Government of Montenegro

Ministry of European Integration

Questionnaire

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

I Democracy and the rule of law

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Constitution

1. Please provide a brief description of the constitutional and institutional situation in Montenegro.

Montenegro, as the youngest member state of UN and other international, political, economic and other associations and integrations, adopted the new Constitution of Montenegro on 22 October 2007.

Montenegro is an independent and sovereign state, with the republican form of government. Montenegro is a civil, democratic, ecological and the state of social justice, based on the rule of law. Bearer of sovereignty is the citizen with Montenegrin citizenship. The citizen shall exercise power directly and through the freely elected representatives.

The power not stemming from the freely expressed will of the citizens in democratic election in accordance with the law, can neither be established nor recognised. The Constitution stipulates that the power shall be regulated following the principle of the division of powers into the legislative, executive and judicial. The legislative power shall be exercised by the Parliament, the executive power by the Government and the judicial by courts. The power is limited by the Constitution and the law. The relationship between powers shall be based on balance and mutual control.

Montenegro shall be represented by the President of Montenegro. Constitutionality and legality shall be protected by the Constitutional Court. Armed forces and security services shall be under democratic and civil control.

The official language in Montenegro shall be Montenegrin. Cyrillic and Latin alphabet shall be equal. Serbian, Bosnian, Albanian and Croatian shall also bi in the official use.

Montenegro shall cooperate and develop friendly relations with other states, regional and international organizations, based on the principles and rules of international law. Montenegro may accede to international organizations. The Parliament shall decide on the manner of accession to the European Union. Montenegro shall not enter into a union with another state by which it would lose its independence and full international personality.

Legislative power

The Parliament shall:

1) adopt the Constitution;

2) adopt laws;

3) adopt other regulations and general acts (decisions, conclusions, resolutions, declarations and recommendations);

4) proclaim the state of war and the state of emergency;

5) adopt the Budget and the Final Statement of the Budget;

6) adopt the National Security Strategy and the Defence Strategy;

7) adopt the Development Plan and Spatial Plan Montenegro;

8) decide on the use of units of Armed Forces of Montenegro in the international forces;

9) regulate the state administration system;

10) perform supervision of the Armed Forces and security services;

11) call for the national referendum;

12) elect and dismiss from duty the Prime Minister and members of the Government;

13) elect and dismiss from duty the President of the Supreme Court, the President and the judges of the Constitutional Court;

14) appoint and dismiss from duty: the Supreme Public Prosecutor and Public Prosecutors; the Protector of Human Rights and Freedoms (Ombudsman); the Governor of the Central Bank and members of the Council of the Central Bank of Montenegro; the President and members of the Senate of the State Audit Institution, and other officials stipulated by the law;

15) decide on immunity rights;

16) grant amnesty;

17) ratify international agreements;

18) call for public loans and decide on borrowings of Montenegro;

19) decide on the use of state property above the value stipulated by the law;

20) perform other duties stipulated by the Constitution or the Law.

The Parliament shall consist of the Members of the Parliament elected directly on the basis of the general and equal electoral right and by secret ballot. The Parliament shall have 81 Members. The mandate of the Parliament shall last for four years. The mandate of the parliament may cease prior to the expiry of the period for which it was elected by dissolving it or reducing the mandate of the Parliament. If the mandate of the Parliament expires during the state of war or the state of emergency, the mandate shall be extended for the period of up to 90 days upon termination of the circumstances that have caused such state. At the proposal of the President of Montenegro, the Government or minimum 25 Members of the Parliament, the Parliament may reduce the duration of its mandate.

Executive power

The Government shall:

a) pursues internal and foreign policy of Montenegro;

b) enforce laws, other regulations and general acts;

c) adopt decrees, decisions and other acts for the enforcement of laws;

d) conclude international agreements;

e) propose the Development Plan and Spatial Plan of Montenegro;

f) propose the Budget and the Final Statement of the Budget;

g) propose the National Security Strategy and the Defence Strategy;

h) decide on the recognition of states and establishment of diplomatic and consular relations with other states;

i) propose ambassadors and heads of diplomatic missions of Montenegro abroad;

j) perform other tasks stipulated by the Constitution or the law.

The Government shall consist of the Prime Minister, one or more Deputy Prime Ministers and the ministers. The Prime Minister represents the Government and manages its work.

President of Montenegro:

1). represents Montenegro in the country and abroad;

2). commands over the Armed Forces on the basis of the decisions of the Defence and Security Council;

3). promulgate laws by decrees;

4). calls for the elections for the Parliament;

5). proposes to the Parliament: candidate for the Prime Minister, after consultations with the representatives of the political parties represented in the Parliament; President and judges of the Constitutional Court; Protector of Human Rights and Freedoms;

6). appoints and recalls ambassadors and heads of other diplomatic missions of Montenegro abroad, at the proposal of the Government and after obtaining the opinion of the Parliamentary Committee responsible for international relations;

7). accepts credential letters and letters of recall of the foreign diplomats;

8). awards medals and honours of Montenegro;

9). grants amnesty;

10). performs other tasks stipulated by the Constitution or the law.

The President of Montenegro shall be elected on the basis of a general and equal electoral right, through direct and secret ballot. A Montenegrin citizen residing in Montenegro for minimum 10 years in the past 15 years may be elected for the President of Montenegro. The Speaker of the Parliament shall call for the elections for the President of Montenegro. The President of Montenegro shall be elected for the period of five years. The same person may be elected the President of Montenegro maximum two times. The President of Montenegro shall assume the duty on the date of taking an oath before the Members of the Parliament. If the mandate of the President expires during the state of war or the state of emergency, the mandate shall be extended for maximum 90 days after the end of circumstances that have caused that state. The President of Montenegro shall not perform any other public duty. The mandate of the President of Montenegro shall end with the expiry of time for which he/she was elected, by resignation, if he/she is permanently unable to perform the duty of the President and by impeachment. The President shall be held responsible for the violation of the Constitution. The procedure to determine whether the President of Montenegro has violated the Constitution shall be initiated by the Parliament, at the proposal of minimum 25 Members of the Parliament. The Parliament shall submit the proposal to initiate the procedure to the President of Montenegro for him/her to plead. The Constitutional Court shall decide on existence or non-existence of violation of the Constitution and shall publish the decision and submit it to the Parliament and the President of Montenegro without delay. The Parliament may impeach the President of Montenegro when the Constitutional Court finds that he/she has violated the Constitution. In case of cessation of mandate of the President of Montenegro, until the election of the new President, as well as in the case of temporary impediment of the President to discharge his/her duties, the Speaker of the Parliament shall discharge this duty.

Judicial power

The judicial power is exercised by the courts. The courts are autonomous and independent. Establishment, jurisdiction, organization, manner of work and proceedings before the courts are regulated by the law. The Supreme Court is the highest court in Montenegro and it provides for the uniform application of law by 15 Basic Courts, two High Courts, two Commercial Courts, the Appellate Court and the Administrative Court. The hearing before the court is public, judgments are pronounced publicly, and the court shall rule in panel, except when the law stipulates that an individual judge shall rule. The judicial duty is permanent and the judges enjoy functional immunity.

The court shall rule on the basis of the Constitution, laws and confirmed and published international agreements. Establishment of court martial and extraordinary courts is prohibited.

A judge and a president of the court shall be elected and dismissed from duty by the **Judicial Council**. The President of the court is elected for the period of five years. The President of the court shall not be a member of the Judicial Council.

The Judicial Council shall be autonomous and independent authority that secures autonomy and independence of the courts and the judges. The Judicial Council shall have the president and nine members. The President of the Judicial Council shall be the President of the Supreme Court.

Members of the Judicial Council shall be as follows:

1) four judges elected and dismissed from duty by the Conference of Judges;
2) two Members of the Parliament elected and dismissed from duty by the Parliament from amongst the parliamentary majority and the opposition;
3) two renowned lawyers elected and dismissed from duty by the President of Montenegro;
4) the Minister of Justice.

The President of Montenegro shall proclaim the composition of the Judicial Council. The mandate of the Judicial Council shall be four years.

The Judicial Council shall:

1) elect and dismiss from duty a judge, a president of a court and a lay judge;
2) establish the cessation of the judicial duty;
3) determine number of judges and lay judges in a court;
4) deliberate on the work report of the court, applications and complaints regarding the work of court and take a standpoint with regard to them;
5) decide on the immunity of a judge;
6) propose to the Government the amount of funds for the work of courts;
7) perform other duties stipulated by the law.

The Judicial Council shall decide by majority vote of all the members.

The Constitutional Court shall decide on the following:

1) Conformity of laws with the Constitution and confirmed and published international agreements;
2) Conformity of other regulations and general acts with the Constitution and the law;
3) Constitutional appeal due to the violation of human rights and freedoms granted by the Constitution, after all other efficient legal remedies have been exhausted;
4) Whether the President of Montenegro has violated the Constitution;
5) The conflict of jurisdiction between courts and other state authorities, between state authorities and local self-government authorities, and between the authorities of the local self-government units;
6) Prohibition of work of a political party or a non-governmental organization;
7) Electoral disputes and disputes related to the referendum, which are not the responsibility of other courts;
8) Conformity with the Constitution of the measures and actions of state authorities taken during the state of war or the state of emergency;
9) Performs other tasks stipulated by the Constitution.

If the regulation ceased to be valid during the procedure for the assessment of constitutionality and legality, and the consequences of its enforcement have not been recovered, the Constitutional Court shall establish whether that regulation was in conformity with the Constitution, that is, with the law during its period of validity. The Constitutional Court shall monitor the enforcement of constitutionality and legality and shall inform the Parliament about the noted cases of unconstitutionality and illegality. Any person may file an initiative to start the procedure for the assessment of constitutionality and legality. The procedure before the Constitutional Court for the assessment of constitutionality and legality may be initiated by the court, other state authority, local self-government authority and five Members of the Parliament. The Constitutional Court itself may also initiate the procedure for the assessment of constitutionality and legality. During the procedure, the Constitutional Court may order to stop the enforcement of an individual act or actions that have been taken on the basis of the law, other regulation or general act, the constitutionality, i.e. legality of which is being assessed, if the enforcement thereof could cause irreparable damage. The Constitutional Court shall decide by majority vote of all judges. The decision of the Constitutional Court shall be published. The decision of the Constitutional Court shall be binding and enforceable. When necessary, the Government shall ensure the enforcement of the decision of the Constitutional Court.

The Constitutional Court shall have seven judges. The Constitutional Court judge shall be elected for the period of nine years. The President of the Constitutional Court shall be elected from amongst the judges for the period of three years. The person enjoying reputation of a renowned legal expert, with minimum 15 years of experience in this profession may be elected to the position of the Constitutional Court judge. The President and the judge of the Constitutional Court shall not discharge duties of a Member of the Parliament or other public duties or professionally perform some other activity.

Public Prosecution Office

The Public Prosecution Office is single and independent state authority that performs the affairs of prosecution of the perpetrators of criminal offences and other punishable acts which are prosecuted ex officio. The affairs of the Public Prosecution Office are performed by Public Prosecutors having one or more deputies. The Supreme Public Prosecutor and Public Prosecutors are appointed, at proposal of the Prosecutorial Council, by the Parliament of Montenegro, for the period of five years. The Prosecutorial Council ensures the independence of Public Prosecution Office and Public Prosecutors. The Prosecutorial Council shall be elected and dismissed by the Parliament. The election, mandate and competences of the Prosecutorial Council are regulated by law. Duty of the Deputy Public Prosecutors is permanent, but the Deputy Basic Public Prosecutors are appointed for the period of three years, and after that their duty is permanent should they be re-elected. Affairs of the Public Prosecution Office are performed by the Supreme Public Prosecutor, two High Public Prosecutors and 13 Basic Public Prosecutors. Within the Supreme Public Prosecution Office, the Division for suppressing organised crime, corruption, terrorism and war crimes was established, and its work is managed by the Special Prosecutor.

In accordance with the Constitution and the Law on Public Prosecution Office, the Parliament has adopted a Decision on election of members of the Prosecutorial Council. Accordingly, the Prosecutorial Council is composed of the President and ten members. The Supreme Public Prosecutor is the President of the Prosecutorial Council.

The Protector of Human Rights

The Protector of Human Rights and Freedoms of Montenegro is an independent and autonomous authority that takes measures to protect human rights and freedoms. The Protector of Human Rights and Freedoms shall exercise duties on the basis of the Constitution, the law and the ratified international agreements, observing also the principles of justice and fairness. The Protector of Human Rights and Freedoms shall be appointed for the period of six years and can be dismissed in cases envisaged by the law.

Local Self-Government

The Constitution guarantees the right to local self-government as one of the basic rights, and the legal framework for development and independence of the local self-government is laid down. Thus, the Constitution prescribes that in the local self-government the decisions shall be made directly and through the freely elected representatives, and the right to local self-government shall include the right of citizens and local self-government bodies to regulate and manage certain public and other affairs, in their own responsibility and in the interest of the local population.

Forms of the local self-government are the following: the Capital, the Historic Royal Capital and municipalities. The Capital of Montenegro is Podgorica, and the Historic Royal Capital is Cetinje. There are 19 municipalities in Montenegro. Municipalities have their own property, budget, and they are financed from their own ravenous and the state's resources. Bodies of a municipality are the assembly and the president. Municipalities have a legal entity status and they are independent in exercising their competences. The Government may dismiss the municipal Assembly, that is, discharge the President of the municipality from duty, only if the municipal assembly they fail to perform their duties for a period longer than six months.

Armed Forces

The Armed Forces shall defend independence, sovereignty and state territory of Montenegro, in accordance with the principles of international law regarding the use of force. The Armed Forces shall be subject to democratic and civil control. The members of the Armed Forces may be part of the international forces.

The Defence and Security Council shall:

1) Make decisions on commanding over the Armed Forces of Montenegro;

2) Analyze and assess the security situation in Montenegro and decide on taking adequate measures;

3) Appoint, promote and discharge from duty the Armed Forces officers;

4) Propose to the Parliament proclamation of the state of war and state of emergency;

5) Propose the use of Armed Forces in international forces;

6) Perform other duties stipulated by the Constitution and the law.

Defence and Security Council of Montenegro consists of: the President of Montenegro, the Speaker of the Parliament of Montenegro and the Prime Minister. The President of Montenegro shall act as the President of the Defence and Security Council.

2. Please describe in detail how far Montenegro has advanced in applying the "law on the implementation of the Constitution" adopted in October 2007.

The Constitutional Law for the implementation of the Constitution of Montenegro was adopted on 19 October, and promulgated on 22 October 2007 – it was adopted and promulgated concurrently with the Constitution and it entered into force on the same day of its promulgation.

The Constitutional Law stipulates, in three provisions (articles), the deadlines for harmonization of laws with the Constitution, by prescribing the following:

1) Article 7 – five laws shall be adopted within two months as of the day when the Constitutional Law entered into force, and two more laws shall be adopted within six months as of the day when Constitutional Law entered into force (the laws to be adopted are individually stated);

2) Article 8 – nine individually stated laws shall be harmonized with the Constitution within three months as of the day when the Constitutional Law entered into force;
3) Article 9 - Other laws and regulations shall be harmonized with the Constitution within two years, at the latest, as of the day when the Constitutional Law entered into force.

Due to numerous legislative activities of the Parliament on harmonization of legislation with the Constitution and the EU legislation, for minor part of the laws stated in Articles 7 and 8, the deadlines for harmonization were very short and unrealistic, so the Parliament, with a view to maintaining the legality and legitimacy of work, made two amendments to the Constitutional Law and postponed the deadlines, defining them more realistically and more appropriate to the conditions and needs in the harmonization procedure, and set the deadline of **two years**.

Out of 16 laws stated in Articles 7 and 8 for which the original deadlines were unrealistic, 13 laws were adopted or harmonized with the Constitution, respectively, within the subsequently defined deadlines: Law on Montenegrin Citizenship, Law on Travel Documents of Montenegrin Citizens, Law on Permanent and Temporary Residence, Law on Identification Card, Law on Social Council, Law on Judicial Council, Law on Territorial Organization of Montenegro, Law on the Election of Councillors and MPs, Law on the Election of the President of Montenegro, Law on Electoral Lists, Law on Amendments to the Law on Courts, Law on Amendments to the Law on Public Prosecution Office, Law on State Administration (Annex 8), Law on Property of the Republic of Montenegro (Annex 1), Law on Expropriation (Annex 2), and the Law on Minority Rights and Freedoms.

On 5th November 2009, The Government adopted the Proposal for the Law on Amendments to the Law on Minority Rights and Freedoms. The Government has also adopted the Draft Law on Territorial Organization of Montenegro and the public debate is ongoing. Law on the Election of Councillors and MPs is currently being prepared by the multi-party Parliamentary Working Group, which will also propose the Law.

Since the Constitution was adopted, in October 2007, approximately 160 laws were adopted, so the issues treated by them are regulated in accordance with the Constitution.

3. How is the implementation of the Constitution co-ordinated? Which are the bodies involved and which are their respective competences in relation to the implementation of the Constitution? Are there any weaknesses of the Constitution identified and are there any plans to amend the Constitution? Please explain.

The Constitution of Montenegro was adopted by two-thirds majority at the Constitutional Assembly of the Republic of Montenegro on 19 October 2007, following the decision of citizens of Montenegro made in the referendum held on 21 May 2006 to live in an independent and sovereign state. The Constitutional Assembly proclaimed the Constitution of Montenegro on 19 October 2007.

Apart from the Preamble defining high goals of the Constitutional model (commitment to freedom, peace, tolerance, respect for human rights and freedoms, multiculturalism, democracy, rule of law), the **structure** of the Constitution of Montenegro is as follows:

a) Basic provisions,
b) Human rights and freedoms,
c) Organization of powers,
d) Economic system,
e) Constitutionality and legality,
f) Constitutional Court,
g) Change of the Constitution,
h) Transitional and final provisions

Basic provisions of the Constitution, as well as the Chapters, relating to the organization of powers, clearly stipulate that the powers are arranged on the basis of the **principle of division of powers**

into: legislative, executive and judicial. The legislative power shall be exercised by the Parliament, the executive power by the Government and the judicial by courts. The Constitution explicitly stipulates that the power, (i.e. all three branches of power) is limited by the Constitution and the law, and that the relationship between powers is based on balance and mutual control.

The fact that the Parliament is constituted on the basis of electoral will of the citizens, expressed in the general, direct and free elections, and which arises from the Constitutional principle of sovereignty of citizens – gives the legitimacy to the Parliament, that makes it the central subject of political-legal system of Montenegro.

Branches of the power (legislative, executive and judicial), which, according to the Constitution, are exercised by relevant bodies, – are, in terms of their organization and functionality, independent, and this division of powers prevents any power to gain supremacy over the others.

It can be noticed from this short overview of the basic principles of functioning of branches of power and their structure that the Constitution of Montenegro does not provide for a body or authority (as it was defined in the question) which would harmonize (coordinate) implementation of the Constitution and which would be an "umbrella authority" over the bearers of legislative, executive and judicial power. Rather, it can be said that the Constitution of Montenegro contains **principles** which ensure relatively balanced co-existence of all three branches of power which, by its nature, strive to gaining importance or even supremacy.

Therefore, if the Parliament exercises the legislative power through adoption of laws (in a wider sense, this is also Constitutional Power), and the Government proposes and, via the system of administration bodies, executes the laws, and the court applies them, – then, it can be concluded that respecting the Constitutional principles relating to functioning of the power, is a "coordinator" of implementation of the Constitution.

Principles of Constitutionality and legality – contained in Chapter V of the Constitution of Montenegro – are general postulates of functioning of all state authorities, and this is provided by the Constitutional Court, as an authority sui generis, which (bearing in mind its competence to decide on conformity of laws with the Constitution and confirmed and published international agreements and conformity of other regulations and general acts with the Constitution and the law, decides on Constitutional appeals due to the violation of human rights and freedoms granted by the Constitution, after all other efficient legal remedies have been exhausted) in a certain sense, acts as a body controlling the implementation of the Constitution.

The Constitution of Montenegro is applied since the day of its promulgation, on **22 October 2007**. In the process of drafting the Constitution, the Parliament of Montenegro closely cooperated with the Venice Commission and the Council of Europe. The Constitution of Montenegro has been generally assessed as positive by the Venice Commission.

Upgrading the legal system of Montenegro on the basis of the new Constitution is possible through adoption of new laws or amendments to laws, i.e. through improving the existing laws, which presents one of the permanent activities of the Parliament. State authorities of Montenegro closely cooperate with the **Venice Commission** in adopting and amending key laws and their harmonization with the new Constitution.

Bearing in mind that the Constitution is in force for less than two years, and the general character of many of its provisions, which are most often elaborated through laws, – **it is not**, **given the circumstances, at least for now, possible to precisely define its potential shortfalls or indicators of changes.** The procedure of change of the Constitution is not currently considered. The need for potential Constitutional revision shall certainly be estimated after a certain period of functioning of the state on the foundations laid down by the Constitution.

The Constitution itself dedicates a whole Chapter to the **procedure of change of the Constitution** (VII). From the aspect of the procedure for its application, the Montenegrin Constitution is a relatively "firm" constitution. The Proposal to change the Constitution may be submitted by, (using collective rights) a group of 25 Members of Parliament, the President of Montenegro, or the Government. The Proposal to change the Constitution, whether it is on adopting the new Constitution or amending certain provisions, shall be adopted in the Parliament if two thirds of the total number of Members of the Parliament vote in favor of it.

Of course, a majority for adopting the Constitution defined in this manner is not a coincidence. In terms of adopting the Constitution, striving to an ideal of consensus is an expression of democratic principles that the whole Constitution is based upon.

When it comes to accepting the changes of the Articles of the Constitutions related to: nature of the state of Montenegro, sovereignty, state territory, state symbols, Montenegrin citizenship, language and alphabet, relationship with other states and international organizations, electoral right and the possibility to hold a referendum – additionally, acceptance in the referendum is required.

Finally, in the final stage of joining EU, the Constitution will be changed due to a need to introduce the right of voting and standing as a candidate in the municipal elections for EU citizens meeting the residence requirement in Montenegro (Chapter 23, question 162), as well as to introduce the right of voting and standing as a candidate in elections to the European Parliament for citizens of Montenegro and EU citizens meeting the residence requirement in Montenegro and not voting for the European Parliament in their own state (Chapter 23, question 163).

4. Do you have a Constitutional Court? What is its legal basis, how are its members appointed and how do you guarantee its independence and respect to its decisions? Who has the right to seize the Constitutional Court and how is the scope of its competences regulated in relation to other courts?

The Constitutional Court of Montenegro has been established in the state of Montenegro, as the Court which protects constitutionality and legality.

The legal basis for establishment of the Constitutional Court of Montenegro is provided in the Constitution of Montenegro of 2007.

Organization of the Constitutional Court, the procedure before the Constitutional Court, legal effect of its decisions and other issues relevant for its work are stipulated by the Law on Constitutional Court of Montenegro, and are regulated in more details by the Rules of Procedure of the Constitutional Court of Montenegro.

Judges and the President of the Constitutional Court are elected, at the proposal of the President of Montenegro, by the Parliament of Montenegro. The Constitutional Court judge shall be elected for the period of nine years, and the President of the Constitutional Court shall be elected from amongst the judges for the period of three years. The person enjoying reputation of a renowned legal expert, with minimum 15 years of experience in this profession may be elected to the position of the Constitutional Court judge. The President and the judge of the Constitutional Court shall not discharge duties of a Member of the Parliament or other public duties or professionally perform some other activity. The duty of the President and the judge of the Constitutional Court shall cease prior to the expiry of the period for which he/she was elected, at his/her own request, when he/she fulfills the requirements for age pension or if he/she was sentenced to an unconditional imprisonment sentence.

The Constitution of Montenegro stipulates that the Constitutional Court shall be independent and that its decisions shall be respected. Independence and respect of the Constitutional Court's decisions shall be ensured through the public nature of work. The public nature of work is achieved through informing the media representatives on sessions and public discussion, publishing decisions in the Official Gazette of Montenegro, publishing agendas of sessions of the Constitutional Court, public discussion, decisions and Constitutional Court practice and other important information for work of the Constitutional Court on the webpage of the Constitutional Court, publishing bulletins and in any other manner determined by the Constitutional Court.

When necessary, the Government shall ensure the enforcement of the decision of the Constitutional Court.

Any person may file an initiative to start the procedure for the assessment of constitutionality and legality before the Constitutional Court of Montenegro. The procedure before the Constitutional Court for the assessment of constitutionality and legality may be initiated by the court, other state

authority, local self-government authority and five Members of the Parliament. The Constitutional Court itself may also initiate the procedure for the assessment of constitutionality and legality.

Constitutional appeal may be lodged by any person who believes that his/her human rights and freedoms guaranteed by the Constitution have been violated by an act of state authorities, state administration bodies, local government bodies or legal persons exercising public authority, and the Protector of Human Rights and Freedoms, on the complaint which is being processed, if the complainant agrees thereto.

The Parliament of Montenegro is entitled to initiate the procedure of deciding on whether the President of Montenegro has violated the Constitution of Montenegro.

A proposal for initiating the procedure of deciding on prohibition of work of a political party or a non-governmental organization, within its competences, may be submitted by: Protector of Human Rights and Freedoms; Defence and Security Council; state administration body in charge of protection of human and minority rights; and a body in charge of entering into the register of a political party or a non-governmental organization.

The procedure of deciding on violation of rights during the election of councillors and MPs may be initiated by: a voter, a candidate for councillor or MP, and a submitter of an electoral list. The procedure is initiated by lodging an appeal against the decision of the competent electoral commission dismissing or rejecting the objection.

The procedure of deciding on violation of rights during the election of the President of Montenegro, mayor of the Capital, and the Old Royal Capital, and presidents of municipalities are initiated by an appeal which may be submitted by: a candidate for the President of Montenegro, a candidate for the mayor of the Capital, i.e. Old Royal Capital and a candidate for the president of the municipality, person proposing candidates and a voter.

An appeal initiating the procedure of deciding on violation of rights during a referendum may be submitted by a voter and the body calling for a referendum.

The Constitutional Court has jurisdiction, in relation to other courts, in the procedure of deciding upon Constitutional Appeals.

If the Constitutional Court finds that the contested individual act violated a human right or freedom guaranteed by the Constitution, it will adopt the Constitutional Appeal and annul this act, in its entirety or partially, and remand the case for a new procedure to the body that adopted the annulled act.

If at the time when the Constitutional Court made its decision, the legal effect of the contested act expired, the Constitutional Court shall bring a decision establishing the existence of the violation.

The competent body shall immediately, and at the latest within 30 days from the day of receiving the decision of the Constitutional Court, start considering the case, if the Constitutional Court annulled the individual act and remanded the case for a repeated procedure.

On the occasion of adopting a new act, the competent body shall respect the legal reasons of the Constitutional Court expressed in the decision, and shall bring a new decision, in a repeated procedure, within a reasonable time.

The Constitutional Appeal is dismissed as unfounded if the Constitutional Court determines that there is no reason why the act should be contested.

The Constitutional Court of Montenegro resolves the conflict of jurisdiction between the courts and other state authorities.

The Constitutional Court may decide that, until the decision is brought regarding the conflict of jurisdiction, the procedure before the bodies among which the conflict of jurisdiction occurred is interrupted.

When it establishes that there is a conflict of jurisdiction, the Constitutional Court decides which body shall be responsible for bringing a decision.

When it establishes that there is no conflict of jurisdiction, the Constitutional Court shall dismiss the proposal for resolving the conflict of jurisdiction.

The Parliament

5. Please provide a description of the structure and functioning of the Parliament including the competences of the Parliamentary Committees, the prerogatives and competences of the Parliament with respect to control of the executive power, and of the procedures for the adoption of legislation (including an explanation of existing fast track procedures and their applicability to the adoption of acquis-related legislation).

The Parliament consists of MPs elected directly, based on general and equal suffrage and by secret ballot. The Parliament has 81 MPs.

The Parliament adopts laws, other regulations and general acts; adopts: the budget and the final statement of the budget, the National Security Strategy and Defense Strategy, the Development Plan and Spatial Plan of Montenegro; regulates the state administration system; elects and dismisses from duty the Prime Minister and members of the Government; elects and dismisses from duty the President of the Supreme Court, the President and the judges of the Constitutional Court; ratifies international agreements; calls for public loans and decides on Montenegro's borrowings; decides on the use of state property above the value stipulated by the law.

The mandate of the Parliament lasts for four years. The mandate of the Parliament may cease prior to the expiry of the period for which it was elected by dissolving it or reducing the mandate of the Parliament.

If the mandate of the Parliament expires during the state of war or the state of emergency, the mandate is extended for the period of maximum 90 days upon termination of the circumstances that have caused such a state.

At the proposal of the President of Montenegro, the Government or minimum 25 Members of the Parliament (MPs), the Parliament may reduce the duration of its mandate.

The Parliament works in regular and extraordinary sessions. Regular sessions are held twice a year. The first regular session starts on the first working day in March and lasts until the end of July, and the second starts on the first working day in October and lasts until the end of December. Extraordinary sessions are convened at the request of the President of Montenegro, the Government or minimum one third of the total number of MPs.

MP clubs are established in Parliament. For considering proposed acts, proposing acts, parliamentary oversight and performing other tasks within its jurisdiction, Parliament forms committees as its working bodies.

Committees are formed as standing and temporary. Standing committees are formed by The Rules of Procedure and may also be formed by a separate decision of Parliament, as needed.

Standing Committees and Their Competences

The Committee for Constitutional Affairs and Legislation examines proposals for amending the Constitution; determines texts of drafts and proposals for amending the Constitution; examines proposals for initiating a procedure to determine whether the President of the Republic violated the Constitution and general issues related to implementation of the Constitution; examines: proposed laws, regulations and other acts adopted by Parliament from the standpoint of their compliance with the Constitution and legal system; proposals for providing authentic interpretation of law, other regulations and general acts that Parliament adopts; acts on initiating constitutional review of laws or assessing constitutionality and legality of other regulations and general acts that Parliament adopted; takes care of standard legislative methodology, as well as standard legal-technical treatment of acts adopted by Parliament; defines a proposal for an authentic interpretation of laws, other regulations or general acts; defines amended texts of laws, other regulations and general acts if the law, other regulation or general act authorizes Parliament to do so; follows and

examines issues that, in accordance with the Constitution, should be determined by the Rules of Procedure, follows implementation of the Rules and calls attention to issues regarding its implementation, suggests changes to the Rules, and reviews suggestions for changing the Rules submitted by other authorized submitters.

The Committee for Political System, Justice and Administration examines proposed laws, other regulations and general acts, as well as other issues, related to: the foundation, organization and competences of governing bodies and procedures before these bodies; the system of local self-government; state symbols; the use of national symbols; state holidays; citizenship; electoral system; referendum; territorial organization of Montenegro; organization and position of the Capital and the Historic Royal Capital; media and broadcasting system; criminal and other acts, responsibility and penalties; amnesty, pardoning and legal aid.

The Committee for Security and Defence performs parliamentary control over the activities of the police and the National Security Agency; examines the exercise of freedoms and human and citizen rights enshrined in the Constitution in implementation of the mandate of the police and the National Security Agency; examines proposed laws, other regulations, and general acts, as well as strategies and other issues related to the security and defence and its citizens; considers proposals for appointment of chief of police and director of the National Security Agency.

The Committee for International Relations and European Integration follows harmonization of the proposed laws and draft laws with the *acquis*; follows the exercise of rights and responsibilities of Montenegro stemming from international treaties and the Council of Europe documents; monitors the process of legislative harmonisation of Montenegrin legislation with the EU legislation and proposes the measures to encourage harmonistion; monitors the fulfilment of obligations that, pursuant to the Work Programme of the Government of Montenegro, stem from the agreement between Montenegro and EU; gives an opinion upon the proposal of the Government for the appointment and recall of ambassadors and heads of other diplomatic missions of Montenegro abroad; monitors the activities of the Government and state administration bodies focused on the acquisition of EU membership and provides opinions and recommendations on hose activities; regularly informs the Parliament on all matters of relevance for EU integration; cooperates with parliamentary committees of other countries; examines international treaties ratified by Parliament or the ones to which the Parliament gives approval for their conformation; proposes platforms for talks with foreign delegations and examines reports on completed visits, participations to international conferences and study visits within its competences; approves annual program and three-month detailed program of international cooperation; cooperates and exchanges experiences with appropriate working bodies of other parliaments and international organizations by founding joint bodies and friendship groups, launching joint actions, and harmonizing stands on issues of joint interest; considers other documents and matters within the competences of the Parliament in this area.

The Committee for Economy, Finance and Budget examines proposed laws, other regulations, and general acts, as well as other issues, related to: development and strategy of economic development of Montenegro; conditions for market operation and market competition; economy, entrepreneurship, and investments; natural resources, energy, mining, industry, maritime affairs, transport, and trade; the budget of Montenegro and the final statement of budget of Montenegro; financial rights and duties of Montenegro; taxes and other charges; customs; banks; securities; credits, public debt and loans of Montenegro; property and life insurance; games of chance; property-legal, ownership relations and contractual obligations; examines the fiscal impact form submitted with the proposed laws and in the report submitted to the Parliament it assesses whether the funds for the law implementation have been realistically planned.

The Committee for Human Rights and Freedoms examines proposed laws, other regulations and general acts, as well as other issues, related to: freedoms and human and citizen's rights, with special emphasis on minority rights; implementation of ratified international acts dealing with the exercise, protection and improvement of these rights; follows fulfilment of those documents, measures, and activities for improving national, ethnic and other equalities, in particular in the areas of education, health, information, social policy, employment, entrepreneurship, decision-making, etc.; participates in preparation and drafting of documents and harmonization of legislation

in this area with standards in European legislation; cooperates with similar bodies of other parliaments and nongovernmental organizations dealing with these issues.

The **Committee for Gender Equality** examines proposed laws, other regulations, and general acts, as well as other issues, related to implementation of the principle of gender equality; follows implementation of these rights through law enforcement and improvement of the principles of gender equality, in particular in the areas of the rights of a child, family relations, employment, entrepreneurship, decision-making process, education, health, social policy and information; participates in preparation, drafting, and harmonization of laws and other acts with standards of European legislation and programs of the European Union related to gender equality; supports the signing of international documents on this topic and follows their implementation; cooperates with similar bodies of other parliaments and nongovernmental organizations dealing with these issues.

The **Committee for Tourism, Agriculture, Ecology and Spatial Planning** examines proposed laws, other regulations, and general acts, as well as other issues, related to: tourism development; tourism and hospitality business, and other related activities; agriculture; forestry; water resource management; sea and freshwater fishery; rural development; hunting; protection of plants from diseases and pests; health care of animals, as well as other issues in the area of tourism and agriculture; protection and improvement of the environment, nature and natural resources; national parks; protection from hazardous and harmful substances; protection from other sources of environmental degradation; spatial and urban planning; housing issues; construction industry; development and use of buildable land, as well as other issues in the area of ecology and spatial planning.

The **Committee for Education, Science, Culture and Sports** examines proposed laws, other regulations, and general acts, as well as other issues, related to: pre-school, primary, special and secondary education; post-secondary and higher education; science; scientific research activities; culture; art; technical culture; international scientific, educational, cultural and technical cooperation; protection of scientific, cultural, artistic and historical values; sports and physical culture.

The **Committee for Health, Labour and Social Welfare** examines proposed laws, other regulations, and general acts, as well as other issues, related to: health care and health insurance; foundation and organization of health facilities; employment relationships; employment; occupational health and safety; protection of disabled persons, mothers and children; pension and disability insurance; social protection and all forms of social care; marriage and family.

The **Administrative Committee** submits to Parliament proposals for election, appointment and dismissal, except proposals which, in accordance with the Constitution and law, will be submitted by other proposers; adopts regulations that define certain issues concerning the exercise of rights and duties of MPs and officials elected or appointed by Parliament; adopts individual acts on the status of MPs and officials elected or appointed by Parliament; gives consent to the act about internal organization and job description in the Parliamentary Service; at the proposal of the Secretary General of Parliament, assigns persons to work places established by the act on organization and job description; determines allowances and bonuses for experts and scientists engaged by parliamentary committees; examines the issues of invoking or revoking immunity to MPs and other issues related to the mandate-immunity rights of MPs; and, conducts other activities stipulated the Rules of Procedure, laws and other regulations. General acts passed by the Administrative Committee are published in the Official Gazette of Montenegro.

Out of the eleven parliamentary committees, in the twenty-third Parliament the opposition MPs chaired two committees: the Committee for Economy, Finance and Budget, and the Committee for Human Rights and Freedoms. In the twenty-fourth Parliament, the opposition MPs maintained the chair of the Committee for Economy, Finance and Budget and the same time took the chair of the Commission for Monitoring and Control of the Privatisation Procedure as well as the chair of the National Council for European Integration.

The Parliament passed the decision to establish the **National Council for European Integration**, as a strategic advisory body, with large participation of a wide range of representatives of the Montenegrin society to contribute to better coordination and supervision over the implementation of the Stabilisation and Association Agreement and monitoring future accession negotiations.

The Parliament passed the Decision to establish the **Commission to Monitor and Control the Privatisation Process** tasked with: monitoring annual privatisation plans adopted by the Government; monitoring activities of the Privatization Council; acquainting the public with the privatization process and procedures, as well as other regulations that enable legality, openness and control of privatization; considering objections made by participants in the privatization process; examining information, which is provided by those responsible for the process of privatization; proposing regulations and amendments to regulations that provide principles of openness and transparency of the privatization, which enhance privatization procedures and processes; initiating debate in Parliament regarding issues of validity, openness and control of the privatization process; offering recommendations to state institutions or those responsible for the privatization process in the sense of providing legality, openness and transparency in the privatization process; indicates violation of legality and the principle of openness in the privatization process; examining proposals for interpreting the law on privatization issues; performing other tasks that enable monitoring and control of the privatization process. The work of the Commission is public.

In addition to its constitutional and legislative powers entrusted by the Constitution, the Parliament also has at its disposal the **oversight tools** to oversee the activities of the Government and its ministries. The novelty introduced by the Constitution is **parliamentary investigation** stipulated by Article 109 which envisages that the Parliament may, at the proposal of minimum 27 MPs (1/3), establish an inquiry committee in order to collect information and facts about the events related to the work of the state authorities. The procedure related to this tool is regulated by the Parliament's Rules of Procedure. The Rules of Procedure envisage also two more tools which, in a broader sense, may be regarded as oversight tools: **consultative and control hearings** (all three tools will be further elaborated in response to question no. 63 in this Chapter).

The traditional forms of parliamentary oversight envisaged by the Constitution and the Rules of Procedure are:

- MP question;
- Questions to the Prime Minister;
- the Parliament's role in the budgetary process;
- no-confidence to the Government;
- interpellation.

An MP has the right, with a view of gathering necessary information on certain issues about the work of Government or implementation of set policies, to ask the Government or the competent minister a question and to receive an answer.

MP questions are posed at a special sitting of Parliament that is held at least once every two months during a regular session. The first part of this sitting, for a period of one hour, is dedicated to posing questions to the Prime Minister and his answers to current issues from the work of Government (Questions to the Prime Minister).

The Parliament's Rules of Procedure elaborate in detail the procedure regarding MP questions posed to the Government, or the relevant line minister.

In addition to the legislative function performed by the adoption of laws, the provisions of the Constitution concerning the Parliament also envisage, as a separate competence, the adoption of the budget and the final financial statement. Since the Constitution as the highest and the supreme act of a state, does not contain any "accidental" norms, it is clear that the constitution drafters, notwithstanding the fact that the budget and the final financial statement are adopted in the form of a law, felt the need to emphasise the special competence, and hence also the responsibility in the adoption of the budget, since there is no proper functioning of all branches of power without it, and thus no state with the rule of law in place. Given that the Government is in charge of the internal and foreign policy and implementation of laws, it holds the most direct interest for the timely adoption of the budget.

The Parliament or 1/3 (27) MPs may submit the proposal for the vote of no-confidence to the Government. If the Government gained confidence, the signatories of the proposal may not submit a new proposal for a vote of no-confidence before the expiry of the 90-day deadline.

The interpellation to examine certain issues regarding the work of the Government may also be submitted by 1/3, or 27 MPs. The interpellation is submitted in written form and must be justified.

The Government submits an answer within 30 days from the date of receipt of interpellation.

In order to obtain information and expert opinions on specific issues regarding establishing and implementation of policies, laws, and other activities of Government and other state administration bodies, the Parliament, through the competent committee, may conduct a control hearing inviting to the sitting the responsible representative of Government or other state administration body;

The Parliament may form an inquiry committee, which for the purpose of the parliamentary investigation, has the right to seek information and facts on events pertaining to the work of the state authorities.

The **procedure for enactment of laws** is initiated by submission of proposed laws. In accordance with the Constitution, the right to propose laws is granted to the Government and an MP. The right to propose laws is also granted to six thousand voters through the MP they authorize (Article 93 paragraph 2 of the Constitution).

A proposed law is submitted in the form in which the law should be enacted and must be accompanied by a rationale in writing in the required number of copies, as well as in electronic form. An explanation contains: constitutional grounds for enactment of a law; reasons for enactment; compatibility with European legislation and ratified international conventions; explanation of basic legal institutes; estimation of financial means necessary for implementation of the law; the public interest for which retroactive effect is proposed, if proposed law contains provisions that anticipate retroactive effect; text of provisions to be amended, if a proposed law for amendments is submitted.

In the course of proposing a law regulating issues of particular importance, the proposer of a law may submit a **draft law** and ask Parliament to decide on it. If an initiative has been submitted to Parliament for enactment of an act, the Speaker directs it to MPs and the Government, for possible submission as a proposed law. The Speaker sends to MPs and the competent committees a proposed law submitted to Parliament, and it is published on Parliament's website.

The Speaker sends to Government a **proposed law whose proposer is not Government** for the purpose of providing its opinion. A proposed law may not be placed on the agenda of a sitting of Parliament prior to the expiration of the period of 15 days from its delivery to MPs. A proposed law, prior to consideration at a sitting of Parliament, is considered by competent committees (the Committee for Constitutional Affairs and Legislation and the assigned committee). The report of competent committees must be delivered to MPs at least 24 hours before the beginning of discussion at the sitting of Parliament. Consideration of a proposed law at the sitting of Parliament starts with a general debate on the proposed law. General debate comprises discussion on: constitutional grounds, reasons for enacting the law; compatibility with European legislation and ratified international conventions; essence and effects of proposed provisions, and estimate of necessary budgetary resources for enacting the law. At the end of general debate, Parliament decides on the proposal in general and can decide to accept or not accept the proposed law in general. If Parliament accepts the proposed law in general, before the start of detailed debate, the Speaker invites the competent committees to additionally consider the proposed law and submitted amendments and submit a report within two days. After additional discussion in committees and submission of reports about that, Parliament moves to detailed debate on the proposed law, which entails debate on provisions in the proposed law, disputable amendments and stands, as well as proposals of committees. At the beginning of the detailed debate, the rapporteur of the competent committee informs the Parliament of the results of discussion in committees, explains the stands and proposal of the committee. After detailed debate, Parliament votes on disputable amendments and then on the proposed law in its entirety.

Exceptionally, a law may be adopted by **shortened procedure**. A law may be adopted by shortened procedure if it deals with issues and relations caused by circumstances that could not be

foreseen and if failure to adopt the law could cause harmful consequences. The proposer of the law is obliged in the explanation of the proposed law to list the reasons for which it is necessary to pass the law by shortened procedure. The proposed law for which shortened procedure is proposed may be put on the agenda of the parliamentary sitting if it is submitted not later than 24 hours before the beginning of the sitting. Should Parliament accept the proposal to adopt the law by shortened procedure, a deadline for the competent committee to consider the draft law and submit a report is determined. After the competent committee considers the proposed law for which shortened procedure was proposed, Parliament may decide to start debate about the proposed law immediately and without a written report, wherein the rapporteur reports orally at the sitting. Should the competent committee fail to submit a report within the set deadline, debate about the law may be carried out in Parliament without the committee report. Amendments to the proposed law that is adopted by shortened procedure may be submitted until the end of debate. The shortened procedure may also be applied in adoption of legislation related to legislative harmonisation with the *acquis communautaire*. Within the amendments to the Rules of Procedure a special procedure will be established for the laws by which Montenegrin legal system is aligned with the European legal standards.

6. Please describe in detail the Parliament's rules of procedure and your experience from their implementation.

These Rules of Procedure regulate: the constitution, organization and functioning of the Parliament; the rights and duties of MPs; the procedures in Parliament (the procedures in deliberating upon certain matters); the relations between Parliament and other state bodies, as well as cooperation of Parliament with parliaments in other countries; principles for organization of the Parliamentary Service;.

These matters are regulated through the specific sections of the Rules of Procedure, as follows:

1.) Constitution of Parliament

The Speaker of the previous Parliament convenes the first sitting of the new Parliament after completed elections, and the first sitting, until the Speaker is elected, is chaired by the oldest MP with assistance from the youngest MP and the Secretary General of Parliament.

