services, which is taxable, according to this law, in the case of other taxpayers.

Articles 42-49 of the Montenegrin Law on Value Added Tax cover special taxation procedures for:

- small businesses,
- farmers,
- services provided by travel agencies and tour operators,
- used goods, works of art and antiques,
- other instances of supply of works of art, collectors' items and antiques,
- supply of goods at public auction.

The value added tax system applicable in the country was introduced in 2003. On the fifteenth day of the month, VAT return is submitted for the previous month electronically, from which VAT debt and VAT credit are created. The VAT return is submitted on a

monthly basis. A software is in place for the entry and processing of returns, mathematical and logical control is in place, and we have the possibility to create various reports from the system and carry out certain statistical surveys.

- Data on the supply obtained - quarterly
- Data on planned and collected VAT - quarterly
- Data from monthly-based return for VAT charged- on annual basis

#### **3.33.1.4. GNI resource**

In accordance with the Annual Plan of statistical surveys and the Calendar of Statistical Data, the Statistical Office regularly produces and publishes data on gross national income (GNI) of Montenegro, in accordance with the ESA 2010 methodology. The data were for the first time calculated and published in December 2015 for the time series 2010-2016. Currently, additional efforts are being made extend the time series for the period 2006-2009.

Namely, GNI is calculated in accordance with Regulation (EU) No 549/2013 and Regulation (EU) No 1287/2003. Gross national income (GNI) equals the sum of GDP and balance of primary incomes (from labour and capital) from abroad. Unlike the gross domestic product (GDP), which is a measure of production, GNI is a measure of income. The calculation of GNI is conducted by the transition of GDP data using transitional items from the balance of payments statistics. Balance of payments of Montenegro is compiled in accordance with the new methodology of the International Monetary Fund (Balance of Payments and International Investment Position Manual, 6<sup>th</sup> edition, IMF, 2009) and EU regulations in the field of balance of payments.

Gross domestic product (GDP) is calculated in accordance with the ESA 2010 methodology. The estimate non-observed economy is partially included in the GDP calculation, in accordance with the recommendations of the GNI Committee Eurostat.

### **3.33.2. Realisation of activities in the period October 2016 - October 2017**

#### **3.33.2.1. Value Added Tax**

*Collection of VAT (figures below in millions EUR)*

	2016	1 January - 1 October 2017
Gross VAT collection	580.7	463,8
Refund of VAT	13.9	13,4
Net VAT collection	500.7	406,3

On the basis of the report submitted by the EC on the simulation of the report on the calculation of VAT of November 2016, the Tax Administration has confirmed that, for the most part, the additional requirements and recommendations of the EC can be met, which will be included in the next simulation of the report on the calculation of VAT.

The Ministry of Finance has continued negotiations with the World Bank on the procedure for bank loan for the project of modernisation of the Tax Administration, which is valued at cca. EUR 14 million. In principle, agreement has been reached, the details of which will be specified in negotiations with the World Bank, which will be followed by the adoption of the Decision on the borrowing and planning of funds for specified purpose in the budget for 2018.

In accordance with recommendations of the European Commission, the administrative capacities of the Directorate for coordination and management of own resources of the EU have been strengthened. At the moment, there are three persons working within the Directorate, like it has been foreseen by the Rulebook on Internal Organisation and Job Descriptions. Furthermore, the procedure for selecting the Head of the aforementioned Directorate has been completed..

In October 2016, the Coordinating team for implementation of the Public Finance Management Reform Programme adopted the Action Plan for implementation of the Programme. Furthermore, in March 2017, the Government adopted the 2016 Report on implementation of the Public Finance Management Reform Programme for the period 2016-2020, which contains detailed information about the activities that were undertaken in relevant areas and that are important when it comes to the fulfilment of objectives defined under the aforementioned programme.