At the first (constitutional) sitting of Parliament, the chairman states that the State Election Commission has submitted a report on the conducted elections and announces that, by submitting the report of the State Election Commission, the mandates of the newly elected MPs are confirmed.

At the first sitting the election of Speaker and Deputy Speakers of Parliament and the election of the chair and members of the Administrative Committee is carried out.

2.) Organisation of Parliament

The provisions of this section envisage the internal organisation of the Parliament as follows:

1) the Speaker, stating his rights and responsibilities;

2) Deputy Speakers, several of them, the exact number to be determined by the Parliament at the time of their election, based on a proposal from the Speaker, provided that one of the Deputy Speakers is elected from the ranks of the opposition, based on the proposal of the opposition;

3) Collegium of the Speaker, consisting of the Speaker, the Deputy Speakers and Presidents of MP clubs, and the Secretary General participates in the work of the Collegium and, when needed, chairs of certain committees and details the competence,

or the matters from the scope of authority of the Collegium and coordinated by the Collegium;

4) Secretary General, the deputy and the assistant Secretary General;

5) MP clubs, and MP clubs consist of at least three MPs of the same political party or coalition, provided that one MP can be a member of only one MP club, and MPs of the same political party may form only one MP club. An MP club may be formed by at least three MPs from different political parties who are unable to form a club pursuant to the previously stated principle.

6) Working bodies – committees

   For considering proposed acts, proposing acts, parliamentary oversight and performing other tasks within its jurisdiction, Parliament forms committees as its working bodies, which within their assigned competences, stipulated by the Rules of Procedure, give their opinion to the Parliament and the proposal for deciding in the matter at hand.

   Committees are formed as standing and temporary. Standing committees are formed by the Rules of Procedure and may also be formed by a separate decision of Parliament, as needed. Temporary committees are formed by a separate decision.

   A committee has its chair and a certain number of members whose number is determined during their election. The composition of a committee, including the committee chair and deputy chair, corresponds proportionally to number of MP posts that each party holds in Parliament. An MP may be a member of no more than three standing committees. A committee elects a deputy chair, but the chair and deputy chair cannot both be from the governing party/coalition or from the opposition.

   The Speaker submits the list of candidates for the chair and members of the Administrative Committee on the basis of proposals made by the MP clubs, and other committees are elected based on the list of candidates submitted by the Administrative Committee.

   The Rules of Procedure envisage 11 standing committees, as follows:

   - Committee for Constitutional Affairs and Legislation;
   - Committee for Political System, Justice and Administration;
   - Committee for Security and Defence;
   - Committee for International Relations and European Integration;
   - Committee for Economy, Finance and Budget;
   - Committee for Human Rights and Freedom;
   - Committee for Gender Equality;
   - Committee for Tourism, Agriculture, Ecology and Urban Planning;
   - Committee for Education, Science, Culture and Sport;
   - Committee for Health, Labour and Social Care;
   - Administrative Committee.

A committee works in sittings provided that a majority of committee members attend the sitting and make decisions by a majority of votes of members present. Representatives of the proposer of an act and submitters of amendments to the proposed act being discussed in the sitting participate in the work of a committee, and upon invitation, government representatives and representatives of scientific and professional organizations, other legal entities, and nongovernmental organizations, as well as other scientists and experts, may participate in the work of a committee without the right to decide.

A committee is obliged to review each matter under its competence, and to submit a report to the Parliament containing the opinion and proposal of the committee.

Within their competences, committees may organise parliamentary hearings and investigation as follows

- consultative hearing,
- control hearing,
- parliamentary investigation.

The decision to conduct a consultative or a control hearing is passed by the committee, and the parliamentary investigation is conducted by a specially formed committee (inquiry committee), as decide by the Parliament, at the proposal of a committee or 1/4 of MPs. The chair of the inquiry committee comes from the ranks of the opposition.

3.) Rights and Duties of MPs

The rights and duties of MPs envisaged by the Rules of Procedure are:

- the right to access all official materials, documents and data that are prepared or gathered in committees or the Parliamentary Service, the Government, ministries and other state administration bodies that are of importance for fulfilment of the MP function;
- the right to ask for information and explanations necessary for performing the function of an MP from the Speaker, chairs of working bodies, ministers, and other officials, connected with functions in the scope of rights and duties of these officials, or tasks from the jurisdiction of the bodies that they lead, which are needed for fulfilment of the MP function;
- the right to receive a salary, supplementary compensations, bonuses, and other allowances for performing their function;
- if their native language is not the official language in Montenegro, the right to use their own language at sittings of Parliament, but have the obligation to inform the Secretary General of the Parliament in a timely manner if they wish to exercise this right so that interpretation into the official language can be secured;
- the right to seek from the Parliamentary Service to: provide necessary conditions for performance of MP tasks; offer expert assistance in preparing proposals to be submitted to Parliament; supply them with the necessary documents related to the plenary and committee agenda; offer expert explanations on particular issues MPs may face during the work of committees or the Parliament
- the right to use premises that are put at their disposal for work and meetings;
- right to immunity, as granted by the Constitution and the law;
- the obligation to participate in the work of the Parliament and the committee he/she is a member of and to decide;
- if unable to attend sittings of Parliament, or a committee, the obligation to inform the Speaker or the committee chair about the reasons for the absence from plenary or committee sitting.

4.) Session and sitting of Parliament

The Parliament works in regular and extraordinary sessions.

There are two regular sessions within each year: the first, which begins on the first working day in March and last until the end of July, and the second, which begins on the first working day in October and lasts until the end of December.

Extraordinary sessions may be held only in the period from the first working day in January through the last working day in February and from the first working day in August until the last working day in September.

The submitter of a request for an extraordinary session determines the date for holding the sitting and the agenda, provided that he/she may not ask for an extraordinary session to be called within

less than 15 days from the day of submitting the request and may only propose for the agenda the proposed acts for which he/she is the proposer.

5.) Plenary work of the Parliament

The Speaker convenes the sitting of Parliament and proposes the agenda of the sitting, and may do so also at the proposal of one third of MPs or Government. The summons is directed to MPs at least 15 days prior to the day determined for holding the sitting. The proposed agenda for a sitting may include only proposed acts that are prepared in accordance with the Constitution, the law and the Parliament's Rules of Procedure. Parliament may not decide upon issues for which necessary materials have not been distributed to MPs in advance and the issues that do not have an opinion of the competent committee. The agenda is determined at the sitting, and an MP, a Parliament's working body, and Government may propose changes and amendments to the proposed agenda and justify the proposal for changes, on which the Parliament decides without debate.

No one is allowed to speak at a sitting of Parliament until he/she asks for and is granted permission to speak from the Speaker (presiding officer).

At the beginning of a debate on each agenda item, the right to speak is given according to the following sequence:

- the proposer, or authorized representative of the proposer, with the right to give an additional explanation;
- the rapporteur of the competent committee;
- MPs who expressed different opinions in committee;
- a representative of Government, if Government is not the proposer;
- MPs following the order of applications;

After the speech of an MP or a proposer's representative, the right to ask for and take the floor is given to the president, or authorized representative of an MP club, and a Government representative in order to explain their stands or to correct information or statements from the speech (comment on the speech), and an MP whose speech was commented has the right to answer. The right to comment and the right to respond to the comment may be used once for up to three minutes.

After debate has finished and before the closing speech, the proposer's representative and an MP club wishing to do so have the right to explain the stands of the club, through their representative, for up to three minutes.

Debate (general and detailed) on a proposed law may last up to six hours, as a rule three hours for each of these debates, and a debate on another proposed act and proposals for the election, appointment and dismissal may last up to three hours in their entirety.

The speech of MPs or other participants in the debate last:

- in general debate on a proposed law – up to 10 minutes;
- in detailed debate on a proposed law – up to five minutes, where the speech should refer to concrete solutions (provisions) of a proposed law and amendments;
- in debate on other proposed acts – up to 10 minutes;
- for additional explanations of proposed acts – up to 10 minutes, answers to questions posed during debate – two minutes per answer, and closing speech up to five minutes.

At the request of the Speaker, the Collegium of the Speaker, or an MP club, Parliament may decide that a certain debate should last more or less time; it may decide to extend or shorten the duration of a speech of certain participants in debate.

A debate on: the candidate for Prime Minister, his program and the proposed composition of Government; proposal for voting no-confidence in Government and interpellation are not limited.

If an MP or another participant in the sitting address another MP in a negative context in his/her speech, by stating his name or function, the MP in question has the right to reply which may be used once for up to three minutes. A reply to a reply is not allowed.

6.) Parliamentary Procedures

6.1) Procedure for Enactment of Laws

Procedure for enactment of laws is initiated by submission of proposed laws, which is submitted in the form in which the law should be enacted and must be accompanied by a rationale. It is submitted in written form in the required number of copies, as well as in electronic form. An explanation contains: constitutional grounds for enactment of a law; reasons for enactment; compatibility with European legislation and ratified international conventions; explanation of basic legal institutes; estimation of financial means necessary for implementation of the law; the public interest for which retroactive effect is proposed, if proposed law contains provisions that anticipate retroactive effect;

The Speaker sends to MPs, the competent committees (the Committee for Constitutional Matters and Legislation and the assigned committee) and the Government, if the government is not the proposer of that piece of legislation, the proposed law (procedurally compliant).

A proposed law may not be placed on the agenda of a sitting of Parliament prior to the expiration of the period of 15 days from its delivery to MPs, unless in case of shortened procedure for enactment of laws.

The deliberation of the proposed laws is conducted in three readings:

- **first reading**, includes the familiarisation of MPs with the proposed law and its deliberation in the competent committees;

- **second reading**, which includes the general debate on the proposed law concerning: constitutional grounds, reasons for enacting the law; compatibility with European legislation and ratified international conventions; essence and effects of proposed provisions, and estimate of necessary budgetary resources for implementation of the law.

  At the end of general debate, Parliament decides on the proposal in general and if it accepts the proposed law in general, before moving on to the so-called third reading (the detailed debate), the competent committees are obliged not later than within two days, to additionally deliberate the proposed law and the amendments and submit the report to the Parliament.

  Amendments to proposed laws are submitted no later than the day on which general debate ends, but the proposer of the law and the competent committee may submit amendments up until the beginning of the detailed debate.

- **Third reading** constitutes the debate of the proposed law in detail which entails debate on provisions in the proposed law, submitted but disputable amendments (the amendments which do not make part of the proposed law) and stands, as well as proposals of committees.

6.2) Procedure for Adoption of Other Acts

The adoption of other acts is carried out in accordance with the provisions of The Rules of Procedure on the procedure for adopting a law, although only a single debate is held.

On the reports submitted to the Parliament by individual bodies, the Parliament may adopt the assessment, stands and conclusions.

6.3) Procedure for election, appointment and dismissal

The debate is opened and decision made by the majority envisaged by the Constitution on the proposals for election, appointments and dismissals from the competences of the Parliament. The Prime Minister and Ministers are elected by open vote, by the majority of all MPs; the President and Constitutional Court judges are elected by secret ballot by the majority of votes of all MPs.

7.) Relationship between Parliament and other State Bodies

7.1) Relationship between Parliament and the President of Montenegro

The provisions of this chapter of the Rules of Procedure regulate the procedure for the submission of laws to the President of Montenegro for their promulgation; the procedure for proposing to the Parliament the candidates for election and appointment by the President of Montenegro and the procedure for dismissal of the President of Montenegro.

7.2) Relationship between Parliament and Government

The provisions of this chapter of the Rules of Procedure regulate the procedure for: MP questions and Questions to the Prime Minister; vote of no-confidence to Government; considering an interpellation on the work of Government.

MP questions are posed at a special sitting of Parliament that is held at least once every two months during a regular session, and the first part of this sitting, for a period of one hour, is dedicated to posing questions to the Prime Minister and his answers to current issues from the work of Government – **Questions to the Prime Minister**.

Within the Questions to the Prime Minister, the president or authorized representative of an MP club may refer a question to the Prime Minister.

An MP Question may be posed to the Government, or the responsible Minister, and an MP is entitled to pose two questions at most per sitting. Questions referred to the Prime Minister (for the Questions to the Prime Minister) and the MP Questions are posed orally at the sitting, provided that these must be submitted in written form, at least 48 hours prior to the sitting dedicated to these matters.

Experiences in the Implementation of the Rules of Procedure

The implementation of the current Rules of Procedure started after the parliamentary elections in September 2006, and after the Constitution of the independent state of Montenegro was adopted, the same Rules of Procedure continued to be applied.

The following may be noted from the so far implementation of the Rules of Procedure:

1) Given that it was adopted and started to be applied before the new Constitution, it needs to be aligned with the Constitution (e.g. the institute of civil initiative in proposing laws and other acts, but also slight terminological differences in the names of certain bodies, etc);
2) Due to the obligations of MPs, their rights and duties, but also due to the objective needs and for the sake of rationalising certain procedures, in practice sometimes there

is the deviation from the strict formulations and deadlines from the Rules of Procedure, but it has always been, in line with the Rules, agreed in the Parliament and is not incompatible with or contrary to stipulated procedures.

3) The activities to define special procedures for the enactment of laws by which the legal system of Montenegro is harmonised with the European legal standards to be applied in the stage of integration are also planned.

7. How is the Parliament exercising its legislative functions?

Parliament is the legislative body and it performs its legislative function through the enactment of the Constitution and laws.

The Constitution and laws are enacted in a procedure stipulated by the Constitution of Montenegro and the Parliament's Rules of Procedure. These acts stipulate the following procedure:

1) Procedure for Enactment of Constitution

- The proposal for the amendment of the existing or adoption of the new Constitution may be submitted by the President of Montenegro, the Government or at least 25 MPs;
- The proposal to amend certain provisions of the Constitution must contain the relevant provisions whose amendment is asked and the justification for doing so;
- Before being considered in the plenary, the proposal to amend the Constitution is deliberated at the Committee for Constitutional Affairs and Legislation and the Government, if it is not the proposer of the amendment;
- A proposal for amending the Constitution may not be deliberated in the plenary before the expiration of 30 days from the day it was delivered to MPs;
- General and detailed debates are held in the plenary sitting of the Parliament on the proposal for amending the Constitution;
- The proposal to amend the Constitution is adopted by the Parliament if two thirds of all MPs vote in its favour;
- The proposal to amend certain constitutional provisions is done through amendments to the Constitution;
- The draft amendment to the Constitution is prepared by the Committee for Constitutional Affairs and Legislation within the time stipulated by the Parliament upon the adoption of the proposal to amend the Constitution;
- A single debate is held on the draft text of amendments to the Constitution, and Parliament decides about the draft text of amendments in its entirety, by two-thirds majority of all MPs;
- The Parliament puts the established draft amendments to the Constitution to the public debate which may not last less than a month and it is published in a daily newspaper and on Parliament's website;
- During the public debate, everyone may give an opinion, proposal or suggestion on the draft amendments, which are submitted to the Committee for Constitutional Affairs and Legislation;
- Upon the completion of the public debate, the Committee for Constitutional Affairs and Legislation starts establishing a proposal of amendments to the Constitution and sends it to Parliament not later than 30 days from the expiry of the time for public debate;
- A detailed debate is held on the proposed amendments to the Constitution for each individual amendment at the parliamentary sitting;
- The proposal of the amendment to the Constitution is adopted if voted for by two thirds of all MPs;
- If the amendments to the Constitution change the articles pertaining to: the definition of the State, sovereignty, territory, state symbols, citizenship, language and script, relation with other states and suffrage right, the amendment to the Constitution shall be final when voted for by at least two thirds of all voters at the state referendum;

- The change of the Constitution may not be done during the state of war and emergency.

2) Procedure for Enactment of Laws

- Procedure for enactment of laws is initiated by submission of proposed laws;
- The right to propose laws is given to the Government and an MP;
- The right to propose laws is also held by 6,000 voters, through an MP they authorise to that effect;
- The proposed law is submitted in the form in which the law is to be enacted and must be accompanied by a rationale which contains constitutional grounds for enactment of a law; reasons for enactment; compatibility with European legislation and ratified international conventions; explanation of basic legal institutes; estimation of financial means necessary for implementation of the law;
- The proposed law is sent to MPs, the competent committees (the Committee for Constitutional Affairs and Legislation and the assigned committee) and the Government, if the government is not the proposer in the given case;
- The deliberation of the proposed laws is conducted in three readings;
- **first reading** - deliberation in the competent committees;
- **second reading -** the general debate on the proposed law at the plenary sitting, after which the Parliament decides on the proposed law in general, and if it is accepted in general, the third reading starts;
- **third reading** - the debate in detail at the plenary sitting which entails debate on provisions in the proposed law, submitted but disputable amendments and stands, and proposals of committees;
- Upon the completion of the debate in details, the amendments not accepted by the submitter of the proposed law (proposer) are voted on, and then the proposed law in its entirety;
- With the adoption of the proposed law in its entirety, the Parliament adopts the given law which is sent by the Speaker, not later than three days upon its enactment, to the President of Montenegro for proclamation by ordinance.

a) Is there a system of verifying, at Parliament level, the compatibility of new legislation with the 'acquis communautaire'? Explain.

At the parliamentary level there is in place the system of checking the compatibility of the new legislation with the *acquis communautaire*. Parliament adopted the Declaration on Accession to European Union (8 June 2005), the Resolution on Fulfilment of Montenegro's Commitments within the Stabilisation and Association Agreement (27 December 2007) and the Resolution on the Necessity to Accelerate the Integration of Montenegro into European and Euro-Atlantic Structures (3 October 2008). The given acts envisage, inter alia, the need for closer cooperation between the Government and the Parliament, even regarding the procedures for the adoption of new legislation.

Thus, in the regular procedure the Government is obliged to propose a law and when submitting it to the Parliament to accompany it with the Table of Conformity of the given proposal with the primary and secondary sources of European law or to state that it is a matter of national legal problems. The **Form of Statement on Compatibility of Montenegrin with the Relevant EU Regulations** contains the following data:

1. Title of the proposed piece of legislation;
2. State administration authority – the drafter;
3. Alignment with the provisions of the Stabilisation and Association Agreement between European Communities and their Member States and Montenegro
    a) SAA Provisions with which the draft legislation is being harmonised

b) Level of compatibility with the commitment stemming from the given SAA provision

c) Reasons for partial fulfilment, or non-fulfilment of the given SAA provision

d) Connection with the National Programme of Integration of Montenegro into EU 2008-2012;

4. Harmonisation of the draft/proposal of regulation with *Acquis Communautaire*

a) Harmonisation of the draft/proposal of regulation with the primary sources of the EU law

b) Harmonisation of the draft/proposal of regulation with the secondary sources of the EU Law

c) Harmonisation of the draft/proposal of regulation with other sources of the EU Law

d) Harmonisation of the draft/proposal of regulation with other sources of international law

e) Reasons for partial harmonisation or failure to harmonise and the envisaged timeframe for achieving the full harmonisation;

5. A note if there is no relevant EU legislation to harmonise with;

6. A note whether the mentioned sources of the EU law are translated into Montenegrin;

7. Participation of consultants in preparation of draft/proposal of regulation and their opinion on harmonisation.

The Form of Statement on Compatibility of Montenegrin with the Relevant EU Regulations assesses the compliance of the piece of legislation with certain elements of Acquis, whose recommendations, solutions, suggestions, principles, were the source or make an integral part of the newly proposed law.

The verification of conformity of the proposed law with the Acquis Communautaire is exercised via the parliamentary **Committee for International Relations and European Integration** which monitors and, as needed, initiates alignment of the Montenegrin legal system with the EU law and monitors the exercise of rights and duties of Montenegro stemming from international agreements and Council of Europe documents. If the proposed law is not accompanied with the Form of Statement on Compatibility of Montenegrin with the Relevant EU Regulations, it may not be considered at the session of the Committee for International Relations and European Integration.

The Rulebook on Internal Organisation and Job Descriptions of the **Service of the Parliament of Montenegro** as of 23 December 2008 introduced the **Department of European Integration** which monitors European integration processes, follows the comparative practice of EU integration, develops cooperation and exchanges experiences with the institutions and organisations in the country and abroad involved in the process, cooperates closely with the working bodies of the Parliament in the process of legislative harmonisation and alignment of proposed laws and other acts with the EU law and coordinates between the working bodies on the tasks related to European integration process, at the request of the working bodies provides expert opinion concerning the compliance of internal acts with the EU Law, takes an active part in strengthening the role of the Parliament in the EU integration process, performs the expert tasks from the scope of competences of the National Council for European Integration and establishes cooperation and ongoing communication with the Ministry for European Integration within the Government, performs the normative tasks pertaining to giving expert opinions and guidance on proposed laws and other acts, gives expert opinion on compliance with precedent and procedural conditions for putting in the procedure the proposed laws and other acts, performs most complex expert tasks in the preparation for and the work of committees and plenary sessions, prepares memos for committee and plenary sessions, gives expert opinion on issues deliberated at sessions and the proposed laws and other acts, gives expert opinion on concordance of proposed laws and other acts with the EU *acquis*, cooperates with proposers of laws and other acts, other state bodies,

sees to legal and technical compliance of proposed laws and other acts, directly monitors the course of sessions and gives timely proposals and opinions to resolve certain matters, drafts press releases from the plenary sessions, prepares and compiles expert opinions and reports from within its competences.

Currently, the Department for European Integration is not implementing fully all the above tasks. In the upcoming period, the Parliament of Montenegro will dedicate due attention to the provision of preconditions for building administrative and technical capacities of the Department and full implementation of its competences as set in the Internal Organisation Rulebook.

The new Rules of Procedure of the Government of Montenegro from July 2009 elaborate in more detail the procedure for the introduction of the Statement of Compatibility form, the Table of Conformity preparation is now obligatory and the concordance assessment procedure is precisely stipulated. The Ministry of European Integration passed an Instruction stipulating the contents of the Form of Statement on Compatibility of Montenegrin with the Relevant EU Regulations and the Table of Conformity, as well as the Methodology of Completing the Form of Statement on Compatibility of Montenegrin with the Relevant EU Regulations (Official Gazette of Montenegro 61/09). These new forms and procedures for concordance assessment will enter into force as an obligatory part in drafting any proposed law as of 01 January 2010. In future, when the Government is to send a proposed law to the Parliament, it will be accompanied by the Statement on Compatibility and Table of Conformity.

FORM OF STATEMENT ON COMPATIBILITY OF MONTENEGRIN WITH THE RELEVANT EU REGULATIONS

Statement identification number	
1. Draft/Proposal of regulation	
- In Montenegrin	
- In English	
2. Information on the regulation drafter	
a) State authority drafting the regulation:	
State authority	
- Sector/department	
- Responsible person (name, last name, telephone, e-mail)	
- Contact person(name, last name, telephone, e-mail)	
b) Legal person with public authorisation to draft and implement the regulation:	
- Legal person	
- Responsible person (name, last name, telephone, e-mail)	
- Contact person(name, last name, telephone, e-mail)	
3. State authority implementing/enforcing the regulation:	
- State authority	

4. Harmonisation of the draft/proposal of regulation with the provisions of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (hereinafter SAA) and the Interim Agreement on Trade and trade-related matters between the European Community, of the one part, and the Republic Of Montenegro, of the other part (hereinafter Interim Agreement)	
a) Provisions of the SAA and the Interim Agreement the regulation is being harmonised with:	
b) The level of fulfilment of commitments arising from the abovementioned provision of the SAA and the Interim Agreement:	
☐	fully fulfils
☐	partly fulfils
☐	does not fulfil
c) Reasons for partial fulfilment or failure to fulfil the commitments arising from the abovementioned provisions of the SAA and the Interim Agreement and the envisaged timeframe for achieving the full harmonisation:	
5. Connection of the draft/proposal of regulation with the National Programme for Integration of Montenegro into the EU (hereinafter NPI)	
- NPI for the period:	
- Chapter, subchapter:	
- Deadline for adoption of the regulation:	
- Note:	
6. Harmonisation of the draft/proposal of regulation with *Acquis Communautaire*	
a) Harmonisation of the draft/proposal of regulation with the primary sources of the EU law (please provide the original title of the EU law source in English language as well as its translation into Montenegrin):	
b) Harmonisation of the draft/proposal of regulation with the secondary sources of the EU Law (please provide the CELEX, the original title of the EU law source in English language as well as its translation into Montenegrin):	
c) Harmonisation of the draft/proposal of regulation with other sources of the EU Law (please provide the CELEX, the original title of the EU law source in English language as well as its translation into Montenegrin):	
6.1. Reasons for partial harmonisation or failure to harmonise and the envisaged timeframe for achieving the full harmonisation:	
7. Please note if there are no relevant EU regulation to provide the harmonisation with	
8. Harmonisation of draft/proposal of regulation with other sources of the international law:	

9. Please note whether the mentioned sources of the EU and the international law are translated into Montenegrin language (translation to be provided in the annex):	
10. Please note whether the draft/proposal of regulation from item 1 hereof is translated into English language (translation in the annex):	
11. Participation of the consultant in preparation of draft/proposal of regulation and their opinion on harmonisation:	
Signature / Authorised person within the regulation drafter	**Signature** / Minister for European Integration
Date:	Date:

Annexes to the form:

1. Translation of the EU measures (if there are any)
2. English version of the draft/proposal of Montenegrin regulation (if it has been translated)

TABLE OF CONFORMITY

1. Draft/Proposal of regulation				
In Montenegrin:			In English:	
2. 1. Identification number (IN) of draft/proposal of regulation			**2.2. Compatibility Statement Identification Number and the date of the adoption of the regulation at the Government session that is the adoption of the regulation**	
3. Harmonisation of the draft/proposal of regulation				
a) Montenegrin regulation (Article and its text)	b) CELEX	c) Article and its text of the source of the EU law	d) Harmonisation level	e) Note (timeframe for achieving the full harmonisation)

Within the frame of preparations of the ministries for the new law enactment procedures, several seminars will be held through the IPA 2007 – the twinning programme for legal harmonisation.

b) Is there an obligation to analyse the fiscal impact of new legislation before it is adopted? How is this process working in practice? Explain.

Pursuant to the Decision of the Government of Montenegro, the Ministry of Finance passed the Instructions for Assessment of Fiscal Impact on the Budget (Official Gazette of the Republic of Montenegro 74/04 as of 08 December 2004) regulating the methodology for the assessment of fiscal impact which the implementation of the given law, other regulation or general act has on the State Budget, state funds and local government budgets.

Before the adoption of any new law or piece of secondary legislation, as well as amendment of the existing ones, the drafter is obliged to submit to the Ministry of Finance, Budget Department, the draft or proposed law for inspection and opinion. The drafter is obliged to accompany the draft with the filled out Fiscal Impact Assessment Form, assessing the impact on both the budget revenues and expenditures. The fiscal impact is assessed for the year in which the relevant law is adopted, as well as for the coming two fiscal years. If no Fiscal Impact Assessment Form is submitted with the draft or proposed law, the positive opinion of the Ministry of Finance may not be obtained.

The Fiscal Impact Assessment Form is presented below:

Fiscal Impact Assessment Form

1.Title of the proposed law			
2.Ministry or state administration body – drafter			
3.Purpose of the proposal			
4.Type of the proposal			
5. Name and title of the contact person in the ministry or the state administration body - the drafter			
6.Details of the contact person			
7.Activityt:			
8.Type of request:	( ) legislation/ EU-related regulation	(/) New activity	( ) Reallocation between two activities
	(/)some other new legal provision/ regulation	( ) Increase/decrease of the existing activities	( ) Harmonisation of two or more activities
Amendment to the Decree on State Administration Organisation and Operation			
10.Link with the Government's annual work programme			

11.Total financial impact on public spending: (A+B+C+D+E+F)		**(in €)**		
		Current year	**Year two**	**Year three**
a. Total costs of the proposal		**0.00**	**0.00**	**0.00**
	Gross salaries and other remunerations	0.00	0.00	0.00
	Expenditures for materials and services	0.00	0.00	0.00
	Rent	0.00	0.00	0.00
	Grants and social benefits	0.00	0.00	0.00
	Capital expenditures	0.00	0.00	0.00
	Other	0.00	0.00	0.00
	Total	0.00	0.00	0.00
b. Budgetary appropriations for the given proposal		**0.00**	**0.00**	**0.00**

	Gross salaries and other remunerations	0.00	0.00	0.00
	Expenditures for materials and services	0.00	0.00	0.00
	Rent	0.00	0.00	0.00
	Grants and social benefits	0.00	0.00	0.00
	Capital expenditures	0.00	0.00	0.00
	Other	0.00	0.00	0.00
	Total	0.00	0.00	0.00
c. Change of the appropriated funds (a-b)		**0.00**	**0.00**	**0.00**
	Gross salaries and other remunerations	0.00	0.00	0.00
	Expenditures for materials and services	0.00	0.00	0.00
	Rent	0.00	0.00	0.00
	Grants and social benefits	0.00	0.00	0.00
	Capital expenditures	0.00	0.00	0.00
	Other	0.00	0.00	0.00
	Total	0.00	0.00	0.00
d. Possible decrease in expenditures (based on other activities or programmes within the entity)		**0.00**	**0.00**	**0.00**
	Gross salaries and other remunerations	0.00	0.00	0.00
	Expenditures for materials and services	0.00	0.00	0.00
	Rent	0.00	0.00	0.00
	Grants and social benefits	0.00	0.00	0.00
	Capital expenditures	0.00	0.00	0.00
	Other	0.00	0.00	0.00
	Total	0.00	0.00	0.00
e. Net impact on funds appropriated for the given entity (c-d)		**0.00**	**0.00**	**0.00**
	Gross salaries and other remunerations	0.00	0.00	0.00
	Expenditures for materials and services	0.00	0.00	0.00
	Rent	0.00	0.00	0.00
	Grants and social benefits	0.00	0.00	0.00
	Capital expenditures	0.00	0.00	0.00
	Other	0.00	0.00	0.00
	Total	0.00	0.00	0.00
f. Increase in revenue generation (if decreased, then put minus before the figure)		**0.00**	**0.00**	**0.00**
State the type of revenue		0.00	0.00	0.00
		0.00	0.00	0.00
		0.00	0.00	0.00

g. Net impact on funds appropriated for the given entity after the changeon the revenues side (f-e)		**0.00**	**0.00**	**0.00**
h. Additional sources of finance		**0.00**	**0.00**	**0.00**
Source:		0.00	0.00	0.00
		0.00	0.00	0.00
		0.00	0.00	0.00
12.Increase/decrease in the number of staff				
13.What guarantees, credit or other real or conditional obligations arise for the Government (not stated in item 11 (a to g)				
14. If the request for addition funds arrives in the course of the financial year or out of the normal budget cycle, provide justification/explanation				
15.Date of assessment completion				
16.Date of the submission of the proposal to the Ministry of Finance for opinion				
17.Date of receiving the opinion form the Ministry of Finance				
18. Amendments requested by the Ministry of Finance				
19. Response of the ministry or the state administration body –drafter				
20. Opinion of the Ministry of Finance				
21. Is the opinion of the Ministry of Finance enclosed?				
22.Date: _____ _____ ____/_____/_____ Signature of the head of the entity dd mm yyyy				

8. How many political parties are registered in your country? How many of these are represented in Parliament? What percentage of parliamentarians are (a) women and (b) from ethnic and national minorities?

At the time of the parliamentary elections, in March 2009, there were 38 registered political parties in Montenegro (according to the data from the Ministry of Interior and Public Administration).

1. Bosniak Democratic Party of Sandžak
2. Croatian Civic Initiative
3. People's Socialist Party of Montenegro
4. Serbian Radical Party
5. Civic Party of Montenegro
6. Party of Serb Radicals
7. Liberal Alliance of Montenegro
8. Social Democratic Party of Montenegro
9. People's Party
10. Democratic Party of Socialists of Montenegro
11. Socialist Party of Yugoslavia
12. Democratic League in Montenegro
13. Democratic Union of Albanians

14. Democratic Serb Party
15. Party of Democratic Prosperity
16. Liberal Party of Montenegro
17. League of Communists of Yugoslavia - Communists of Montenegro
18. Budva Forum
19. Yugoslav Communists of Montenegro
20. People's Concord of Montenegro
21. Democratic Unity of Albanians in Montenegro
22. New Democratic Power
23. Democratic Community of Muslims and Bosniaks in Montenegro
24. Bosniak Party
25. Party of Justice of Montenegro
26. Democratic Party of Unity
27. Democratic Party of Montenegro
28. Movement for Changes
29. Bosniak Democratic Party of Montenegro
30. Green party of Montenegro
31. Party for Gusinje
32. Democratic Centre of Boka
33. Albanian Alternative
34. Party of Pensioners and Disabled People of Montenegro
35. New Serb Democracy
36. Serb Homeland Party
37. Democratic Centre
38. Party of Serb Populists

The total of 24 political parties took part in the elections. Of these, 8 participated individually and 16 through seven pre-election coalitions.

At the last parliamentary elections, held on **29th March 2009**, the joint list of the Democratic Party of Socialists, Social Democratic Party, Bosniak Party and Croatian Civic Initiative won 48 seats, the Socialist People's Party 16, the New Serb Democracy 8, the Movement for Changes 5 seats, and the Democratic Union of Albanians, the new Democratic Power "Forca", the Albanian List and the Albanian Coalition won one seat each.

In the current Parliament there are **10 political parties**, as follows:

1. –Democratic Party of Socialists /DPS/;
2. –Social Democratic Party /SDP/;
3. –Socialist People's Party;
4. –New Serb Democracy;
5. –Movement for Changes;
6. –Bosniak Party /BS/;
7. –Croatian Civic Initiative /HGI/;
8. –Democratic Union of Albanians - UDSH – Unioni Demokratik i Shiptareve;
9. –Democratic League in Montenegro'- Lidhja Demokratike në Mal të Zi;
10. –New Democratic Power „FORCA" – FORCA E Re Demokratike;

There is also one MP representing a Group of Citizens which took part in the last parliamentary elections.

The majority of parties in the Parliament of Montenegro are of civic orientation, but there is certain number of national political parties. Among the MPs from the civic parties there are also members of almost all minority nations and other minority national communities and in the political sense they do not express their nationality.

According to the data of the Ministry for Human and Minority Rights, on the basis of personal declarations of the MPs on the occasion of the establishing of the Minority Council, in the current

Parliament of Montenegro, minority nations and minority national communities are represented in the following way:

No.	Nationality of MPs	Number of seats	Share in the total number of seats (81)	Share in the population
1.	Bosniaks – total	**11**	13.58%	7.77%
	- SDP	5		
	- DPS	3		
	- BS (Bosniak party)	3		
2.	Albanians – total	**6**	7.41%	5.03%
	- DPS	2		
	- UDSH	1		
	- FORCA	1		
	- Lidhja Demokratike në Mal të Zi	1		
	- Albanian Coalition Perspective	1		
3.	Muslims - total	**1**	1.23%	3.97%
	- DPS	1		
4.	Croats – total	**1**	1.23%	1.10%
	- HGI (Croatian Civic Initiative)	1		
TOTAL		**19**	**23.46%**	**17.87%**

Out of 81 MPs, there are nine women, or 11%.

9. Please describe the legal provisions and the institutional arrangements in place for the election of members of Parliament.

The Constitution of Montenegro establishes that the Parliament of Montenegro consists of the MPs who are elected directly, on the basis of the general and equal voting right, by means of secret ballot. There are 81 MPs in the Parliament, whose term of office is four years. The Constitution also establishes that the elections for the MPs are announced by the President of Montenegro. The Decision on Announcing Elections specifies the deadlines for the conducting of electoral activities. The Decision is published in the Official Gazette of Montenegro.

The Law on the Election of Councillors and Members of the Parliament regulates in details the election of the members of the Parliament**.**

The Law prescribes that the right to elect and to be elected an MP belongs to a Montenegrin national, who reached the age 18, with the capacity to exercise rights and permanent residence in the territory of Montenegro for at least 24 months prior to the polling day.

The elections for the members of the Parliament are carried out in Montenegro as a single constituency. Exceptionally from this principle, five MPs are elected at the polling stations designated by the special Decision of the Parliament of Montenegro. Pursuant to legal provisions, this decision ensures positive discrimination of Albanians in Montenegro, in the manner that certain number of MPs is elected at the polling stations where the Albanians constitute majority population.

MP is elected within his/her constituency on the basis of party electoral list, coalition electoral list, or the electoral list of a group of citizens. MPs' seats are allocated in proportion to the number of votes.

The elections for the MPs are held no later than 15 days prior to the termination of the term of office of the MPs whose term of office is still valid. No less than 60 (sixty) days and no more than 80 (eighty) days shall pass between the day of calling for the election and the polling day.

Election administration bodies

Election administration bodies are **polling boards and election commissions** which are responsible for their work to the body that appointed them.

State bodies and local self-government bodies, other bodies and organisations are obliged to offer professional and technical assistance to the bodies administering the elections and provide them with the data necessary for their work.

Election administration bodies work in permanent composition (appointed members), or in their enlarged composition (authorized members). Every submitter of the verified and proclaimed electoral list shall have the right to appoint authorised representatives to the election administration bodies.

The election commissions shall be appointed for the term of office of four years, and the polling boards for every election of MPs. The Law establishes that the chair, the secretary, the appointed and the authorized members of the election administration bodies and their deputies may solely be the persons with the voting right, that the election administration bodies decide by the majority of votes of their members, as well as that the work of these bodies is public. The members of the bodies and other persons monitoring their work, are obliged to comply with the Laws and rules prescribed by the Republic Election Commission (hereinafter referred to as the National Election Commission).

Note: It is by means of the Decision of the Parliament of Montenegro on the Appointment of the Chair, the Secretary and Nine Members of the State Election Commission that the Republic Election Commission was renamed the National Election Commission, in line with the new constitutional order of Montenegro.

Election Commissions

The election commissions are the National and Municipal.

MUNICIPAL ELECTION COMMISSION in permanent composition is appointed by the Municipal Assembly upon the proposal of the municipal body competent for election and appointment. The Commission is composed of the Chair, the Secretary and five members in permanent composition and one authorised representative of each of the submitters of electoral lists. One representative of two opposition parties with the largest number of votes during the previous elections shall be appointed into the permanent composition of the Commission. The Deputy Chairmen and deputy Commission members are appointed into the permanent composition of the municipal election commission, while the authorized representatives of the submitters of electoral list may have their deputies.

The municipal election commission for the election of the representatives shall:

- see that the elections be conducted legally;
- organize technical preparations for the administration of elections;
- determine polling stations for the election of the representatives;
- establish polling boards and appoint the chair and the members of the polling boards for the election of the representatives;
- determine the number of ballot papers for individual polling stations, stamp them, and together with the verified extract from the register of electors deliver them with a written record to the polling boards;
- publicly announce the number of voters in the municipality and by polling stations;

- determine overall results of the election for the representatives in its constituency and by each polling station and submit its report to the National Election Commission accordingly;
- The municipal election commission passes the Rules of its procedure while the conditions for its work are secured by the Municipal Assembly.

The NATIONAL ELECTION COMMISSON in permanent composition is appointed by the Parliament of Montenegro, upon the proposal of the Parliamentary body competent for the election and appointment, and it consists of the following members: the Chair, the Secretary and nine members in permanent composition and one authorized representative of the submitter of the each electoral list. One representative of two opposition parties with the largest number of votes during the previous elections shall be appointed into the permanent composition of the Commission. The Deputy Chairmen and deputy commission members are appointed into the permanent composition of the municipal election commission, while the authorized representatives of the submitters of electoral list may have their deputies. The composition of the Commission is published in the „Official Gazette of Montenegro".

The National Election Commission, as of the day of the passing of the decision on the proclamation of the electoral list, shall pass a decision determining which submitters of the electoral list fulfil the conditions for appointing their representatives in the extended composition of this body.

The National Election Commission shall:

- see that the election be conducted legally and the provisions of Law on the Election of Councillors and Members of the Parliament are uniformly implemented;
- monitor and offer professional advice on the implementation of this Law;
- harmonize the work of the Municipal Election Commissions;
- establish uniform standards for the election material;
- prescribe forms for the carrying out of election activities;
- prescribe the manner of the proclamation of electoral lists;
- determine the manner of handling and keeping the election material;
- assess whether the electoral lists for the MPs are compiled and submitted in line with the Law;
- pass the decision on the proclamation of the electoral lists for the MPs;
- publish the overall number of voters, by municipality and by polling stations;
- determine the results of the elections for the MPs, as well as the number of votes for each electoral list and establish the number of seats that belong to each electoral list for the election of the MPs;
- publish overall results for the election of the MPs and by each polling station;
- submit the report to the Parliament of Montenegro on the results of the elections for the MPs;
- issue certificates to the elected MPs;
- submit the data on the elections for the MPs to the bodies competent for the data collection and for the processing of statistical data.

The National Election Commission has got its website (www.rik.co.me) on which it publishes its acts and the data of significance for the conducting of elections. In case the Municipal Election Commission does not carry out its duties in relation to the election of the representatives pursuant to the Law, the National Election Commission shall assume its competence. The National Election Commission passes the Rules of its procedure, and the conditions for its work are secured by the Parliament of Montenegro.

Polling Board

The Polling Board shall be in charge of direct administering the voting at the polling station, ensure the regularity and secrecy of voting and establish the results of voting at the polling station and shall designate two of its members with the duty of administering the voting outside the polling station.

The Polling Board is composed of: the chairman, four permanent members and one authorised representative of each of the submitters of the electoral lists. Also appointed in the permanent composition of polling boards shall be one representative of each of two opposition parties in the respective assembly, which won the largest number of votes in the last election. Deputies are assigned to the chairman and permanent members, while the authorized representative of the submitter of the electoral list may have his/her deputy.

The Polling Board is appointed for each polling station not later than 10 (ten) days prior to the polling day.

Proposing and confirming electoral lists

The Law establishes the right of the political parties registered in Montenegro to propose candidates for the electoral lists for the representatives either individually or as coalitions, as well as citizens' groups on the basis of a certain number of voters' signatures. One person may be nominated as a candidate for the election of representatives on only one electoral list. One electoral list shall contain no less than 2/3 (two thirds), and no more than the total number of candidates that are elected. However, exceptionally from the Paragraph 3 of this Article, on the electoral list of the group of citizens or the political party representing the Albanians in Montenegro, there shall be at least 1/3 (one third) and at the most the whole number of the candidates that are elected. The submitter of an electoral list may freely determine the order of candidates on the list. A submitter of the electoral list may withdraw the list no later than by the date set for the confirmation of the general electoral list, and upon the withdrawal of the list, the term of office of the authorised representatives of the submitter of the electoral list in all the election administration bodies shall cease, as well as all rights pertaining to him in this regard according to the provisions of this Law. Also, a candidate may withdraw his candidacy not later than by the date set for the passing of the decision on the proclamation of the electoral list. The title of the electoral list shall be determined according to the name of the political party submitting the electoral list, and if two or more political parties submit a coalition electoral list, the name and other rights and responsibilities of the submitters of a coalition electoral list shall be specified by way of an agreement, which shall be submitted to the National Election Commission together with the coalition electoral list. Together with the title of the electoral list of a group of citizens, the submitter shall also determine a more precise designation of the list.

The electoral list for the election of the representatives shall be deemed confirmed if supported by at least 1% of the electors out of the total number of electors in the constituency, based on the data about the voters of the elections which preceded the decision on calling for the election, regardless of whether the last election was the presidential or the parliamentary. Exceptionally to the this rule, for the political parties or groups of citizens representing the Albanians in Montenegro, the electoral list for the election of the representatives shall be deemed confirmed if supported by at least 1000 voters.

Electors signing the lists for the election of the representatives must be permanent residents in the territory of Montenegro and an elector may support with his signature only one electoral list.

The electoral list for the election of the representatives shall be submitted to the National Election Commission as early as 20 (twenty) days as of the day of the calling for the elections, and not later than 25 (twenty five) days prior to the polling day. The following documents shall be submitted together with the electoral list:

- written statement of the candidate of his accepting the candidacy;
- the certificate of suffrage for each candidate on the electoral list;
- the certificate of permanent residence of each candidate;
- the list of voters' signatures supporting the electoral list;
- written consent of the first candidate if his name is included in the title of the electoral list;
- decision of the authorized body of the political party by means of which it has verified the electoral list.

Immediately upon the receipt of the electoral list, the National Election Commission shall determine whether it has been submitted within the prescribed term, and whether it has been composed in conformity with the provisions of the Law. If the Commission finds that the electoral list has not been submitted in time or that it contains certain shortcomings, it will pass the decision on rejecting the electoral list, or it will pass the conclusion ordering the submitter to eliminate the indicated shortcomings within the prescribed time.

When the competent National Election Commission establishes that the submitted electoral lists have no faults or that the faults have been eliminated, it shall pass the decision confirming and proclaiming the electoral list and it submits the decision, without delay, to the submitter of the electoral list. The confirmed and the proclaimed electoral lists participate on an equal basis at all the polling stations in Montenegro as a single electoral constituency.

Upon the confirmation and the proclamation of the submitted electoral lists, the National Election Commission shall compile the collective electoral list comprising all the electoral lists with the names of all the candidates. The order of candidates on the collective electoral list shall be determined by the chairman of the National Election Commission by drawing lots, in the presence of the authorized submitters of confirmed electoral lists. The order of candidates on the collective electoral list shall be determined by the chair of the National Election Commission by drawing lots, in the presence of the authorized representatives of the submitters of the confirmed electoral lists. The collective electoral list shall be published by the Commission not later than 15 (fifteen) days prior to the polling day.

Right to presentation of the submitters of electoral lists and of the candidates from the electoral lists

During the pre-election campaign, the submitters of the electoral lists and the candidates from the electoral lists shall have the right to inform the citizens about their programmes and activities in public and other media. On the polling day, during the voting, nobody is allowed to announce the estimates of the election results in the programmes of broadcasting services and other media. The right to media coverage in the pre-election campaign shall start on the day the electoral list of participants in the pre-election campaign is confirmed and it shall cease 24 hours before the Election Day. No property (money, technical means, equipment etc.) belonging to state authorities, public enterprises, public institutions and funds, or of the Chamber of Commerce of Montenegro can be used for the presentation of electoral lists.

Administration of elections

The voting for the election of the Representatives is conducted at polling stations. A polling station is set up for up to 1,000 voters. A voter shall cast his/her vote at the polling station where he/she is entered into the extract from the Register of Voters. Exceptionally, a voter may cast his/her vote even outside the polling station where he/she is entered into the extract from the Register of Voters, by means of a letter. Every voter shall vote in person. A voter is allowed to vote only once during the elections. Voting shall be done on a certified ballot paper.

At the polling station and within the area of 50 metres from the polling station, it is forbidden to display political party symbols and other promotional material that may influence the voters' decision. Should, during the voting procedure, these rules be violated, the polling board may be dismissed and the voting at that polling station shall be repeated.

Voting shall be done by secret ballot.

Should the polling board fail to organize the polling station in the manner that provides for full secrecy of balloting (voting booths), such polling board shall be dismissed and the voting at that polling station shall be repeated.

A voter shall enter his/her vote on the ballot paper solely in the area intended for that purpose (screen / voting booth) so that no one shall be able to see who he/she has voted for. Polling stations in the constituency shall be opened at 8 a.m. and closed at 9 p.m. During this interval, the

polling stations must be open non-stop. The voters who are present at the polling station at the time of its closing shall be allowed to cast their votes, and the polling board shall previously determine the number and the identity of such voters. Should these rules be infringed during the polling, the Polling Board shall be dismissed, and the voting at that polling station shall be repeated.

Should the order at the polling station be disturbed, the Polling Board may interrupt the voting until order is restored. If the voting is interrupted for more than one hour, it shall be prolonged for the time of the duration of the interruption.

Members of the polling board and persons who supervise the work of the bodies in charge of the administration of the elections, shall not be allowed to keep any kind of records at the polling station on voters who have voted as well as to use copies of the voters' register or any other ancillary records on voters. While the polling station is open and polling is in progress, all the members of the Polling Board or their deputies must be present at the polling station. At the polling station, at one time, there may only be as many voters as there are voting booths. Persons having no rights or duties with regard to the administration of the election are forbidden to remain at the polling station. If these rules are infringed, a complaint can be lodged to the Municipal Election Commission.

The Law prescribes the obligation of the Municipal Election Commission to prepare in a timely manner the election material for each polling board, in particular the following: *necessary number of ballot papers, collective electoral lists, excerpt from the Voters' Register, special and official envelopes for voting, as well as the form of the minute on the work of the polling board.*

The Polling Board takes over the election material from the Municipal Election Commission within a legally prescribed deadline.

A ballot paper shall contain:

- the indication of the constituency;
- the ordinal number placed before each individual electoral list;
- the titles of electoral lists according to the order determined on the collective electoral list;
- the remark stating that the voters are to cast their votes for one electoral list only, which is done by circling either the title of the list or the name and surname of the first candidate on the list.

In addition to these data, the ballot paper shall contain, at the back and in the upper right corner, also the name of the municipality, the name of the polling station, the indication of the number of the polling station, as well as the stamp of the Polling Board containing the name and the number of the polling station.

The ballot paper shall be printed in such a manner as to have two parts: a control coupon in the form of a separate section containing the unique serial number, and the ballot paper proper.

The National Election Commission shall determine in more details the form and the layout of the ballot papers, the manner, place and control of printing, and the distribution of the ballot papers, as well as the destruction of matrices.

The National Election Commission shall determine the number of ballot papers that must be identical to the number of voters entered into the Voters' Register, as well as the number of reserve ballot papers. The number of reserve ballot papers shall not be more than 3% of the total number of voters in the corresponding constituency. Ballot papers must be organized according to the order of the serial numbers on the control coupon, and they are issued to the voters according to that order during the voting process. The National Election Commission certifies the ballot papers by means of its stamp.

The collective electoral list, with the names of electoral lists and the names of all the candidates, must be displayed in a visible place at a polling station during polling.

The competent municipal body shall be in charge of setting up the polling stations and it prepares for each Polling Board the necessary number of ballot boxes with the means of sealing and other instruments needed for voting. The ballot box must not be transparent.

The representatives of the submitters of the electoral lists and the candidates for the Representatives shall have the right of insight into the election material, particularly into the extracts from the Voters' Register, the minutes of the Work of Polling Boards, the minutes of election commissions and ballot papers. The inspection of the election material is carried out in the offices of the Election Commission, as well as of the bodies keeping the election material.

At the request of a submitter of an electoral list, the bodies keeping the election material are obliged to allow the photocopying of the material at the expense of the party filing the request.

The Law on the Election of Councillors and Representatives establishes that the election material shall be kept for the period of at least four years. Exceptionally, the ballot papers shall be kept for 90 days or until the termination of the procedure on the infringement of rights during the election.

Voting procedure

Upon the opening of a polling station, the Polling Board examines the ballot box in the presence of the voter who comes first to the polling station. The control slip is placed in the ballot box which is then sealed in the presence of the first voter. Upon opening of the ballot box, the first thing to do is to check whether it contains the control slip. Upon the arrival at the polling station, a voter shall first state his/her name and surname, and prove his/her identity by producing either his/her ID, passport, or driver's licence in case these contain the personal identification number or the number of the ID. A voter may not cast his/her vote without producing a proof of his/her identity. A member of the Polling Board, who performs the identification of voters, as well as other members of the Polling Board, is prohibited to in any form communicate in loud voice either the name or the surname of a voter or his/her number in the Voters' Register. The Chair or a member of the Polling Board, upon establishing voter's identity, shall encircle the ordinal number before his/her name in the Extract from the Voters' Register, explain the voting procedure to him/her, and hand him/her over the ballot paper. Certain member of the Polling Board shall spray the invisible ink onto the index finger of the voter who shall not be permitted by the Polling Board to cast his/her vote in case he/she refuses to subject himself/herself to the ink test. By affixing his/her personal signature into a special voters' volume, the content of which is determined by the National Election Commission, the voter confirms the takeover of the ballot paper.

The members of a Polling Board may in no way influence the decision of the voter, and they are obliged to explain the voting procedure to the voter again if requested so by the voter. Also, they shall take special care that the voter is not disturbed by anyone while marking out his/her ballot paper, and that the secrecy of voting is completely ensured. Should at any time during polling any of the rules be infringed, the Polling Board shall be dismissed, and voting at that polling station shall be repeated.

A voter may cast his/her vote for only one electoral list on the ballot paper. Voting is performed by circling the ordinal number before the title of the chosen electoral list, or by circling the title of the list, or by circling the name and surname of the first candidate on the list. A voter shall fold the marked ballot papers himself/herself in such a manner as to conceal who he/she has voted for, leaving free the control coupon, which is then detached from the ballot paper by the appointed member of the Polling Board and placed according to the sequence of the serial numbers.

The voter shall then place the ballot paper into an appropriate ballot box and leave the polling station.

A voter who cannot cast his/her vote in person (for the reasons of his/her blindness, disability or illiteracy) is entitled to bring another person with him/her who shall, in his/her stead, and according to his/her instructions, mark the ballot paper, i.e. perform the voting procedure.

A voter who is unable to cast his/her vote at the polling station (incapacitated person or the one who is prevented in some other way) and who wishes to do so, the Polling Board shall, through its

member in charge for the voting outside the polling station, enable such a voter to cast his/her vote, by post, in a manner that ensures the directness and the secrecy of voting.

The voters who are in detention or serving a prison sentence shall vote at a special polling station determined by the National Election Commission in agreement with the public authority entrusted with the enforcement of penal sanctions, while the voters who at the time of the elections temporarily reside abroad shall vote at the polling station in the region of their last permanent residence in the territory of Montenegro, before leaving the country.

Establishing Election Results

After the voting has been finished, the Polling Board shall proceed with establishing the election results in its polling station. The Polling Board determines the number of the unused ballot papers and the number of the detached control coupons and places them into separate envelopes which are then sealed. Based on the excerpt from the Voters' Register, the Polling Board determines the number of voters who have voted. When the ballot box is open, and after the control slip has been checked, the Polling Board separates the valid ballot papers from the invalid ones and establishes the number of the invalid ballot papers and the number of the valid ballot papers, as well as the number of votes for each electoral list, which is then entered into the minutes.

An invalid ballot paper is the unmarked ballot paper, the ballot paper which is marked in such a way that it cannot be determined which electoral lists was voted for and the ballot paper on which more than one electoral list was encircled.

If it is determined that the number of ballot papers found in the ballot box is larger than the number of voters who have cast their vote, or that the number of the ballot papers in the ballot box is greater than the number of the control coupons, or the existence of two or more control coupons with the same serial number or with a serial number which does not belong to that polling station, the Polling Board shall be dismissed and a new one appointed, and the polling at that polling station shall be repeated. The election results at that polling station shall be determined after the repeated polling.

After the Polling Board has established the election results, the following shall be entered into the Minute of its work:

- the number of ballot papers received;
- the number of unused ballot papers;
- the number of used ballot papers;
- the number of invalid ballot papers;
- the number of valid ballot papers;
- the number of votes cast for each electoral list;
- the number of voters according to the excerpt from the Voters' Register;
- the number of voters who have voted according to the Voters' Register, and
- the number of voters who have voted by post.

Also entered in the Minute are the remarks and opinions of the Polling Board members, as well as all other facts that may bear relevance to polling. The Minute of the Work of the Polling Board shall be signed by all the members of the Polling Board and each member of the Polling Board shall receive a copy of the Minute.

The Polling Board shall place the unused, invalid and valid ballot papers in separate envelopes which shall then be sealed. The complete election material (the Minute of the Work, the Excerpt from the Voters' Register, ballot papers, control coupons separated from the ballot papers, the stamp of the Polling Board, as well as other remaining election material) shall be placed in another envelope and sealed, and then, without any delay and not later than 12 hours following the closing of the polling station, deliver the same to the Municipal Election Commission.

Upon receipt of the election material from the polling stations, the Municipal Election Commission shall establish the following:

- the total number of voters entered in the voters' register;
- the number of voters who have voted at the polling stations;
- the number of voters who have voted by post;
- the total number of ballot papers received;
- the total number of invalid ballot papers;
- the total number of valid ballot papers;
- the number of votes for each electoral list.

The Municipal Election Commission shall establish the results of the elections for the Representatives at the polling stations in its territory, not later than within 12 hours as of the submittal of the reports from the polling stations and submits the report with the Minute of its work to the National Election Commission.

The National Election Commission shall establish the preliminary results of the elections for the Representatives, within 12 hours as of the delivery of the reports of the Municipal Election Commissions.

Allocation of seats

The National Election Commission for the election of the Representatives shall establish the total number of votes won by each electoral list and the number of seats that belong to each list. Each list shall be apportioned a number of seats in proportion to the number votes it has won.

Only electoral lists that have won more than 3% of the votes of the total number of voters who have voted in the constituency shall take part in the apportioning of the seats.

At the polling stations determined by the special decision of the Parliament of Montenegro, only the electoral lists that have won at least 3% of votes of the total number of voters who have voted at these polling stations shall take part in the apportioning of the seats. The electoral list which fulfils the condition to participate in the apportioning of the seats at the polling stations determined by the special decision of the Parliament of Montenegro, in the final apportioning of seats shall be added the votes of the electors that the list has won at other polling stations in Montenegro, on condition that at those polling stations it has not fulfilled the condition to participate in the apportioning of the seats, i.e. it has participated without winning a seat.

The number of seats to be apportioned to certain electoral list is established by using D'Hondt's formula. The seats within the total number of seats an electoral list has won shall be apportioned by apportioning one half of the seats to the candidates on the electoral list according to the order on the list, and the remaining seats to the candidates on the list in accordance with the decision of the submitters of the electoral list. When an electoral list has won an odd number of seats, the number of seats apportioned to the candidates on the list according to their order on the list shall be increased by one.

The National Election Commission shall establish the final results of the election for the Representatives within 12 hours as of the expiry of the terms for filing the objections and claims, and as of the decision on these objections and claims becoming final and enforceable.

Announcing Election Results

On the final results of the elections for the Representatives, the National Election Commission announces publicly the data on:

- the number of electors entered into the voters' register;
- the number of voters who have voted at the polling station;
- the number of voters who have voted outside the polling station;
- the number of voters who have voted;
- the number of ballot papers received;
- the number of unused ballot papers;
- the number of used ballot papers;
- the number of invalid ballot papers;

- the number of valid ballot papers;
- the number of votes individual electoral lists have won;
- the number of seats individual electoral list have won.

Final results of the election for the Representatives are published in the "Official Gazette of Montenegro" within 15 days as of the polling day at the latest.

The elected representative shall be issued the certificate by the National Election Commission that he/she has been elected a Representative on the day of the verification of his/her term of office.

Repeated and Early Elections

The repeated elections shall be conducted if the competent election commission annuls the elections at an individual polling station. In that case, the polling is repeated at that polling station only. The repeated elections are conducted within not more than 7 days as of the day of the annulment of the elections. The electoral lists for the administration of the repeated elections may not be changed.

The repeated elections are conducted in the manner and according to the procedure specified by the Law on the Election of Councillors and Representatives and they are called for by the National Election Commission. The final results of the elections are determined upon the completion of the repeated elections.

In case of the dissolution of the Parliament of Montenegro or in case of the decision on the shortening of its term of office, early elections are called for. They are conducted in the manner and according to the procedure determined by the Law on the Election of Councillors and Representatives.

Election of observers

The authorized representatives of the local non-governmental organizations registered for observing the exercising of political rights and freedoms, shall be allowed to monitor the course of the elections and the work of the bodies in charge of administering the elections, in conformity with this Law.

The European Union, other international organizations, international nongovernmental organizations and the authorized representatives of foreign states may follow the course of elections which involves the engagement of the authorities for the administration of the elections and other public authorities, media coverage of the pre-election campaign, exercising of suffrage and other related political and citizens' rights in the electoral process. Observation period starts from the day of the calling for the elections and it shall terminate after the final election results are publishing. The Law determines the procedure for the submittal of the applications for the observing of the elections and for the issuance of the official authorizations for the observing of the elections. The National Election Commission shall, upon the proposal of the election administration bodies, take away the authorization and the identification card from any person who fails to observe the rules with regard to maintaining the order at the polling stations, or rules on the work of the election administration bodies.

10. Please describe the provisions in place defining the persons having the right to vote in parliamentary, presidential and local elections and the arrangements regarding voters registers.

The Constitution of Montenegro determines the eligibility of persons to vote at parliamentary, presidential and local elections, or rather suffrage is established by the Constitution of Montenegro as one of the fundamental political rights and freedoms.

Pursuant to the Constitution, a national of Montenegro who reached the age of 18 with at least two years of permanent residence in Montenegro shall have the right to suffrage that is the right to elect and be elected.

Suffrage is exercised at the elections. It is general and equal. The elections are free and direct, and voting is secret.

Beside the Constitution, suffrage is regulated by the Law on the Election of Councillors and Representatives, the Law on the Election of the President of Montenegro and by the Law on the Election of the Mayor.

The Law on the Election of Councillors and Representatives establishes that suffrage covers the citizens' rights to:

- vote and be elected;
- candidate and be made candidates;
- decide on proposed candidates and electoral lists;
- publicly pose questions to candidates;
- be timely, truly, fully and objectively informed on the programmes and the activities of the submitters of electoral lists and on the candidates form these lists, and
- have other rights envisaged by the Law.

Also, the Law on the Election of Councillors and Representatives envisages the protection of suffrage, thus to this purpose the bodies competent for the administration of elections are obliged to inform the voters during the elections on their voting rights and on the manner of the protection of these rights.

The protection of suffrage is secured by: election commissions, Constitutional Court of Montenegro and competent courts.

Also, the Law envisages the control of the work of election administration bodies by observers, with a view of protecting political freedoms and rights.

Voting at parliamentary elections

The Law on the Election of Councillors and Members of the Parliament prescribes that a Montenegrin national, who reached the age of 18, with the capacity to exercise rights and the permanent residence in the territory of Montenegro for at least 24 months prior to the polling day, has the right to vote and be elected a member of the Parliament.

National elect the representatives on the basis of the free, general, equal and direct voting right, by secret ballot. Nobody may on any ground hold a national responsible because of voting nor expect from him/her to say who he/she has voted for or why he/she has not voted.

With the purpose of exercising suffrage, this law envisages for nationals to have the right to be informed through media on electoral programmes and on the activities of the submitters of the electoral lists, as well as on the candidates from the electoral lists. Media are obliged to implement in a literal way the principles of equality of all the submitters of electoral lists and of the candidates from these lists.

Every voter votes in person and during the elections he/she may cast his/her vote only once.

The voter who is unable to cast his/her vote at a polling station in person (blind, disabled or illiterate person) is entitled to bring another person with him/her who shall, in his/her stead, and according to his/her instructions, mark the ballot paper, i.e. perform the voting procedure.

A voter who is unable to cast his/her vote at the polling station (incapacitated person or the one who is prevented in some other way) and who wishes to do so, the Polling Board shall, through its member in charge for the voting outside the polling station, enable such a voter to cast his/her vote, by post, in a manner that ensures the directness and the secrecy of voting.

The voters who are in detention or serving a prison sentence shall vote at a special polling station determined by the National Election Commission in agreement with the public authority entrusted with the enforcement of penal sanctions, while the voters who at the time of the elections

temporarily reside abroad shall vote at the polling station in the region of their last permanent residence in the territory of Montenegro, before leaving the country.

Voting at presidential elections

The provisions of the Law on the Election of Councillors and Representatives which, among other things, are related to suffrage, form and content of ballot papers, voting at a polling station and outside a polling station, as well as to the protection of suffrage, apply accordingly to the election of the President, provided the Law on the Election of the President of Montenegro does not provide differently.

The Law on the Election of the President of Montenegro establishes that the President of Montenegro is elected on the general elections, directly and by secret ballot. One voter may vote for only one presidential candidate by encircling the ordinal number before the name and the surname of the candidate or by encircling his/her name and surname.

Voting at local elections

Local elections concern municipal elections for the councillors to the municipal assembly and the elections for the mayor.

The Law on the Election of Councillors and Representatives regulates the elections of the councillors to municipal assemblies, to the Old Royal Capital of Montenegro and to the capital of Montenegro.

Pursuant to the Law, nationals elect councillors on the basis of free, general, equal and direct suffrage, by secret ballot. A voter may support by his/her signature only one electoral list for the election of councillors. Other voters' rights, as well as their protection are exercised in the same manner as for the election of the representatives.

According to the Law, a national of Montenegro who reached the age of 18 with the capacity to exercise rights and permanent residence in the territory of Montenegro for at least 24 months and the permanent residence in the territory of the municipality as a constituency for at least 12 months prior to the polling day, has the right to vote and to be elected a councillor.

The Law on the Election of the President of Municipality establishes that the provisions of the Law on the Election of Councillors and Members of the Parliament related to suffrage, confirmation and announcing candidates' list, presentation of candidates, the manner of organizing elections, the form and content of the ballot paper, voting at a polling station and outside a polling station and the protection of suffrage, apply accordingly to the election of the president of municipality, unless otherwise provided by the Law on the Election of the President of Municipality.

The Law on the Election of the President of Municipality prescribes that a national of Montenegro who, pursuant to the Law, has the right to vote and be elected a councillor has got the right to vote and be elected the mayor.

A voter votes by encircling the ordinal number in front of the name and surname of the candidate for Mayor he/she casts his/here vote to or by encircling his/her name and surname.

A voter may vote solely for one candidate.

Arranging voters' registers

The issue of the manner of arranging voters' registers is regulated by the Law on Voters' Registers. The Law establishes that a voters' register is a public instrument where records of are kept of Montenegrin citizens who have got the right to vote and it serves solely for elections.

The entry into the voters' register is a condition for exercising suffrage.

Keeping Voters' Register

The Law prescribes that a voters' register is kept ex officio, that it is unique, permanent and updated on a regular basis, especially after the calling for the elections.

A Voters' Register is kept for the area of local self-government, by polling stations and a voter may be registered only once into the voters' register of only one local self-government at only one polling station. A Voters' Register is kept by a competent local administration body, and the holder of the executive function in a local self-government unit is responsible for its accuracy.

The voters' registers for the area of local self-government are unified into a unique voters' register (central), kept by the Ministry for Information Society.

The keeping of central register comprises:

- analysis of voters' registers;
- establishing possible shortcomings and informing competent bodies;
- undertaking technical and other actions with a view of accuracy of voters' registers.

Voters' registers are kept by means of computer data processing, according to a unified programme made by a competent public administration body.

A national having the right to vote or the one who acquires this right on the day of elections according to his/her place of residence is entered into the voters' register.

A voter deprived of his/her capacity to exercise rights, may not be entered into the voters' register, and in case he/she is registered, he/she shall be deleted from it.

Changes in voters' register

The law also regulates the procedure of changing the voters' register (registration, cancellation, alteration, addition or correction). The change in the voters' register can be done ex officio or upon the request of the voters. The change is made on the basis of the data from the registers, other official records and public instruments, or the data or instruments submitted by the voter, as the requestor.

The request for the change in the voters' register is submitted to the body competent for the keeping of the voters' register. The requestor is entitled to lodge a complaint to the main administrator against the decision of the competent body, and against the decision of the main administrator, administrative dispute may be initiated upon the complaint.

The bodies which keep appropriate national's records are obliged to submit to the bodies competent for the keeping of voters' registers the data which impact the accuracy of the keeping of voters' registers, within seven days as of the day of the occurred changes.

Manner of inscription into voters' register

The voters' register contains the unique ordinal number under which an entry was made, name and surname, date and place of birth, citizenship, sex, address, date of reporting the last place of residence and the unique voter's register number. Exceptionally, in case a voter has not been assigned a register number, the ID registration number is entered, and in case it is not possible to establish the date of reporting the last place of residence, the date of the issuance of the ID is entered. For those persons who acquire the right to vote on the day of the elections, the Law envisaged for the date of the last place of residence to be entered into the voters' register, and in case it cannot be determined, the date of the last reported place of residence of a parent or guardian is entered.

Publishing Voters' Register

The Law also envisaged the obligation of publishing the voters' register through media, by the body competent for the keeping of the same, within three days as of the day of the calling for elections, with the notification that it is possible to have an insight and to request the change in the same.

The Ministry for Information Society is obliged to publish in the daily “Pobjeda”, within 48 hours as of the day of the calling for the elections, the numerical tabular view of the data on the changes that have occurred in the voters’ register as a whole and by local self-government units compared to the voters’ register from the previous elections. Also, this presentation must contain the data on the persons who have lost the right to vote (by way of death, termination of the Montenegrin citizenship, deprivation of the capacity to exercise rights), as well as on the persons who have changed their place of residence - address. A parliamentary party and the submitter of a confirmed electoral list are entitled to request from the body competent for the keeping of the central voters’ register the submittal of the voters’ data changed in this manner, provided they submit the request within a legally prescribed deadline.

Closure of Voters' Register

The voters' Register is closed not later than 25 days prior to the polling day. The voter's register is closed by means of a decision. The Law prescribes mandatory content of the decision – the number of registered voters and the date of the closure of the voters' register. The Decision on the closure of the voters' register is submitted to the municipal election commission not later than within 24 hours as of the moment of the passing of the Decision.

Within 24 hours as of the moment of the receipt of the Decision, the Municipal Election Commission submits to the National Election Commission the data on the total number of voters in the local self-government unit and the National Election Commission publicly announces the total number of voters by local self-government units and by polling stations within a legally determined deadline.

Upon the closure of the Voters' Register, the changes within the same may be made solely upon the decision of the main administrator, or of the court in an administrative dispute, not later than 10 days prior to the polling day.

Upon the closure, the body competent for the keeping of the voters' register shall compile a certified excerpt from the register for each polling station and submit it to the municipal election commission and to the submitter of the confirmed electoral list. The excerpt from the voters' register contains the following:

- unique ordinal number of an entry into the voters' register;
- name and surname;
- date and place of birth;
- citizenship;
- sex;
- address;
- date of the last reported place of residence;
- unique Register number;
- name of the body which compiled it;
- date of completion and the designation of the polling station which the excerpt has been made for.

Inspection supervision

The Law on Voters' Registers regulates also the issue of inspection supervision over the application of the regulations which regulate the keeping of voters' registers. Inspection supervision is performed by the ministry competent for the affairs of public administration which is obliged to perform the inspection supervision upon the application of voters, a parliamentary party or a submitter of an electoral list, and within a legally established deadline.

For the violation of the regulations which regulate the keeping of voters' registers, the Law on voters' registers envisaged the imprisonment term of up to one year, as well as the fines for the offences established by the Law.

11. Please describe the overall framework for party and campaign financing, the rules guaranteeing its transparency and provide details on the monitoring of its implementation.

Essentially, the general framework for the financing of political parties and election campaigns in Montenegro is divided in regulations, or parts of regulations, which define the financing of the regular work of political parties, and the regulations which define the financing of election campaigns.

Respecting the recommendations of the Office for Democratic Institutions and Human Rights (ODIHR) and GRECO, the Government of Montenegro, in cooperation with civil sector (NGOs) drafted, and the Parliament of Montenegro enacted two laws which, along with the annual Law on Budget, constitute the legal framework for the financing of political parties and election campaigns, as follows: the **Law on Financing Political Parties (OG of MNE, no. 49/08) (Annex 3) and the Law on Financing the Campaign for the Election of the President of Montenegro, Mayors and Municipality Presidents (OG of MNE, no. 08/09) (Annex 4).**

I. As regards the financing of the regular work of political parties the most significant features of the general framework are:

a) Funds for the financing of the regular work of political parties can be acquired form public and private sources.

Public sources are considered those from the Budget of Montenegro and from the budgets of local self-governments. The funds from the public sources may be used for the regular work of political parties and for the work of the MPs, or councillors. The amount of public funds allocated for these purposes is limited and it ranges from **0.2-0.4%** of the current Budget of Montenegro and from **0.5-1%** of the budgets of local self-governments. In the budgetary year 2009 the amount of € **1.951.409.53** has been allocated for these purposes from the State Budget. These funds are apportioned in the manner that **15%** of that amount is distributed on equal basis to all political parties, and **85%** is apportioned proportionately to the number of seats held by a political party at the moment of the apportioning.

The funds from private sources that political parties are entitled to collect for their regular work must not exceed the amount allocated to a political party from the public sources, for the year that is observed. At that, natural persons' donations are limited to € **2.000**, and the ones of the legal entities to € **10.000** on the annual level.

b) It is forbidden to receive material and financial assistance from: foreign countries, legal entities and natural persons outside the territory of Montenegro; anonymous donors; public institutions and enterprises; institutions and enterprises with a share of state capital; trade unions; religious organizations: NGOs; casinos; betting shops and other organizers of hazardous games. It is forbidden to material and financial assistance in cash. Parliamentary parties and other submitters of electoral lists are forbidden to receive contributions from a company and entrepreneurs who extended public services in the period of two years, after having signed the agreement with public authorities, i.e. during the duration of such business arrangement, as well as two years after the termination of such business arrangement.

These prohibitions are related both to the financing of the regular work of political parties and to the financing of election campaigns.

c) Political parties are obliged to submit final annual financial statement on their annual financial operations to the competent body, including the audit report of the same.

II. As regards the financing of election campaigns, the most important features of the general framework are the following:

a) Election campaigns are financed from public and private sources.

From the public sources (Budget of Montenegro and budgets of local self-governments) the funds allocated for this purpose amount to **0.15%** of the current budget in the year when elections are organized. In the budgetary year 2009, for the financing of election campaigns the amount of € **1.360.000** has been allocated from the State Budget. These funds have been apportioned in the manner that **20%** has been paid to all authorized submitters of electoral lists, and **80%** has been distributed to political parties proportionately to the number of seats won to the Parliament of Montenegro. In order for some political party to acquire the right to the funds that belong to it on the basis of the results of the elections, it is necessary that it submits the audited report on the use of funds. On the occasion of the audit of political parties' reports in relation to the parliamentary elections that have been held in March 2009, the auditors of the Ministry of Finance have not found any serious abuse by political parties.

A political party may collect funds for the financing of a political campaign form private sources as well, to the maximum of twenty-fold amount in relation to the amount which is allocated from the public sources. The use of these funds is the subject matter of the audit in case these should exceed the amount of € 50.000.

Based on legal obligation, all reports are published on the website of the National Election Commission in which way full transparency of the process is achieved.

b) Equality of political parties

All political parties are equal in the distribution of funds from the public sources, taking the criterion of the seats won as the only one which ultimately influences the distribution of one part of the funds (80%). Therefore, to start with, all parties have absolutely the same rights.

III. Financing campaign for election of the President of Montenegro, mayors and president of municipalities

The financing of these campaigns in Montenegro is based on the same principles as is the financing of political parties' campaign, with due respect to individual specificities.

a) Public sources of financing

The funds in the amount that ranges from 0.05-0.1% of the budget for the year in which elections are staged are allocated for this purpose from the State Budget and from the budgets of local self-governments.

These funds are distributed in such a way that 10% belongs to all the candidates in equal amounts, 40% is distributed in equal amounts to all the candidates who win more than 10%, and 50% is allocated to the candidate who wins at the elections.

b) Private sources

A candidate may also collect funds from private sources, but the total amount of these must not exceed the amount which he/she is allocated from the public sources.

Maximum amount that a natural person may donate for a campaign is € 2000, while for a legal entity this amount is € 10000.

c) Reporting

All candidates submit reports which must be published on the website of the National Election Commission.

Conclusion:

The legal framework for the financing of political parties in Montenegro which is currently in force is the result of the analyses of the previous condition made by international experts, with the adjustment of their recommendations to the legal and financial circumstances in Montenegro.

Generally speaking, it can be said that the legal framework for the financing of political parties in Montenegro is in line with the good practice in democratic countries, and all further plans for its reform should go towards the strengthening of the institutional framework, first of all in the direction of the strengthening of capacities and competences of the National Election Commission.

The legal framework described in the response to this question ensures that the financing of political parties in Montenegro is carried out by fully respecting the principles of transparency and non-discrimination, i.e. giving equal opportunities to all political parties and candidates.

12. Please describe progress achieved to date in addressing the recommendations of the Office for Democratic Institutions and Human Rights in terms of depoliticising the election administration, improving its functioning, in particular regarding announcement of results, codification of election legislation, establishment of rules for media coverage of campaigns and introduction of rules guaranteeing transparency in the allocation of parliamentary seats.

Current practice of drafting the electoral legislation is such that on the occasion of drafting laws in this area Working groups are established composed of the MPs proportionately to the party representation in the Parliament.

On the occasion of drafting the laws from the area of electoral legislation, the proposals and suggestions of the relevant international institutions were being incorporated in the Law to the greatest possible extent.

The recommendations of the Office for Democratic Institutions and Human Rights (ODIHR), as well as of other international organizations which follow the processes of democratic maturing, especially in the area of electoral procedures in Montenegro, have mostly been accepted so far and are the integral part of the positive electoral legislation, which is testified by the Report of the OSCE/ODIHR Observation Mission on early parliamentary elections held on 29th March 2009. The most recent recommendations of the ODIHR and of the Council of Europe will be covered exactly through the process of the harmonization of the existing electoral law with the Constitution.

With regards to the depoliticizing of electoral administration, Montenegro has made significant progress. For example, it has passed the path from election commissions composed of mostly politically recognizable and engaged personalities to independent experts, primarily of legal background, who are familiar with electoral issues. Also, it is important to mention that it moves towards professionalization of one part of electoral administration. In electoral administration (polling boards) there are the representatives of the parliamentary majority and minority, but legally reduced to equal or proportional participation of all political structures of the participants of electoral process.

Upon the completed voting, polling boards get down to determining the results of the voting at a polling station. The Polling Board establishes the number of unused ballot papers and puts them into a special envelope which is then sealed. After that, the Polling Board establishes the number of control coupons detached from the ballot papers and puts them into a special envelope which is then sealed. Based on the excerpt from voters' register, the Polling Board determines the total number voters who have cast their votes. When the ballot box is open, following the examination of the control slip, valid ballot papers are separated from the invalid ones.

The Polling Board enters the data into the Minute prior to the opening of the ballot box. The Polling Board establishes the number of invalid ballot papers, then the number of valid ballot papers, as well as the number of votes for each electoral list, which is entered into the Minute. An invalid ballot

paper is a non-marked one, a ballot paper which is marked in such a way that it cannot be discerned which electoral list a voter has voted for as well as the ballot paper where more than one electoral list has been encircled. In case it is established that the number of ballot papers in the ballot box is greater than the number of voters who have cast their votes, or in case it is found that the number of ballot papers in the ballot box is greater than the number of control coupons, or indeed if it is determined that there are two or more control coupons with the same serial number or with the serial number which does not belong to that polling station, the Polling Board is dismissed and new one is appointed. Voting at that polling station is then repeated. The results of the voting at that polling station are established following the repeated voting. When the Polling Board establishes the results of the voting, the following information is entered into the Minute on the work of the Polling Board: the number of ballot papers received; the number of unused ballot papers; the number of used ballot papers; the number of invalid ballot papers; the number of valid ballot papers; the number of votes given to each electoral list; the number of voters according to the excerpt from the voters' register; the number of voters who have cast their votes according to the register and the number of voters who have cast their votes in the post. The Minute on the work of the Polling Board also contains the remarks and opinions of the members of the Polling Board, as well as all other facts of relevance for the elections. The Minute on the work of the Polling Board is signed by all the members of the Polling Board. Every member of the Polling Board receives a copy of the Minute. The Polling Board puts the unused, invalid and valid ballot papers in special envelopes on which content is marked which are then sealed, and then, the entire election material (the Minute on the work, the excerpt from the voters' register, ballot papers, control coupons detached from the ballot papers, Polling Board seal and other election material) is placed in another envelope which is then sealed.

The final results of the elections are published by the Municipal Election Commission for the election of the councillors and the National Election Commission for Election of the Members of the Parliament. The data include:

- the number of voters entered into the voters' register;
- the number of voters who have cast their votes at a polling station;
- the number of voters who have cast their votes outside a polling station;
- the number of voters who have cast their votes;
- the number of ballot papers received;
- the number of unused ballot papers;
- the number of used ballot papers;
- the number of invalid ballot papers;
- the number of valid ballot papers;
- the number of votes won by individual electoral lists;
- the number of seats won by individual electoral lists.

The final results of the elections for the members of the Parliament are published in the Official Gazette of Montenegro, and for the Councillors in the "Official Gazette of Montenegro – municipal regulations", not later than 15 days as of the polling day. On the day of the confirmation of the seats, the Municipal Election Commission issues to the elected councillor while the National Election Commission issues to the elected representative a certificate that he/she has been elected a councillor or representative.

Rule for media coverage of campaign

The media in Montenegro are free and media censorship is forbidden. Montenegro secures and guarantees the freedom of information at the level of standards contained in the international documents on human rights and freedoms (UN, OSCE, Council of Europe, EU). Montenegro guarantees the right to free founding and undisturbed work of media based on: the freedom of

expressing opinion; freedom of research, collection, dissemination, publishing and receiving information; free access to all sources of information; protection of person and dignity and free flow of information. Montenegro guarantees equal participation in information to national and foreign legal entities and natural persons, pursuant to the Law on Media, the Law on Broadcasting and the Law on Public Broadcasting Services of Montenegro.

The Law on Media, the Law on Broadcasting and the Law on Public Broadcasting Services of Montenegro apply accordingly to the presentation of the submitters of the electoral lists and the candidates from the electoral lists for the election of the President of Montenegro, the members of the Parliament and the councillors at the time of pre-election campaign.

Pursuant to the provisions of the Law on Broadcasting and the Law on Public Broadcasting Services, the Public Broadcasting Service Council adopts special rules which ensure uniform presentation of political parties, coalitions and candidates with confirmed electoral lists and candidatures. Political propaganda at the time of pre-election campaign comprise communiqués, video clips, as well as other forms of propaganda the purpose of which is to influence the voters' decision.

Within 15 days as of the day of the calling for elections for the President of Montenegro, or for the members of the Parliament or councillors, public broadcasting services are obliged to announce in the daily press and in another publicly accessible means, the manner and conditions for the presentation of political parties, candidates and their programmes. Seven days prior to the polling day, it is not allowed to announce public opinion polls on the candidates and political parties in the programmes of public broadcasting services.

The Law on the Election of Councillors and Members of the Parliament establishes that on the polling day, during the voting process, nobody is allowed to announce the estimate of the results of voting in the programmes of public broadcasting services. The right to media coverage in pre-election campaign starts as of the day of the confirmation of the electoral list of the participants of the pre-election campaign and ends 24 hours prior to the polling day.

Seat apportioning rules

Municipal Election Commission for the election of Councillors and the National Election Commission for the Election of Members of the Parliament establish the overall number of votes received by each electoral list, as well as the number of seats that belong to each list. The number of seats that belongs to each electoral list is proportionate to the number of received votes. Only the electoral lists which received at least 3% of votes of the overall number of voters who have cast their votes within a constituency participate in the apportioning of the seats.

At the polling stations, established by a special decision of the Parliament, it is only the electoral lists which have received at least 3% of votes of the overall number of voters who have cast their votes at polling stations which participate in seat apportioning. In the final seat apportioning procedure, the electoral list which fulfils the condition for the participation in seat apportioning at the polling stations established by a special decision of the Parliament of Montenegro, is added the votes of the voters received by that list at other polling stations in the country, on condition that it does not meet the requirement for the participation in seat apportioning at such polling stations, i.e. participates but without winning a seat. The votes received by an electoral list, which in relation to the number of votes received does not participate in seat apportioning procedure, i.e. participates without winning a seat at the polling stations established by a special decision of the Parliament of Montenegro, are added to the votes received by that list at other polling stations in the country, on condition it does not participate in seat apportioning procedure at these polling stations.

The number of seats an electoral list is to be apportioned is established in such a way that the total number of votes received by each electoral list in a constituency is divided by 1, 2 and ... inclusive of the number which corresponds to the number of councillors, or members of the Parliament being elected in a constituency. The quotients thus obtained are classified by size, at which the highest ones that are taken into consideration are those which correspond to the number of councillors or members of the Parliament being elected. Every electoral list receives the number of seats belonging to it on the basis of these quotients. In case two or more electoral lists receive the same

quotients on the basis of which they would be apportioned one seat, it is by drawing lots that it will be determined which list is going to be apportioned that seat.

The seats within the overall number of seats won by an electoral list are apportioned in the manner that one half of the seats won is apportioned to the candidates from the electoral list according to the order on the list, and the remaining seats are apportioned to the candidates from the list in line with the decision of the submitters of the list. When an electoral list receives an odd number of seats, the number of seats apportioned to the candidates from the list according to their order on the list is increased by one. In case certain electoral list wins the number of seats which is greater than the number of candidates who are on that list, these seats belong to the electoral lists with the next highest quotient. The Municipal Election Commission establishes the final results of the elections for councillors within 12 hours as of the expiry of the deadline set for the submittal of objections, or complaints, or indeed as of the finality or enforceability of the decisions passed upon an objection or complaint. The National Election Commission establishes the final results of the elections for members of the Parliament within 12 hours as of the expiry of the deadline set for the submittal of objections or complaints, or as of the finality or enforceability of the decisions passed upon an objection or complaint.

The amendments to the electoral legislation (Law on Amendments to the Law on Election of Councillors and Members of the Parliament) shall define the principle of compliance with the electoral list sequence, in accordance with the ODIHR recommendations.

Government

13. Please provide a description of the structure and functioning of the government. Which is the legal basis for the structure and functioning of the government?

The Government of Montenegro exercises the executive power in conformity with the Constitution of Montenegro, the law and other regulations. It answers to the Parliament of Montenegro for the implementation of internal and external policy of Montenegro. Its competencies, internal organisation and the manner of work are regulated by the Constitution, the Law on Public Administration (Annex 8), Decree on the Government of Montenegro and the Rules of Procedure of the Government of Montenegro.

According to its constitutional competences the Government implements internal and external policy of Montenegro; enforces laws, other regulations and general acts, adopts decrees, decisions and other acts on the enforcement of law; concludes international treaties; proposes the development plan and the spatial plan of Montenegro; proposes the budget and the annual balance sheet; proposes the strategy of national security and the strategy of defence; decides on recognition of states and establishment of diplomatic and consular relations with other states; proposes ambassadors and heads of other diplomatic missions and posts of Montenegro abroad and performs other affairs as stipulated by the Constitution or law.

The Parliament elects the Government of Montenegro. It consists of the Prime Minister, one or more Deputy Prime Ministers and Ministers. The current, 38th Government of Montenegro was elected in June 2009. It has a Prime Minister, three Deputy Prime Ministers: Deputy Prime Minister for International Economic Cooperation, Structural Reforms and Improvement of Business Environment, which performs the function of Minister of Finance at the same time; Deputy Prime Minister for Political System, Internal and External Policy; and Deputy Prime Minister for Economic Policy and Financial System, which also performs the function of Minister of Information Society. There are 17 ministers: Minister of Justice, Minister of Interior Affairs and Public Administration; Minister of Defence, Minister of Foreign Affairs, Minister of Education and Science, Minister of Culture, Sport and Media, Minister of Economy, Minister of Transport, Maritime and Telecommunications, Minister of Agriculture, Forestry and Water Management, Minister of Tourism, Minister of Health, Minister of Human and Minority Rights, Minister of Spatial Planning and Environmental Protection, Minister of Labour and Social Welfare, Minister of European

Integration and two Ministers without portfolio. The President of Montenegro designates and proposes the candidate for Prime Minister to the Parliament of Montenegro in the period of thirty days after the Parliament is assembled. The Prime Minister Designate presents his/her programme and the composition of the Government in the Parliament which decides on the programme and the composition of the Government at the same time. The term of the Government starts on the day of its election. The Prime Minister and the Members of Government of Montenegro are sworn in the Parliament on the day the Government is elected. Prime Minister and Members of Government cannot be Members of Parliament or other public functionaries, or professionally perform any other activity. Prime Minister and Members of Government have immunity and they cannot be persecuted for criminal or other offences or detained for presenting their views or voting in the process of performing their functions. They cannot be prosecuted for criminal or other offences or detained without the approval of the Parliament unless they are charged for criminal offence with a punishment of more than five years of imprisonment. The Government and its Member can resign. The resignation of prime minister is considered to be the resignation of the whole government. Prime Minister can propose the dismissal of Members of Government to the Parliament. The term of a Government ceases by: termination of the term of the Parliament, resignation, no confidence vote and if no budget is proposed by 31 March of the fiscal year. The Caretaking Government the term of which has expired continues to perform its functions until a new Government is elected.

The Decree on the Government of Montenegro regulates: the position of the Prime Minister, Deputy Prime Ministers and Ministers: the Small Cabinet; working bodies of the Government; position and functions of the Secretary General of Government.

The Rules of Procedure of the Government of Montenegro regulate the organisation and the manner of work of the Government as well as other issues of importance for the work of the Government. Prime Minister and Secretary General of the Government take care that the Rules of Procedure are applied.

The Prime Minister represents the Government, secures unison political functioning of the Government, calls and chairs Government sessions, signs acts adopted by it, coordinates the work of Members of Government and performs other functions stipulated by the Constitution and the law. The Prime Minister can entitle Members of Government with special obligations and competences, in accordance with the policy of government, i. e. conclusions and international obligations of Montenegro.

The Government of Montenegro has a Small Cabinet which is composed of the Prime Minister, Deputy Prime Ministers and the Secretary General of the Government. The Prime Minister can invite Ministers to take part in the work of the Small Cabinet. He/she also calls and chairs the sessions of the Small Cabinet. The Small Cabinet coordinates the implementation of the policy and the Government's Work Programme; takes into consideration certain issues under the competence of the Government; plans the work of Government sessions and coordinates the work of Members of Government. The Small Cabinet can decide on allocation of funds from budgetary reserves in accordance with the criteria set by the Government.