**Annex 1: List of laws adopted by the Parliament in the period from 1 October 2016 until 20 October 2017**

1. Law on Amendments to the Budget Law of Montenegro for 2016;
2. Law on the Final Budget Statement of Montenegro for 2015;
3. Budget Law of Montenegro for 2017;
4. Law on Amendments to the Law on Public Sector Salaries;
5. Law on Amendments to the Law on Social and Child Welfare;
6. Law on Amendments to the Law on Personal Income Tax;
7. Law on the Amendment to the Law on Value Added Tax;
8. Law on Amendments to the Excise Law;
9. Law on Restructuring of Tax Receivables;
10. Law on the Amendments to the Law on Funding of Political Parties and Election Campaigns;
11. Law on International and Temporary Protection of Foreigners;
12. Law on Amendments to the Law on Defence;
13. Audit Law;
14. Law on Amendments to the Law on Legal Protection of Industrial Design;
15. Law on Amendments to the Patent Law;
16. Law on Amendments and Supplement to the Trademark Law;
17. Law on Amendments to the Law on Electronic Communications;
18. Law on Urban Waste Water Treatment;
19. Law on Amendments to the Law on Memorials;
20. Law on Amendments to the Law on Health Insurance;
21. Law on Amendments to the Law on Health Care;
22. Law on Ratification of the Agreement between Montenegro and the Slovak Republic on social insurance;
23. Law on Ratification of the Agreement between the Government of Montenegro and the Government of the Republic of Azerbaijan on Cooperation and Mutual Assistance in Customs Matters;
24. Law on Ratification of the Agreement on Cooperation between Montenegro and Eurojust;
25. Law on the Amendment to the Legalisation of Informal Structures;
26. Law on Ratification of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;
27. Law on Ratification of the Agreement on the Establishment of the Regional Youth Cooperation Office;
28. Law on Ratification of the Agreement between the European Atomic Energy Community (EURATOM) and non-member States of the European Union on the participation of the latter in the Community arrangements for the early exchange of information in the event of radiological emergency (ECURIE);
29. Law on Ratification of the ILO Occupational Safety and Health (Dock Work) Convention No 152;
30. Law on Ratification of the ILO Seafarers' Identity Documents Convention (Revised) No 185;

31. Law on Quality Schemes for Agricultural Products and Foodstuffs;
32. Law on Amendments to the Law on Enforcement and Security;
33. Law on Amendments to the Law on Public Enforcement Officers;
34. Law on Amendments to the Legal Profession;
35. Law on Amendments to the Law on Obligatory Relations;
36. Law on Amendments to the Personal Data Protection Law;
37. Law on Amendments to the Law on Public Sector Salaries;
38. Law on Amendments to the Law on Mandatory Social Security Contributions;
39. Law on Amendments to the Law on Health Insurance;
40. Law on the Amendment to the Law on Plant Nutrition Products;
41. Law on Amendments to the Law on Agriculture and Rural Development;
42. Law on Ratification of the 2015 International Agreement on Olive Oil and Table Olives;
43. Law on Ratification of the Convention for the Establishment of the European and Mediterranean Plant Protection Organisation;
44. Law on Ratification of the European Convention for the Protection of Animals during International Transport;
45. Law on Amendments and Supplement to the Law on Expropriation;
46. Law on Amendments to the Law on Restitution of the Taken Away Property Rights and Compensation;
47. Law on the Amendment and Supplement to the Law on Local Self-Government Financing;
48. Law on Amendments to the Law on Free Access to Information;
49. Law on Illegal Advertising;
50. Law on Health Inspection;
51. Law on Electronic Identification and Electronic Signature;
52. Law on Amendments and Supplement to the Law on the Capital City;
53. Law on Amendments and Supplement to the Law on Territorial Organisation of Montenegro;
54. Law on Amendments to the Law on Explosive Substances;
55. Law on Amendments to the Law on Basic Principles of Intelligence and Security Sector of Montenegro;
56. Law on Amendments to the Law on Air Transport;
57. Law on Amendments to the Law on deployment of the Armed Forces of Montenegro units to the international forces and participation of members of civil defence, police and public administration employees in peacekeeping missions and other activities abroad;
58. Law on Amendments to the Law on Minority Rights and Freedoms;
59. Law on Ratification of the North-Atlantic Treaty and the Protocol to the North-Atlantic Treaty on the Accession of Greece and Turkey;
60. Law on Ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products;
61. Law on Amendments to the Law on Audit of EU Funds;
62. Law on Amendments to the Law on Consensual Financial Restructuring of Debts to Financial Institutions;