Deputy Prime Minister directs and coordinates the work of ministries and other bodies of public administration in the areas defined by the Prime Minister; takes care of the implementation of Government policies in those areas and, as a rule, chairs one of the permanent bodies of the Government.

Minister is obliged to implement the programme and policy of the Government and is responsible for the implementation of the programme and policy of the Government for decisions and measures he/she has taken or failed to take, as well as to implement obligatory instructions and his/her obligations and competencies entrusted by the Prime Minister. The Minister is responsible to inform the Government on all the issues under his/her competencies and of importance for the implementation of policy and decision making of the Government. The Minister can submit proposals to the Government in order to regulate the issues under the competence of the Government of Montenegro and the Parliament of Montenegro and ask for Government's position on the issues under his/her competencies. The Minister without a ministry (without portfolio)

performs functions entrusted by the Prime Minister and which relate to specific areas of work of the Government; he/she can also be responsible for the work of the Government's working bodies.

Member of Government is obligated to be present at Government sessions and to take part in its work. Member of Government is obliged to participate in the work of Government working bodies to which he/she has been elected as well as to perform other functions of the Government in compliance with the Rules of Procedure of the Government of Montenegro and Government conclusions.

The Government has a Secretary General, appointed and dismissed by the Government, upon the proposal of the Prime Minister. The Secretary General reports to the Prime Minister and the Government. He/she is appointed for a period of four years and his/her term ends with the cessation of the government mandate, resignation or dismissal. The Secretary General takes care of preparation of Government sessions; implementation of Government acts; assists the Prime Minister in the organisation and preparation of sessions; takes care of preparation, adoption and implementation of the Government Work Programme; implementation of Government conclusions; preparation of documents necessary for the work of the Government; looks after the application of the Rules of Procedure in the part related to the preparation of Government sessions and delivery of Government conclusions to competent authorities; performs other functions in compliance with decisions and the Rules of Procedure as well as functions entrusted by prime minister. The Secretary General heads the Secretariat General of the Government of Montenegro and takes care of budgetary means for the work of Government and the Secretariat General of the Government. He/she can be a member of Government working bodies. The Secretary General has a Deputy and one or more Assistants.

The Government establishes permanent working bodies in order to examine issues under its competence and to provide opinions and proposals on these issues, to monitor the implementation of its acts and to coordinate positions of public administration bodies in the preparation of Government session acts. The Government can set up a temporary working body in order to examine specific questions that fall within its purview and to provide opinions and proposals. A permanent working body is established by the Rules of Procedure of the Government of Montenegro while a temporary working body is established by a decision which defines its composition and tasks.

Permanent working bodies of the government are: the Commission for Political System, Internal and External Policy; the Commission for Economic Policy and Financial System; the Commission for Human Resources and Administrative Issues and the Commission for Allocation of a Part of Budgetary Reserve Funds.

The government works and takes decision at sessions called by the Prime Minister, upon his/her own initiative, upon the proposal of a permanent working body of the Government or upon the proposal of at least five Members of Government. The Prime Minister can convoke a special session of the Government when it is deemed necessary or when certain emergency measures have to be taken.

As a rule, the Secretary General of the Government informs Government Members on Government sessions in written. The information on some sessions can be submitted in a shorter period of time if there are special circumstances. The information contains the day, place and time of holding the session as well as other information of significance for holding the session, along with a proposal of agenda, reports of commissions, minutes from the previous session as well as documents that were not delivered previously. As a rule, Government sessions are held once a week.

The Head of the Secretariat for Legislation takes part in the work of Government sessions. Authorised persons from ministries and other bodies of public administration, the Secretariat General of the Government as well as other invited person can attend and take part in the work of Government session, upon invitation.

Government works and decides at sessions attended by the majority of its Members. It makes decision by majority of votes of the present members. In the case of equal number of votes, a decision is considered to be adopted if the Prime Minister votes for it. The Government decides with the majority of votes of all Government Members on: the proposal on the shortening of the

term of Parliament; proposal on state referendum; confidence vote on the government; dissolution of the Parliament; resignation of the Government, proposal on the change of the Constitution and the adoption of proposal of the Law on Budget and the Final Balance Sheet. The voting is public.

In emergency and other particularly justified cases, the Government can, upon the proposal of the Prime Minister, without holding sessions, decide on certain issues on the basis of acquired consents of the majority of Government Members. This decision has to be verified at the next immediate Government session.

The Government informs the public on its work and decisions, conclusions and positions as well as significant issues which it examines or plans to examine. This is done through press statements, press conferences, interviews, media talks and other various ways. Press statements from Government sessions are given by a competent Deputy Prime Minister and a Minister authorised by the Prime Minister, as well as the Secretariat General of the Government – Public Relations Bureau. The Government of Montenegro has its Web page where it posts information and data on the work of the Government. It is obligated to provide access to information on its work to the public pursuant to the Law on Free Access to Information and the Rules of Procedure of the Government of Montenegro.

14. Please provide a description of arrangements within the government for strategic planning and monitoring. Is there a government programme? How is it prepared, what is the time-line for its implementation and how is its implementation monitored?

Strategic planning is implemented through the definition of development strategies, work programmes of ministries and the Government Work Programme.

Ministries propose development strategies that fall within their purview while the Government of Montenegro adopts them. Human resources of ministries and other bodies of the public administration, as well as foreign and national experts are engaged in the development of draft strategies. In most cases it is the Government that adopts draft strategy and the public debate programme. After a public debate is finalised, a Ministry prepares a proposal of strategy on the basis of collected comments and suggestions. The proposal is made together with the action plan for the implementation of the strategy and is adopted by the Government. The Strategy of National Security, the Strategy of Defence and the Development Plan and the Spatial Plan of Montenegro are adopted first by the Government of Montenegro and then the Parliament of Montenegro.

Ministries and other public administration bodies are obliged to adopt annual working plans.

The Government adopts a work plan at the start of its term or at the end of the year for the following year. The bases for its adoption are: the programme of the Prime Minister Designate, which was adopted by the Parliament of Montenegro when it elected the Government and the Economic Policy Measures for the following year which are adopted by the Government in the fourth quarter for the following year. The Government Work Plan also includes the obligations stemming from the National Programme for Integration of Montenegro into the EU, as a comprehensive plan for realisation of commitments assumed by signing the Stabilisation and Association Agreement; the Constitutional Law for the Implementation of the Constitution of Montenegro; Progress Report of the European Commission for the previous year; strategic documents and the laws passed, membership in international organisations and ratified conventions as well as the Action Plan for Fight against Corruption and Organised Crime.

The obligations from the programme are grouped into thematic and normative part. The first part within thematic part relates to the European integration process and defines the activities on harmonising the legislation with the EU legal system and the international standards.

The thematic part contains the titles of strategies and development programmes that are to be adopted, information on the state of play of specific administration area and reports that Ministries have to submit to the Government. The legal part contains drafts and proposals of laws to be adopted by the Government i. e. by-laws that are to be adopted by the Government in order to

implement the already adopted laws. Apart from the titles of topics i. e. acts, the programme gives brief explanations for each of the obligations, the Ministry competent for this obligation, time frames for their implementation and the permanent working body of the Government of Montenegro competent for the proposed materials and the conclusions which are to be proposed to the Government.

The programme is prepared on the basis of proposals, initiatives and suggestions of Ministries and other bodies of the Public Administration of Montenegro. The Secretariat General of the Government monitors the obligations of specific ministries or the very Government in accordance with the previously enumerated sources. It also checks whether the ministries have included these obligations into their proposals. After the process of coordinating ministries is finished, the Secretariat General prepares draft programmes which are discussed by Government Commissions that give their own suggestions and coordinate time-lines of fulfilling obligations. The Secretariat General prepares proposals of programmes on the basis of the position of Commissions and submits them to the Government for adoption.

The programme is adopted for the period of one year.

The Secretariat General monitors the realisation of the Government Work Programme. If a Ministry or any other administration body is not able to fulfil its obligation from the Work Programme in the planned timeframe it is obliged to inform the Government on the reasons why it is not in the position to fulfil it as well as to suggest a new target date. The Secretariat General of the Government prepares and submits to the Government the report on the implementation of the obligations from the work programme at the start of the quarter for the previous quarter. Additional reports can be submitted at the request of the Prime Minister. Monitoring of the realisation of strategic plans is also implemented through: analysis of the fulfilment of economic policy measures (at the start of the quarter for the previous quarter), quarterly reports on macro-financial situation, half-year reports on the realisation of tax policy, obligatory reports on the implementation of action plans in accordance with the already adopted strategies as well as annual reports on the work of ministries and other public administration bodies.

15. How is the legislative programme of the government prepared and monitored?

The Legislative programme of the Government is an integral part of the annual Work Programme of the Government and it contains drafts and proposals of laws and bylaws for their implementation.

During the process of drafting legislative work programme of the Government, special attention is paid to the obligations stemming from: the Constitutional Law for the Implementation of the Constitution of Montenegro, the National Programme for Integration in the European Union, Progress Reports of the European Commission for the previous year, development strategies, membership in international organisations and ratified treaties as well as the Action Plan for Fight against Corruption and Organised Crime. Moreover, the obligation of preparing laws is based on development strategies and analyses of specific areas where the needs to define certain issues to be regulated by law are identified, in a different manner.

Ministries submit proposals to the Government after they go through the obligations for a specific Ministry that stem from the mentioned acts and documents. These proposals contain a list of laws and other regulations to be adopted by the Government in the year for which the Government adopted its Work Programme. This list contains: the title of a law or other acts, issues which are to be regulated by it, timeframe of the preparation of the act, implementers and working bodies of the Government competent for discussing the act.

When the Government deems appropriate to organise a public debate in the procedure of adoption of specific laws or other acts, it defines the draft of law or other act, the programme of debate; body responsible for its implementation and timelines for holding public debates which cannot be less than 15 days.

The Government can submit a law which regulates issues of special importance to the Parliament of Montenegro in the form of a draft law.

For a proposal of law, other act or general act to be put into procedure of examination, the competent body is obliged to, along with the proposal, submit the opinions of competent authorities on its: compliance with the Constitution and the legal system of Montenegro; compliance with appropriate acts of the EU, compliance with acts regulating court proceedings, or when it comes to procedures before state bodies the opinion, that this act does not create business barriers, as well as fiscal impact assessment.

Moreover, along with proposal of law or other act, as well as strategic and planning documents, the competent body is obliged to submit a report on inter-departmental and inter-ministerial consultations which contains positions, proposals and opinions presented in the process of consultations.

The competent body is also obliged to submit an analysis of the state of play, occurrences and problems in the area regulated by this law.

The Legislative Programme of the Government of Montenegro is monitored through quarterly examinations of Reports on the Realisation of the Annual Work Programme of the Government, of which it is an integral part.

16. What types of legal acts exist? How and by whom are they adopted? How are they prepared? What forms of consultation are used, both inside the government (inter-ministerial co-ordination) and outside (stakeholders)? What mechanisms exist to monitor the effective implementation of legal acts by public bodies (e.g. reporting requirements, inspections)?

The legislative system of Montenegro regulates types of legal acts and the manner of their preparation and adoption through the Constitution of Montenegro, the Rules of Procedure of the Parliament of Montenegro, the Decree on the Government of Montenegro, the Rules of Procedure of the Government of Montenegro, the Law on Public Administration (Annex 8) and the Law on Conclusion and Implementation of International Treaties.

The Parliament adopts the Constitution, laws, other regulations and general regulations (Rules of Procedure of the Parliament, decisions, conclusions) and ratifies international treaties.

Proposals for the amendments to the Constitution can be submitted by the President of Montenegro, the Government or at least 25 Members of Parliament. Also, amendments to certain provisions of the Constitution as well as the adoption of a new Constitution can be proposed. The proposal has to define the provisions assigned for amendments along with an explanation. The proposal for the amendments to the Constitution is adopted if two-thirds of all Members of Parliament vote for it. If it does not get adopted, the same proposal cannot be repeated until a year has passed from the day it was rejected.

The change of specific provisions of the Constitution is done through amendments. Draft act on the amendments to the Constitution is made by a competent working body of the Parliament. It becomes adopted if two thirds of all Members of Parliament vote for it. The Parliament submits the adopted draft act on the amendments to the Constitution to public debate which cannot last less than one month. After the public debate is finished, a competent working body of the Parliament adopts the proposal act on amendments to the Constitution. It becomes adopted if two thirds of all Members of Parliament vote for it.

The procedure of amendments to the Constitution of Montenegro i. e. the proposal on amendments to the Constitution, draft amendments to the Constitution and the proposal of amendments to the Constitution are regulated by the Rules of Procedures of the Parliament of Montenegro. The proposal on amendments to the Constitution is submitted by the Speaker of the Parliament to Members of Parliament, the Committee for Constitutional Issues and Legislation as well to the Government if it is not the one that submitted the proposal. Debate on general principles

(first reading) and thematic reading (second reading) are held on the proposal on amendments to the Constitution at the session of the Parliament. When the first reading is finished and the general principles are adopted, the Parliament starts the second reading on specific topics. After the debate is finalised, the Parliament votes on the integral proposal. When the proposal gets adopted, the Parliament defines the period in which the Committee for Constitutional Issues and Legislation is to adopt the draft of amendments to the Constitution and to submit it to the Parliament. The Speaker of the Parliament submits the draft of amendments to Members of Parliament and the Government for opinion. Conjunct debate is held on the draft of amendments to the Constitution. After its completion, the Parliament decides on the integral draft of amendments. When the period of thirty days form the day of publishing of the draft of amendments to the Constitution expires, the Committee for Constitutional Issues and Legislation starts the procedure of adoption of proposal of amendments to the Constitution and the proposal of the Constitutional Law for the Implementation of the Amendments. The Committee for Constitutional Issues and Legislation shall examine all the submitted proposals, opinions and suggestions to the draft amendments and express its position on them. At its session the Parliament holds debates on the proposal of amendments in detail on each of the amendments.

In accordance with the Constitution, the law regulates: the manner of exercising human rights and freedoms when it is necessary for their realisation; the manner of achieving special minority rights, the manner of establishing organisations and competences of authorities as well as procedures in these authorities if it is necessary for their functioning; the system of local government; other issues of interest for Montenegro.

The Government, Members of Parliament and six thousand voters through their empowered Member of Parliament have the right to propose laws and other regulations. The President of Montenegro is obliged to promulgate a law in the period of seven day from the day of adoption of that law i. e. three days if a law is adopted through a fast track procedure or to return a law to the Parliament for new decision and he/she is obliged to promulgate the law that has been adopted for the second time.

The Parliament adopts laws. The procedure of law adoption is launched by submitting a proposal of law. The proposal of law is submitted in the form in which the law is adopted and it has to be accompanied by an argumentation in written form in the necessary number of copies as well as in electronic form. The argumentation of the proposal of law contains: the Constitutional basis for the adoption of law, reasons for its adoption; compliance with the EU Acquis and ratified international treaties; argumentation on basic legal institutes and the assessment of financial means needed for its implementation; public interest for which the retroactive effect has been suggested if the proposal of law contains provisions which call for retroactive effect; the text of law provisions being amended if the law on amendments is proposed. When proposing laws that regulate issues of special significance, the party proposing the law can submit draft law and ask the Parliament for an opinion. If an initiative for a law's adoption is submitted to the Parliament, the Speaker of the Parliament introduces it to Members of Parliament and the Government for a possible procedure of law proposal. A proposal of law which has been submitted to the Parliament is introduced to Members of Parliament and competent committees by the Speaker of the Parliament and is posted on the Parliament's Web site. Proposals of law which are not proposed by the Government are introduced to the Government by the Speaker of the Parliament for opinion. Proposals of law can be put on the agenda of the session of the Parliament 15 days after the day it was introduced to Members of Parliament at the earliest. Before it is debated at Parliament session, the proposal of law is examined by competent committees (Committee for Constitutional Issues and Legislation and the committee responsible for that specific area). The report of the responsible committee has to be presented to Members of Parliament 24 hours before the debate at parliamentary session at the latest. The debate on the proposal of law at Parliament session starts with the debate on general principles of the proposal of law. The Debate on general principles encompasses the debate on the Constitutional basis, reasons for the law's adoption, its compliance with European legislation and ratified international treaties, substance, effects of proposed solutions and assessment of necessary law enforcement budgetary means. After the debate on general principles, the Parliament decides on the proposal of law in principle – it can decide to adopt the law in principle or not to adopt it. It the Parliament adopts the proposal of law in principle, before starting the thematic debate, the Speaker of the Parliament calls on competent committees to

additionally consider the proposal of law as well as the amendments made to it and to submit a report in the period of two days at the latest. After it has been additionally examined in the committees and the Parliament receives report on it, the thematic debate starts. It consists of the debate on the solutions in the proposal of law, submitted and non-harmonised amendments, positions and proposals of the committees. At the beginning of the thematic debate a Rapporteur informs the Parliament on the results of the examination in the committees and gives explanation of the position and proposal of the committees. This is followed by the participation of Members of Parliament and the representative of the party that proposed the law in the debate. When the thematic debate is finished, the voting on amendments which are not an integral part of the proposal of law starts and is followed by the vote on the proposal of law as a whole.

Exceptionally, a law can be fast-tracked. Fast-track procedures are valid for laws regulating issues and relations which are due to unforeseen circumstances and when in case of non-adoption of the law it could have harmful consequence. The party proposing the law is obliged to specify the reasons for the fast-track procedure in the argumentation of the proposal of law. The proposal of law under fast-track procedure can be put on the agenda of a parliamentary session if it has been submitted 24 hours before the start of the session at the latest. If the Parliament accepts to fast-track the proposal of law, it defines the deadline for competent committees to examine the proposal of law and submit a report. When the competent committee examines the proposal of law under the fast-track procedure, the Parliament can decide to start the debate on the proposal of law immediately and without a written report, with a Rapporteur orally presenting the explication at the Parliamentary session. If the competent committee does not present a report in the defined timeline, the debate on the proposal of law can be held in the Parliament without the committee's report. Amendments to the fast-track proposal of law can be submitted until the end of the debate.

International treaties are ratified by law. A proposal of law on ratification of an international treaty contains the text of the international treaty to be ratified, it contains argumentation with reasons for the proposal of ratification and the assessment of needed financial means if an international treaty creates obligations for the state budget. The adoption of the law on ratification of international treaties is done in accordance with the provisions of the Rules of Procedure of the Parliament of Montenegro on the procedures for law's adoption with the conjunct debate on the proposal of law.

In conformity with the Law on Conclusion and Application of International Treaties (the Official Gazette of Montenegro 77/09) the Parliament of Montenegro ratifies international treaties which entail the passage or amendment of laws, international agreements of accession to political or military organisations, and international agreements the provisions of which explicitly call to be ratified. The Law on Conclusion and Application of International Treaties is published in the Off*icial Gazette of Montenegro – International Treaties* before it enters into force. Other international treaties and administrative agreements adopted by the Government of Montenegro as well as the information on the start, provisional and permanent validity of an international treaty are also published in the Off*icial Gazette of Montenegro – International Treaties.* The Government adopts a decision on the publication of an international treaty in the form of a special act – decision on publication which contains the full title of an international treaty, the place and the date of its signing as well as its signatories and the text of an international treaty in the Montenegrin language if its original language is not Montenegrin. The provisions of Article 9 of the Constitution of Montenegro stipulate that ratified and published international treaties and generally accepted rules of international law present an integral part of internal legal order, have primacy over national legislation and are directly applied when they regulate relations differently than internal legislation.

Provisions of Article 14, line 2 of the Law on Publishing Regulations and Other Acts (the Official Gazette of Montenegro 5/08) stipulate that a central body competent for foreign affairs is responsible for the publication of other international treaties and international acts when they are defined by the law or other regulation or when the Government decides so.

The Government adopts proposals of law and decrees, decisions, conclusions and other law enforcement acts.

Decrees define the relation regulated by the law in more details; they define relations of importance for the enforcement of constitutional and legal functions of the Government, establish ministries

and other public administration bodies and define the organisation and the manner of work of public administration in conformity with the law.

Decisions deal with nominations, appointments and dismissals as well as other specific questions that fall within the purview of the Government. A Decision of the Government on an administrative matter is final in the administrative procedure and no complaint can be filed against it, but an administrative dispute can be instituted in the Administrative Court of Montenegro.

Conclusions serve to adopt positions on specific issues of importance for the adoption of the policy and when the Government does not adopt other acts.

The Government adopts the Rules of Procedure of the Government which, in accordance with the Decree on the Government of Montenegro, regulates the organisation and the manner of work of the Government in a more specific way.

Decrees, decisions, Rules of Procedure, decisions on nominations, appointments and dismissals as well as other acts of the Government are published in the Official Gazette of Montenegro.

Ministries are obliged to cooperate and to inform each other on their work, particularly on the issues of importance for their work as well as to jointly perform task if the Government decides so and if it is based on their prescribed obligations.

A ministry can request that another ministry includes it into the performance of specific affairs which are of interest for this ministry. Ministries are also obliged to cooperate i. e. acquire opinions of other interested ministries in the process of preparation and adoption of acts.

Proposals of materials for adoption at commission and government session are prepared in the manner prescribed by the Rules of Procedure of the Government. Proposals of law, other regulations or general acts have to be made in conformity with legal and technical rules prescribed by the Secretariat for Legislation.

All proposals are first discussed by a competent commission and then by the Government.

While preparing the session of the commission, the chair of the commission, upon his/her own initiative or upon the conclusion of the commission, can organise meetings with authorised representatives of ministries, other bodies of public administration, state organs, companies and institutions of interest for Montenegro. During the procedure of the preparation of proposals of law, strategic and programmatic documents, the commission can have previous discussion on the request of the body that processes them or upon the initiative of the chair of the commission.

The commission submits a written report to the Government containing statements and assessments on the discussed material as well as the proposals of conclusions in the form in which the Government needs to adopt them. The report states whether the body which has submitted the proposal concurs with the adopted positions and conclusions of the commission or states reasons because of which the body which has submitted the proposal has not agreed with these positions and conclusions. If the body which has submitted the proposal is not in agreement with the positions of the commission, the positions of this body shall be inserted into the report. The positions of ministries, other bodies and organisations are presented, as a rule, in written form and can also be presented orally at the session of the commission.

The commission can hold joint sessions called by chairs of commission in order to examine issues of common competence or to coordinate positions.

When the Government deems it necessary to organise public debates in the process of law's adoption, it adopts the draft of law or other act, adopts the programme of public debate, the body which is to implement it and the timeframe which has to be longer than 15 days. The Government can send the text of law regulating issues of special importance to the Parliament in the form of draft law.

The proposal of law, other regulation or general act has to be accompanied with the opinion of the Secretariat for Legislation, opinion on the compliance with the Constitutional and legal system of Montenegro, statement on the compliance with the respective regulations of the European Union with the tables of compliance in accordance with the instruction of the Ministry of European Integration and approved by the competent ministry; opinion of the Ministry of Justice with the

proposal of act regulating court procedures as well as for the provisions of the proposal of act regulating sanctions and criminal procedure; opinion of the Ministry of Interior and Public Administration for the proposal of act regulating procedures in state bodies, the system of state bodies and local self-government; assessment of fiscal impact of the act on the State Budget of Montenegro, means of the Pension and Disability Insurance Fund, Health Insurance Fund, Employment Office of Montenegro and the budget of local self-government, in accordance with the instruction of the Ministry of Finance; opinion of the Ministry of Finance stating that the solutions of the proposal of act does not create business barriers; opinion of the Ministry of Foreign Affairs on the proposal of law on ratification of an international treaty, proposal of the basis for conclusion of an international treaty and of the basis for international negotiations, opinion of the Human Resources Administration on the proposal of the rulebook on internal organisation and systematisation on the bodies of public administration.

The proposal of law and other acts as well as strategic and programmatic documents should also be accompanied by a report on inter-departmental and inter-ministerial consultations with positions, proposals and opinions presented during consultations. It should also be accompanied by an analysis of state of play, occurrences and problems in the area regulated by this law.

Before being sent to the Government, proposed solutions from the proposal of law, other regulations and general acts are coordinated with the positions of the Secretariat for Legislation, Ministries i. e. other bodies from which opinions had been gathered. It these positions of the Secretariat for Legislation, Ministries i. e. other bodies contained in their opinions are not acceptable for the body processing the proposal, and if they cannot be harmonised in direct communication, then these issues have to be harmonised by a competent Deputy Prime Minister.

The working body processing the proposal prepares a regulation or another general act in the text in which the Government has adopted it and submits it to the Secretariat for Legislation and then, with the opinion of the Secretariat for Legislation, to the Secretary General of the Government in order to be signed i. e. published. The Secretary General of the Government sends the regulation or another general act to the Prime Minister to be signed which is then sent to the Secretariat for Legislation in order to be published in the Official Gazette of Montenegro.

The body responsible for the processing of the proposal of law or other act prepares them in the text in which they have been adopted by the Government and sends it to the Parliament as well as to the Secretariat General of the Government in three copies with the statement by the competent minister that it has been prepared in the text adopted at the session of the Government.

Ministries adopt rulebooks, orders and instructions for the enforcement of laws and other regulations.

The Rulebook elaborates specific provisions of laws and other regulations.

The Order directs or prohibits dealing in specific situations of general importance.

The Instruction prescribes the manner of work and performance of affairs of public administration, local administration and other legal persons in the performance of vested i. e. delegated affairs.

Ministries and other administration bodies, i. e. bodies of state administration perform affairs of state administration. Their work is subject to control that is achieved by administrative and other supervision, judicial control and other forms of control in conformity with the law.

Administrative supervision entails supervision over the legality of administrative acts, supervision over the legality and the suitability of the work of administrative bodies and inspection supervision.

The supervision over the legality of administrative acts entails the control of legality of administrative acts that, pursuant to the law, decide on rights, obligations and legal interests of natural and legal persons as well as measures stipulated by the law. The supervision over the legality of the work of administrative bodies is performed by Ministries. The act on the establishment of the bodies of public administration defines a Ministry which is to perform this supervision. A Ministry, in the process of supervision of legality and the appropriateness of the work of administrative bodies, can suspend acts adopted outside administrative procedures when they are contradictory to the law or other regulation. It can propose to the Government to abrogate or to revoke them; ask for reports and information on specific issues that fall within its purview; give

expert instructions and instructions; warn an administrative body on the discovered irregularities in its work and perform other types of control.

The supervision over legality and the suitability of the work of administrative bodies, among other things, entails the control of the legality of work and dealing as well as control and assessment of efficiency, economical performance and effectiveness. Having regard to this, it initiates the procedure for the review of constitutionality and legality of general acts, commissions the performance of defined obligations, proposes the termination i. e. prohibition of work and takes other measures stipulated by a specific regulation.

Inspection supervision is done through direct insight with institutions and legal persons, municipal bodies, bodies of the Capital City, bodies of the Royal Capital and public administration bodies, other bodies and with citizens having regard to abidance by the law, other regulations and general acts and by taking administrative and other measures and actions in order to enforce the regulation in a specific field. Inspection supervision is regulated by the Law on Inspection Supervision which stipulates the principles of inspection supervisions, the manner and procedures of inspection supervision, obligations and competences of inspectors and other issues of importance for the performance of inspection supervisions. Inspection supervision is done by ministries and administrative bodies through direct insight with institutions and legal persons, municipal bodies, bodies of the Capital City, bodies of the Royal Capital, bodies of local self-government, other bodies and organisations, companies and other economic enterprises, natural person and other subjects. Inspection supervision focuses on abidance by the law, other regulations and general acts as well as taking administrative and other measures and actions in order to enforce a regulation in a specific field.

Ministries report to the Government on the work and state of play in the administrative field at least once a year. Reports have to contain the review of enforcement of laws and other regulations, realisation of programmes and conclusions of the Government, measures taken and their results. Ministries are obliged to submit specific reports on certain issues that fall within their purview, measures taken and the results thereof at the request of the Government

17. What mechanisms exist to link strategic planning and budgeting, in each Ministry, at governmental level?

In accordance with the “organic” Law on Budget, the Ministry of Finance prepares and the Government of Montenegro adopts goals and guidelines of fiscal policy by the end of May of the current year. This serves as a basis for budgetary planning for the next three fiscal years. An integral part of this document, among others, is the proposal of mid-term budgetary expenditure framework which presents the basis for the planning of the State Budget of Montenegro and state funds for the next three fiscal years.

When planning their individual budgets, the ministries are obliged to follow the adopted limits of budgetary expenditures as well as to adapt their long-term strategies of development to the approved budgetary means and the economic policy of the Government.

Within the process of integration into the EU, the Government of Montenegro prepares and annually updates its strategic documents – the National Programme for Integration of Montenegro in the European Union (NPI) and the Economic and Fiscal Programme of Montenegro (EFP). Chapters relating to macroeconomic stability, economic policy, structural reforms and mid-term planning and budgeting frameworks are an integral part of these documents.

18. What structures exist to ensure the coordination of European Integration issues? How is the compatibility of planned legislation to the EU acquis and to international obligations been verified and monitored? Which body is responsible for such verification?

Institutional mechanisms for vertical and horizontal coordination of the process of European integration have been set up in the framework of executive and legislative branches of power with defined and functional mutual cooperation.

The coordination structure in the framework of the executive branch of power consists of:

- the Ministry of European Integration;
- the Ministry of Foreign Affairs;
- the College for European Integration
- the Commission for European Integration;
- Groups for European Integration;
- Subgroups for Negotiating Chapters;
- Units of European Integration within ministries and other bodies of public administration;
- IPA Funds coordinating structures;
- Offices or European Integration within self-government units.

The following bodies have been established on the level of the Parliament of Montenegro: Committee for International Relations and European Integration and the National Council for European Integration which are presented in detail in the part of this chapter dealing with the Parliament (I Democracy and the Rule of Law, Parliament, question 5).

The Ministry for European Integration is the central body of public administration competent for the coordination of the process of European integration. Within the new Government of Montenegro, elected on 10 June 2009, the post of the Minister for European Integration was introduced instead of the previous post of the Deputy Prime Minister for European Integration. At the same time, the Ministry of European Integration was set up instead of the former Secretariat for European Integration. Pursuant to the Decree on the Organisation and the Manner of Work of Public Administration, the Ministry performs the following affairs of: management of the process of association and accession of Montenegro to the European Union, in particular when it comes to the monitoring of the implementation of the Stabilisation and Association Agreement and the Interim Agreement on Trade and Related Issues between the European Communities and their Member States, of the one part, and the Republic of Montenegro of the other part as well as coordination and monitoring of the work of joint bodies established by the Agreement; inter-ministerial preparation and regular revision of strategic documents related to the process of European Integration; cooperation of state bodies with institutions, bodies and organs of the European Union, its Member States, candidate states and potential candidates; coordination of compliance of regulations with the regulations of the European Union as well as approval of forms and tables of compliance of regulations with the European Union regulations; coordination of translation, preparation and development of the national version of regulations of the European Union and the coordination of expert and legal formatting and editing of translations of European regulations; the coordination of translation of national legislation into one of official languages of the European Union, management of bases for support to the process or translation, cooperation with institutions, organs and bodies of the European Union in the field of translation as well as cooperation with ministries, other state bodies and institutions in Montenegro in the field of translation; implementation of the process of programming, monitoring and assessments of programme of technical and financial assistance of the European Union, its Member States and other assistance relating to the process of accession to the European Union; informing of the public on the European Union and the process of association and accession to the European Union; cooperation in the process of association and accession to the European Union with the bodies of the Parliament of Montenegro; and the cooperation with the Permanent Mission of

Montenegro to the European Union and other diplomatic and consular posts of Montenegro in the field of association and accession to the European Union.

In order to raise the level of awareness of the public in the process of European integration, the former Ministry for International Economic Relations and European Integration prepared a Communication Strategy for Informing the Public about the Process of Montenegro's Association with the European Union. The Strategy was adopted in September 2004 and it represents a starting framework for all activities that are being developed through annual action plans. The goal and the aim of the Communication Strategy are to enable the public to acquire necessary knowledge and to be actively involved in the process of accession to the European Union.

In order to achieve better cooperation in the promotion of the process of European integration, the Ministry signed a Memorandum on cooperation with seven non-governmental organisations in July 2004. Separate agreements on cooperation have been signed with Faculty of Economics and Law Faculty in Podgorica. The Ministry appointed a contact point for cooperation with NGOs in order to strengthen cooperation with civil sector. Annual Action Plans for implementation of the Communication Strategy have been prepared and realised in partner cooperation with NGOs since 2005. Joint activities entail a wide spectrum of activities: organisation and participation in conferences, fora, debates, seminars, manifestations, preparation of joint projects etc.

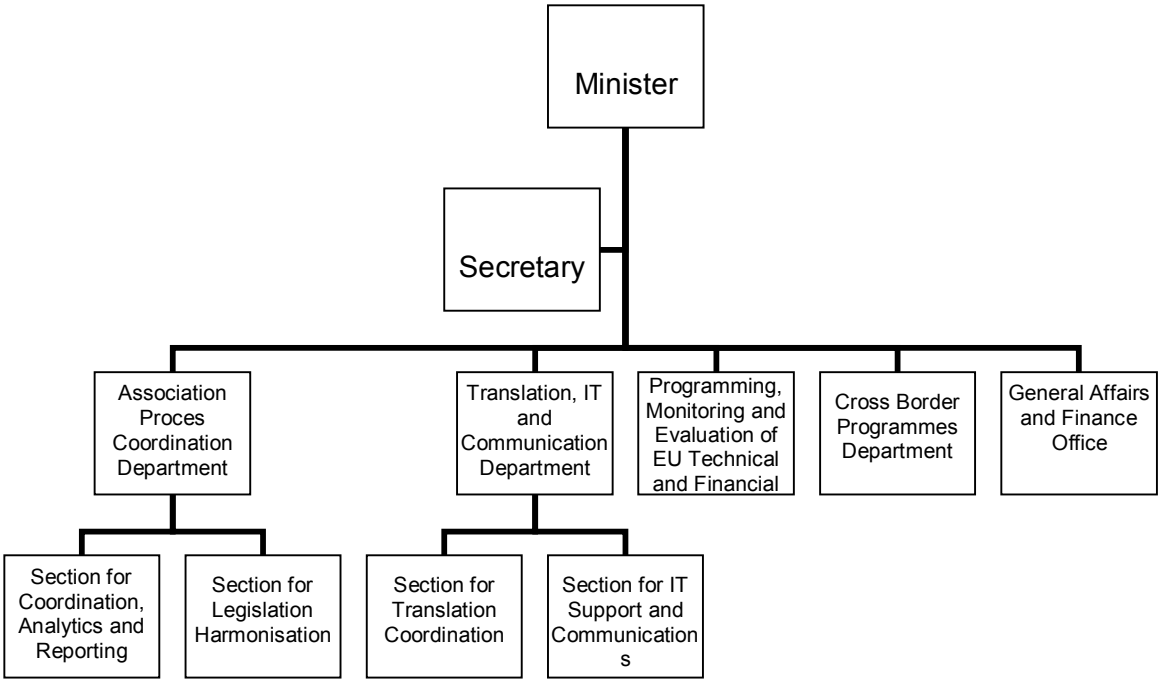
Cooperation with the media represents an important part of the activities of the Communication Strategy. The project of regular briefings (in the form of working breakfast) with the media representatives has been implemented in cooperation with the Konrad Adenauer Foundation since 2005 in order to provide better and more comprehensive informing of the public in the Process of Stabilisation and Association.

The Secretariat for European Integration signed an Agreement on Cooperation with eleven non-governmental organisations in May 2008. On the occasion of two years of the signing of the SAA on 15 October 2009, the Ministry of European Integration signed a new Memorandum on cooperation with 14 non-governmental organisations which showed readiness to work jointly on the implementation of the Communication Strategy. The Memorandum defines basic principles, areas and activities of cooperation as well as mechanisms of their implementation. It was agreed for a new Communication Strategy to be prepared in early 2020 in cooperation with civil sector partners.

Activities in the field of training have been focused in the most part on education of civil servants on the process of association of Montenegro to the European Union. The content of seminars and other types of training entail various topics, from general knowledge on the process of European integration to specialised topic for the needs of various institutions. Many trainings related to the National Programme for Integration of Montenegro in the European Union and the Questionnaire of the European Commission as well as further harmonisation of national NGOs have been organised during the previous and this year.

A great deal of trainings of local government representatives, general public and students has been organised in cooperation with programmes of technical assistance and donors. Various training modules have been implemented in cooperation with the Human Resources Administration through the Twinning Programme, TAIEX, InWent, EIPA (European Institute for Public Administration in Luxemburg), FES (Friedrich Ebert Stiftung), CBIB, the Spanish Agency for International Cooperation, CDP (Capacity Development Programme), as well as the NGO European Movement in Montenegro.

The Rulebook on Internal Organisation and Systematisation of the Ministry of European Integration was adopted on 9 July 2009. It stipulates the following organisational units of the Ministry: the Department for Coordination of Association Process which is divided into the Section for Coordination, Analytics and Reporting and the Section for Legislation Harmonisation; the Department for Translation, IT Support and Communications, which is divided into the Section for Translation Coordination and the Section for IT Support and Communications; the Department for Programming, Monitoring and Assessment of Technical and Financial Support of the European Union; the Department for Cross Border Cooperation Programmes and the General Affairs Office. The Ministry currently employs 45 persons under the Systematisation Act while there are 50 employed persons (including the contracting ones).



The Ministry of Foreign Affairs is responsible for coordination of the political aspect of the process of European integration; for managing the Political Dialogue with the EU and monitoring and harmonisation of Montenegrin positions with the Common Foreign, and Security Policy and the European Security and Defence Policy. The Ministry performs these affairs through the work of its Department for the EU and NATO which deals with European and Euro-Atlantic integration of Montenegro through the work of two directorates: Directorate for the European Union and the Directorate for NATO; as well as the Permanent Mission to the EU in Brussels.

There is an ongoing and intensive cooperation between the Ministry of Foreign Affairs and the Ministry of European Integration, which is assisted by the participation of the representatives of the Ministry of Foreign Affairs and the Permanent Mission to the EU in the Commission and the Groups for European integration as well as the participation of the representatives of the Ministry of European Integration in the bodies headed by the Ministry of Foreign Affairs.

The College for European Integration is the highest political body of the Government of Montenegro. It manages the process of association to the EU and deals with political and strategic issues. The Prime Minister heads the College.

The **Commission for European Integration** is the principal expert body for horizontal coordination of the process of association headed by the Minister of European Integration. The 7 **Groups for European Integration** are the main expert coordination bodies competent for various fields of the Acquis. They correspond to the structure of Subcommittees from the Stabilisation and Association Agreement. The Commission and the groups have been functioning since 2007, when they were set up for the first time. However, in the meantime, their composition and role have been adapted to new phases and demands of the process of European integration. To this goal, the current Government of Montenegro adopted an *Information on the Need of Setting up New Coordination Structures for the Next Phases of the Process of European Integration* at one of its first sessions. On the basis of this Information, the Government adopted a *Decision on the Setting up of the Commission for European Integration* (Official Gazette of Montenegro 26/09) and a *Decision on the Setting up of Groups for European Integration and Sub-groups for Negotiating Chapters* (Official Gazette of Montenegro 26/09) on 9 July 2009.

Based on the new Decision, tasks of the Commission and Groups for European Integration have been adapted to accommodate the Stabilisation and Association Agreement which is expected to enter into forces soon. The Commission coordinates the activities of line ministries and other institutions in relation with the process of European integration, and particularly the application of

the Stabilisation and Association Agreement and the Interim Agreement on Trade and Related Issues between the European Communities and their Member States, of the one part, and the Republic of Montenegro of the other part. The affairs of the Groups for European integration consist of preparation and conduction of meetings of subcommittees and monitoring of the application of the Stabilisation and Association Agreement, the coordination of preparation of key documents in relation to the process of association and coordination of the overall process of association to the European Union, in cooperation with the Commission for European integration. The new Decision also establishes 35 **subgroups for chapter negotiations**, which shall have special role in preparing negotiating positions and managing negotiations on the accession to the EU.

The Commission for European Integration, seven groups for European integration and 35 subgroups for negotiating chapters have all an important role in the preparation of answers to the EC Questionnaire.

The **Units for European Integration** have been established in every ministry. They are competent for managing and coordination of European integration affairs in a particular Ministry as well as public administration in general. The composition of units i. e. the number of employees assigned to these affairs, depends on the size of the bodies of public administration and their obligations in regard to European integration and legal harmonisation with the EU. The employees of these units are integrated within the groups and subgroups which contributes to a more efficient horizontal coordination of the process. Larger administrative units and directorates also have these units which contributes to the involvement of lower administrative bodies and to a more efficient monitoring of law enforcement.

IPA Funds Coordination Structures

In the interest of the functioning of the system of utilisation of the Instrument for Pre-Accession Support the following necessary structures have been set up: NIPAC, SPO, NAO, PAO, CAO as well as the Commission for the Monitoring of the Implementation of IPA Projects (in more details in Chapter 22) .

NIPAC's competences are:

- management of the programming process;
- coordination and review of Multi-Annual Indicative Planning Documents (MIPD) in cooperation with the Delegation of the European Commission, line ministries and other competent institutions of Montenegro;
- coordination of activities of stakeholders during the identification and formulation of projects;
- mediation between beneficiaries/potential beneficiaries and the Delegation of the European Commission;
- influence over the connectedness of sectoral priorities and taking into account the inclusion of national priorities within IPA programmes;

A Competent Accreditation Officer (CAO) is competent for issuing, monitoring, cancellation or withdrawal of accreditation of the National Authorisation Officer and the National Fund.

A National Authorisation Officer (NAO) as the head of the National Fund takes the overall responsibility for the management of EU funds in a beneficiary country; he/she is responsible for the legality and regularity of basic transactions and the efficient functioning of the management and control system according to the IPA Regulation;

Programme Authorising Officer (PAO) heads a contracting and financing unit and coordinates activities related to financial management of projects i. e. publishes tender notices, makes contracts and implements projects.

Line ministries and Senior Programme Officers (SPOs) are responsible for programming IPA funds and submitting projects which fall under their purview.

The Ministry of European Integration has the key role in the process of IPA funds programming i. e. it serves as the NIPAC Secretariat. Furthermore, the role of the Ministry is to follow the implementation of projects i. e monitoring and evaluation of programmes, as well as to enable the work of the Commission for the Monitoring of the IPA Projects Implementation.

After the European Agency for Reconstruction's term ended on 31 December 2008, the process of programming and implementation of projects came under the competence of the Delegation of the European Commission. Having regard to the fact that the Delegation of the European Commission was a newly established institution, that it needed time to get accustomed to the structure of Montenegrin institutions as well as the fact that its human resources capacities were strengthened only in late 2008, Montenegrin authorities were in an ungrateful position in that period when it came to getting informed on the processes and procedures of programming, project fiche development, tender procedures and finally the implementation of projects. The 2007 and 2008 IPA Programme projects were programmed with a maximum engagement of international experts, while the 2009 IPA funds programming had most of the representative of Montenegrin authorities included in the process thus enabling them to become better informed on the programming process.

IPA funded projects are, or shall be, focussed on the strengthening of administrative capacities, alignment with the EU Acquis, implementation of economic reforms, construction of infrastructure facilities of utmost significance for future development of Montenegro, improvement of regional and cross-border cooperation and preparation for using structural and cohesion funds. Montenegro, being a potential candidate country, is allowed to participate in the first two components of IPA: *Support to Transition and Institution Building* and *Cross-Border Cooperation*.

IPA II Coordination Structures

The Ministry of European Integration is competent for the overall coordination of using IPA II Component funding i. e. programming, management and implementation of five neighbouring and 2 trans-national programmes where Montenegro participates in the framework of this component.

Joint Monitoring Committees are the highest decision making bodies at the programme level. They take decisions on programme management. Having regard to bilateral programmes, they are composed of representatives of Operational Structures (Ministry of European Integration), line ministries and institutions from participating states. For trans-national programmes they are made of representatives of countries participating in the programmes.

Joint Technical Secretariats/Antennas are administrative bodies competent for everyday management of programme activities and communication with potential programme applicants.

The Ministry of European Integration is competent for management of IPA II Component funding. It is the main body for programming, implementation and coordination of activities in the framework of the programme. Among other things, the Ministry of European Integration is responsible for preparation of cross-border programmes, setting up of Joint Technical Secretariats/Antennas and monitoring of their work, submission of annual reports and final reports on the implementation of cross-border programmes. Finally, the Ministry of European Integration ensures the quality of the implementation of cross-border programmes.

Non-governmental representatives are actively involved in all information and training activities organised by the Ministry of European Integration. These activities are: information meetings on the programmes in which Montenegro takes part in the framework of the IPA II Component, partner searching meetings, information seminars on project calls as well as trainings on project fiche development. NGO representatives can obtain all necessary information at fora for cross-border programme cooperation as well as at programme web pages.

Offices or divisions of European integration are constantly being established in local self-government units, too. This is a sign of their growing involvement in the process of implementation of EU standards and their interest in using IPA funding.

Apart from these bodies, the European integration coordination system also entails other independent institutions and organisations, including NGOs. For example, while drafting important documents, such as the National Programme for Integration of Montenegro in the European Union, various bodies such as judiciary organs, the Central Bank of Montenegro, Securities Commission of Montenegro, academia, regulatory agencies and business associations have been involved in the process. Moreover, the cooperation of the Government and non-governmental organisations is of special importance having regard to training and communication.

In June 2008 the Government of Montenegro adopted the National Programme for Integration of Montenegro in the European Union for the period of 2008-2012. At the same time, this document represents a plan of application of the Stabilisation and Association Agreement in accordance with the Article 72; as well as a programme of the implementation of the Acquis. The Programme encompasses the period from 1 January 2008 until 31 December 2012. The planned tasks in the field of compliance with the EU legislation and the strengthening of the institutional frame for the enforcement of harmonised national legislation are divided into short-term priorities (the period until the end of 2009) and mid-term priorities (three year period including 2010, 2011 and 2012).

The alignment of national legislation with the European one, as well as the application of the Interim Agreement on Trade and Related Issues are monitored through a number of mechanisms that entail regular reporting to the Government and the Parliament, the revision of the NPI and statements on the compliance of the national legislation with the EU Acquis.

The Ministry of European Integration has been regularly preparing monthly reports on the application of the Interim Agreement on Trade and Related Issues since it entered into force. It uses the forms developed in cooperation with the Delegation of the European Commission in Podgorica. They enable the monitoring of adopting legislation in relation to the specific provisions of the Interim Agreement (Stabilisation and Association Agreement). Monthly reports are submitted to the competent parliamentary committee as well as to the Delegation of the European Commission.

The Ministry of European Integration prepares regular quarter reports on the realisation of activities and obligations of Montenegro in relation to the Process of Stabilisation and Association. These reports are discussed by the Government and sent to the Parliament for adoption.

The National Programme for Integration of Montenegro in the European Union along with the database of existing and planned national regulations and their alignment with the EU Acquis represents a valuable instrument for coordination of compliance of the legislation of Montenegro with the Acquis of the European Union and the development of the so called National Acquis. Regular reports on the implementation of the NPI, which consist of textual and tabular parts including a review according to the types of acts and competent authorities, provide an insight and analysis of the implementation of the plan of compliance of the national legislation with the European one. Having in mind a constant increase in the number of regulations of the Acquis, including the regular update of compliance plans, it is envisaged to have annual reviews of the NPI. Having regard to the overall activities of the Government of Montenegro in the preparations of answers to the EC Questionnaire, the first review of the NPI shall be done in the first half of 2010.

The approval of forms and tables on compliance with the EU Acquis falls under the purview of the newly established Section for Harmonisation of legislation within the Ministry of European Integration. It presents a useful instrument for verification and monitoring of the compliance of the planned legislation with the Acquis and international obligations. Proposals of Statements of Compliance and Tables of Compliance are prepared by line ministries while the Ministry of European Integration approves, checks and confirms them.

Taking into consideration the importance of the process of legislation alignment and in order to improve the process of European integration, the Government of Montenegro decided to start the process of voluntary assessment of the compliance of the Montenegrin legislation with the European Union Acquis in November 2004. This phase is characterised as voluntarily obligatory having regard to the fact that the Rules of Procedure of the Government of Montenegro (Official Gazette of Montenegro 74/04) say that an opinion of the then Ministry for International Economic Relations and European Integration on the alignment with relevant regulations of the European Union has to accompany a proposal of law, other regulation or general act.

The instruction for the Assessment of Alignment of Regulations of Montenegro with Relevant Regulations of the European Union (Official Gazette of Montenegro 74/04) of the then Ministry for International Economic Relations and European Integration prescribes the form for the assessment of compliance of regulations with relevant EU regulations as well as the methodology for assessing the compliance of a proposal of law, other regulation or general act with relevant regulations of the European Union.

Having regard to the pace of the process of European integration in Montenegro, the Government decide to enter the next, more demanding phase of assessing the level of compliance of proposals of national regulations with the Acquis Communautaire in order to have a more detailed review of the state of play in the Montenegrin legislation as well as the compliance of Montenegro legislation with the legislation of the European Union.

On 2 July 2009 the Government adopted an *Information on the Introduction of Statement of Compliance of Regulations of Montenegro with Relevant Regulations of the European Union, with the Tables of Alignment,* prepared by the Ministry of European Integration. The introduction of the Tables of Compliance of provisions of draft i. e. proposal of a regulations with the Acquis and the Statement on Compliance shall enable a comprehensive comparison of compliance of specific articles of Montenegrin regulations with relevant articles of secondary sources of law of the EU with which the regulation is being aligned. Changes to the forms of the Statement of Compliance relate to provision of comprehensive information on the competent body (processing the regulation) and the body that applies/enforces the regulation, which enables a better record keeping in the Ministry of European Integration and thus a more efficient coordination. In contrast to the former, the novelty of the new one is that a legal person with public authorisation for preparation and enforcement of regulations i. e. body or institution outside the public administration has to deliver its regulations to the Ministry of European Integration for record keeping of aligned legislation. Another novelty in the Statement on Compliance is the introduction of the **signature of the competent minister** i. e. head of the body preparing the regulation. The signature confirms the accuracy of the allegations in the Statement thus contributing to the importance of the process of compliance of the legislation of Montenegro with the EU Acqui, which is in accordance with the phase of European integration in which Montenegro currently is and is to follow. As it has been the case, filled in forms and the tables are sent to the Parliament together with every proposal of law adopted by the Government of Montenegro.

The Ministry of European Integration adopted an Instruction prescribing the content of the forms of Statements on Compliance of Regulations of Montenegro with Relevant Regulations of the European Union and the Tables of Compliance, as well as the Methodology for Filling in the Statement on Compliance of Regulations of Montenegro with Relevant Regulations of the European Union and the Tables of Compliance. The application of the new form and tables shall be obligatory from 1 January 2010.

In addition, a Twinning Project of Legal Harmonisation (IPA 2007) was initiated in February 2009. The Ministry of European Integration coordinates it, while its beneficiaries are the Parliament of Montenegro and the Secretariat for Legislation. Seminars and trainings on the application of the new form and tables intended for public administration representatives have already been agreed in the framework of this project.

19. Please provide a summary description of your preparations for decentralised implementation and for conferral of management accreditation under the IPA instrument including the institutional set-up. (Please take note of specific questions on components III, IV and V in chapters 11 and 22).

The process of the establishment of the Decentralised Implementation System for IPA Components I and II officially started in Montenegro in February 2008 when the Government of Montenegro adopted the *Information on the Establishment of the Decentralised Implementation System (*DIS).

In January 2009 the Government of Montenegro adopted the *Information on the Second Phase of Establishment of the Decentralised Implementation System*, along with conclusions which present the basis for proactive activities to be taken by competent authorities as well as the appropriate hierarchical connectedness among NIPACs, NAOs, PAOs and SPOs thus enabling NAOs and PAOs to perform their affairs when it comes to management, implementation and control of the programmes within the Decentralised Implementation System.

In accordance with the adopted Information, functions have been set up as under:

National IPA Coordinator (NIPAC), *Decision of the Government of Montenegro 03-2504/3*

Competent Accreditation Officer (CAO), *Decision of the Government of Montenegro 03-2504/4;*

National Authorisation Officer (NAO), *Decision of the Ministry of Finance 01-2193/1.* Assistant Minister for Treasury in the Ministry of Finance was appointed as NAO. This appointment was confirmed by a Conclusion of the Government of Montenegro 20-13452 of 22 January 2009.

Programme Authorising Officer (PAO), *Decision of the Ministry of Finance 01-2194/1*. Assistant Minister for Financing and Contracting of EU Assistance (CFCU) in the Ministry of Finance was appointed as PAO. This appointment was confirmed by a Conclusion of the Government of Montenegro 03-13452 of 22 January 2009.

The Government of Montenegro entitled the ministries to appoint Senior Programming Officers (SPOs) and establish SPO Offices which are to provide technical support to the Decentralised Implementation System in the implementation of PAO projects, *Conclusion of the Government of Montenegro 03-31452 of 22 January 2009.*

Due to the constitution of the new government, establishment of new ministries and changes of some of functionaries after the March 2009 elections it is necessary to appoint a new National Authorisation Officer (NAO) as well as new Senior Programming Officers (SPOs) and members of the SPO Offices.

The National Fund was officially set up through the adoption of the amendments to the Rulebook on Internal Organisation and Systematisation of the Ministry of Finance on 25 September 2008, as a separate division in the Treasury Department of the Ministry of Finance, headed by the Assistant Minister i. e. NAO. In accordance with the latest Rulebook on Internal Organisation and Systematisation of the Ministry of Finance that entered into force on 1 April 2009, it is envisaged that the National Fund has four employees.

According to the Conclusions of the Government of Montenegro of 22 January 2009 the Operational Structure for the Component I (Support for Transition and Institution Building) is made of: the Ministry of European Integration competent for programming and overall coordination, the Central Finance and Contracts Unit (CFCU) which is an implementation agency, Project Implementation Units (PIU) coordinated by Senior Programme Officers (SPOs) in line ministries and Internal Audit Units in all DIS bodies – IPA Programme beneficiaries.

In accordance with the Rulebook on Internal Organisation and Systematisation of the Ministry of Finance that entered into force on 1 April 2009, the CFCU acquired the status of a department within the Ministry. The new Rulebook on Internal Organisation and Systematisation envisages 8 work posts. The CFCU is headed by a Programme Authorising Officer (PAO) with the position of Assistant Minister.

The creation of Project Implementation Units (PIU) headed by Senior Programme Officers (SPOs) in line ministries is under way. After the process of setting up of the PIUs, the recruitment of cadres shall start. It is expected that Internal Audit Units shall be set up in all IPA line ministries by the end of March 2010, when the training of cadres is to start.

The Conclusion of the Government of Montenegro of 22 January 2009 specifies that the Component II Operational Structure shall be performed by the Ministry of European Integration competent for programming and the overall coordination and the CFCU which performs the role of implementing agency.

All structures that are to be set up for the IPA Components I and II shall be valid for Components III and IV.

Apart from the mentioned bodies, the Government is obliged to set up an audit authority which shall audit the utilisation of IPA funding according to the Implementation Decree and the Framework Agreement. It is planned that the Audit Authority presents an integral part of the State Audit Institution (SAI).

An *Implementation Agreement* between NAO and PAO was signed on 6 May 2009 in order to establish necessary legal framework for proper functioning of the system and clear division of responsibilities. However, due to the changes of officers performing the function of NAO it is necessary to sign a new Implementation Agreement. The signing of an *Operational Agreement* between PAO and SPO shall follow the appointment of new Senior Programme Officers (SPOs). It should also be noted that PAO-NIPAC Operational Agreement for Component II is being drafted.

An IPA Manual on Procedures (MoP) with standard forms, checklists and audits for IPA Component I and II is being finalised. It is a document which horizontally relates to all IPA bodies and represents the basis for their work. The Manual contains all the phases of the project cycle as well as specialised chapters on human resources management, procurement, financial management, irregularities, risk management etc. Having in mind the importance of the application of this document in practice and its basis for the work of every single DIS structure, expert assistance was secured through a CARDS 2006 funded project. Besides the Coordinator for the Manual, all IPA bodies plan to have a Risk Manager, IT Coordinator (in the CFCU and line ministries), Competent Risk Officer (in the CFCU and line ministries), Coordinator for the Manual, Human Resources Management Coordinator etc. Their appointment is under way. It is important to note that, apart from the mentioned CARDS 2006 funded project, the Ministry of Finance prepared and proposed a project entitled *Strengthening the Management and Control System for Financial Assistance of the EU in Montenegro,* which shall be funded by the 2009 IPA programme. This project will assist the Montenegrin institutions in their preparation for fulfilment of accreditation criteria for IPA Component I and II as well as for the management of IPA Component III and IV projects. They shall also represent a sort of continuation of the current project funded by CARDS 2006.

In order to establish an efficient mechanism for financial management, an analysis of the current organic Law on Budget and bylaws relating to the treasury has been made. This has been done in order to define legal provisions for the system of payment, financial management of IPA funds and the system of bank accounts for IPA funds. In order to define the ways of using of these means, the Ministry of Finance adopted an Instruction on the Work of the State Treasury (Official Gazette of Montenegro 80/08 of 26 December 2008) which incorporates the principles of using these means thus allowing for the current Law on Budget and other relevant legislation to be enforced without being amended.

A fact finding mission composed of representatives of Directorates General of the European Commission for Enlargement, Regional Policy, Employment and Agriculture came to Montenegro in May 2009. The main aim of this mission was to present the Roadmap of the European Commission for Decentralised Management of IPA Funds to the Montenegrin authorities. According to the opinion of the EC representatives, Montenegro is currently in the process of implementation of phase 0. It was also noted that it would be very important to conduct a gap assessment phase before starting with the compliance assessment, which is the most important phase for the assignment of national accreditation. The gap assessment phase was planned for October 2009 while the final evaluation report is expected in mid December 2009.

The new situation demanded the amendments of the current Action Plan for the national roadmap which should contain detailed activities and timeframes of their implementation that have to be harmonised with the relevant phases from the Roadmap of the European Commission for Decentralised Management of IPA Funds. This fact caused the postponement of previously set deadlines for the fulfilment of accreditation criteria.

In the Gap Assessment Phase it is planned to have the verification of defined operational structures and procedures, including procedures of public internal and financial control, procurement procedures and conducted audits. The compliance assessment of public financial internal control with the criteria of the EU is also planned in this phase. Results of this assessment

and respective recommendations shall be presented in the Gap Assessment Report based on auditors' reports.

A next phase, the Gap Plugging Phase, shall follow depending on the auditors' reports. Its aim is to plug the gap between the real and the demanded state on the basis of identified shortcomings and recommendations given in the Gap Assessment Report. A comprehensive Action Plan with clearly defined competences and deadlines for particular activities, financial management and control procedures manuals as well as audit manuals shall be drafted in this phase. In order to remove shortcomings discovered during the gap assessment phase and to fulfil further accreditation request, expert assistance shall be provided to the DIS bodies through the mentioned project *Strengthening the Management and Control System for Financial Assistance of the EU in Montenegro,* funded by IPA 2009.

The Compliance Assessment Phase shall follow after this. It envisages the engagement of an independent audit firm by national authorities. This process is planned in the way that CAO contacts an audit firm to conduct compliance assessment. CAO shall accredit the National Fund i. e. NAO and NAO accredits the operational structure i. e. PAO. National authorities will pay special attention to this phase due to its impact on accreditation assignment.

The fourth phase – National Accreditation entails that NAO and CAO, on the basis of results of the work of an independent audit firm based on the report and audit, or precisely the Report on Compliance Assessment, submit a request for transfer of accountability management to the European Commission. Accreditation Package shall also be submitted along with the request. NAO is to collect all the documents on the accreditation of the Operational Structure as well as all necessary information requested by the European Commission.

20. What systems are in place to monitor implementation of policies and laws and to receive feedback?

The Government monitors the implementation of policies and enforcement of laws through:

- Examination of reports that ministries submit to the Government at least once a year. These reports focus on the work and the state of play in the fields that fall within their purview and in particular contain: the assessment of the state of play in an administrative area; presentation of law and other regulations enforcement; presentation of the realisation of programmed activities and conclusion of the Government with their basic content and achieved effects in the achievement of the functions of bodies and the assessment of work of supervised bodies;
- Examination of specific report that the ministries are obliged to submit on specific issues within their purview, implemented measures and their results to the Government.
- Monitoring the application of Government's conclusions and acts through which positions on specific important issues for adoption and management of policies and the realisation of the Programme of the Government are being adopted and implemented by ministries;
- Regular (quarterly) examination of reports on the implementation of obligations from the Annual Programme of Work of the Government.
- Establishment of specific working bodies (commissions, councils etc) for monitoring of the implementation of the adopted Government policies as well as action plans for implementation of strategies in the fields of special importance; and examination of reports which present the state o play, assessment and proposal of measures that these bodies, in accordance with the decision on their establishment, regularly submit to the Government (usually twice a year).

The Government shall abrogate a regulation of a ministry which contradicts with government regulations and which violate freedoms and rights of natural and legal persons and revoke a regulation of a ministry which contradicts a regulation of the Government. A proposal for abrogation or revoking of a regulation can be submitted by the Prime Minister or a Member of

Government before the Government acquires opinions of the ministry whose regulation has been proposed for abrogation or revoking.

21. What is the current structure of local self-government?

The Constitution of Montenegro (Official Gazette of Montenegro 1/07) stipulates that: the right to local self-government includes the right of citizens and local self-government bodies to regulate and manage certain public and other affairs on the basis of their own responsibility and in the interest of local population (Article 113 item 2); the basic form of local self-government is a municipality, while there can be other forms of local self-government (article 114); the Capital of Montenegro is Podgorica and the Royal Capital is Cetinje (Article 5).

The Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 i 13/06), stipulates that: local self-government includes the right of citizens and bodies of local self-government to organise and manage certain public and other affairs that fall within their purview on the basis of their own responsibility and in the interest of local population (Article 1); local self-government is achieved through municipalities, the Capital City and the Royal Capital (Article 2); local self-government is achieved on the basis of principles of democracy, decentralisation, depoliticization, autonomy, legality, professionalism, efficiency of the bodies of local self-government and cooperation between the state and municipality (Article3); local population achieve their needs of direct and common interest in a municipality, while local communities serve as the place where conditions for a more efficient work and fulfilment of needs of local population are met (Article 4).

Besides the Capital City and the Royal Capital, local self-government in Montenegro is organised in 19 municipalities: Municipality of Andrijevica, Municipality of Bar, Municipality of Berane, Municipality of Bijelo Polje, Municipality of Budva, Municipality of Danilovgrad, Municipality of Žabljak, Municipality of Kotor, Municipality of Kolašin, Municipality of Mojkovac, Municipality of Nikšić, Municipality of Plav, Municipality of Plužine, Municipality of Pljevlja, Municipality of Rožaje, Municipality of Tivat, Municipality of Ulcinj, Municipality of Herceg-Novi, Municipality of Šavnik.

The municipality performs the affairs that fall within its purview through its bodies, bodies of local community self-government and public services pursuant to the law, municipal charter and other acts. Citizens take part in the decision making on their own needs and interests directly and through freely elected representatives in the local self-government bodies. Bodies of local self-government ensure equal protection of rights and legally based legislative interests of local population and legal persons in the performance of their affairs.

The municipality is autonomous in performance of the affairs of local self-government and its rights cannot be taken away or limited by state bodies' acts except in the cases and under conditions stipulated by the law in accordance with the Constitution.

The municipality possesses property and its own revenues. The municipality is autonomous in disposition of property and revenues pursuant to the law.

The structure of local self-government bodies in Montenegro is made of: representative and executive bodies. The representative bodies are: Municipal Assembly, Capital City Assembly and Royal Capital Assembly. The executive bodies are: the President of Municipality, the Mayor of the Capital City and the Mayor of the Royal Capital.

Assembly is a representative body of local self-government and it is elected by citizens on the basis of free, general, equal and direct electoral right pursuant to the law. An assembly is elected for a period of four years. It consists of thirty elected members and one more member for each 5,000 voters. In order to have a more efficient and rational performance of affairs that fall within the purview of a municipality, committees and councils are set up as permanent working bodies. Commissions can be also set up as interim working bodies.

The municipality has a President and can have a Secretary.

The President of Assembly is elected from the members of assembly on the proposal of one third of members. It is elected by majority votes of the overall number of assembly members. The term-in-office of the President of Assembly is the same as the term of Assembly. The Secretary of Assembly is appointed by Assembly on the proposal of the President of Assembly. The term-in-office of the Secretary of Assembly is the same as the term of Assembly.

The President of Municipality, the Mayor of the Capital City and the Mayor of the Royal Capital represent the executive bodies of local self-government. The President of Municipality is elected for a term of five years and it can be elected to this function with a two terms limit.

The municipality can have one or more Deputy Presidents. Deputy Presidents are appointed and dismisses by the President of Municipality and their term is the same as the term of the President of Municipality. In the case that a Deputy President has not been appointed, the deputy of the President of Municipality is the Chief Administrator.

Various bodies of local self-government are set for the performance of administrative affairs: secretariats, administrations, directorates, bureaus and similar bodies. The Communal Police, specific services and centres are set up for the performance of specific affairs. The President of Municipality can decide to set up agencies for the performance of affairs that call for specific expert knowledge and autonomy in their work.

The Chief Administrator manages and coordinates the local administration. It is appointed and dismissed by the President of Municipality. The Chief Administrator is accountable for its work and the work of the bodies of local administration to the President of Municipality and the Municipal Assembly.

The head of administrative body manages the work of bodies of local administration. The head of administrative body is appointed and dismissed by the Chief Administrator with the approval of the President of Municipality. The head of administrative body is accountable for its work to the Chief Administrator and the President of Municipality.

The municipality can have a Manager. The Manager takes part in the drafting of development programmes, proposes projects in accordance with adopted development programme and takes care of their implementation. The Manager is appointed and dismissed by the President of Municipality and it is accountable for its work to the President of Municipality.

The municipality has a service which performs communal control (the Communal Police). The control over the legality and appropriateness of the work of the Communal Police is performed by the Chief Administrator.

The municipality has its protection service. The control over the legality and appropriateness of the work of the protection service is performed by the President of Municipality.

A local coordination centre can be established by more territorially linked local communities that are bound to work together for achieving common development and economic aims. This is done in order to fulfil common needs and interests of citizens in the fields of: urban planning, accommodation, consumer protection, culture, sport, environmental protection and improvement as well as other areas of life and work.

Municipal assemblies can set up an inter-municipal association for the reasons of common, economical and efficient performance of administrative and public service affairs.

Municipalities and associations can freely cooperate with local unions and associations of other countries, within their competences, in order to achieve common interests as well as to associate into regional and international organisations of local government.

The positions of the Capital City Assembly, Mayor of the Capital City, Royal Capital Assembly and the Mayor of the Royal Capital as well as other issues are regulated by specific laws: the Law on the Capital City (Official Gazette of Montenegro 65/05) and the Law on the Royal Capital (Official Gazette of Montenegro 47/08).

The Law on the Capital City regulates the manner of accomplishment of local self-government in Podgorica, which is the Capital City and administrative centre of Montenegro.

The bodies of the Capital City are: the Assembly of the Capital City and the Mayor of the Capital City.

The Assembly is a representative body of the Capital City. Its term is four years and it has a president and a secretary.

The Mayor of the Capital City is an executive body of the Capital City. The Mayor can have one or more deputies. The Deputy Mayor is appointed and dismissed by the Mayor. The Mayor is elected to a five year term in conformity with the law. The term-in-office of the Deputy Mayor is the same as the term-in-office of the Mayor.

The Chief Administrator of the Capital City manages and coordinates the administration of the Capital City. The Chief Administrator organises the work of the administration of the Capital City and is responsible for the legality, efficiency and economicality of its work.

A town municipality is also established in order to create conditions for a more efficient and economical performance of affairs of the Capital City and to enable citizens to take part in the work of the Capital City. The Town Municipality performs specific affairs of the Capital City regulated by the law, the Capital City Charter and other acts of the Capital city.

There are two town municipalities on the territory of the Capital City: the Town Municipality of Golubovci and the Town Municipality of Tuzi.

The bodies of the Town Municipality are: the Assembly of the Town Municipality and the President of the Town Municipality. 20 members and one additional member per 5,000 voters are elected to the Town Municipality Assembly.

The Town Municipality Assembly adopts a Charter which comprehensively regulates the organisation of bodies of the Town Municipality, the manner of their work and decision making process, financing and other issues of importance for the functioning of the Town Municipality. The term-in-office of the President of the Town Municipality is the same as the term of the Town Municipality Assembly. If the President of the Town Municipality is absent or prevented from work, it is replaced by a member of the Town Municipality Assembly designated by the Town Municipality Assembly. The President of the Town Municipality cannot be a Member of the Town Municipality Assembly at the same time.

An integral body of Town Municipality's administration is set up in order to perform the affairs of local administration. The Secretary of Town Municipality's local administration manages the local administration of the Town Municipality. It is appointed by the President of the Town Municipality and it answers to the President of the Town Municipality for its work.

The Law on the Royal Capital stipulates that the Royal Capital is the historical, cultural and spiritual centre of Montenegro. The bodies of the Royal Capital are the Assembly of the Royal Capital and the Mayor of the Royal Capital.

The Ministry of Interior and Public Administration – Department of Local Self-Government, which is the competent body, prepared the Draft Law on the Amendments to the Law on Local Self-Government and Draft Law on the Territorial Organisation of Montenegro with a public debate programme. They were adopted by the Government of Montenegro on 30 July 2009. Adoption of these two laws was spelled out as one of the priorities in the National Programme for Integration of Montenegro in the European Union (NPI) for the period 2008-2012, as systemic laws in the field of local self-government.

The proposed amendments to the Law on Local Self-Government align certain provisions with the Constitution of Montenegro and the European Charter of Local Self-Government (Official Gazette of Montenegro 5/08). They also specify the competences of municipalities, define the issue of election of the President of Municipality, start and duration of the term-in-office of the President of Municipality, start of the term-in-office of the Mayor, competences of the Chief Administrator, heads of local administration bodies, establishment and the work of local community centre as well as other issues of importance for the accomplishment of local self-government.

The Draft Law on Territorial Organisation of Montenegro proposes that the current territorial organisation of Montenegro of 19 municipalities, the Capital City of Podgorica and the Royal

Capital of Cetinje is to be kept. It also stipulates conditions, establishment procedure, abolishment, binding and changes of municipal territory as well as other issues of importance for the territorial organisation of Montenegro.

22. Is there an association of municipalities and which are its functions and its administrative capacity?

The Association of Municipalities of Montenegro was established in 1972 as a union of municipalities of Montenegro. The Association was set up as a non-governmental organisation of all local communities in Montenegro in 2001. Its goals being to represent interests of municipalities before central authorities, assist municipalities in developing local self-government and international cooperation. After the Law on Local Self-Government was adopted in 2003 (Official Gazette of Montenegro 42/03, 28/04, 75/05 and 13/06), the Association was registered as a national association of local as communities of Montenegro, based on the principles of voluntarism and solidarity in order to perform affairs of common interest for its members.

The mission of the Association of Municipalities of Montenegro, being the national association of local governments, is to provide services to its members, represent their interests and manage relations and cooperation with public bodies, other national associations and international organisations thus becoming a true representative of decentralised, depoliticised and democratic local self-government able to perform its affairs in a legal, efficient and economical manner and in the interest of citizens.

The goals of the Association are:

- enhancement, development and protection of the local self-government system;
- representation of interests of local communities before central authorities;
- representation of interest of local communities before international organisations and local government associations;
- fulfilment of other needs and achievement of interests of local communities in accordance with municipal charters.

The activities of the Association are:

- development and enhancement of legal system and the position of local self-government;
- improvement and development of communal (the sectors of water, energy, transport…) as well as accommodation sector, spatial planning, construction, transport, road maintenance, industrial and non-industrial activities and other areas that fall within the purview of local self-government;
- accomplishment of mutual cooperation of local communities in order to achieve interests common for local population;
- representation of common interests of local communities before the bodies of Montenegro and other national and international bodies;
- participation in debates and provision of opinions and proposals on laws and other regulations of importance for local population;
- cooperation with international organisations for local self-government and other international organisations;
- international cooperation with local communities of other countries and regions;
- development and enhancement of education and culture of citizens and local self-government employees;
- publishing;
- performance of other affairs of interest for the members of the Association.

Administrative capacities

The bodies of the Association are: the Assembly of the Association, the Steering Board and the Monitoring Board.

The Association Assembly is made of 42 members: 19 Presidents of Municipalities, the Mayor of the Capital City, the Mayor of the Royal Capital, 19 Presidents of Municipal Assemblies, the President of the Capital City Assembly and the President of the Royal Capital Assembly.

The Steering Board is made of 11 presidents of municipalities/mayors.

The Monitoring Board is made of three members elected from the members of the Assembly of the Association of Municipalities.

The Working bodies of the Association are:

- the Commission for International Cooperation (made of seven presidents of municipalities/mayors);
- The Commission for Local Self-Government System Development (made of seven representatives of local self-governments);
- The Commission for Local Self-Government Financing (made of seven representatives of local self-governments);
- The Commission for Spatial Planning and Communal Affairs (made of seven representatives of local self-governments).

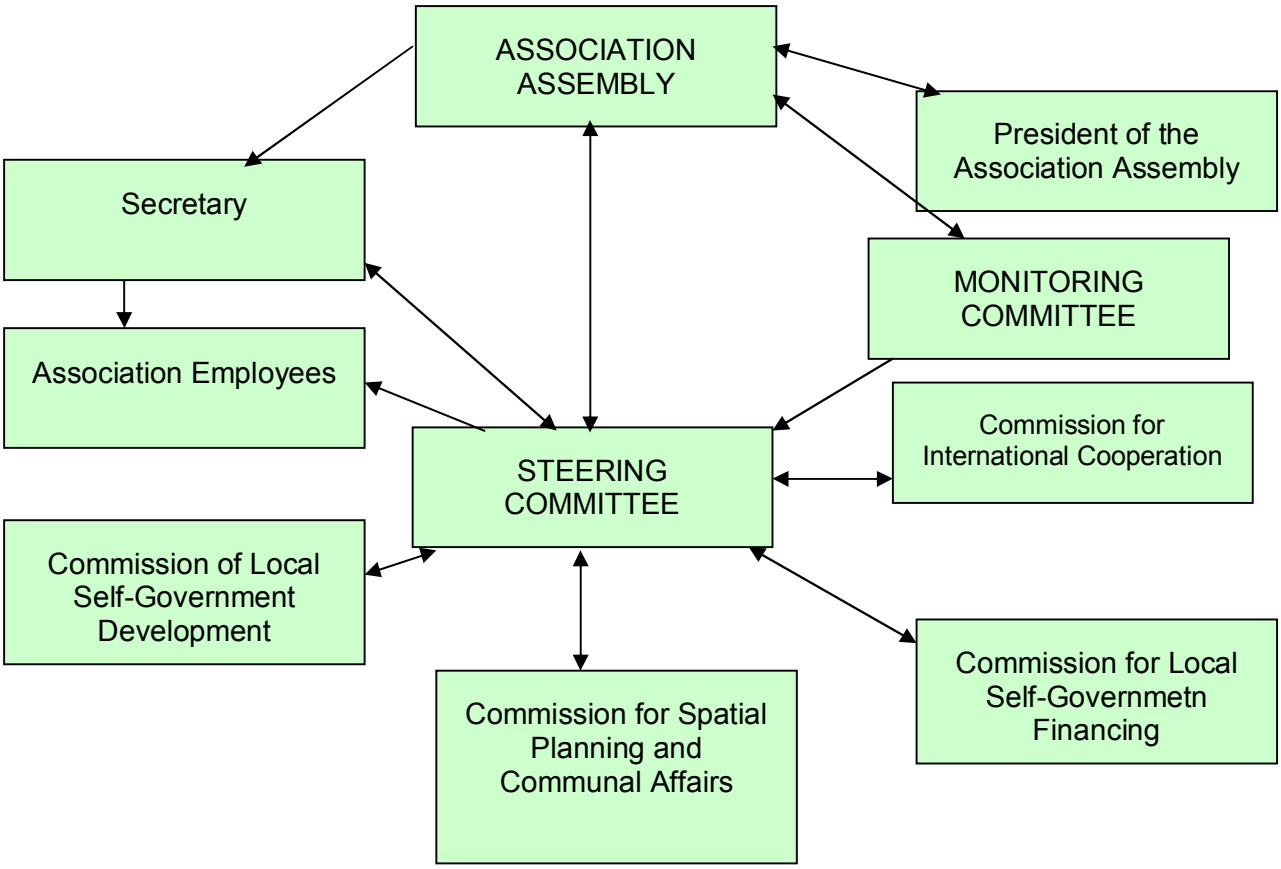
The Association' Professional Service employs:

1. Secretary of the Association,
2. Assistant Secretary of the Association,
3. Independent Adviser I for the local self-government system;
4. Independent Adviser I for international cooperation;
5. Independent Adviser II for local self-government financing;
6. Independent Adviser II for spatial planning and water, energy, transport and postal services;
7. Employee VI for administrative and technical affairs;
8. Employee for auxiliary technical affairs.

The Act on the Organisation and the Systematisation of the Professional Service also entails the following work posts:

1. Head of the NTS Unit (Unit for human resources management and development);
2. Independent Adviser II for human resources development;
3. Independent Adviser II for public relations and publishing;
4. Employee III for financial and material affairs.

The mentioned work posts shall be filled in accordance with the National Training Strategy (Annex 10) and the Action Plan for its implementation as well as the financial and office space capacities of the Association of Municipalities.



On the basis of the presented organisational structure, it can be concluded that the Association of Municipalities of Montenegro possesses administrative capacities which enable the implementation of goals defined by the Statute and other acts.

23. Is there a clear delimitation of powers between the central and the local government level? Explain.

The Montenegrin system sets a clear delimitation of powers between the central and the local government level.

The Constitution of Montenegro (Official Gazette of Montenegro 1/07): guarantees the right to local self-government (Article 22); certain affairs of public administration can be transferred to local self-government or other legal person and certain affairs of public administration can be delegated to local self-government or other legal person (Article 112); the municipality has the status of legal person (Article 115); the municipality has property, the municipality is financed from it own revenues and state assets, the municipality has a budget (Article 116); the municipality is autonomous in exercising its competences, the Government of Montenegro can dissolve the Municipal Assembly i. e. dismiss the President of Municipality only if the Municipal Assembly, that is, the President of the Municipality, fail to perform the duties thereof for a period longer than six months (Article 117).

The Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) (Annex 6) stipulates that the municipality is autonomous in performing affairs of local self-government and that its rights cannot be removed or limited by state bodies' acts except in the cases and under conditions stipulated by the law in accordance with the Constitution; the municipality possesses property and its own revenues. It is autonomous in disposition of property and incomes pursuant to the law (Article 9).

The municipality performs affairs of local self-government of direct and common interest for local population. The municipality performs affairs conferred or entrusted by an act of Government. The

municipality regulates its own affairs through its Law and Charter. The municipality can also perform other affairs of interest for local population which are not in the competence of state bodies or other bodies and organisations.

In relation to municipality task, in conformity with the law and other regulations, the municipality adopts:

- development plans and programmes;
- construction land settlement programmes;
- spatial and urban plans;
- Budget and budget balance sheets;
- capital improvement plans and investment policy;
- plans and programmes in particular administrative fields in conformity with special laws;
- programmes of environmental development and protection.

The municipality, in conformity with law, regulates and provides:

- conditions for performance and development of communal services;
- conditions for entrepreneurship development;
- performance of affairs of settlement, use and protection of construction sites;
- use of business space;
- conditions for natural heritage preservations and protection;
- social protection related to home care and home assistance to the elderly and persons with disabilities;
- Housing for persons with social needs and other types of social protection;
- child welfare related to recreation of children, accommodation and nutrition as well as other additional types of child welfare;
- the conditions for preservation, use, management and improvement of areas of medicinal nature;
- public transportation of passengers in local transport;
- affairs of establishing, collecting and controlling local public revenues;
- relations in the field of housing, creation of conditions for the maintenance and protection of blocks of flats and protection of condominium ownership rights
- conditions for constructing and using facilities;
- conditions for providing information to the local population;
- conditions for protection from natural disasters, fires, explosions, incidents and other accidents and emergencies and creates conditions for their prevention;
- conditions for improvement of sport and physical education, recreation for children, youth and adults, construction and maintenance of physical education facilities and development of inter-municipal sports co-operation;
- relations concerning the construction and installation of temporary and other facilities;
- conditions for protection of monuments of local importance;
- noise supervision and protection;
- conditions for development of librarianship and archives of local interest;
- conditions for the development of publishing;
- conditions for line shipping on its territory;

- working time and conditions for work of facilities providing services to citizens;
- conditions for performing taxi transportation;
- conditions for organising public fairs of local significance.

Within its primary jurisdiction, the Municipality also performs the following affairs:

- Takes care of eroding areas protection;
- Determines public interest for expropriation of real estate for local needs;
- Manages, disposes and protects local property;
- Exercises inspection supervision;
- Prescribes offences for violation of its regulations and initiates misdemeanour procedures;
- Organises the provision of legal aid to citizens;
- Keeps records on population, election rolls and other records, in conformity with the law; provides water management conditions, water management consents, and water management permits;
- Keeps records of community and sewage effluents, users and polluters of water management facilities and installations and other affairs;
- Sets up public acknowledgements and awards;
- Decides on rights and obligations of citizens in task that fall within its purview;
- Takes care of certain needs of citizens in other fields of direct interest to them, too;
- Performs other affairs in accordance with the needs and interests of the local population.

For the purpose of performing affairs of direct interest for the local population, the Municipality:

- sets up local administration bodies;
- sets up public services in the field of tourism, education, culture, physical education and sport, technology culture, social and child welfare, employment, primary health care as well as in other fields;

The manner and conditions of the performance of municipal affairs are done in accordance with possibilities, interests and needs of the local population.

Certain affairs that fall within the purview of the bodies of public administration can be transferred to the municipality if it provides for their more efficient and economical performance. The Government can delegate certain affairs that fall within the purview of the bodies of public administration to the municipality by a regulation. The law that stipulates the transfer or affairs i. e. the regulation of the Government that regulates the delegating of affairs also regulate the manner of their financing. These conditions are regulated by the Law on Public Administration (Official Gazette of the Republic of Montenegro 38/03 and the Official Gazette of Montenegro 22/08) (Annex 8).

The Law on Local Self-Government Financing (Official Gazette of the Republic of Montenegro 42/03 and 44/03 and the Official Gazette of Montenegro 5/08 and 51/08) (Annex 7) regulates the sources of financial means, the manner of financial settlement and use of conditional subsidies as well as the manner of financing of local self-government affairs as stipulated by the Constitution, the law and other regulations.

Means for financing of local self-government affairs are secured through the municipal budget with which the municipality can independently dispose with. Financial means for transferred and delegated affairs are secured through the state budget to the municipality in conformity with a regulation on transfer i. e. delegating of these affairs. The municipality collects revenues from its own sources, common revenues, the Equalisation Fund and the Budget of Montenegro.

24. Which administrative and/or judicial structures at national level are responsible for supervising the local self-government? Has there been any strengthening of these structures recently?

The Constitution of Montenegro (Official Gazette of Montenegro 1/07) stipulates that the municipality is autonomous in the performance of its affairs (Article 117).

New concept of local self-government pays special attention to relations between the bodies of local self-government and the state. The basic characteristic of this concept is mutual cooperation, but it is also supervision by state bodies over the legality of work and monitoring of enforcement of certain legal solutions by local self-government bodies.

To this goal, the monitoring of local self-government, when it comes to the enforcement of legal solutions and the implementation of adopted plans and programmes of work is done by: the Government of Montenegro and respective ministries under their competences, the Coordination Committee for the Reform of Local Self-Government, the Ministry of Interior and Public Administration and the Association of Municipalities of Montenegro.

The Government shall be entitled, pending a decision of the Constitutional Court, to suspend from execution a regulation or general act of the Assembly or the Mayor if it estimates that such regulation or general act is not in accordance with the Constitution or that it restricts freedoms, rights and duties of citizens as prescribed by the Constitution and laws. When a regulation or general act is suspended from execution, the Government shall initiate proceedings before the Constitutional Court, without delay and within eight days at the latest. This is stipulated in Article 124 of the Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) (Annex 6).

In accordance with Article 117 item 2 of the Constitution of Montenegro, the Government may dissolve the Municipal Assembly, that is, dismiss the President of the Municipality from duty, only if the Municipal Assembly, that is, the President of the Municipality, fails to perform the duties thereof for a period longer than six months. In the case of dissolving of the Municipal Assembly, the President of the Municipality calls for elections within 15 from the date the dissolution became effective, which is stipulated in provisions of Article 125 and 125 of the Law on Local Self-Government.

The Government of Montenegro adopted the Decision (Official Gazette of the Republic of Montenegro14/07, 22/07 and the Official Gazette of Montenegro 53/09) on the Establishment of the Coordination Committee for the Reform of Local Self-Government. The Coordination team is a national body which: defines guidelines and the direction of the decentralisation process, promotes coordination of activities among all stakeholders of the decentralisation reform; stimulates cooperation among state bodies, municipalities, civil sector, international organisations and other stakeholders; monitors the enforcement of certain legal solutions in the field of local self-government; assesses the progress of the decentralisation reform; proposes concrete activities aiming at directing the reform; evaluates the effects of adopted laws and other acts on decentralisation; defines obstacles in the enforcement of laws and other acts and provides concrete proposals for removing the defined obstacles; examines all other issues related to the decentralisation reform in order to improve the implementation of the Strategy of Administrative Reform 2002-2009 and the Programme of Better Local Self-Government in Montenegro.

The Coordination Committee for the Reform of Local Self-Government is made of five Ministers, Assistant Minister of Interior and Public Administration for Local Self-Government and five representatives of the Association of Municipalities of Montenegro (the Mayor of the Capital City, three Presidents of Municipalities and the Secretary of the Association of Municipalities of Montenegro). The Minister of Interior and Public Administration chairs the Coordination Committee.

In accordance with the Decree on the Organisation and the Manner of Work of Public Administration, the Ministry of Interior and Public Administration, among other things, performs the affairs of: organisation and purview of local self-government, functioning and application of regulations from the field of local self-government under the competence of this Ministry, territorial organisation of local self-government, international cooperation of local self-government units with

local self-government units of other states, cooperation with international organisations and specialised bodies, application of international treaties related to local self-government, providing opinions on laws, other regulations or general acts regulating the system of state bodies and local self-government, as well as law provisions regulating special administrative procedure. The Ministry has a Department for Local Self-Government with competences regulated by the Rulebook on Internal Organisation and Systematisation.

The Association of Municipalities of Montenegro, being the national association of local governments of Montenegro, represents the interests of municipalities before central authorities in order to assist municipalities in the development of local self-government and international cooperation. All local self-government units are represented in the Association of Municipalities i. e. in its bodies, on the basis of decision of Municipal Assemblies. The Association of Municipalities works on the improvement and development of the system of local self-government, represents the interests of municipalities before central authorities, works on the development of local democracy and fulfilment of common interests of local self-government units, works on the enhancement of organisation, work and functioning of local self-government, develops cooperation with international organisations and fulfils other needs and interests of local communities in conformity with its Charter.

Ministries and other administration bodies exercise supervision over the enforcement of laws under their competence and have supervision competence over the bodies of local self-government in relation to affairs transferred and delegated to local self-government. As stipulated by the Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06), administration body controls the work of bodies in the performance of vested and delegated affairs and has the right and obligation to:

- give consent to all regulations and acts related to the performance of vested and delegated affairs;
- give consent to the organisation of work and conditions of performance of vested and delegated affairs;
- provide obligatory instructions for the performance of vested and delegated affairs, including the provision of expert assistance;
- warn the body in written about not performing vested and delegated affairs and instruct it to ensure their performance in a defined period of time;
- warn the body in written and defines the deadline for removing irregularities when it determines that delegated or vested affairs are not performed in a legal manner, properly and timely,
- take responsibility measures.

Pursuant to Article 4 of the Law on the State Audit Institution (the Official Gazette of the Republic of Montenegro 28/04, 27/06 and 78/06 and the Official Gazette of Montenegro17/07), the State Audit Institution examines the regularity, effectiveness and efficiency of the work of local self-government. The State Audit Institution is the highest body of control of management of the budget and the property of state, units of local self-government, Funds, the Central Bank of Montenegro and other legal persons where the state participates in ownership. Auditing is done in order to secure crucial information on the management of budget, property and economic affairs, legal performance by the subject of auditing, through building their capacities for successful accomplishments of affairs and prevention of wrongful performance.

The Ombudsman, pursuant to the Law on the Ombudsman (Official Gazette of the Republic of Montenegro 41/03), protects human rights and freedoms guaranteed by the Constitution, the law, ratified international treaties on human rights and generally accepted rules of international law when they become violated by an act, action or non-action of local self-government bodies. In this context, the Ombudsman exercises the supervision over the work of local self-government bodies, particularly in relation to the lack of efficiency in their work when the rights and freedoms of citizens are violated.

Besides administrative bodies, judicial bodies are also competent for supervision and taking decisions on issues treating local self-government. When it comes to local self-government regulations, the supervision over the constitutionality and legality is exercised by the Constitutional Court in constitutional-court procedures. When ti comes to the legality of final administrative and other acts of local self-government bodies, judicial supervision is exercised by the Administrative Court in administrative dispute procedures. In situations related to acts of the law on obligations, property law or a similar law, the supervision is exercised by regular courts.