63. Law on Fees for the Use of Tobacco Products and Electro-Acoustic and Acoustic Devices in restaurants and cafés;
64. Law on Amendments to the Law on State Surveying and Cadastre of Immovable Property;
65. Law on the National Brand;
66. Law on Spatial Data Infrastructure;
67. Law on the Supplement to the Law on Games of Chance;
68. Law on Amendments to the Law on Non-Governmental Organisations;
69. Law on the Supplement to the Law on Administrative Fees;
70. Law on the Amendment to the Law on Administrative Procedure;
71. Law on Execution of the Decision of the Constitutional Court of Montenegro U-I No 6/16 of 19 April 2017 ("Official Gazette of Montenegro" No 31/17);
72. Law on Amendments to the Law on Social and Child Welfare;
73. Law on Amendments to the Law on Public Procurement;
74. Law on Amendments to the Law on Public Sector Salaries;
75. Law on Amendments to the Budget Law of Montenegro for 2017;
76. Law on Amendments to the Law on International Restrictive Measures;
77. Law on Amendments to the Law on Higher Education;
78. Law on the Amendment to the Law on Tourism Organisations;
79. Law on Amendments to the Anti-discrimination Law;
80. Law on Amendments to the Criminal Code of Montenegro;
81. Law on the Amendment to the Law on Immovable Property Tax;
82. Law on Amendments to the Law on Protection of Cultural Heritage;
83. Law on Amendments to the Law on Ski Resorts;
84. Law on Amendments to the Law on Tax Administration;
85. Law on Amendments to the Law on Primary Education;
86. Law on Amendments to the General Law on Education;
87. Law on Amendments to the Law on Vocational Education;
88. Law on Amendments to the Law on Adult Education;
89. Law on Amendments to the Law on Education of Children with Special Educational Needs;
90. Law on Amendments to the Law on Gymnasium;
91. Law on Amendments to the Law on Preschool Education;
92. Law on Amendments to the Law on Legalisation of Informal Structures;
93. Law on the regulation of the market of agricultural products;
94. Law on the Amendment and Supplement to the Law on Civil Procedure;
95. Law on Amendments to the Law on Misdemeanours;
96. Law on Ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism;
97. Law on the Prevention of Violence and Misbehavior at Sports Events;
98. Law on the Army of Montenegro;
99. Law on Amendments to the Law on Energy;
100. Law on Chemicals;
101. Law on Amendments to the Law on Construction Products;

102. Law on Ratification of the Protocol on Pollutant Release and Transfer Registers (PRTR Protocol);
103. Law on Old Royal Capital;
104. Law on Amendments to the Law on Travel Benefits for Persons with Disabilities;
105. Law on Amendments to the Law on Social and Child Welfare;
106. Law on Amendments to the Law on Value Added Tax;
107. Law on Amendments to the Excise Law;
108. Law on Spatial Planning and Construction of Buildings;
109. Law on Ratification of the Agreement between Montenegro and the Portuguese Republic on Double Taxation Avoidance and Prevention of Income Tax Evasion;
110. Law on Ratification of the Paris Agreement;
111. Law on Ratification of the Amendment to the Stockholm Convention on Persistent Organic Pollutants;
112. Law on the Amendment to the Law on Restitution of the Taken Away Property Rights and Compensation;
113. Law on Amendments to the Customs Law;
114. Law on the Amendment to the Law on Audit of EU Funds;
115. Law on the Amendment to the Law on Tax on Turnover of Used Passenger Motor Vehicles, Vessels, Airplanes and Aircrafts;
116. Law on Amendments to the Law on Central Bank of Montenegro;
117. Law on Amendments to the Law on Foreign Current and Capital Operations;
118. Law on the Amendment and Supplements to the Law on Budget and Fiscal Responsibility;
119. Law on Foreign Affairs;
120. Law on Services;
121. Law on the Supplement to the Law on Consumer Protection;
122. Law on Amendments to the Law on Safety of Maritime Navigation;
123. Law on Transportation in Road Traffic.