Measures and activities of institution building and administration capacities strengthening are implemented in continuity. The Department for Local Self-Government in the Ministry of Interior and Public Administration increased the number of employees in order to draft and enforce legislative framework for further development of the decentralisation process and local self-government reform. Furthermore, the Association of Municipalities of Montenegro has adopted a new Rulebook on Organisation and Systematisation of the Professional Service of the Association of Municipalities of Montenegro which increases the number of employees in the Association of Municipalities for the sake of better implementation of the National Training Strategy (Annex 10) and further strengthening of local self-government administrative capacities.

25. Is there a detailed plan for transfer of powers to local governments? Please provide a description of progress to date and plans for further decentralisation, where appropriate.

The general state of public administration in the time when local self-government was being introduced in 1991 was that:

- the public administration was unified and fully centralised;
- the territorial organisation had been preserved since the introduction of the community system in 1960, which relied on the obsolete community system with a huge excess number of employees in various administrative bodies, which had an effect on the volume of public expenditure and prevented an efficient performance of affairs within the purview of local self-government bodies;
- the system of financing of local communities was not able to ensure the development of community activity or to answer the basic needs of citizens for the affairs under their competence.

The process of local self-government development was carried on through the adoption of the 1992 Constitution, the Law on Transfer of Affairs of Public Administration to Local Self-Government Bodies, the Decree of the Government of the Republic of Montenegro on Delegating the Affairs of Public Administration to Local Self-Government, the 1993 Law on the Royal Capital, and particularly through the amendments of the 1995 Law on Local Self-Government. There has been a number of noteworthy changes in the system of local self-government which are characterised by: the change of constitutional and legal position of local self-government, decentralisation of powers, further affirmation of the autonomy principle of local communities, organisations of local self-government based on the principle of division of powers etc.

The orientation of the Government of Montenegro, in accordance with the Strategy of Administrative Reform of Montenegro 2002-2009 is to ensure democratisation, decentralised and professional system of local self-government that shall use the practice of good local governance for citizens and with the participation of citizens and that shall improve the possibilities for local, economic and cultural development and healthy business environment. The main goal of the Strategy of Administrative Reform of Montenegro 2002-2009 was to create a comprehensive strategy of decentralisation based on clear understanding of local and central authorities that involve all relevant stakeholders (the Government, the Parliament, local authorities etc).

The Strategy of Administrative Reform of Montenegro 2002-2009 of March 2003 entails that local self-government has to become an equal partner in efforts invested in the modernisation of administration. This comes as a necessity of connectedness of systems of public administration

and local self-government since it deals with management of public affairs on different levels and by various stakeholders.

The Strategy has been recognised as the key element of stability and sustainability of development by all state bodies. To this goal, the Government decisions established coordination bodies for monitoring the decentralisation and evaluation of the process. These bodies are made of representatives of the Government, the Parliament and local self-government. Joint and expert groups and working teams have been set up with the aim to draft an analysis on local self-government affairs, analysis on functioning and analysis on local self-government financing. The mentioned analyses have indicated the measures to be taken in certain administrative areas and which sectoral laws needed to be changed as well. To this avail, as a priority, it has been suggested to draft 17 laws in the field of property-legal relations, information, status law, ecology, environmental protection, urban planning etc.

In order to attain these goals, the following activities have been envisaged: studying the regional organisation of the European Union and the local self-government system, its Member States and enabling direct relations and communication among local self-government units. The process of enhancement and further development of local self-government also entails the upgrade of local self-government system, introduction and transfer of functions onto local self-government and upgrade of local self-government financing system, regulation of relations between state bodies and local self-government bodies through delimitation of competences, enhancement of the system of control of legality and quality of vested and delegated task and upgrade of the system of legal protection of local self-government rights in relation to the state. Furthermore, it is foreseen to conduct modernisation of management on local level through the creation of team networks, as well as to introduce the system of training of employees on local level and IT performance of the system of local self-government.

The Government of Montenegro adopted the Programme of Work for a Better Local Self-Government on 10 February 2005. This document entails the activities as under: legislative and institutional framework, supervision, professional structure of elected and appointed employees, institutional dialogue, democratic participation of citizens in local life, leadership and strategic dealings, local employees training, local self-government financing, upgrade of local self-government in conformity with the European Charter of Local Self-Government as well as the EU Acquis, enforcement of regulations in order to ensure democratic, decentralised, transparent, reliable and efficient system of local self-government.

The Agenda of Economic reforms of the Government of Montenegro deals with local self-government in a separate chapter which defines the goal of the reform. This goal consists of ensuring democratic, decentralised, transparent, reliable and efficient system of local self-government in the service of citizens' needs and provides opportunities for local economic development.

In accordance with the tasks from the Strategy of Administrative Reform in the part related to legislative activity of the local self-government system, the following laws have been adopted:

- The Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) (Annex 6), as a systemic law which set up the system of local self-government to the greatest extent in compliance with the European Charter of Local Self-Government and adopted standards of the European Communities since every citizen has become the principal subject in local community decision taking when it comes to rights and responsibilities in conformity with legal authorisations. This law has also incorporated the principles from the European Charter of Local Self-Government related to decentralisation, democratisation, subsidiarity, equalisation of hierarchy between central and local bodies, the principle of self-organisation and the principle of sustainable development. The following principles have also been elaborated in accordance with the principles of the European Charter of Local Self-Government: delimitation of functions of legislative and executive power, individualisation of responsibility of representative bodies, executive and local administration body and responsibility of local functionaries and head of local administration bodies thus setting up legal conditions for a professional, depoliticised and efficient local self-government.

- The Law on Financing of Local Self-Government (the Official Gazette of the Republic of Montenegro 42/03 and 44/03 and the Official Gazette of Montenegro 5/08 and 51/08) (Annex 7) the basic solutions of which have been in force since 1 January 2004, which significantly contributed to a more improved system of local self-government financing. Legal solutions have been to a greater part aligned with the European Charter of Local Self-Government which implies that local self-government has revenues compatible with its responsibilities. The mentioned Law was amended in late 2007 mainly to accommodate the improvement of the methodology for the distribution of financial means from the Equalisation Fund as well the increase of the volume of financial means from the Equalisation Fund, which should contribute to a better financial stability of the budget of less developed municipalities in the future.
- The Law on the Election of the President of the Municipality (the Official Gazette of the Republic of Montenegro 42/03) regulates the election of the President of the Municipality, being an executive office holder, by citizens through direct and secret voting, for a period of five years. The basic principles of this Law are founded on the principles regulated in the Law on Local Self-Government in relation to the delimitation of competences of the Assembly, being a representative body of citizens, which performs legislative affairs, and the President of the Municipality, which performs executive affairs.
- The Law on the Capital City (the Official Gazette of the Republic of Montenegro 65/05) regulated the decentralisation by establishing two town municipalities, being specific local self-government units, which have certain self-governing and administrative competences with their own bodies, as other municipalities. Town Municipalities organisationally belong to the Capital City and they have been set up in order to enhance the efficiency in providing services to citizens and their participation in the performance of certain affairs of the Capital City, which are of basically executive nature.
- The Law on the Royal Capital (the Official Gazette of Montenegro 47/08) regulated the issues specific for Cetinje, which is a historical, cultural and spiritual centre of Montenegro. Having in mind the importance of the Royal Capital, it is the obligation of the Parliament of Montenegro to have seats of certain public, scientific and cultural institutions in the Royal Capital, as well as of the Government of Montenegro to decide that seats of certain ministries and other bodies of administration be in the Royal Capital.

Legislative framework for further development of local self-government in Montenegro has been set up by the adoption of constitutional provisions of the 2007 Constitution of Montenegro, acceptance of principles of the European Charter of Local Self-Government and adoption of a number of systemic and material laws.

The Constitution of Montenegro created the preconditions for the development of local self-government i. e. its further decentralisation. It stipulates that certain affairs of public administration can be transferred to local self-government or another legal person and that certain public administration affairs can be delegated to local self-government or another legal person by means of Government's regulations (Article 112).

In regard to the forms of acts which are used vested affairs to local self-government this is done by law, while delegated affairs are regulated by a decree of the Government, which is preceded by a justifiability study, which, in accordance with the Law on Public Administration (the Official Gazette of the Republic of Montenegro38/03 and the Official Gazette of Montenegro 22/08) (Annex 8), contains:

- justification of delegating affairs;
- precise definition of delegated affairs;
- subject to which the affairs are delegated;
- positions and opinions of local self-government bodies, institutions and legal persons on possibilities and conditions of performance of delegated affairs;
- existence of conditions in relation to organisational, cadre, technical, financial and material issues;

- manner and conditions of financing delegated affairs performance;
- administration body controls whether the bodies that perform vested i. e. delegated affairs act in compliance with the law, warn the bodies when it discovers that they do not act in conformity with the law and propose measures to be taken by these bodies.

Decentralisation i. e. transfer of affairs from the state to local self-government is a general standard which is in accordance with the European Charter on Local Self-Government. The decentralisation and de-concentration are followed by control of legality of the work of local self-government units. The decentralisation is also followed by financial autonomy and increase of own sources of revenues which are the condition for setting up a real local self-government.

Besides the mentioned legislative acts, the Government of Montenegro adopted a Draft Law on Amendments to the Law on Local Self-Government and Draft Law on the Territorial Organisation of Montenegro on 30 July 2009.

The Draft Law on Amendments to the Law on Local Self-Government regulates issues related to harmonisation of the Law with the Constitution of Montenegro, principles of the European Charter or Local Self-Government, delimitation of competences of representative bodies, executive body and local administration body, as well as accountability of local functionaries, heads of local administration bodies and specifies other issues of importance for the functioning of local self-government, which creates legal conditions for professional an efficient local self-government, as a true service of citizens.

The Draft Law on the Territorial Organisation of Montenegro regulates the territorial organisation of local self-government units and, for the first time, defines criteria, conditions, manner and procedures for territorial changes.

The Coordination Committee for the Reform of Local Self-Government holds sessions at least once in three months to monitor the process of the reform, examines quarterly reports on the implementation of the Action Plan for the Reform of Local Self-Government for 2009 and by the end of the year submits a report on its work with the proposal of new annual action plan to the Government.

The Work Programme for the period June – December 2009 of the Government of Montenegro lists the discussion on the Information on the Implementation of the Reform of Public Administration and Local Self-Government (in the fourth quarter). This Information shall contain an analysis of the state of play and the functioning of public administration and local self-government, review of measures taken and results achieved in the reform process, analysis of needs, problems and directions of further reform as well as a proposal of measures, dynamics of the implementation in the next period and expected effects of their implementation.

26. Please elaborate on the issue of fiscal decentralisation. How are fiscal competences shared between central and local self-government in terms of ensuring that local governments have the funds needed to fulfil all their responsibilities? Have measures been taken to strengthen the financial management capacity of the municipalities? Explain. (Please see also question under Economic criteria.)

Local self-government reform, being an important part of the administration reform in Montenegro, started in late 2003 through the adoption of systemic laws regulating the functioning and financing of local self-government as under: the Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) (Annex 6) and the Law on Financing of Local Self-Government (the Official Gazette of the Republic of Montenegro 42/03 and 44/03 and the Official Gazette of Montenegro 5/08 and 51/08) (Annex 7). These laws represent the basis for the implementation of decentralisation in Montenegro. The goal of the reform is to build up a democratic, decentralised and professional system of local self-government that will use the practice of good local governance for citizens and with the participation of citizens and that will enable economic and cultural development of local self-government.

The provisions of the Law on local Self-Government regulate the fields where decentralisation can take place i. e. transfer of affairs from central to local government as the following ones: education, primary health care, social and child welfare, employment and other field in conformity with the law. Furthermore, pursuant to the provisions of this law, certain affairs that fall within the purview of public administration bodies can be delegated to municipalities in order to ensure a more efficient and economical performance of these affairs.

The process of decentralisation of affairs has been accompanied by fiscal decentralisation which is developed in several phases. It implies the setting up of municipality financing mechanisms that are transparent and based on real criteria and standards. The Law on Financing of Local Self-Government initiated the process of independent financing of reserved affairs of local self-government from its own resources (local taxes, taxes and compensations, revenues from selling property, donations etc), common taxes and compensations introduced by the State, the Equalisation Fund and state budget subsidies.

It is necessary to secure financial means for the performance of vested and delegated affairs. Pursuant to the provisions of the mentioned Law on Financing of Local Self-Government, financial means for the performance of vested and delegated affairs from certain ministries and other bodies of public administration are secured in the State Budget of Montenegro in accordance with the regulation on transferring or delegating these affairs.

27. Are the boundaries of the municipalities defined? Explain.

The boundaries of the municipalities are defined by a special law.

The Constitution of Montenegro (the Official Gazette of Montenegro 1/07) stipulates that the territory of Montenegro is integral and inalienable (Article 3) and that the basic body of local self-government is the municipality, while other forms of local self-government can be set up, too (Article 114).

The Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) stipulates that the municipality has its name and territory as defined by the law (Article 21).

The Law on the Division of the Socialist Republic of Montenegro into Municipalities (the Official Gazette of the People's Republic of Montenegro 10/60 and the Official Gazette of the Socialist Republic of Montenegro 6/65, 6/70, 45/90 and 23/95) stipulates that the boundaries of the municipalities are defined by the boundaries of places and autonomous settlements (Article 3 paragraph 1).

Pursuant to the Law on Settlements (the Official Gazette of the Socialist Republic of Montenegro 29/90, 48/91, 17/92, 27/94), the boundaries of settlement areas are defined by a decision of the Municipal Assembly. The municipalities adopted decisions on boundaries and names of settlements. Apart from adopting decisions, the municipalities made analyses on the names and boundaries of settlements in their own territory, which contain a detailed description of settlement boundaries. The mentioned documents define the boundaries of the municipalities at the same time.

On the basis of the provisions of the Constitution of Montenegro and by accepting the principles of the European Charter of Local Self-Government (the Official Gazette of Montenegro – International Treaties 5/08) and legal provisions, on 30 July 2009 the Government of Montenegro adopted the Draft Law on Territorial Organisation of Montenegro which regulates the mentioned issues.

Having regard to the fact that local self-government reform essentially transforms the organisation and competences of local self-government units and bodies in order to provide easier and more efficient servicing of the needs of local population, it is necessary to adopt a new Law on Territorial Organisation of Montenegro. This law should take into account all the specifics of local self-government units that have their characteristics essentially changed after the 1960 Law was

adopted and particularly after Montenegro regained its independence on the referendum of 21 May 2006 and the adoption of the Constitution in September 2007.

The Draft Law on Territorial Organisation of Montenegro envisages that the territory of the municipality, the Capital City and the Royal Capital is defined by that law and that the boundaries of local self-government units are defined by the boundaries of settlements. The Draft Law provides for starting points and prescribes procedures of territorial changes, which entails the setting up of a new municipality, dissolution or change of a municipal territory.

28. How is the state property, including real estate, distributed between central and local government? Which structures are responsible for the management of state property?

The state property is distributed between central and local government pursuant to the Law on State Property (the Official Gazette of Montenegro 21/09) (Annex 1).

This Law clearly delimitates the state property which falls under the rights and competences of either the State of local self-government. It also delimitates the state property which serves for the performance of functions of Montenegro and its bodies and public services, and local administration and its bodies and public services.

The goods in the disposition of the State are divided into three categories: natural wealth made of: ores, oil, gas, mineral and thermal waters, radio frequencies and numerations, internal sea waters and the territorial sea, sea-floor, seabed and subterranean, organic and non-organic wealth in them, reeves, alluvia, careenage, dams, bathing grounds, rocks, banks, cliffs, sea springs, springs and wells, shores and canals which belong to the state property, other natural wealth of importance for Montenegro as defined by the law;

the goods in general use made of: air space, roads and accompanying facilities, airports with accompanying infrastructure, railway infrastructure, ports, sea walls and moles, infrastructure facilities of importance for Montenegro, objects found through archaeological excavations, corridors and satellite orbits;

and other goods of common interest made of: forests, forest grounds and forest paths that belong to them owned by Montenegro and encompassed by special basis of ownership, national parks, thermal power stations with accompanying facilities, long distance power lines and power transformation stations, telecommunication facilities etc.

The Constitution of Montenegro (Article 116) stipulates that the municipality has property and that it can exercise certain property related competences over the state owned assets in conformity with the law.

In accordance with the Law on State Property, the goods in the disposition of local self-government can be divided into three categories: springs of waters and smaller water streams (which efflux and influx in the municipal territory) of local importance in conformity with the law, mineral raw materials (grit, sand and stone), river banks and lake shores in the framework of the general urban plan i. e. a detailed urban plan, urban project and local studies of locations belonging to the municipality and that had been adopted before this Law entered into force as well as other natural wealth of local significance defined by the law;

Local goods of common interest made of: waterway and sewage infrastructure of local importance, municipal roads (local and non-categorised) and accompanying facilities, streets in settlements, street lightning, public and green areas and town parks, graveyards, elevated and underground passages;

and other local goods of common interest made of: forest grounds and forests not encompassed by a special forest basis (meadows, pastures, boscages etc) and which are not included in the general urban plan i. e. detailed urban plans, urban projects or a local study of location belonging to the municipality and adopted before this Law entered into force; construction land belonging to the municipality, agricultural land belonging to the municipality in the framework of the general urban plan, detailed urban plan, urban project, local location study adopted before this Law entered

into force, water grounds of local interest belonging to the municipality, height points and tracks for electronic, telecommunication and radio-diffusion systems of local importance, recreation grounds, heating systems of local significance belonging to the municipality, municipal cultural monuments, sport and physical culture facilities with accompanying land in the possession of the municipality, parking lots, markets, public garages, archaeological localities of local significance in conformity with the law, facilities in the possession of the municipality in the area of sea wealth, other goods of general interest in conformity with the law.

Pursuant to the Constitution of Montenegro, Article 58, natural wealth and goods in general use are state owned, while goods of general interest and other state property can be privately owned.

The Law on State Property regulates the concept of the state property, rights, obligations and accountability of state bodies, local self-government bodies and public services set up by the state of Montenegro i. e. local self-government and other bodies and organisations which are beneficiaries of the budget or which manage the state property, in respect to disposition of, management, protection, supervisions, assessment, record keeping of items and other goods that are part of the state property.

The State of Montenegro is the owner or holder of the widest legal power over state property assets, which is defined by the Constitution.

The subjects of state ownership over the state property assets are holders of ownership rights.

The Law clearly defines the notions of disposition, use and management of the state property and conceptually delimitates them as well as clearly delimitates the state property over which Montenegro exercises its ownership rights and competences and the state property in municipal disposition.

Equally, the law clearly separates the state property used for exercising the functions of Montenegro and its bodies and public services on the one hand and the municipality and its bodies on the other hand.

The issue of exchange of state property between central and local government as well as mutual concessions of real estate necessary for achieving public interest has also been regulated.

The novelty in this Law is the establishment of an administrative body competent for care over legal, systematic and efficient record keeping of the state property - the Property Administration. The obligation of this body, in conformity with the law, is to keep integral records and the register of state property, to take care of tied handling of state property, of land registry affairs, plot distribution, delimitation, exchange, preparation of draft contracts and monitoring of their implementation, lease payments and other affairs related to the state property, secures conditions for property protection on the instruction of the Government of Montenegro and the Ministry of Finance as well as other affairs.

There were no directives envisaging the harmonisation of this law with the EU Acquis at the time when the Law on State Property was drafted.

29. Which administrative structures are responsible to carry out local-self government reform?

The reform of local self-government in Montenegro is aimed at further and full harmonisation of the national legislation with the EU Acquis, Council of Europe acts and ratified international treaties. A number of bodies and institutions plays an important role in the implementation of the local self-government. They take measures under their competence in order to have the process run in a smooth and efficient way.

The Parliament of Montenegro, being the highest legislative body, is competent, among other things, for adoption of laws and other regulations and general acts of importance for local self-government. The Parliament is competent for election legislation and its harmonisation with the Constitution of Montenegro.

The Government of Montenegro, through its ministries, has a leading role and responsibility in drafting an appropriate political and legal framework for the implementation of the local self-government reform.

The Coordination Committee for the Reform of Local Self-Government, established by the decision of the Government of Montenegro (the Official Gazette of the Republic of Montenegro 14 /07 i 22 /07 and the Official Gazette of Montenegro 53/09) monitors the decentralisation, coordination of activities in the process of local self-government reform, strengthening of the overall consistency of these activities and monitoring and achieving results in this field.

The Association of Municipalities of Montenegro represents interests of municipalities that set up the Association and that provide means for its work. The Bodies of the Association adopt work plans and programmes, appoint representatives of municipalities in the bodies and organs of the Association, as well as in bodies an organs that state bodies establish and supervise the work of the Association, too. The Association initiates changes in legislation to the Government in order to enhance local self-government as well as to amend certain sectoral laws of importance for the affairs that full within the purview of local self-government.

The Human Resources Administration has know how and expertise for the improvement and development of cadres in order to provide national level training services. This know how and expertise can be utilised by local self-government to provide assistance to ministries in order to achieve a more effective co-operation with local self-government units. The Human Resources Administration co-operates with the Association of Municipalities in the area of improvement of human resources systems which enhance the performance of local self-government. The Human Resources Administration can contribute to the creation of an environment which would provide for development training programmes to be planned and implemented according to needs and professional standards.

A National Training Council for Local Self-Government in Montenegro was constituted as one of the obligations stemming from the National Training Strategy for Local Self-Government in Montenegro (Annex 10). The National Council is made of functionaries from the Association of Municipalities of Montenegro, the Ministry of Interior and Public Administration and the Human Resource Administration. The President of the National Council is the President of the Assembly of the Association of Municipalities of Montenegro, according to his/her function.

Local authorities have key responsibility in the process of local self-government reform in Montenegro. Successful and efficient enforcement of laws, bylaws and acts of the Municipal Assembly contribute to the strengthening and development of local self-government. It affirms the right of citizens to take part in the performance of local self-government affairs which leads to an efficient administration close to citizens. In this way, local authorities represent one of the main pillars of the Montenegrin democratic system.

In order to strengthen local self-government, the municipality sets up a Council for Development and Protection of Local Self-Government. This is stipulated in Article 145 of the Law on Local Self-Government. The members of the Council are appointed by the Municipal Assembly from amongst distinguished and prominent citizens of the Municipality and experts in matters that are important for the local self-government. The Council is entitled to submit proposals to State bodies, local self-government bodies and public services with respect to improvement and development of local self-government, raising of the level of quality of public services, protection of rights and duties of municipalities as prescribed by the Constitution and law and protection of freedoms and rights of the local population.

Pursuant to the Law on the Capital City (the Official Gazette of Montenegro 65/05), the Mayor of the Capital City sets up the Council of the Mayor in order to examine issues of interest for the development of the Capital City. The Council of the Mayor is made of Presidents of Town Municipalities, the President of the Council for Development and Protection of Local Self-Government, representative of the Parliamentary Committee for Local Self-Government System and a number of businessmen, scientists and experts. The Council of the Mayor examines issues and submits proposals on: development programmes and projects, spatial and urban plans; budget and final balance sheet, general and other acts regulating the rights and obligations of citizens; reports on the work of local self-government bodies and public services and improvement and

development of public services, quality of public services and other issues of importance for the development of the Capital City.

The Law on the Royal Capital (the Official Gazette of Montenegro 47/08) prescribes that the Royal Capital has a Senate. The Senate is an advisory body constituted by an act of the Assembly of the Royal Capital for a period of four years. The Senate makes positions, submits proposals and opinions to state bodies and bodies of the Royal Capital on issues of importance for economic, cultural, historical, ecological, tourist, democratic and development of the Royal capital in other fields.

The Law provides for a possibility that municipalities can set up local coordination centres and inter-municipal associations as well as for joining regional and international organisations of local authorities.

30. Are municipalities consulted in any formal way in the context of preparation of legislation which will either affect them or where they will be involved in its implementation?

Municipalities are consulted directly and through the Association of Municipalities of Montenegro in the procedure of preparing laws, as it is prescribed and as a legal obligation.

The Law on local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) stipulates that when laws and regulations that define the status, rights, and duties of local self-government are being drafted, in particular in relation to activities that are regulated by the present law, the Municipality shall be entitled to express its view (Article 13).

Furthermore, the Municipality is entitled to formulate its opinion or launch an initiative before the competent State bodies in relation to issues that do not fall within its jurisdiction but may be of interest to local self-government. The competent State body is obliged to provide a reply to the Municipality.

When performing the affairs that fall within their purview, local self-government bodies:

- initiate with state bodies the procedure for defining the relations that are important for local self-government and undertake measures of importance for solving problems within the scope of rights and duties of local self-government;
- propose to state bodies to undertake actions concerning the development of the local self-government;
- request an opinion from competent state bodies on law enforcement of direct importance for the development and exercise of local self-government and for the work of local self-government bodies;
- participate in preparation of laws and other regulations the content of which is of interest for the exercise and development of local self-government.

When co-operating with local self-government bodies, state bodies:

- inform, on their own or by request, the bodies of local self-government on measures they take or intend to take for the enforcement of laws and other regulations for the purpose of the control of legality, occurrences that violate them and measures for their elimination, exercise of the rights of citizens to local self-government, as well as on other issues of direct interest for the exercise of local self-government and the work of its bodies;
- provide technical assistance to local self-government bodies in relation to execution of their affairs;
- request reports, facts and information about the status of affairs that fall under the scope of rights and duties of local self-government, as well as other issues important for the functioning of state bodies;

The Draft Law on the Amendments to the Law on Local Self-Government, adopted by the Government of Montenegro on 30 July 2009, complements the existing norm in the following

manner: when preparing laws and other acts regulating the status, rights and duties of local self-government, state bodies are obliged to submit drafts i. e. proposals of law and other acts to the municipality for opinion. The deadline for providing opinions cannot be less than 15 days from the day of submitting the act.

In this manner the obligations of central towards local authorities are more closely defined in the process of drafting new legal acts and the accepted principles of the European Charter of Local Self-Government are affirmed.

31. When the fiscal impact of the implementation of new legislation is prepared, is the impact on the budget of municipalities identified and taken into account? Explain.

While assessing the fiscal impact of new regulations (laws and bylaws), as well as amending the existing ones, the same procedure of the assessment of fiscal impact on the State Budget and state funds is valid. In accordance with the Instruction on the Assessment of Fiscal Impact on the Budget (the Official Gazette of the Republic of Montenegro 74/04 of 8 January 2004), the proposing body is obliged to submit the proposed act to the Ministry of Finance. This act has to be accompanied with a filled in form on fiscal impact on local self-government budget in the current and the next two fiscal years for opinion. The very form is identical to the form submitted during the procedure of assessment of fiscal impact on the State Budget and state funds. The Ministry of Finance shall not give a positive opinion if the assessment of fiscal impact has not been submitted along the act.

More detailed information are provided in the answer to question 7b of this Chapter.

Public Administration

32. Please provide a description of the structures and bodies of the state administration of Montenegro including independent agencies, specifying the source of their financing (state budget or other), their mission, where possible, an organisation chart, the number of their statutory positions and the number of employees and their functions.

Organization of State Administration

Montenegro is adjusting its institutional framework to the requirements of European Integration. New institutions, ministries, bodies within particular ministries, and specialized independent institutions have been established. The Government of Montenegro, as the bearer of executive powers, establishes the state administration bodies, organization and manner of operation of the state administration, and is responsible for the work of state administration bodies.

The activities of state administration are regulated under the Law on State Administration and are carried out by the ministries and other administration authorities.

Ministries and other administration authorities are established by the Decree on Organization and Manner of Operation of State Administration (Official Gazette of Montenegro 59/09).

The current organization of state administration includes: 17 ministries, 16 administrations, 2 secretariats, 10 institutes, 6 directorates and 2 agencies.

The **Ministries i**nclude: Ministry of Justice; Ministry of Interior and Public Administration; Ministry of Defense; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Education and Science; Ministry of Culture, Sports and Media; Ministry of Economy; Ministry of Maritime Affairs, Transportation and Telecommunication; Ministry of Agriculture, Forestry and Water Management; Ministry of Tourism; Ministry of Health; Ministry for Human and Minority Rights; Ministry for

Information Society; Ministry of Spatial Planning and Environmental Protection; Ministry of Labor and Social Welfare; and Ministry for European Integration (17).

Other administration bodies include: administrations, secretariats, institutions, directorates and agencies.

The **Administrations** include: Tax Administration; Real-Estate Administration; Customs Administration; Maritime Safety Administration; Port Administration; Veterinary Administration; Administration for Anti-Corruption Initiative; Administration for Prevention of Money Laundering and Financing Terrorism; Forest Administration; Water Administration; Human Resources Administration; Police Directorate; Administration for Protection of Competition; Administration for Games of Chance; Phytosanitary Administration; and Public Property Administration (16).

The **Secretariats** include: General Secretariat of the Government and the Secretariat for Legislation (2).

The **Institutes** include: Statistical Office; Hydrological and Meteorological Service; Seismological Institute; Institute for International, Scientific, Educational, Cultural and Technical Cooperation; Institute for Education; Institute for Execution of Criminal Sanctions; State Archives; Metrology Office; Intellectual Property Rights Office; and Refugee Care and Support Office . (10).

The **Directorates** include: Directorate for Public Works; Transport Directorate; Railway Directorate; Directorate for Public Procurement; Directorate for Development of Small and Medium-Sized Enterprises; Directorate for the Protection of Classified Data. (6).

The **Agencies** include: Tobacco Agency and Environmental Protection Agency. (2),

Particular activities of state administration are carried out by local government or other legal person when those are delegated to them by the law or regulation of the Government.

Following the Decree on groups of activities, criteria for internal organization and job descriptions, job nomenclature and overall number of employees in state administration bodies, the number and type of organizational units, total number of civil servant and state employee positions, number of civil servants and state employees in internal organizational units, i.e. out of internal organizational units, specifications for the performance of particular activities and tasks, and description of identified civil servant and state employee positions is regulated under the Act on Internal Organization and Job Descriptions. The Act on internal organization and job descriptions for state administration bodies is adopted by the Government, following the proposal of minister, i.e. head of administration authority.

Job descriptions of the abovementioned 53 state administration bodies include a total of 11,625 positions.*

The activities of state administration bodies are funded from the budget. The activities of state administration delegated to local government, i.e. legal entities performing public authority, are ensured in accordance with special laws.

The Scope of Work and Competencies of State Administration Bodies

Ministries are established for the performance of state administration activities for a single or several related administrative areas, depending on their nature, scope and importance, and the level of independence and responsibility for the performance of such activities. Ministries propose internal and foreign policies that are implemented through the development of strategies, projects, programmes and international documents, on the basis of: monitoring of implementation of laws and other regulations and assessment of actual situation; pursue of development policy including identification of development strategies and fostering of economic, social, cultural, ecological and overall social development; prepare draft laws and law proposals and other regulations and adopt secondary legislation; decide on administrative matters as the authorities of first instance when strictly authorized to do so by law, and also as the authorities of second instance; and perform administrative i.e. inspection supervision.

The ministries adopt Rulebooks, Orders and Instructions for the purpose of implementation of laws and other regulations. Particular provisions of laws and other regulations are developed in more detail by Rulebooks.

An Order orders the manner of acting in a specific situation of general relevance. Instructions regulate the manner of operation and performance of activities of state administration, local self-government and other legal persons while performing the activities that were delegated or devolved to them respectively.

Ministry is represented and headed by Minister. For own performance and the situation in the concerned administrative field, Minister is accountable to the Parliament of Montenegro and Prime Minister.

Each Ministry has a Secretary. Secretary is appointed and removed from office by the Government, following the Minister's proposal. Secretary of the Ministry coordinates the activities of organizational units within the Ministry, provides for the maintenance of relations and cooperation with administration authorities in relevant administrative areas that the Ministry was founded for, and other authorities, and is accountable to the Minister and the Government.

Minister may have one or more assistants. Assistant Minister is appointed and removed from office by the Government, following minister's proposal. Assistant Minister manages and organizes the activities of one or more sectors and is accountable to the Minister and the Government.

Other Administration Authorities

Administration authorities are established to carry out the laws and other regulations, administrative and professional activities in administrative areas for which the ministries are established and other areas where the scope and nature of activities require independent functioning.

Administrations are established for the performance of mostly administrative activities, primarily to carry out the laws and decide on the rights and obligations of legal entities, while the secretariats, institutions, directorates and agencies are established to carry out primarily professional and development-promotional activities.

Administration authorities have the capacity of a legal person and may, within their respective scopes of work, provide services to legal and natural persons in exchange for compensation. The revenues generated from such sources constitute the funds of the Budget of Montenegro.

An administration, institution, directorate or agency is headed by a director, while a secretariat is headed by a secretary. Director and secretary are appointed and removed from office by the Government, following the proposal of the line minister. For own performance, the work of the headed administration and the situation in the concerned area, director and secretary are accountable to the line minister and the Government.

Director and secretary may have one or more deputies. Deputy manages and organizes the work of one or more sectors, i.e. fields of activity, carries out the most complex activities of administration authority and is accountable for own performance to the director, i.e. secretary and the Government.

For the performance of legally stipulated activities within the scope of work of a state administration body, regional offices may be established outside of its registered office, in order to provide for a more rational, complete and efficient activity performance. Within regional offices, local offices, branches and subsidiaries may be set up where necessary to perform the activities in the territory of a single municipality.

Local Self-Government and Legal Persons with Public Authorities

Local self-government and legal persons, while executing the activities that were delegated i.e. devolved to them: decide on the rights and obligations of citizens, legal and other persons in administrative proceedings of the first instance; maintain records as stipulated by law and other regulations; issue certificates and perform other activities pursuant to the law.

President of Municipality, i.e. Mayor and directors of legal persons having public authorities, are responsible for lawful performance of the delegated state administration activities.

Particular activities of state administration are carried out by local self-government or another legal entity when such activities are delegated, that is devolved to them under the Government's regulation.

The Legal persons performing public authorities include: Broadcasting Agency; Energy Agency, Insurance Supervision Agency, Agency for Telecommunication, Agency for Civil Aviation, Securities Commission of Montenegro, Commission for Conflicts of Interest, Commission for Property Return and Compensation, Health Insurance Fund, Pension and Disability Insurance Fund, Employment Office, etc.

OVERVIEW OF INTERNAL ORGANISATIONAL UNITS AND REGIONAL OFFICES OF STATE ADMINISTRATION BODIES AND MINISTRIES

1. MINISTRY OF JUSTICE

1. SECTOR (2 DEPARTMENTS and1 TASK FORCE)
2. SECTOR (1 TASK FORCE)
3. CABINET
4. GENERAL AND FINANCIAL SERVICE

TOTAL: 2 SECTORS; 2 DEPARTMENTS; 2 TASK FORCES; 1 CABINET and 1 SERVICE.

2 MINISTRY OF INTERIOR AND PUBLIC ADMINISTRATION

1. SECTOR (4 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS and 3 TASK FORCES)
3. SECTOR (7 DEPARTMENTS)
4. SECTOR (3 DEPARTMENTS AND 1 TASK FORCE)
5. SECTOR (2 DEPARTMENTS)
6. DIVISION
7. INFORMATION TECHNOLOGY SERVICE (4 OFFICES)
8. SERVICE FOR COMMON AFFAIRS (5 OFFICES)
9. CABINET
10. REGIONAL OFFICE ININ PODGORICA (4 REGIONAL OFFICES; 3 BRANCHES; and 2 SUBSIDIARIES)
11. REGIONAL OFFICE ININ NIKŠIĆ (2 REGIONAL OFFICES and 2 BRANCHES)
12. REGIONAL OFFICE ININ BAR (2 REGIONAL OFFICES and 1 SUBSIDIARY)
13. REGIONAL OFFICE ININ HERCEG – NOVI (2 BRANCHES)
14. REGIONAL OFFICE ININ BERANE (3 BRANCHES and 1 SUBSIDIARY)
15. REGIONAL OFFICE ININ BIJELO POLJE (1 BRANCH)
16. REGIONAL OFFICE ININPLJEVLJA (1 BRANCH)
17. REGIONAL OFFICES FOR EMERGENCY SITUATIONS AND CIVIL SECURITY (7 FOREGOING REGIONAL OFFICES)

TOTAL: 5 SECTORS; 18 DEPARTMENTS; 4 TASK FORCES; 1 CABINET; 2 SERVICES; 1 DIVISION; 7 REGIONAL OFFICES; 6 REGIONAL OFFICES; 14 BRANCHES; and 4 SUBSIDIARIES.

3. MINISTRY OF DEFENCE

1. SECTOR (4 DEPARTMENTS)
2. SECTOR (4 DEPARTMENTS)
3. SECTOR (5 DEPARTMENTS)
4. GENERAL STAFF
5. DIVISION
6. DIVISION
7. INTELLIGENCE AND SECURITY SERVICE
8. FINANCIAL SERVICE
9. SERVICE FOR ADMINISTRATIVE, TECHNICAL AND SUPPORTING ACTIVITIES
10. CABINET

TOTAL: 3 SECTORS; 13 DEPARTMENTS; 2 DIVISIONS; 3 SERVICES; GENERAL STAFF and 1 CABINET.

4. MINISTRY OF FINANCE

1. SECTOR (5 DEPARTMENTS)
2. SECTOR
3. SECTOR (5 DEPARTMENTS)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (6 DEPARTMENTS)
6. SECTOR (5 DEPARTMENTS)
7. SECTOR (2 DEPARTMENTS)
8. SECTOR (3 DEPARTMENTS)
9. DIVISION
10. DIVISION
11. SUB-DIVISION
12. SUB-DIVISION
13. GENERAL SERVICE
14. CABINET

TOTAL: 8 SECTORS; 28 DEPARTMENTS; 2 DIVISIONS; 2 SUB-DIVISIONS; 1 SERVICE and 1 CABINET.

5. MINISTRY OF FOREIGN AFFAIRS

1. SECRETARIAT (4 DEPARTMENTS)
2. SECTOR (2 DIRCTORATE and 6 DEPARTMENTS)
3. SECTOR (3 DIRECTORATE and 5 DEPARTMENTS)
4. SECTOR (2 DIRECTORATES and 2 DEPARTMENTS)
5. SECTOR (3 DIRECTORATES and 5 DEPARTMENTS)
6. FOREIGN DIPLOMATIC AND CONSULAR REPRESENTATION OFFICES OF MONTENEGRO (6 PERMANENT MISSIONS; 30 EMBASSIES; 1 PERMANENT DELEGATION and 2 GENERAL CONSULATES)
7. SERVICE
8. SERVICE
9. SERVICE
10. DIPLOMATIC PROTOCOLE
11. DIPLOMATIC ACADEMY
12. MINISTER'S CABINET
13. POLITICAL DIRECTOR'S CABINET
14. GROUP OF AMBASSADORS

TOTAL: 1 SECRETARIAT; 4 SECTORS; 18 DEPARTMENTS; 4 DIVISIONS; 10 DIRECTORATES; 3 SERVICES and 2 CABINETS; 1 DIPLOMATIC PROTOCOL; 1 DIPLOMATIC ACADEMY; 1 GROUP OF AMBASSADORS; 6 PERMANENT MISSIONS; 30 EMBASSIES; 1 PERMANENT DELEGATION; and 2 GENERAL CONSULATES.

6. MINISTRY OF EDUCATION AND SCIENCE

1. SECTOR
2. SECTOR
3. SECTOR (2 DEPARTMENTS)
4. SECTOR
5. DIVISION
6. DIVISION
7. DIVISION
8. DIVISION
9. DIVISION
10. SERVICE
11. SERVICE
12. SERVICE
13. CABINET

TOTAL: 4 SECTORS; 2 DEPARTMENTS; 5 DIVISIONS; 3 SERVICES; and 1 CABINET.

7. MINISTRY OF CULTURE, SPORTS AND MEDIA

1. SECTOR
2. SECTOR
3. SECTOR
4. SECTOR
5. SECTOR
6. SERVICE

TOTAL: 5 SECTORS and 1 SERVICE.

8. MINISTRY OF ECONOMY

TOTAL: 8 SECTORS, 2 DIVISIONS, 1 CABINET, 1 SERVICE

9. MINISTRY OF TRANSPORT, MARITIME AFFAIRS AND TELECOMMUNICATION

1. SECTOR (2 DEPARTMENTS)
2. SECTOR
3. SECTOR
4. DIVISION
5. DIVISION
6. GENERAL SERVICE
7. SERVICE
8. CABINET

TOTAL: 3 SECTORS; 2 DEPARTMENTS; 2 DIVISIONS; 2 SERVICES; CABINET.

10. MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT

1. SECTOR (2 DEPARTMENTS)
2. SECTOR (3 DEPARTMENTS)
3. SECTOR (2 DEPARTMENTS)
4. DIVISION
5. SUB-DIVISION
6. SUB-DIVISION
7. GENERAL SERVICE

TOTAL: 3 SECTORS; 7 DEPARTMENTS; 1 DIVISION; 2 SUB-DIVISIONS and 1 SERVICE.

11. MINISTRY OF TOURISM

TOTAL: 2 SECTORS, 7 DEPARTMENTS, 1 SUB-DIVISION, 1 SERVICE, and CABINET

12. MINISTRY OF HEALTH

1. SECTOR (4 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR (2 DEPARTMENTS)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (2 DEPARTMENTS)
6. DIVISION
7. DIVISION
8. GENERAL SERVICE
9. MINISTER'S CABINET
10. REGIONAL OFFICES FOR HEALTH AND SANITARY INSPECTION (8 REGIONAL OFFICES)

TOTAL: 5 SECTORS; 12 DEPARTMENTS; 2 DIVISIONS; 1 SERVICE; 1 CABINET and 8 REGIONAL OFFICES.

13. MINISTRY FOR HUMAN AND MINORITY RIGHTS

1. SECTOR
2. SECTOR
3. DEPARTMENT
4. DEPARTMENT
5. GENERAL SERVICE
6. CABINET

TOTAL: 2 SECTORS; 2 DEPARTMENTS; 1 SERVICE; 1 CABINET.

14. MINISTRY FOR INFORMATION SOCIETY

1. SECTOR
2. SECTOR
3. SECTOR (2 DEPARTMENTS)
4. DIVISION
5. DIVISION
6. GENERAL SERVICE (2 OFFICES)
7. MINISTER'S CABINET

TOTAL: 3 SECTORS; 2 DEPARTMENTS; 2 DIVISIONS; 1 SERVICE; 1 CABINET.

15. MINISTRY OF LABOR AND SOCIAL WELFARE

1. SECTOR (3 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR (3 DEPARTMENTS)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (2 DEPARTMENTS)
6. DIVISION
7. DIVISION
8. GENERAL SERVICE (1 OFFICE and 1 BUREAU)
9. MINISTER'S CABINET
10. LABOR INSPECTORATE REGIONAL OFFICES (8 REGIONAL OFFICES)

TOTAL: 5 SECTORS; 2 DEPARTMENTS; 1 SERVICE; 1 OFFICE; 1 BUREAU; 1 CABINET and 8 REGIONAL OFFICES.

16. MINISTRY FOR EUROPEAN INTEGRATION

1. SECTOR (2 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR
4. SECTOR
5. GENERAL SERVICE

TOTAL: 4 SECTORS; 4 DEPARTMENTS; 1 SERVICE.

17. MINISTRY OF SPATIAL PLANNING AND ENVIRONMENTAL PROTECTION

TOTAL: 7 SECTORS, 1 DIVISION, 1 SERVICE, 1 CABINET, 1 OFFICE

II ADMINISTRATIONS

1. TAX ADMINISTRATION

1. SECTOR (3 DEPARTMENTS and 2 TASK FORCES)
2. SECTOR (5 DEPARTMENTS)
3. SECTOR (2 DEPARTMENTS and 3 TASK FORCES)
4. SECTOR (3 DEPARTMENTS and 1 TASK FORCE)
5. SERVICE (2 OFFICES)
6. SERVICE (ADMINISTRATIVE FUNCTION; TYPIST FUNCTION AND MOTOR POOL)
7. DIVISION
8. DIVISION
9. REGIONAL OFFICES:
    - *REGIONAL OFFICE IN PODGORICA (2 SUBSIDIARIES)
    - *REGIONAL OFFICE IN NIKŠIĆ (2 SUBSIDIARIES)
    - *REGIONAL OFFICE IN BAR (1 SUBSIDIARY)
    - *REGIONAL OFFICE IN HERCEG – NOVI (1 SUBSIDIARY)
    - *REGIONAL OFFICE IN BERANE (3 SUBSIDIARIES)
    - *REGIONAL OFFICE IN BIJELO POLJE (2 SUBSIDIARIES)
    - *REGIONAL OFFICE IN PLJEVLJA (1 SUBSIDIARY)
    - *REGIONAL OFFICE IN BUDVA (1 SUBSIDIARY)

TOTAL: 4 SECTORA; 13 DEPARTMENTS; 6 TASK FORCES; 2 OFFICES; 1 SERVICE; 1 ADMINISTRATIVE FUNCTION; 1 TYPIST FUNCTION; 1 MOTOR POOL; 2 DIVISIONS; 8 REGIONAL OFFICES.

2. REAL-ESTATE ADMINISTRATION

1. SECTOR (3 DEPARTMENTS and 1 TASK FORCE)
2. SECTOR
3. SECTOR (3 DEPARTMENTS)
4. DIVISION
5. DIVISION
6. DIVISION
7. COMMON AFFAIRS SERVICE (3 BUREAUS)
8. REGIONAL OFFICES:
    1. REGIONAL OFFICE IN PODGORICA (2 SUBSIDIARIES)
    2. REGIONAL OFFICE IN NIKŠIĆ
    3. REGIONAL OFFICE IN BAR
    4. REGIONAL OFFICE IN HERCEG – NOVI
    5. REGIONAL OFFICE IN BERANE
    6. REGIONAL OFFICE IN BIJELO POLJE
    7. REGIONAL OFFICE IN PLJEVLJA
    8. REGIONAL OFFICE IN BUDVA
    9. REGIONAL OFFICE IN ULCINJ

10. REGIONAL OFFICE IN KOTOR
11. REGIONAL OFFICE IN DANILOVGRAD
12. REGIONAL OFFICE IN CETINJE
13. REGIONAL OFFICE IN MOJKOVAC
14. REGIONAL OFFICE IN KOLAŠIN
15. REGIONAL OFFICE IN PLAV
16. REGIONAL OFFICE IN ANDRIJEVICA
17. REGIONAL OFFICE IN ŽABLJAK
18. REGIONAL OFFICE IN TIVAT
19. REGIONAL OFFICE IN ŠAVNIK
20. REGIONAL OFFICE IN ROŽAJE
21. REGIONAL OFFICE IN PLUŽINE

TOTAL: 3 SECTORS; 6 DEPARTMENT; 1 TASK FORCE; 3 DIVISION; 1 SERVICE; 3 BUREAUS; and 21 REGIONAL OFFICES.

3. CUSTOMS ADMINISTRATION

1. SECTOR (4 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR (3 DEPARTMENTS)
4. SECTOR (3 DEPARTMENTS)
5. DIVISION
6. DIVISION
7. DIVISION
8. SERVICE
9. SERVICE
10. SERVICE
11. REGIONAL OFFICES:
    1. CUSTOMS STATION PODGORICA (15 CUSTOMS SECTIONS)
    2. CUSTOMS STATION BAR (10 CUSTOMS SECTIONS)
    3. CUSTOMS STATION KOTOR (12 CUSTOMS SECTIONS)
    4. CUSTOMS STATION BIJELO POLJE (14 CUSTOMS SECTIONS)

    TOTAL: 4 SECTORS; 12 DEPARTMENTS; 3 DIVISIONS; 3 SERVICES; AND 4 REGIONAL OFFICES.

4. MARITIME SAFETY ADMINISTRATION

TOTAL: 6 DIVISIONS; 1 GENERAL SERVICE INCLUDING TECHNICAL MAINTENANCE SECTION.

5. PORT ADMINISTRATION

No Act on Internal Organization and Job Descriptions has been adopted.

6. VETERINARY ADMINISTRATION

1. SECTOR (3 DEPARTMENTS)
2. GENERAL SERVICE

TOTAL: 1 SECTOR; 3 DEPARTMENTS and 1 SERVICE.

7. ADMINISTRATION FOR ANTI-CORRUPTION INITIATIVE

TOTAL: 1 SECTOR; 1 DEPARTMENT AND 1 GENERAL SERVICE.

8. ADMINISTRATION FOR PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

1. SECTOR (3 DEPARTMENT)
2. SECTOR (2 DEPARTMENT)
3. SUB-DIVISION
4. GENERAL SERVICE

TOTAL: 2 SECTORS; 5 DEPARTMENTS; 1 SUB-DIVISION; and1 SERVICE.

9. FOREST ADMINISTRATION

1. SECTOR (3 DEPARTMENTS and 1 TASK FORCE)
2. SECTOR (2 DEPARTMENTS)
3. GENERAL SERVICE
4. REGIONAL OFFICES:
   1. REGIONAL OFFICE IN PODGORICA
   2. REGIONAL OFFICE IN NIKŠIĆ
   3. REGIONAL OFFICE IN BERANE
   4. REGIONAL OFFICE IN BIJELO POLJE
   5. REGIONAL OFFICE IN PLJEVLJA
   6. REGIONAL OFFICE IN KOTOR (5 LOCAL OFFICES: KOTOR, BAR, BUDVA, HERCEG NOVI and CETINJE)
   7. REGIONAL OFFICE IN DANILOVGRAD
   8. REGIONAL OFFICE IN MOJKOVAC
   9. REGIONAL OFFICE IN KOLAŠIN
   10. REGIONAL OFFICE IN PLAV
   11. REGIONAL OFFICE IN ANDRIJEVICA
12. REGIONAL OFFICE IN ŽABLJAK
13. REGIONAL OFFICE IN ŠAVNIK
14. REGIONAL OFFICE IN ROŽAJE
15. REGIONAL OFFICE IN PLUŽINE

TOTAL: 2 SECTORS; 3 DEPARTMENTS; 3 TASK FORCES; 1 SERVICE; 15 REGIONAL OFFICES and 5 LOCAL OFFICES.

10. WATER ADMINISTRATION

TOTAL: 1 DIVISION and 1 GENERAL SERVICE

11. HUMAN RESOURCES ADMINISTRATION

1. SECTOR (2 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. CENTER FOR HUMAN RESOURCES INFORMATION SYSTEM
4. GENERAL SERVICE

TOTAL: 2 SECTORS; 4 DEPARTMENTS; 1 CENTER and 1 SERVICE.

12. POLICE DIRECTORATE

1. SECTOR (6 DEPARTMENTS; WITNESS PROTECTION OFFICE; NATIONAL INTERPOL BUREAU)
2. SECTOR (4 DEPARTMENTS and HELICOPTER OFFICE)
3. SECTOR (4 DEPARTMENTS; 8 LOCAL OFFICES: BERANE; PLJEVLJA; BIJELO POLJE; PODGORICA; NIKŠIĆ; BAR; HERCEG NOVI AND LOCAL OFFICE OF MARITIME BORDER POLICE)
4. SECTOR (3 DEPARTMENTS)
5. SECTOR (4 DEPARTMENTS)
6. DIVISION
7. DIVISION

8. DIVISION
9. SPECIAL ANTI – TERRORIST OFFICE
10. SPECIAL POLICE OFFICE
11. OPERATIVE – COMMUNICATION CENTER
12. REGIONAL OFFICES: PODGORICA, NIKŠIĆ, BAR, HERCEG NOVI, BERANE, BUDVA, BIJELO POLJE AND PLJEVLJA.

TOTAL: 5 SECTORA; 21 DEPARTMENT; 4 OFFICES; 1 BUREAU, 8 LOCAL OFFICES; 3 DIVISIONS and 1 CENTER.

13. ADMINISTRATION FOR PROTECTION OF COMPETITION

TOTAL: 1 SECTOR; 1 SUB-DIVISION and 1 GENERAL SERVICE.

14. ADMINISTRATION FOR GAMES OF CHANCE

1. SECTOR (2 DEPARTMENTS)
2. SECTOR
3. SUB-DIVISION
4. GENERAL SERVICE

TOTAL: 2 SECTORS; 2 DEPARTMENTS; 1 SUB-DIVISION; 1 SERVICE.

15. PHYTOSANITARY ADMINISTRATION

1. SECTOR (4 DEPARTMENTS)
2. GENERAL SERVICE

TOTAL: 1 SECTOR; 4 DEPARTMENTS; 1 SERVICE.

16. PUBLIC PROPERTY ADMINISTRATION

No Act on Internal Organization and Job Descriptions has been adopted.

III SECRETARIATS

1. SECRETARIAT FOR LEGISLATION

INTERNAL ORGANISATIONAL UNITS: 4 SECTORS AND 1 ADMINISTRATIVE AND TECHNICAL SERVICE.

2. GENERAL SECRETARIAT OF THE GOVERNMENT

INTERNAL ORGANIZATIONAL UNITS INCLUDE: PRIME MINISTER'S CABINET; DEPUTY PRIME MINISTER'S CABINET; 2 SECTORS, 1 GENERAL AND FINANCIAL SERVICE; OFFICES (FOR SUSTAINABLE DEVELOPMENT, FIGHT AGAINST HUMA TRAFFICING; REPRESENTATIVE OF MONTENEGRO IN FRONT OF THE EUROPEAN TRIBUNAL OF HUMAN RIGHTS AND COOPERATION WITH NGOs); 1 DIVISION – PUBLIC RELATIONS OFFICE.

IV OFFICES

1. STATISTICAL OFFICE

1. SECTOR (4 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR (3 DEPARTMENTS)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (2 DEPARTMENTS)
6. DIVISION

7. GENERAL SERVICE
8. REGIONAL DATA COLLECTION OFFICES:
    - REGIONAL OFFICE IN BAR
    - REGIONAL OFFICE IN BIJELO POLJE
    - REGIONAL OFFICE IN BERANE
    - REGIONAL OFFICE IN KOTOR
    - REGIONAL OFFICE IN NIKŠIĆ
    - REGIONAL OFFICE IN PLJEVLJA
    - REGIONAL OFFICE IN PODGORICA

TOTAL: 5 SECTORS; 13 DEPARTMENTS; 1 DIVISION; 1 SERVICE; and 7 REGIONAL OFFICES.

2. HYDROMETEOROLOGICAL OFFICE

1. SECTOR
   1.1 DEPARTMENT:
    - CENTER FOR MARITIME METEOROLOGY IN BAR
    - METEOROLOGICAL OBSERVATORY IN ŽABLJAK
    - METEOROLOGICAL OBSERVATORY IN HERCEG NOVI
    - METEOROLOGY STATION IN NIKŠIĆ
    - METEOROLOGY STATION IN PLJEVLJA
    - METEOROLOGY STATION IN KOLAŠIN
    - METEOROLOGY STATION IN ULCINJ
    - METEOROLOGY STATION IN BERANE
    - METEOROLOGY STATION IN CETINJE
    - CLIMATE STATION IN DANILOVGRAD
    - CLIMATE STATION IN ŠAVNIK
    - CLIMATE STATION IN PLUŽINE
    - CLIMATE STATION IN PLAV
    - CLIMATE STATION IN ROŽAJE

TASK FORCE

2. SECTOR (3 DEPARTMENTS and 1 TASK FORCE)
3. SECTOR (2 DEPARTMENTS and 2 TASK FORCES)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (2 DEPARTMENTS and 1 TASK FORCE)
6. DIVISION
7. DIVISION
8. GENERAL SERVICE (2 OFFICES)

TOTAL: 5 SECTORS; 10 DEPARTMENTS; 5 TASK FORCES; 1 CENTER, 2 OBSERVATORIES; 6 METEOROLOGY STATIONS; 5 CLIMATE STATIONS; 2 DIVISIONS; 1 SERVICE and 2 OFFICES.

3. SEISMOLOGICAL OFFICE

INTERNAL ORGANISATIONAL UNITS: 2 DIVISIONS.

4. OFFICE FOR INTERNATIONAL, SCIENTIFIC, EDUCATIONAL, CULTURAL AND TECHNICAL COOPERATION

INTERNAL ORGANISATIONAL UNITS: 2 DIVISIONS and 1 GENERAL SERVICE.

5. OFFICE FOR EDUCATION

1. SECTOR (2 DEPARTMENTS)

2. SECTOR (2 DEPARTMENTS)
3. GENERAL AND FINANCIAL SERVICE

TOTAL: 2 SECTORS; 4 DEPARTMENTS and 1 SERVICE

6. OFFICE FOR EXECUTION OF CRIMINAL SANCTIONS

1. SUB-DIVISION FOR COORDINATION, SECURITY, TREATMENT AND FINANCE
2. PENAL AND CORRECTIONAL INSTITUTION IN PODGORICA
3. SECTOR (4 DEPARTMENTS)
4. SECTOR (2 DEPARTMENTS)
5. SECTOR (3 DEPARTMENTS)
6. PODGORICA PRISON
7. SECTOR (4 DEPARTMENTS)
8. BIJELO POLJE PRISON
9. SECTOR (4 DEPARTMENTS)
10. SPECIAL HOSPITAL (4 DEPARTMENTS)
11. HUMAN RESOURCES TRAINING CENTER
12. GENERAL SERVICE (4 DEPARTMENTS)

TOTAL: 1 SUB-DIVISION; 1 PENAL AND CORRECTIONAL INSTITUTION; 2 PRISONS; 1 HOSPITAL; 1 CENTER; 1 SERVICE; 5 SECTORS; 27 DEPARTMENTS.

7. STATE ARCHIVES

1. SECTOR (6 DEPARTMENTS)
2. SECTOR (14 DEPARTMENTS – FOR PODGORICA, BIJELO POLJE, ANDRIJEVICA, KOLAŠIN, ULCINJ, HERCEG NOVI, KOTOR, DANILOVGRAD, NIKŠIĆ, BERANE, PLJEVLJA, BAR, BUDVA, CETINJE)
3. DIVISION
4. DIVISION
5. GENERAL SERVICE

TOTAL: 2 SECTORS; 20 DEPARTMENTS; 2 DIVISIONS; 1 SERVICE.

8. METROLOGY OFFICE

INTERNAL ORGANIZATIONAL UNITS: 3 SECTORS and 1 GENERAL SERVICE.

9. REFUGEE CARE AND SUPPORT OFFICE

1. SECTOR (2 DEPARTMENTS)
2. GENERAL SERVICE

TOTAL: 1 SECTOR; 2 DEPARTMENTS; 1 GENERAL SERVICE.

10. INSTITUTE FOR INTELECTUAL PROPERTY

1. SECTOR (2 DEPARTMENTS)
2. SECTOR
3. DIVISION
4. GENERAL AND FINANCIAL SERVICE (1 OFFICE)

TOTAL: 2 SECTORS; 2 DEPARTMENTS; 1 DIVISION; 1 SERVICE; and 1 OFFICE.

V DIRECTORATES

1. PUBLIC WORKS DIRECTORATE

1. SECTOR (3 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)

3. DIVISION
4. GENERAL SERVICE

TOTAL: 2 SECTORS; 5 DEPARTMENTS; 1 DIVISION; 1 SERVICE.

2. TRANSPORT DIRECTORATE

1. SECTOR (2 DEPARTMENTS)
2. SECTOR (2 DEPARTMENTS)
3. SECTOR
4. GENERAL AND FINANCIAL SERVICE (2 OFFICES and 1 BUREAU)

TOTAL: 3 SECTORS; 4 DEPARTMENTS; 1 SERVICE; 2 OFFICES and 1 BUREAU.

3. PUBLIC PROCUREMENT DIRECTORATE

INTERNAL ORGANIZATIONAL UNITS: 1 SECTOR FOR PUBLIC PROCUREMENT and 1 GENERAL AND FINANCIAL SERVICE.

4. DIRECTORATE FOR DEVELOPMENT OF SMALL AND MEDIUM-SIZED ENTERPRISES

1. SECTOR (3 DEPARTMENTS)
2. DIVISION
3. EUROPEAN CENTER FOR INFORMATION AND INNOVATION
4. GENERAL AND LEGAL SERVICE

TOTAL: 1 SECTOR; 3 DEPARTMENTS; 1 CENTER and 1 SERVICE.

5. DIRECTORATE FOR THE PROTECTION OF CLASSIFIED DATA

INTERNAL ORGANIZATIONAL UNITS: 1 DIVISION; 1 GENERAL AND LEGAL SERVICE and 1 INFO CENTER.

6. RAILWAY DIRECTORATE

No Act on Internal Organization and Job Descriptions has been adopted.

VI AGENCIES

1. TOBACCO AGENCY

INTERNAL ORGANIZATIONAL UNITS: 1 SECTOR; 1 GENERAL SERVICE

2.ENVIRONMENTAL PROTECTION AGENCY

INTERNAL ORGANIZATIONAL UNITS: 3 SECTORS; 1 DIVISION; 1 GENERAL SERVICE

An overview of staff members of state administration bodies, local government bodies, judiciary, healthcare system, education, regulators, legal persons with public authorizations and other state institutions.

	EMPLOYEES IN STATE BODIES, LOCAL SELF-GOVERNMENT, REGULATORS AND LEGAL PERSONS WITH PUBLIC AUTHORITIES	Job Descriptions	Number of Permanent Civil Servants and State Employees as of September 2009
	STATE ADMINISTRATION BODIES		
1	Ministry of Finance	242	169
2	Ministry of Interior and Public Administration	740	628
3	Ministry of Economy	227	142
4	Ministry of Agriculture, Forestry and Water Management	82	65
5	Ministry of Transport, Maritime Affairs, and Telecommunication	78	85
6	Ministry of Culture, Sports and Media	50	32
7	Ministry of Labor and Social Welfare	148	117
8	Ministry of Health	110	84
9	Ministry of Education and Science	98	83
10	Ministry of Spatial Planning and Environmental Protection	194	101
11	Ministry of Tourism	61	62
12	Ministry of Justice	41	42
13	Ministry for Human and Minority Rights	27	12
14	Ministry of Foreign Affairs	313	180
15	Ministry of Defence	347	183
16	Ministry for Information Society	65	59
17	Ministry for European Integration	45	46
18	General Secretariat of the Government	150	108
19	Secretariat for Legislation	28	18
20	Tax Administration	744	613
21	Real-Estate Administration	473	300
22	Customs Administration	669	577
23	Maritime Safety Administration	58	61
24	Veterinary Administration	50	42
25	Administration for Anti-Corruption Initiative	17	18
26	Administration for Prevention of Money Laundering and Terrorism Financing	34	26
27	Forest Administration	455	394
28	Water Administration	14	8
29	Human Resources Administration	21	25
30	Police Directorate	5189	5566
31	Administration for Games of Chance	29	18
32	Administration for Protection of Competition	13	6
33	Phytosanitary Administration	38	18

34	Public Property Administration	267	268
35	Port Administration	15	0
36	Public Works Directorate	26	28
37	Transport Directorate	61	41
38	Public Procurement Directorate	15	13
39	Directorate for Development of Small and Medium-Sized Enterprises	23	23
40	Directorate for the Protection of Classified Data	14	5
41	Railways Directorate	12	5
42	Statistical Office	203	135
43	Hydrometeorological Office	137	115
44	Seismological Office	12	12
45	Office for International Scientific, Educational, Cultural and Technical Cooperation	16	16
46	Education Office	85	74
47	Institute for Execution of Criminal Sanctions	405	499
48	State Archives	178	158
49	Metrology Office	34	31
50	Refugee Care and Support Office	35	18
51	Intellectual Property Rights Institute	31	16
52	Tobacco Agency	7	5
53	Environmental Protection Agency	80	16
	Military Medical Centre Meljine- Ministry of Defence- registered under this body		259
	State administration bodies- TOTAL	12.765	**11.625**
	OTHER STATE ADMINISTRATION BODIES/ FINANCED UNDER THE BUDGET OF MONTENEGRO		3.315
	President of Montenegro	39	19
	Parliament of Montenegro	145	189
	Armed Forces of Montenegro		2090
	National Security Agency		391
	Agency for the Promotion of Foreign Investments		4
	Centers and Institutions for Social Work		604
	State Protocol		18
	LOCAL SELF-GOVERNMENT AND MUNICIPAL ASSEMBLY/ FINANCED UNDER LOCAL BUDGET		11.321
	Local Self-Government		6273
	Municipal Assemblies		720
	Institutions in public utilities sector		4328
	EDUCATION/ FINANCED UNDER THE BUDGET OF MONTENEGRO		13.093

	Pre-School Education		1467
	Elementary School Education		6987
	Secondary School Education		3381
	University of Montenegro		1258
	JUDICAL AND PROSECUTORIAL AUTHORITIES/ FINANCED UNDER THE BUDGET OF MONTENEGRO		1873
	Judiciary		1358
	Prosecution Office		224
	Misdemenour Bodies		291
	STATE FUNDS/ FINANCING UNDER THE BUDGET OF MONTENEGRO		9324
	Health Insurance Fund		8707
	Pension and Disability Insurance Fund		250
	Employment Office		346
	Development Fund		15
	Compensation Fund		6
	REGULATORS, LEGAL PERSONS WITH PUBLIC AUTHORITIES AND OTHER INSTITUTIONS		1643
	Central Bank/ own sources of financing		278
	Broadcasting Agency / own sources of financing		18
	Agency for Telecommunications and Postal Services/ own sources of financing		60
	Energy Agency / own sources of financing		18
	Insurance Supervision Agency/ own sources of financing		7
	Securities Commission of Montenegro/ own sources of financing		26
	Commission for Control of Public Procurement Procedure /Budget of Montenegro		7
	State Audit Institution/ Budget of Montenegro		50
	Commission for Conflict of Interest Establishment/ Budget of Montenegro		9
	Protector of Human Rights and Freedoms/ Budget of Montenegro		22
	Accreditaion Body/ Budget of Montenegro and own sources		6
	Standardization Institute of Montenegro / Budget of Montenegro		20
	Montenegro Tourist Organization/ Budget of Montenegro and own sources		20
	Ecotoxicological Examination Centre of Montenegro / Budget of Montenegro and own sources		68
	Cultural Institutions funded through the Ministry of Culture *		505
	Royal Theatre/ Budget of Montenegro and own sources		21
	National Theatre of Montenegro / Budget of Montenegro and own sources		153
	PE (Public Enterprise) National Parks of Montenegro / Budget of Montenegro and own sources		130

	PE Coastal Zone Agency of Montenegro/ own sources of financing		39
	PE Regional Water Utility / Budget of Montenegro and own sources		19
	Examination Center/ Budget of Montenegro		28
	Regional Diving Training Center / Budget of Montenegro		20
	Agency for Pharmaceuticals and Medical Devices / Budget of Montenegro and own sources		22
	Diaspora Center / Budget of Montenegro		4
	Montenegro Academy of Sciences and Arts / Budget of Montenegro		28
	Institute for Textbook Publishing and Teaching Aids/ Budget of Montenegro and own sources		42
	Vocational Education Centre / Budget of Montenegro		23
	TOTAL		52.194

Analysis: Ministry for European Integration, November 2009 (based of the institutions' data)

* PE Maritime Museum of Montenegro, Regional Institute for Protection of Cultural Heritage, Central Public Library "Đurđe Crnojević", PE Mausoleum of Petar II Pertović Njegoš, People Museum of Montenegro, Republic Institute for Protection of Cultural Heritage, Library for the Blind of Montenegro, PE Centre of Contemporary Art of Montenegro, Centre for Archeological Research of Montenegro, PE Music Centre of Montenegro, PE Naturalist Centre of Montenegro, PE Montenegrin Film Library, Republic Institute for Nature Protection

33. Please provide a description of the administrative structures established to perform the new competences acquired by Montenegro following independence in 2006. Has the process of strengthening their capacity terminated? Are there any additional measures envisaged? Explain.

In the process of institutional and political development of Montenegro since it gained dependence (May 2006), for the purpose of taking over full responsibility and authority, the issues relating to normative and operational capacities for the execution of activities under the new status of a sovereign and independent state represented a special challenge.

Accordingly, several state administration bodies or additional sectors within the existing state administration bodies were established for the performance of state administration affairs.

This relates to the following affairs, i.e. fields:

- Defense affairs (newly established Ministry of Defense);
- Diplomatic affairs and the establishment of a network of diplomatic and consular representation offices and other foreign affairs (Ministry of Foreign Affairs, applying sectoral principle);
- Cooperation in the area of international criminal judiciary and with international organizations in matters of judiciary and human rights, extradition, and administrative affairs relating to the appointment of Montenegrin representatives to the European Court of Human Rights, and other affairs in the field of justice (Ministry of Justice, applying sectoral principle);
- Standardization and accreditation of products, processes and services, and the protection of rights in the area of industrial property (Ministry of Economy, applying sectoral principle);
- Protection of intellectual property relating to copyright and related rights (Ministry of Culture and Media, applying sectoral principle);
- Metrology affairs (newly established Metrology Office);

- Affairs of civil protection, visa regime, asylum, refugees and displaced persons (Ministry of Interior Affairs, applying sectoral principle);
- Civil aviation affairs (newly established Administration for Civil Aviation that was in the meantime transformed into the Agency for Civil Aviation, as a more compatible and adequate institutional form. It has no status of a state administration body; it is an independent institution having the status of a legal person);
- Specific affairs in the field of international economic relations (originally within the competence of the Ministry for International Economic Relations and European Integration, and currently within the competence of the Ministry of Economy);
- Affairs relating to human and minority rights (Ministry for Human and Minority Rights).
- Coordination of the European integration process (presently the Ministry for European Integration).

The structure and names of newly established bodies and the existing state administration bodies are provided under the previous question.

Development and progress in the execution of activities by newly established bodies and in sectoral competencies for the performance of activities and implementation of authorities are still carefully monitored, regardless of the results achieved until the present moment that have been positively assessed by relevant entities.

When recognizing the issues relating to the strengthening of capacities to perform the tasks, it should be noted that the concerned activities had been within the competence and scope of authority of Montenegro even before it gained independence. Nevertheless, some activities were carried out on the level of joint bodies that Montenegro appropriately participated in, inter alia, in relation to staff, substantive, financial and other potentials. In this respect, following its independence, Montenegro had trained staff members and other qualifications to carry out the activities in all segments, although it should be stated that its staff, in terms of numbers and structure, was not sufficient and adequate to perform the activities in full capacity. Within this context, there was an ongoing process of gradual capacity strengthening and development of administrative, organizational, financial, technical, technological and other resources.

The Annex below contains an overview of conducted specialist and special trainings, in addition to planned future activities.

Annex: An overview of conducted specialist and special trainings relating to specific new competencies of the State:

1. Courses and other forms of specialized training of persons serving in the Armed of Montenegro:

- Foreign language courses at home and abroad:
    - English language courses at the School of Foreign Languages, Ajševic, Slovenia;
    - English language courses at the Centre for Study of Military Terminology, Budapest, Hungary;
    - Military terminology courses in Turkey and Macedonia;
    - English language courses in Borden, Ontario, Canada;
    - English language courses, Sofia, Bulgaria;
    - English language courses, St Jean, Quebec, Canada;
    - English language courses, Vilnius, Lithuania;
    - English language courses at the School for Foreign Languages of "Double L", Podgorica
    - Training courses for English language tutors in Budapest, Hungary, and Texas, USA;
    - Greek language courses at the School for Greek Language of "Homer", air force base, Golubovci;
    - German language courses at the barracks of Danilovgrad;

  - German language courses at the German Language Institute of Vienna, Austria;
  - German language courses, Hurt, Germany;
  - Training courses for German language tutors in Vienna, Austria;
  - Italian language courses in various garrisons of the Army of Montenegro.

- Training courses for members of mountain units at the Mountain Warfare School of Austrian Armed Forces:
  - Elementary skiing course;
  - Training course for skiing instructors;
  - Winter training course for members of mountain units;
  - Winter training course for assistant mountain guides;
  - Summer training course for assistant mountain guides;
  - Summer training course for members of mountain units;
  - Training course in mountain warfare.
- Specialized training courses for civil servants organized by the Center for Civil-Military Relations (CCMR)
  - Advanced training for headquarters officers.
- Advanced training attended by the Armed Forces of Montenegro members, organized by the George Marshall Center:
  - Opposition to ideological support to terrorism through the development of an overall international strategy for terrorism fighting;
  - Stability, transition and reconstruction - SSTAR
- Elementary training course for young officers (BOLC-2), USA;
- Training course for young and headquarters officers, Aldershot, Canada;
- Joint training course with the members of special units of Greek Armed Forces;
- Joint training course attended by a team of special Allied Joint Force Command Naples, NATO, and members of special units of the Armed Forces of Montenegro (maritime sabotage units);
- Operating training in e-PRIME software (Euro-Atlantic Work Program – EAWP database);
- Training courses for appraisers following the Operating Capacity Concept (OCC):
  - Moldavia
  - Ukraine
  - Finland
- Training courses for logistics units in ADAMS and LOGREP software;
- Training courses including engagement of mobile training teams for various areas of activity:
  - Military police;
  - Logistics;
  - CIS (Communication Information Systems);
  - Non-commissioned officer’s corps.
- Training courses organized by the Training Center for Peacekeeping Operations, Butmir, Sarajevo;
- Training courses following the Programmes for preparation of headquarters officers to work in foreign missions (familiarization);
- Participation in elementary training courses for officers working in allied joint force commands engaged in missions organized JFC Brunsum;

- Participation of members of the Army of Montenegro in training modules about European security and defense policy (ESDP);
- Training courses for military observers of the United Nations;
    - BALMOC in Srbia, Macedonia, Albania;
    - UNMOC in Finland, Germany, Holland.
- Training courses in civil-military cooperation (CIMIC) for members of the Army of Montenegro:
    - Slovenia
    - Serbia
    - Germany
    - Macedonia
    - Denmark
    - Greece
    - Bosnia and Herzegovina
- Training course for ammunition warehouse operators according to NATO standards, Danilovgrad;
- Participation of members of the Army of Montenegro, signal-corps unit, in peacekeeping operations;
- Security studies attended by members of the Army of Montenegro in Garmish-Partenkirchen, Germany, and Tirana, Albania;
- Training course for partner officers on NATO command and information systems, Latina, Italy;
- Military-diplomatic training course attended by officers of the Army of Montenegro in Zagreb, Croatia;
- Operative training course for headquarters staff in Niinisalo, Finland;
- Training course at the Multi-National Peacekeeping Operative Training Center of Kilkis, Greece;
- Training course on intelligence service in the fight against terrorism, Arizona, USA;
- Training course titled "Civil and Military Response to Terrorism ", Monterey, USA;
- Training course on the rescue of civilian population in situations of natural disaster, Turkey;
- Training course for officers in peacekeeping operations , Wiener Neustadt, Austria;
- International training course for headquarters staff in multi-national operations, organized by NORDCAPS, Serbia;
- Logistics course for non-commissioned officers in peacekeeping operations, Godzendorf, Austria;
- Expedition training and logistics course, Oberamergau, Germany;
- Training course on transportation of dangerous substances, Hurth, Germany;
- Training course on atomic, biological and chemical defense, Sonthofen, Germany;
- Training course for operators of ammunition and explosive devices, Hurth, Germany;
- Training courses for inspectors for weapons control:
    - Croatia
    - Germany
    - Greece

- Training course for junior officers in UN missions , Kungsangen, Sweden;
- Staff course for junior officers to work at NATO command and Partnership for Peace, Kungsangen, Sweden;
- Training course for commanders at the US Academy for Non-Commissioned Officers in Grafenvort, Germany;
- Advanced training titled "Development of Leadership Skills in International Environment ", Lucern, Switzerland;
- Training course on the control of sea and land borders and refugees, Kilkis, Greece;
- Taking naval officers and senior non-commissioned officers on board of NATO ships of SNMG-2 composition, Naples and La Spezia, Italy;
- NATO course for sergeant majors, Oberamergau, Germany;
- Training course titled "Development of Medical Aid System in Armed Forces", Ukraine;
- Medical staff training to work in peacekeeping missions, Macedonia;
- Instructor training for non-commissioned officers, Đakovo, Croatia;
- Land troops camping, including training in climbing, rafting and canyon-mastering, participated by members of the armed forces of Greece, Croatia and Slovenia, Montenegro;
- Participation of the Army members in various seminars, workshops, symposia, conferences, in the country and abroad.

2. Specialist training in civil aviation affairs

Employees of the Agency for Civil Aviation (former Administration for Civil Aviation -ACA) attended the following meetings, workshops and trainings: ICAO (State Safety Programme Implementation Course), ECAC (ECAS Directors General Meeting, ECAC FORUM, ecac Meeting (ANCAT/75), Workshop on Security Measures for Passenger and Cabin Baggage, ECAC Workshop screener certification, ECAC 7 th Security Forum); EUROCONTROL (Provisional Council, Stakeholder Consultancy Group, Enlarged Committee , LCIP Workshop, Mode S Information Day):JAA (SAFA Training); EASA (EASA Management Board*,EASA NSA Partnership meeting, Meetings on JAA/non EASA countries, EASA International Cooperation Forum);ECAA (ECAA Joint Committee); IATA (SMS Implementation Workshop); Single Sky Committee. (Montenegro has the status on an observer in this body).

An active participation in the following 3 current programs of the European Community and the related training courses is of special importance: EASA-IPA Project (continuation of EASA(1*t ISIS Governing Body, ISIS Kick-Off Meeting and Workshop on “Capacity building of the NSA“, ISIS Kick-Off Meeting and Workshop “Training Standards“), and CARDS Regional Project in Aviation (the following training has been anticipated within this Project: OJT to CAA Airworthiness Inspectors; OJT to CAA Operations Inspectors; SMS Training; Training of National Security Inspectors; Basic, Cargo and Airline Security; Crisis and Security Management; Training of X-ray Operators; SMS Training; Safety Assessment; Safety oversight, accident investigation and occurrence reporting; Safety occurrence reporting and ECCAIRS operations; Market access and ancillary issues, organization of working time; Air carrier liability in the event of accident; Advising on effective airport management; Advising on developing effective slot allocation; Legal issues; implementation of some of the foregoing trainings is already in progress).

Implementation of the ECAC technical assistance program included the improvement of National Civil Aviation Security Programme (NCASP), National Civil Aviation Security Quality Control Programme (NCASQCP), and Contingency Plan devised for emergency situations resulting from acts of illegal interference.

Also, as a part of technical cooperation with ECAC-JAA TO, a total of 22 places in 16 various trainings were allocated to the Agency for Civil Aviation for the purpose of training and advanced training for 7 employees in 2009 (Auditing Techniques for Airport Training; Auditing Techniques in Relation to Flight Crew Licensing; Basic Regulation EC (no) 216/2008; EASA's Proposed Regulatory Framework for Pilot Licensing; Emergency Response Planning Workshop; International Aviation Law & Policy Training Course; IR Part-145 Training Course; IR Part-21 Training Course;

IR Part-66/147Training Course; IR Part-M Training Course; IR Part-M, Subpart G for operators and CAMOs Training Course; IR Part-M, Subpart I Training Course for Airworthiness Review Staff; JAR-FCL 3 Training Course; JAR-MMEL/MEL Overview; OPS 1 Training Course; Regulatory Auditing Techniques Training Course; SAFA Inspector training Courses); some of these trainings have already been completed, while the others will, as previously scheduled, be completed until the end of 2009.

It should be mentioned that the staff of the Agency for Civil Aviation also attended training courses organized by the Human Resources Administration of the Government of Montenegro, British Council-Skills for EU 1, and training related to the European Union (European Union, Institutions and EU decision-making procedures; Stabilization and Association Agreement; EU legal system and legal acts; preparation for the accession of Montenegro to the EU; EU support in the process of accession).

The initialized trainings are expected to continue, while new specialist trainings and general advanced trainings are planned.

3. Specialist trainings in metrology affairs

Project	Training	Number of Metrology Office Staff	Organizer	Date	Place	Funded by
CARDS 2002 Hands-on Training (HOT 11)	Connection between metrology and LNE accreditation	1	LNE	16 – 20 October 2006	Paris France	CARDS 2002
	Training in metrology laboratories ML30 and ML36 Naval Technical Repair Institute "MTZR Sava Kovačević"	12	Metrology Office	20–24 November 2006	Tivat	Metrology Office
	Legal metrology, laboratory accreditation (UME)	5	Turkish Ministry of Industry and Trade	26-30 March 2007	Turkey	TIKA/ Organizer/ Metrology Office
CARDS 2003 Support to standards, certification and accreditation in Albania	Conference on Quality insurance	2	EC DG-JRC IRMM	02-04 April 2007	Tirana, Albania	Metrology Office
Promotion of Regional Cooperation in South Eastern Europe in the Field of Quality Infr.	Train MiC-a "Principles and Application of Metrology in Chemistry"	2	IRMM	24-25 May 2007	Novi Sad, Serbia	Organizer/ Metrology Office

	PTB – BIPM Workshop "Impact of Information Technology in Metrology"	2	PTB-BIPM Berlin	04-08 June 2007	Berlin, Germany	Organizer/ Metrology Office
Promotion of Regional Cooperation in South Eastern Europe in the Field of Quality Infrastructure	Generally Metrology and Calibration, Evolution of Measurement Uncertainty	4	PTB, UME	25 – 27 June 2007	UME-Turkey	Organizer

Project	Training	Number of Metrology Office staff	Organizer	Date	Place	Funded by
Promotion of Regional Cooperation in South Eastern Europe in the Field of Quality Infrastructure	Measurement in Small and Medium Enterprises	2	PTB	September 2007	Belgrade, Serbia	Organizer
Promotion of Regional Cooperation in South Eastern Europe in the Field of Quality Infrastructure	Mass Metrology Training Course	2	PTB & EIM, Greece	24-28 September 2007	Thessalonica, Greece	Organizer
South Eastern Europe Working Group	Quality Management and related standards	2	PTB & BIM (Bulgarian NMI)	25-28 September 2007	Sofia, Bulgaria	Organizer
Development of Quality Infrastructure in Montenegro	Visit to the National Institute for Metrology, Croatia	7	EAR	18-24 November 2007	Zagreb, Croatia	EAR
CARDS 2006 PT5 Professional training	Interlaboratory comparison in the field of mass -first certification of non-automatic scales class (III)	1	MIRS Slovenia	January 2008	Slovenia	Organizer
„SEE Mass Comparison“	Interlaboratory comparison in the field of mass - calibration of weights	2	PTB, BoM	31 Jan -1 Feb 2008	Bureau of Metrology Macedonia (BoM)	Organizer
	Training in pre-packaged products	2	DZM/ Metrology Office	18-22 February 2008	DZM Zagreb, Croatia	Metrology Office
Seminar and workshop organized in cooperation with DZM	Mass measuring in laboratory and industrial practice	2	Co-organized by Croatian Metrology Society and DZM	1 April 2008	Zagreb, Croatia	Metrology Office

CARDS 2006 HOT 3	Quality in the laboratory	1		11-15 May 2008	Malta	Organizer/ Metrology Office
Project	Training	Number of Metrology Office staff	Organizer	Date of event	Place of event	Financing
SEE Cooperation of NMIs	Training on the field of humidity, calibration and uncertainty evaluation	2	PTB, UME	02-06 June 2008	UME-Turkey	Organizer
SEE Cooperation of NMIs	Temperature and Uncertainty Evaluation	2	PTB, UME	09 -13 June 2008	UME-Turkey	Organizer
SEE Cooperation of NMIs	"Volume working standard calibration"	2	PTB, UME	23 -27 June 2008	UME-Turkey	Organizer
CARDS 2006 HOT 4	Transposing and implementation of EU technical in relation to measuring and testing MID, LVD, MDD Directives	1		23-27 June 2008	Ljubljana Slovenia	CARDS 2006/ Organizer
Development of Quality Infrastructure in Montenegro	Training on Mass Metrology	4	EAR	30 Jun - 4 Jul 2008	Danish Institute of Fundamental Metrology (DFM)	Organizer
Technical Assist. of the Czech Republic to the Western Balkan	MID Directive Market access for measuring instruments	2		6-7 October 2008	Tirana, Albania	Organizer
	Traditional seminar Ibis Instruments	2		22-25 October 2008	Tara Serbia	Metrology Office
EURAMET Focus Group	SEE Mass Comparison Closing Meeting	2		18-19 November 2008	Sarajevo Bosnia and Herzegovina	PTB
	"Staff Information System" and "Legal System and Legal Acts of the European Union "	2	Human Resources Administration	4 December 2008	Podgorica, Montenegro	Organizer

Project	Training	Number of Metrology Office Staff	Organizer	Time	Place	Funding
Technical Assist. of the Czech Republic to the Western Balkan	Measuring Instruments and Construction materials in 2009-2010	1		30 November - 3 December 2008	Prague- Czech Republic	Metrology Office
	Visit to the Institute of Measures and Precious Metals	3	Metrology Office	4-5 December 2008	Belgrade- Serbia	Metrology Office
	Training in the area of pre-packaged products	3		8-12 December 2008	Zagreb- Croatia	Metrology Office
	Training and FSB-Laboratory for precise length measuring	3	Metrology Office and FSB	9–27 February 2009	Zagreb Croatia	Metrology Office
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	Seminar on Prepackages	2	PTB/DZM	23-25 March 2009	Zagreb Croatia	PTB
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	Seminar on precious metals	2	PTB/DZM	24-26 March 2009	Zagreb, Croatia and Celje, Slovenia	PTB
FOCUS group, EURAMET-a	Management System ISO 17025	2		30 March - 4 April 2009	Sofia Bulgaria	Organizer
	European Union	2	Human Resources Administration	2-3 April 2009	Podgorica, Montenegro	
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	Welmec Software Guides	2	PTB/BoM	21-22 April 2009	Skoplje, Macedonia	PTB
Project	Training	Number of Metrology Office Staff	Organizer	Date of event	Place of event	Financing
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	General Training Course in Pressure Metrology	2	PTB and DZM/FSB-LPM	2-4 June 2009	Zagreb, Croatia	PTB

EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	General Training Course in Temperature Metrology	2	PTB and DZM/FSB-LPM	9-11 June 2009	Zagreb Croatia	PTB
	General Administrative Procedure	3	Human Resources Administration	15-16 June 2009	Podgorica, Montenegro	
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	Training of calibration of NAWI	2	PTB/MIRS	16-18 June 2009	MIRS	PTB
EURAMET Focus Group on Facilitating National Metrology Infrastructure Development	Liquid flow & Volume	2	PTB & EIM	22-26 June 2009	Thessalonica Greece	PTB

4. Specialist training in emergency situations and civil security

For the purpose of professional training and capacity strengthening of the Sector for Emergency Situations and Civil Security of the Ministry of Interior Affairs and Public Administration, the staff of this Sector participated in the following activities:

- International event in Skoplje titled “Preparedness for Emergency Situations“ (CMEP-GIS workshop for the Southeast Europe);
- Seminar on “civil protection mechanisms“, Slovenia (Ig near Ljubljana); and seminar on “Strengthening of Cooperation with Candidate Countries for Membership of EU and Countries of the West Balkans in Civil Protection“;
- ESDP activities during a seminar in Bečići;
- Seminar on “Rescue of Civilian Population in Situations of Natural Disaster“, Izmir, Turkey;
- Seminar on “Emergency Planning of Preparedness in Emergency Situations and Civil Security”, Brussels;
- Study visits organized as a part of the Project “Development and Strengthening of National and Local Administration in the Balkan Region” organized by the Ministry of Foreign Affairs of the Republic of Italy and Center for Training and Studies FORMEZ, Italy, in June, July, September and October 2008, and participated by 16 staff members of this Sector;
- Seminars: organized in Zagreb by SEESIM; organized in Podgorica by George Marshall Center; seminar on governance in the event of a disaster, organized by the Geneva Center for Security Policy in Sarajevo; participation in the IAEA workshop titled: “Strengthening of Governmental Programmes for Preparedness and Reaction in Emergency Situations”;
- Seminar for experts and senior managers titled “NATO Standards and Procedure Assessment Projects Focusing on Hydrological and Meteorological Aspects“ in RAVIAC Center, Zagreb;
- Seminar “Emergency Planning in the event of a Chemical Accident“, Belgrade;
- Exercise “SEESIM 08“ held in Sofa;
- Seminar in Trieste (PROADRIAS – PROTECTING THE ADRIATIC SEAWAYS);
- Participation in DPPI activities in Skoplje and Zagreb;

- Participation the activities of YUKOMAT organization, as a part of an international symposium held in Herceg Novi; International Atomic Energy Agency accepted a project of the Sector to be implemented through regional RER2006011 “Establishment of National Capabilities for Response to Radiological and Nuclear Emergency“, planned a as three-year project (2009 - 2011). Approximately 30 member countries of IAEA expressed an interest to participate in this project;
- Operating training for ARGOS software in Denmark (Copenhagen), followed by ARGOS Consortium;
- Exercise “Air Tractor Presentation“ in Bari (Italy);
- Training of engineers – system administrators was completed through workshops held by experts of Ericssona;
- A staff member participated in a delegation of the Army of Montenegro invited by the US Office for Bilateral Cooperation to visit the State of Maine and learn about its system of military support to civil authorities in crisis situations;
- All employees of the Sector successfully completed an elementary English course; while two employees completed and an advanced English course (5^{th} level).
- The Sector for Emergency Situations and Civil Security actively participates in the following initiatives:
- DPPI (Disaster Preparedness and Prevention Initiative for South Eastern Europe – initiative for prevention and preparedness in the event of disasters for the Southeast Europe);
- Adriatic-Ionian Initiative;
- CMEP (Civil-Military Emergency Planning) – Southeast Europe Civil Military Emergency Preparedness Council;
- “Protecting the Adriatic Seaway“ (PRO-ADRIAS - ProAdrias Project for the Adriatic Sea Protection);
- Barcelona Process Union for the Mediterranean;
- RCC: Regional Cooperation Council;
- RACVIAC: Center for Security Cooperation;
- SEESIM;
- “Barcelona Process Union for the Mediterranean“;
- OPCW – Organization for the Prohibition of Chemical Weapons;
- BSEC – Black Sea Economic Cooperation; and
- PPRD SOUTH – EUROMED programme on prevention, preparedness and response to natural and man-made disasters.

The Sector accepted to participate in the development and implementation of a project that will be proposed to the European Commission for funding, titled: Technologies for Hazard and Risk Evaluation and Adoption using Satellites: THREADS, jointly with civil protection services of the countries in the region (Albania, Bosnia and Herzegovina, Macedonia and Serbia), and the Civil Protection Service of the Republic of Italy.

Additionally, two regional projects were proposed to the Regional Cooperation Council (RCC): Model System for Forest Fires in Limited Area; Development of a pilot pre-operating system (FLAMES) and Border control of nuclear and other radioactive materials using stationary portal monitors in Montenegro (PORTAL).

By the end of 2008, the Ministry of Interior Affairs and Public Administration, Sector for Emergency Situations and Civil Security, signed an accession agreement and joined the ARGOS Consortium as its 11^{th} member.

In cooperation with the Danish Agency for Emergency Situations (DEMA), a project of ARGOS was initiated, relating to early warning about radiation hazard, which is also used as a support in decision-making in response to accidents.

The implementation of this Project started with a ten-day training attended by a staff member of the Sector for Emergency Situations and Civil Security in Copenhagen, followed by software installation on three computers in the Sector. Installation of digital equipment is planned at more

than 30 measuring points in Montenegro. ARGOS enables the processing of data collected through supervision by mobile units (vehicles and airplanes) and connected measuring stations.

The following phase includes the installation of radiation detection equipment at the base stations that are connected with the Operative Communication Center – Center 112, where the ARGOS project was implemented.

The Danish Agency for Emergency Situations (DEMA), as a strategic partner of the Sector for Emergency Situations and Civil Security, made donations in computer equipment, vehicles and other equipment thus creating the basic prerequisites to improve the quality of work and carry on further activities relating to organization and training of the staff and units for protection and rescue, and preparedness for an efficient practical implementation of these activities.

For the purpose of civil protection, DEMA donated to the Sector for Emergency Situations and Civil Security the following:

- 2,000 sets of uniforms for the member of civil protection units;
- 2,500 gas masks with gas mask filters;
- 7 motor vehicles, type Lada Niva, for regional units;
- 8 motor vehicles, type Toyota Auris, for the Sector's divisions;
- 2 four-wheel vehicles, including 1 command vehicle;
- 4 mini buses for the requirements of a mobile civil protection intervention;
- 60 computers;
- 7 fax machines;
- 3 scanners.

The Police Administration provided us with 3 vehicles, type "Pinzgauer", to be used by the National Team for reaction in the event of a nuclear, radiological, biological or chemical accident. The team includes experts of the Sector for Emergency Situations and Civil Security, Center for Ecotoxicological Research, Environmental Protection Agency, Clinical Center of Montenegro and Ministry of Defense.

Sector for Emergency Situations and Civil Security will keep working to strengthen both administrative and professional capacities of its staff members, by studying legal regulations, staff training and advanced training, because the process of training and professional development will also continue in the following period (through participation in seminars, lectures and other forms of staff training and development).

34. Is there a Strategy and an Action Plan for the reform of the Public Administration? If so, what are the main objectives and what is the state of play of their implementation? What were the shortcomings noticed in the implementation process and how were they overcome?

1) The Government of Montenegro, recognizing the importance and benefits of an administrative reform, inter alia, considering that this was a phenomena that had been continuously developing in almost all countries of the world over the last decades, and also the fact that administrative reform represented the condition and generator of reform in all areas of social organization and sector policies, in March 2002, adopted a document titled The Strategy of Administrative Reform in Montenegro 2002-2009. Accordingly, it should be noted that the process of preparation of this strategic document and the initial phases of its implementation were supported by EAR – by means of PARiM I, PARiM II and PARiM CB project. This is one of the first strategic documents whereby the changes are implemented in an organized, well thought out and targeted manner in order to create a modern, democratically organized and service oriented public administration.

The administrative reform strategically covers the area of state administration, local government and public services (public enterprises, public institutions, regulatory agencies and other institutional structures), noting that the line ministries and other state administration bodies were recognized by the Strategy as the bearers of reform in their respective areas. What is especially

important and of good quality is that the Strategy, as a functional element, defines the protection of individual rights in relation to the public administration.

2. The Strategy identified:

- Two basic reasons for the Public Administration Reform: 1. to improve the internal efficiency of functioning of the administrative system of the State; and 2. changing the administrative system for the reason of its inclusion into broader social systems;
- Two main goals of the Public Administration Reform: 1. institutional and legal consolidation of the administrative system and consistent implementation of regulations, and 2. stimulus and training of administrative staff for legal and quality work in the administrative system; and
- Key objectives of the Public Administration Reform: 1. significant delegation of competences to lower levels of the Administrative system, resulting in a higher level of flexibility of the entire administrative system; 2. Ensuring a higher level of quality in the process of the execution of tasks and introduction of certain control mechanisms, as well as insistence on more effective determination of obligations at all levels; 3. Competition and the possibility to choose services from various providers of administrative services; 4. Development of public services, which have to function for the benefit of clients – citizens and business entities; 5. Ensuring better Human Resources Administration in State Administration, as well as improvement of the position of key civil servants; 6. Optimal utilization of possibilities that are offered by using modern information technology; 7. Increase of the quality level of legal regulations and deregulation in certain over-regulated areas; and 8. Reinforcement of the steering and monitoring functions of the operation of an Administrative system.

The Strategy identified the following deadlines and phases:

- Phase I 2002-2004 (normative activity);
- Phase II 2004-2006 (implementation); and
- Phase III 2007-2009 (communication and cooperation with administrative systems of the EU Member States and European Union – horizontal communication).

The Strategy identifies the basis for an established network of mechanisms and bodies that will implement and monitor the reform, and those that will monitor the reform process of the state administration:

- Governmental bodies: Forum for Political Coordination of the Administrative Reform of Montenegro;
- Inter-Ministerial Committee for Operative Coordination of the Administrative Reform of Montenegro; Commission of the Government of Montenegro for the Political System, Interior and Foreign Policy; Commission of the Government for Rationalization of the State Administration; and
- Line ministry responsible for the state administration affairs (Ministry of Justice and its Council for the Reform of State Administration; since November 2006, this has been the Ministry of Interior Affairs and Public Administration).

In all phases of the reform process until now, despite the fact that there was no special obligatory requirement to harmonize the area of public administration and administrative legislation with *acquis communautaire*, its principles and good practice of the “European administrative area” were taken into account and reasonably incorporated into the normative rules and in practice. We are aware of the responsibilities that we have as a State, which is to establish and consistently implement the principles of mandatory achievement of the expected results, meaning to develop our administrative system to a level where we shall be able to ensure an efficient and effective implementation of the *acquis*, i.e. ensure Europeanization of the administrative law of Montenegro. This understands, in a broader sense, an establishment of rules, procedures, supervisory

mechanisms, interpretations, application, and judicial practice and making of all other aspects of administrative law compatible with acquis.

We also believe that it is important to point out that we are making every effort, starting from the premise that there are three key requirements for "good administration" (1. optimum macro and micro organization; 2. professional and depoliticized staff; and 3. modern information technology - IT), to ensure progress, both through normative regulation and daily practice, and respond to these challenges. Namely, as a system, global organization and macro organization basically follow the "Scandinavian model" of the public administration organization, on the state level. It is thus envisaged for the ministries to propose interior and foreign policy, manage the development policy, normative activity, administrative supervision and other activities of strategic and development importance, while the operating and enforcement activities of public administration, i.e. implementation of laws and other regulations, administrative and other professional activities in line ministries, are carried out by other administrative bodies (administrations, secretariats, offices, directorates and agencies; It should be noted here that the mentioned agencies represent administrative bodies, not sovereign and independent regulatory institutions). This organization is basically structured as a pyramid including state administration bodies within each particular field of activity, with the ministry at the top and other administration bodies at the bottom. This structure that is thus established functions according to the set out competences, obligations, authorities and responsibilities of all bodies, supported by a system of mutual relations and cooperation, including the right of the ministries to supervise the work of state administrative bodies.

Global and interior organization follow the changes in the structure and composition of the Government, as the bearer of executive authority. Additionally, they follow new competencies and authorities in the area of state administration by individual field of activity. Those are very flexible in nature, anticipate changes and react in a fast and relevant manner to their systemic environment. This is supported by the fact that, in addition to all relevant structures that are monitoring the process as discussed before, the Government of Montenegro continuously appoints special working bodies tasked to monitor and ensure the implementation of the Government's policies relating to organization of the entire system of state administration (number and structure of bodies; administrative capacities identified on the basis of number and structure of civil servants and state employees; substantive and financial means; and the aspect of rationalization in this area). Accordingly, under its current mandate, the new Government established, inter alia, its two special working bodies: 1. for the issues of global i.e. macro organization; and 2. to monitor the measures of saving of financial resources as a whole.

3. A list of observed weaknesses or perhaps obstacles observed so far essentially includes:

- The first - initial experiences and lack of resourcefulness, in addition to insufficient sharing of information about the process and its importance among all relevant participants; this situation was overcome by distribution of additional special information materials, provision of explanations and information, and also through inclusion of representatives. That way an appropriate participation and engagement by all relevant parties was ensured;
- Insufficient engagement of civil servants and state employees, and also their fear of changes since they were not certain what those would bring about; this was overcome also through the provision of additional information – issuing of bulletins, and subsequently trainings on particular issues. Additionally, all employees were included into the preparation and commenting on the Code of Ethics for Civil Servants and State Employees, which was a good opportunity for all of them to be properly informed and feel as a part of and actors in the process;
- Inactive attitude of certain bodies and postponement of action in order to see the experiences of other persons; what was undertaken to **overcome** this practice included, decisively, a strong and obvious political support to this process and establishment of special methodology for monitoring and reporting to the Government and its network for process monitoring and evaluation;
- Lack of creative young staff speaking foreign languages, with IT and other special skills, which, in addition to natural employment of young and educated staff, was remedied through special trainings, both in the country and abroad;

4. The following activities: by the beginning of 2010, a new Agenda will be adopted for further development of state administration for the period 2010-2012. This document will ensure immediate objectives, measures and activities and make them concrete, i.e. identify the tasks, the bearers of activities in a continued process of reform of the state administration, and deadlines for their completion. SIGMA/OECD already provided an initial expert opinion on the working version of this document stating that the objectives were well placed, and bearing in mind "a dominant orientation towards the civil sector, through the development of procedures, e-governance and building of confidence in public administration", it recommended for the Action Plan or Agenda to anticipate and include relevant changes to administrative procedures (Law on Administrative Procedure), judicial control of legality of administrative and other acts (Law on Administrative Disputes) and more powerful strengthening of a "merit system", in addition to human resources administration and assertion of the principle of integrity of public service through legal and administration mechanisms.

This issue is addressed in more detail in the response to question 40. Chapter 23: Justice and Fundamental Rights relating to State Administration.

35. What is the legal basis for the status of civil servants and other public employees? Is there a public administration law or regulation defining the status of public servants, including independence, recruitment and career structures and remuneration? Are the principles of a European Public administration as identified by SIGMA embedded within the legal framework? What are their conditions of service? Is there a Code of Ethics applicable to Civil Servants? If so, is its application carefully monitored? Are there specific rules applicable to specific categories of civil servants? How are public servants recruited? What are their conditions of service? Are there training institutions for public servants? Please provide statistics on training provided in the last three years. What percentage of public servants are (a) women and (b) from ethnic and national minorities (please provide details of grade and seniority if available).

The framework for the status of civil servants and state employees is provided by the Law on State Administration (Official Gazette of the Republic of Montenegro 38/2003; and Official Gazette of Montenegro 22/2008) (Annex 8), and the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/2008). The regulations applying to civil servants and state employees include general regulations concerning their rights, obligations and duties, unless otherwise stipulated under this Law or other regulation.

The status of civil servants is generally regulated under Chapter 7 of the Law on State Administration (Official Gazette of the Republic of Montenegro 38/03), including the following four provisions stipulating that:

- The affairs of state administration in the state administrative bodies shall be carried out by civil servants; administrative and technical activities relating to the state administration shall be carried out by state employees.
- Civil servants and state employees shall be employed based on open competition; the selection procedure and candidate selection shall be carried out by the competent body established by the Government, according to the law, where the competent body shall be required to ensure a proportionate participation by members of ethnic groups and minority nationalities in the state administrative bodies.
- A decision on employment shall be issued by minister, i.e. head of administration authority. Where a minister, i.e. head of administration authority, refuses to accept the candidate proposed by the Government's body competent for employment of civil servants and state employees, the reasons for such a decision shall be communicated to the competent body.

The Law on Civil Servants and State Employees regulates the following issues relating to the position of civil servants and state employees: employment; function; rights and obligations; duties; allocation to positions; performance evaluation; advancement and ability verification; professional training; termination of employment; protection of employment-related rights of civil servants and state employees; human resources administration; supervision over the implementation of this Law.

A civil servant or state employee is a person who is employed to work for a state body. A civil servant performs administrative, professional and other tasks whereby the competences of the administration body are implemented, as established under the Constitution, law and other regulations. A state employee performs administrative, accounting, financial and auxiliary technical tasks necessary for the execution of activities within the competence of the state body in a timely and quality manner.

A civil servant of state employee performs all activities in a politically neutral and impartial manner, in accordance with the public interest.

To be employed by the state body, a person has to be a citizen of Montenegro, be of legalage, medically fit, hold the applicable degree of professional qualifications, have a clear criminal record i.e. has never been convicted for a criminal offence that would render such person inadequate to work for a state body, and has to meet other criteria as established by the law and other regulations. The decision to fill in a vacant position may be adopted if such a job position is included into the job descriptions (as identified under the Act on Internal Organization and Job Descriptions), if it is vacant and if the required financial resources have been ensured by the state body. A vacant position of a state body may also be filled in by allocating an employed civil servant or state employee of the concerned state body to that position. If a vacant position is not filled in by means of its allocation to a member of the concerned body, it may be allocated by taking over a civil servant or state employee from another state body through an internal job advertisement. A job vacancy that has not been filled in as mentioned before will be openly advertised. Exceptionally, the procedure for open job advertising is not carried out in case of employment of a person who has been awarded a scholarship, following an open competition, by the concerned state body. An open competition is advertised according to general provisions on labor, and conducted by the competent state body for human resources administration. No time period for the submission of applications may be shorter than 8 and longer than 15 days as of the day of announcement of an open competition. An open job advertisement must include the name of the state body, place of employment, position title, terms and conditions for employment, supporting evidence that must be enclosed with an application by the candidate, deadline and contact information for notification purposes following the application, and the name of the person providing information during the open competition procedure. The human resources administration body, following the applications, draws up a list of candidates that meet the criteria of the public competition. The listed persons are subject to obligatory verification of personal ability to perform the required tasks.

The procedure for personal ability verification may be conducted in a phased manner, whereby the original number of candidates is gradually reduced, or may include a written test, face-to-face interview, and similar. Following the proposal of the line ministry, the Government establishes the procedure, method and criteria for personal ability verification for the listed candidates. The names of all candidates who were positively evaluated through a procedure for personal ability verification are included into a list drawn up by the human resources administration body. In case that no candidate is positively evaluated through a procedure for personal ability verification, the open competition may be repeated. A decision on the selection of a civil servant or state employee shall be made by the head of the state body. The head of the state body selects a candidate from the established list, and where no listed candidate civil servant or state employee is selected; the human resources administration body must be advised about the reasons for such a decision in which case the open competition may be repeated. The head of the state body is obliged to make a decision not later than within 30 days following the delivery of a list of candidates, and advise the human resources administration body accordingly. A civil servant or state employee is employed on the basis of a decision.

Career positions (senior positions), as established under the Law on State Administration (Official Gazette of the Republic of Montenegro 38/2003; and Official Gazette of Montenegro 22/2008) include:

- Ministry: Secretary of the Ministry and Assistant Minister,
- Administration authority: Deputy Head of Administration Body;
- Service established by the Government: Deputy Head of the Service.

In other state bodies and services, senior positions are identified under the regulation on establishment of a body, i.e. service organization. The persons in senior positions have to satisfy the following conditions: university degree; no less than five years of work experience and passed civil service exam; and other specific requirements according to the Act on Internal Organization and Job Descriptions. A person in senior position is employed following an open competition. The human resources administration body reviews the applications and draws up a list of candidates that satisfy the requirements of the competition. Interviews intended to verify personal abilities of the candidates have to be attended by the head of the state body, as the employer, following which a list of candidates is submitted to the head of the state body to propose an appointment. If the head of the state body fails to propose the appointment of a listed candidate, the human resources administration body has to be notified accordingly, in which case the competition is repeated.

A decision on nomination, appointment and removal from office of senior officials of the state administration bodies and services established by the Government is issued by the Government, following a proposal of the head of the state administration body or service, while such a decision in another state body is issued by the body that is authorized person according to the regulation on establishment of that body, i.e. service organization.

Persons in senior positions are nominated and appointed for a period of five years, and may be subsequently re nominated and reappointed.

A person in senior position may be removed from office: following personal request, if evaluated as “unsatisfactory” during his or her tenure, following the expiry of his or her tenure or termination of office. Except in the case of termination of office, a person in senior position may be assigned to another position meeting his or her professional qualifications and abilities. A person in senior position that cannot be reassigned to another position within one year following the day of his or her removal from office will be entitled to receive compensation in the amount of salary received for the last month in service, subject to the corresponding adjustment. Exceptionally, the entitlement to compensation may be extended for another year in case the concerned person will be entitled to retire during that period of time.

A civil servant or state employee may be rewarded for exceptional performance merits, i.e. special results achieved by the state body. Types of awards and the procedure for their presentation is established by the Government, while the data on awards presented to civil servants and state employees are entered into the central human resources records.

SIGMA, Document 27, identified the principles of administrative law that represented the standards for proceeding in administrative procedures and those of behavior and relations in and of the institutions.

Those principles, inter alia, include: legality; proportionality; legal security; protection of justifiable expectations; non discrimination; the right to be heard in decision-making procedures.

Through their codification, the following principles were distinguished: legal security (rule of law), openness and transparency, responsibility, efficiency i.e. timeliness, which, inter alia, represent a legal framework for the Law on State Administration (Annex 8) and the Law on Civil Servants and State Employees.

- Administrative affairs shall be carried out by the state administration pursuant to the Constitution, law, other regulations and general acts in a professional, independent, sovereign and impartial manner (Article 2 of the Law on State Administration).
- Openness and transparency: the work of state administration bodies shall be public. Citizens shall have access to data, documents, reports and information released by the state administration bodies, unless otherwise stipulated by the law (the availability of a

particular report or data may be denied only if thus, according to a special law, the obligation to keep a secret (state, military or official secret) relating to the protection of civil security and privacy would be violated). Additionally, ministries and administration authorities shall inform the public about the activities within their scope of work and report on their performance respectively, through public media or in another appropriate manner (Articles 4, 51 and 95 of the Law on State Administration).

- The principle of responsibility postulates that no authority will be exempt from inspection or supervision by other bodies. The principle of responsibility unites all other principles, starting from individual responsibility (civil servant or state employee shall be responsible for: the legality, professional quality and efficiency of personal performance; legal, efficient and purposeful application of public resources that are administered and applied in relation to work; damage caused due to his or her illegal or faulty work to the state body or a third person – Article 7 of the Law on Civil Servants and State Employees); the responsibility of ministers who are accountable for personal performance, the work of their respective ministries and the situation in the related field of activity to the Parliament of Montenegro and the Prime Minister (Article 41 paragraph 2 of the Law on State Administration); head of administration body shall be accountable for personal performance, the work of the headed administration body and the situation in the related field of activity to the line minister and the Government (Article 44 paragraph 4 of the Law on State Administration). The Law on State Administration establishes the responsibility of Montenegro for damage caused due to illegal or faulty work of a state administration body (Article 7 of the Law on State Administration).
- Efficiency i.e. timeliness are reflected in the obligation of state administration bodies to decide in a legal and timely manner on issues falling within their scope of authority respectively, i.e. to act in a legal and timely manner following the requests submitted by the citizens relating to implementation of their rights or obligations; for that purpose, the state administration bodies shall provide the citizens with necessary data, information explanation and adequate expert assistance, and, where applicable, prepare necessary forms and obligatorily make a public announcement of the standard procedure (Article 5 paragraph 2 and Article 52 of the Law on State Administration).

At the same time, all the foregoing principles represent the requirements of service that must be met so that the state administration may respond to the requirements of a modern state, i.e. so that the civil servants may meet those requirements and perform their respective duties in a professional, timely, responsible and expert manner.

Civil servant or state employee, while performing his or her duties, has to comply with the Code of Ethics for Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04 and 31/05). The Code of Ethics for Civil Servants and State Employees is established by the ministry competent for administration affairs, subject to prior opinion of civil servants and state employed. A civil servant or state employee must place no personal interest before the public interest or use his or her position to acquire either material or non-material benefits. Civil servant or state employee is obliged to avoid a conflict of interests. The Code of Ethics consists of a set of standards and rules of behavior that are adhered to by civil servants and state employees while performing the tasks of a state body. The provisions of the Code of Ethics also apply to persons who were employed by nomination that is appointment to a position in the state body (persons in senior positions). Ethic standards and rules of behavior while performing the tasks of a civil servant or state employee must be consistently implemented. The civil servant who is authorized to make decisions on behalf of a state body is obliged to act within the scope of his or her granted authority primarily bearing in mind the public interest.

An civil servant bears disciplinary responsibility in case of violation of the standards and rules of the Code of Ethics, according to the law.

Civil servants of particular state bodies, starting from standards and rules of the Code of Ethics, depending on the nature and specific character of their work, may be subject to a special code of ethics.

Training of civil servants is organized through the Human Resources Administration (Article 117 of the Law on Civil Servants and State Employees).

Human Resources Administration is an authority responsible for administration of human resources; it especially performs the following activities:

- Monitors the enforcement of the Law on Civil Servants and State Employees and other regulations on civil servants and state employees;
- Provides an opinion on organization and job descriptions of state bodies;
- Maintains records and other affairs of internal labor market;
- Prepares proposals for the applicable professional training and other humans resources development programmes;
- Provides professional assistance to the Government in relation to human resources administration;
- Assists the state bodies in the implementation of human resources policy, training and development of human resources; monitoring of the enforcement of measures aimed to achieve a proportional participation in the state bodies by national minorities and other national minority communities;
- Participates in the preparation of secondary legislation stipulated under the Law on Civil Servants and State Employees.

The human resources administration body maintains Central Human Resources Records on Civil Servants and State Employees (Article 118 of the Law on Civil Servants and State Employees), especially including the following information: personal details (name and surname; nationality and mother tongue; address and personal identification number, etc.);employment relationship (type of employment relationship and date of employment, etc.); post and work experience; appointment, career advancement and function; degree of professional qualifications, including functional and special skills, professional training and exams passed; years of service, years of pension insurance and reduced service years for retirement; performance evaluation; awards; disciplinary responsibility and material liability; termination of employment; personal salary and compensations.

From 2007 to August 2009, the Human Resources Administration organized 434 trainings attended by 5,414 participants.

An overview of trainings observed by years:

Year 2007:

The Human Resources Administration organized 122 trainings attended by 1,426 employees of 75 various state bodies.

Year 2008:

The Human Resources Administration organized 176 trainings attended by 2,243 employees of 94 various state bodies.

Year 2009:

The Human Resources Administration organized 136 trainings attended by 1,745 employees of 86 various state bodies.

BASED ON THE DATA ENTERED INTO THE DATABASE OF THE CENTRAL HUMAN RESOURCES RECORDS AS OF 12 August 2009, out of the total number of civil servants, including all functions and levels, 54% are women.

Percentage of female civil servants – by function:

Chief Inspector	36%
Chief Authorized Official	50%
Inspector I	49%
Inspector II	53%
Inspector III	40%
Minister	0%
Junior State Employee	88%
Junior State Employee I	29%
Junior State Employee II	40%
Junior State Employee III	67%
Junior State Employee IV	52%
Junior State Employee V	42%
Junior State Employee VI	41%
Authorized Official I	53%
Authorized Official II	43%
Authorized Official III	100%
Assistant Minister	29%
Deputy Head of Administration Body	26%
Trainee – Secondary Vocational School	50%
Trainee – University Degree	64%
Trainee – College Degree	67%
Senior State Employee I	62%
Senior State Employee II	63%
Senior State Employee III	85%
Senior Advisor I	51%
Senior Advisor II	73%
Senior Advisor III	52%
Adviser I	36%
Adviser II	25%
Adviser III	36%
Adviser to the Head	35%
Secretary of the Ministry	45%
Head of Administration Body	22%
State Employee I	100%
State Employee II	44%
State Employee III	78%
Senior Advisor I	73%
Senior Advisor II	68%
Senior Advisor III	67%
TOTAL	54%

Percentage of female civil servants – by degree of professional qualifications:

Non-qualified	94%
Semi-qualified	100%
Secondary School	52%
Qualified	56%

College Degree	37%
University Degree	58%
M.S.	50%
PhD	13%
TOTAL	54%

The Human Resources Administration, pursuant to Article 118 of the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), maintains thhe Central Human Resources Records on Civil Servants and State Employees which, inter alia, includes personal data (name and surname, nationality, mother tongue, address and personal idetification number, etc.). In this manner, the Law stipulates the obligation to maintain the records on human resources and information on the number of staff belonging to minority nationalities. Although this obligation is stipulated by the law, updating of records on human resources in local government bodies has not been fully implemented yet.

As of 6 October 2009, according to the available statistical data in the Central Human Resources Records, only 14 and 34 state administration bodies entered the data on monther tongue and national belonging respectively. In other words, national belonging was declared by 1,325 civil servants and state employees and enetered into the Central Human Resources Records, while only 192 of them provided information on their mother tongue respectively. Bearing this in mind, the statistical data are still incompleted, which is why those cannot be available. Statistical data can be relevant only if the Central Human Resources Records are fully updated, which is one of the priorities identified under the measures for implementation of the Strategy on Minority Policy, and the obligation of the Human Resources Administration over the following period of time.

A more detailed explanation is provided under the response to question 104 (Sub-Chapter – Human Rights).

36. Is there a transparent and regulated system of defining the functions and the authority of middle management staff within the administration?

According to the Law on Civil Servants and State Employees, a civil servant performs administrative, professional and other duties implementing the established competencies of a state body according to the regulations, whereas a state employee performs the administrative, accounting, financial and supporting technical duties.

The duties of a civil servant or state employee are carried out on the basis of the Constitution, laws, other regulations and general acts. According to the law, they are responsible for the legality, professionalism and efficiency of personal performance. A civil servant is obliged to adhere to the regulations on official duty and comply with the rules of the service.

A civil servant, who heads an organizational unit of a state body (superior), in addition to being liable for personal work, is liable for the work of servants and employees whose work is coordinated by him or her, irrespective of personal liability.

While carrying out his or her duties, a civil servant or state employee must follow the instructions and orders of his or her superior. Where he or she believes that a verbal order or instruction is not clear or is contrary to the regulations, he or she will be entitled to request a written instruction or order. Following a written instruction or order, a civil servant or state employee will be obliged to carry out the task, unless it would represent a criminal act.

A civil servant or state employee will be obliged to carry out duties other than those specified under his or her job description and outside of the working hours, where this is in accordance with his or her professional qualifications

He or she will be obliged to participate in the work of a working group, another state body or an interministerial working group.

Job descriptions for civil servants and state employees are established by the Government, following the proposal of a head of administration body, by adopting a special act on job descriptions. A civil servant or state employee performs his or her duties bearing a title as assigned on the occasion of employment or re-assignment to a job position.

The titles of civil servants fall into the following three classes:

1) Class I:
   - Adviser to the Head, Chief Inspector and Chief Authorized Official; university degree and not less than seven years of work experience;
   - Senior Advisor I, Inspector I and Authorized Official I; university degree and not less than five years of work experience;
   - Senior Advisor II, Inspector II and Authorized Official II; university degree and not less than three years of work experience;
   - Senior Advisor III, Inspector III and Authorized Official III; university degree and not less than one year of work experience.
2) Class II:
   - Adviser I; university degree and not less than three years of work experience;
   - Adviser II; university degree and not less than two years of work experience;
   - Adviser III; university degree and not less than one year of work experience;
3) Class III:
   - Junior Adviser I; college degree and not less than three years of work experience;
   - Junior Adviser II; college degree and not less than two years of work experience;
   - Junior Adviser III; college degree and not less than one year of work experience.

The titles of state employees fall into the following five classes:

1) Class I:
   - Senior State Employee I; university degree and not less than five years of work experience;
   - Senior State Employee II; university degree and not less than three years of work experience;
   - Senior State Employee III; university degree and not less than one year of work experience.
2) Class II:
   - State Employee I; university degree and not less than three years of work experience;
   - State Employee II; university degree and not less than two years of work experience;
   - State Employee III; university degree and not less than one year of work experience.
3) Class III:
   - Junior state employee I; college degree and not less than five years of work experience;
   - Junior state employee II; college degree and not less than three years of work experience;
   - Junior state employee III; college degree and not less than one year of work experience;
4) Class IV:
   - Junior state employee IV; secondary school and not less than three years of work experience;
   - Junior state employee V; secondary school and not less than two years of work experience;

- Junior state employee VI; secondary school and not less than one year of work experience;

5) Class V:
   - Junior state employee; elementary school.

The Law on Civil Servants and State Employees stipulates the title of inspector, appointed by the head of a state body for a period of four years. Chief inspector is appointed by the head of a state body for a period of four years, subject to the Government's approval.

The Law on Civil Servants and State Employees stipulates an exception allowing for the titles of civil servants and state employees in judicial bodies, bodies carrying out diplomatic, police, security, and security of imprisoned and convicted persons, customs and other affairs that require special authorization to be stipulated by another regulation.

Authorizations of civil servants in relation to mandatory compliance with legal regulations relating to the enforcement of specific actions in the course of a procedure are stipulated by the Law on General Administrative Procedure.

In the case of a failure to perform, unprincipled, untimely or careless performance of official duties, abuse of power or exceeding of authority, inspection supervision bodies may fine the civil servants and state employees or ban civil servants from performing their duties.

In relation to that, misconduct is stipulated by the law and other regulations. Misconduct procedure and competent bodies that conduct the proceedings are stipulated by the law.

37. Is there a transparent legal or regulatory basis for actions taken by public servants? In particular, how is impartiality and non-discrimination of actions by public servants ensured?

The Constitution of Montenegro, the Law on State Administration (Annex 8)and the Law on Civil Servants and State Employees constitute the legal basis for an impartial and non-discriminatory proceeding by civil servants.

The Constitution explicitly and strictly prohibits any direct or indirect discrimination on no matter what grounds and guarantees everyone's right to approach the state body or organization that performs public authority and be granted a response.

The Law on State Administration stipulates that the work of state administration bodies is public and subject to control, and in relation to that, that the ministries and administration authorities are obliged to inform the public about the performance of activities within their scope of work respectively, and also the right of citizens to have access to information, documents and reports of administration authorities.

The Law on Civil Servants and State Employees establishes, as the basic principles, political neutrality and impartiality, code of ethics for civil servants, legal and responsible work, and liability in case of misconduct. In accordance with these principles, a civil servant or state employee is obliged to carry out the entrusted duties in a conscientious manner, adhering to the Constitution, laws, other regulations and professional rules, in a politically neutral and impartial manner, in accordance with the public interest. He or she is also responsible for the legality, professional quality and efficiency of own work.

Carrying out his or her duties, a civil servant of state employee is obliged to adhere to the rules of behavior stipulated by the Code of Ethics for Civil Servants and State Employees not allowing his or her personal interest to have an impact on the legal and impartial performance of duties, and avoiding either possible or actual conflict of interests.

A civil Servants or state employees will bear disciplinary responsibility for misconduct at work or violation or standards and rules stipulated by the Code of Ethics, and will also be liable for any criminal act committed during the performance of official duty involving discrimination on no matter what grounds.

The Protector of Human Rights and Freedoms was established as a form of special protection of citizens against partial and discriminatory behavior of civil servants.

38. How is accountability of administrative bodies ensured (e.g. are administrative bodies accountable or answerable for their actions to other administrative, legislative or judicial authorities, and subject to scrutiny by others)? Does the legal framework comprise regulations concerning disciplinary measures against civil servants? Explain.

Starting from the principle of power distribution contained in the Constitution of Montenegro – the relations among the authorities are based on equality and mutual control, whereas the issue of responsibility of state bodies is developed by the Law on State Administration (administration and liability of the state administration bodies, administrative and inspection supervision), the Law on General Administrative Procedure (the provisions on proceeding by the authorities of first and second instance, and special provisions on administrative inspection); the Decree on the Government of Montenegro, the Decree on Organization and Manner of Operation of State Administration, Rules of Procedure of the Parliament, Rules of Procedure of the Government.

Administration authorities are obliged to act in accordance with the Constitution, law and other regulations and general acts, and to decide in a legal and timely manner on the matters within the scope of their competence respectively.

The position and role of state administration bodies are determined by the relations between the administration with administrative organizations that constitute the state administration and other state bodies, primarily the Parliament and the Government, their mutual relations, and also the relations between the state administration and the citizens, in addition to specially important relations between the state and local administration.

The work of state administration is subject to control that is implemented by means of performance of parliamentary supervision, administrative and other supervision, judicial control, and also special control (Constitutional Court, State Audit Institution, and Ombudsman).

Accountability of State Administration Bodies to the Parliament

Pursuant to the Constitution (Article 82), the Parliament establishes a system of state administration. State administration bodies are established by the Government that is accountable to the Parliament for the work of state administration (Article 2 of the Decree on the Government). As the members of the Government, ministers are accountable to the Parliament of Montenegro and the Prime Minister for their work, the work of their ministries and the situation in the related administrative field respectively. Exceptionally, the work of specific bodies (Police Directorate, National Security Agency) is regulated under special laws establishing a supervisory role of the Parliament. Also in such cases, annual reports are approved by the Government prior to their submission to the Parliament.

Parliamentary control and supervision over the work of the Government is implemented by the Parliament by means of parliamentary investigation, control and consultative hearing, questions asked by the members of the Parliament and the Questions to the Prime Minister; questions asked to the Prime Minister; requests for the provision of information; submission of interpellation relating to the work of the Government and particular ministers; consideration of annual reports; establishment of survey committees and investigation commissions. The ministries are obliged to respond to each question asked.

When considering an interpellation, the ministries are obliged to submit to the Parliament the required reports and information on particular issues relating to the filed of administration.

The reports, files and documents are submitted to the Parliament by the ministries through the Government.

The Parliament performs its control function by means of three control procedures: consultative hearing, control hearing, and parliamentary investigation (Rules of Procedure of the Parliament).

Accountability of State Administration Bodies to the Government

Accountability of the state administration bodies to other state bodies is regulated in detail under the Law on State Administration, including both administrative and inspection control, and also by the Decree on the Government of Montenegro.

The work of the ministries is supervised by the Government. To that effect, the ministries are obliged to undertake measures and actions aimed to implement the programme of the Government. The Government may annul a regulation of the ministry whereby freedoms and rights of natural and legal persons are violated contrary to the Government's regulation, and also in other cases as stipulated by the law. The Government will annul any regulation of the ministries that is contrary to the Government's regulations. A single act of a ministry may be annulled or cancelled by the Government while carrying out official supervision.

At least once a year, the ministries report to the Government about their work and the situation in the related administrative area respectively. At the request of the Government, state administration bodies will be obliged to submit special reports on particular issues within their scope of work, undertaken measures and the subsequent results respectively.

Following the procedure for control of the work of state administration, the Government decides about the responsibility of senior officials of the state administration appointed by the Government.

Accountability and Mutual Relations among the State Administration Bodies

Mutual relations among the ministries are based on mandatory mutual cooperation and exchange of information about their respective activities, especially in relation to issues of importance for their work. The ministries are obliged to jointly carry the activities, if so decided by the Government or where this is a part of their established duties.

Mutual relations among the ministries and the state administration bodies are based on mutual cooperation and hierarchy. The content of such relations is based on the reports submitted to the ministries (at least once a year) and administrative supervision.

While supervising the work of state administration bodies, the ministers:

1. supervise the legality and appropriateness of work;
2. perform second-instance supervision.
3. Inspection Supervision

Carrying out administrative supervision over the legality and appropriateness of the work of administration authorities, a ministry may ban any acts adopted outside of administrative procedure if contrary to the law, and propose to the Government to cancel or anull such acts; request reports and information on specific issues; provide expert guidelines and instructions; and warn administration authorities about the identified irregularities in their work.

Carrying out second-instance supervision, a ministry decides on appeals against single acts issued by administration authorities in the procedure of first instance, in addition to other duties performed in administrative procedure by the second-instance body.

In the course of inspection supervision, according to a special law, single acts and work of the state administration bodies are directly inspected.

Accountability of Administrative Bodies to the Courts

There is a special system of control in relationships between the courts and state administration bodies established through a special procedure of control by the Constitutional Court (evaluation of constitutionality and legality of general and single acts in the cases stipulated by the law) and

control of the legality of final administrative acts or single acts in other legal matters of state administration bodies, when this is anticipated by the law – administrative dispute. Administrative dispute is decided by the Administrative Court of Montenegro and the Supreme Court of Montenegro. Article 7 of the Law on Administrative Dispute (Official Gazette of the Republic of Montenegro 60/03) provides for an option to initiate an administrative dispute even when the competent body failed to issue the corresponding legal act at the request of a party.

Judicial control of the legality of work of administration in the area of property relations deciding on property and other disputes between the state administration and other entities (natural and legal persons) is carried out by the courts of first instance through legal proceedings. Also, the courts of first instance decide on criminal matters, criminal liability of high officials, civil servants and state employees in relation to any criminal offence committed on duty and in relation a position in the state administration.

The Law on State Administration stipulates that the administration bodies are obliged, at the request of the court, to submit to the court both files and data in the manner and within the time limits established by the laws governing the procedure in front of the courts.

Disciplinary Measures against Civil Servants

Disciplinary liability of a civil servant is related to a legal, responsible, timely, efficient and conscientious performance of duties, as contained in the Law on Civil Servants and State Employees. Exceptionally from general regime of disciplinary responsibility established under the Law on Civil Servants and State Employees, in case of particular officials in administrative bodies, the issues of disciplinary liability may be regulated under a special law or in another manner (e.g. the Police Law).

The civil servants employed in the public administration are accountable to the head of state administration bodies and subject to disciplinary liability. Liability for the performance of duty (acting and failure to act) is regulated as a disciplinary offense as follows: minor disciplinary violation (failure to respect the working hours; inordinate maintenance of official files and data; unjustifiable one-day absence from work, and other) and serious disciplinary violation (failure to carry out or untimely carrying our of duty; refusal to carry out an order or task; faulty disposal with the entrusted resources; abuse of position or excessive power in service and disclosure of an operating, official or other secret as established by the law or other regulation; proclamation of political convictions while performing the duties, etc.).

A disciplinary procedure is initiated by the head of the state body, following the proposal of a superior official. A civil servant or state employee is entitled to submit an explanation and initiate a disciplinary procedure. A disciplinary procedure against an employee is conducted by a Disciplinary Commission that proposes a decision. The Disciplinary Commission consisting of a President and two members is appointed by the head of the state body. A disciplinary procedure against an employee in a senior position is conducted by the commission appointed by the competent body that appointed the employee. A disciplinary procedure must include a hearing where the employee has the right to defend himself or herself (personally or through an attorney). Disciplinary measures against an employee, following the proposal of the Disciplinary Commission, are proclaimed in the course of disciplinary procedure by the head of the state body. Disciplinary measure against a senior official will be proclaimed by the commission appointed by the competent body that appointed the official.

Disciplinary measures, according to the gravity of disciplinary offense, may be minor or serious.

Minor disciplinary violations are subject to a single disciplinary measure – a fine in the amount of 15% of the salary paid for the month when the offense was committed per instance.

Serious disciplinary violations may be subject to the following disciplinary measures: - a fine in the amount of 20-30% of the salary paid for the month when the offense was committed per instance; or termination of employment.

The civil servant or state employed against who a disciplinary procedure was initiated due to a serious disciplinary violation may be removed from office by the decision of the head of the body,

in case his or her presence may have a harmful effect on the interest of the state body or disturb the course of disciplinary procedure.

An appeal against the proclamation of a disciplinary measure may be lodged by the employee requesting the protection of personal rights to the Appeals Commission, i.e. a legal dispute may be initiated in front of the Administrative Court disputing the legality of the decision issued by the Appeals Commission.

In the cases of failure to perform, unprincipled, untimely or careless performance of official duties, abuse of official position or excessive power, an administrative inspector may issue a decision proclaiming the following administrative measures: a fine in the amount of 30% of the employee's salary for the previous month per instance; and a ban from carrying out his or her administrative duties, maintenance of records or office operations, in which case, the inspector will request an initiation of disciplinary proceedings within 8 days and a ban on the performance of duties where established that administrative duties, maintenance of records or office operations are carried out by an employee that fails to satisfy the required conditions.

39. What systems are in place to monitor implementation of policies and laws and to receive feedback? Is there an inspection of the public administration and how does it function?

Systems for Monitoring and Implementation of Policies and Laws and Obtaining of Feedback

The Law on State Administration (Official Gazette of Montenegro 22/08) (Annex 8) stipulates that the implementation of policies and laws is supervised (controlled) and that feedback information is obtained through the performance of administrative and other supervision, judicial control and other forms of control (Article 6 of the quoted law).

According to the Law on State Administration (Article 16), there are three types of administrative supervision, as follows:

1. Supervision over the legality and appropriateness of work of administration authorities, local government and other legal persons in the course of performance of their delegated and devolved activities;
2. Supervision over the legality of administrative acts;
3. Inspection supervision;

Supervision over the legality and appropriateness of work includes the following:

1. Control of the legality of work and procedure;
2. Control and evaluation of efficiency, cost-effectiveness and effectiveness;
3. Control of appropriateness of organization to carry out the tasks and training of civil servants, i.e. employees to perform those duties;
4. Attitude of civil servants towards applicants, natural and legal persons.

Supervising the legality and appropriateness of work, supervisory bodies:

1. Initiate the procedure to assess the constitutionality and legality of general acts;
2. Order carrying out of established obligations;
3. Propose termination, i.e. ban on operation of an institution or another legal person;
4. Undertake other measures stipulated under special regulations.

The legality and appropriateness of work of administrative bodies is supervised by the ministries and administration authorities. The ministries supervise the legality of work of administrative bodies (Article 25 of the Law on State Administration). Administration authorities supervise the work of non-governmental entities (enterprises, institutions and other legal persons) while carrying out the

activities that were delegated or devolved to them respectively (Articles 77 – 79 of the Law on State Administration).

Supervision over the Legality of Administrative Acts

Supervision over the legality of administrative acts includes the control of legality of administrative acts that are applied, according to the law, to decide on the rights, obligations and legal interests of natural and legal persons and undertake legally anticipated measures. Supervision over the legality of administrative acts may be:

1.) Second-instance supervision; and

2.) Official supervision.

1.) Second-Instance Supervision

Carrying out second-instance supervision, following an appeal, ministries control the first-instance administrative acts issued by administration authorities and perform other duties of a second-instance authority according to the law (Article 70 of the Law on State Administration).

Administration authorities decide on appeals lodged against single acts issued by the first instance authorities while performing the tasks that were delegated or devolved to them (local administration) and carry out other rights vested in the second-instance authorities in administrative procedure according to the law (Article 83 of the Law on State Administration).

Administration authority also decides on appeals against single administrative acts adopted in the first instance procedure by public enterprises and other legal persons founded by the state, and other duties vested in the second-instance authorities in administrative procedure according to the law (Article 78 of the Law on State Administration).

If established that an act is illegal, senior authority carrying out second-instance supervision may cancel or modify such an act. Accordingly, second-instance supervision is carried out following an appeal, as a regular legal remedy in administrative procedure.

2.) Official Supervision

Official supervision includes supervision over the legality of acts carried out by state administration bodies ex officio. If established as illegal, an act may be cancelled or banned.

Inspection Supervision

Inspection supervision, as a special type of administrative supervision, is carried out through direct inspection of institutions and legal persons, state bodies, municipalities, Capital, Historic Royal Capital and the state, and other bodies and citizens, relating to their compliance with the law, other regulations, general acts, and in order to undertake other measures and actions.

The purpose of inspection supervision is to confirm the level of compliance with the law by the administration itself, and it is aimed to adjust the situation with the regulations (Article 19 of the Law on State Administration (Annex 8)). Inspection supervision is carried out by administration authorities, through persons with special authority (inspectors). Particular inspection duties may be delegated or entrusted to local government bodies. In case a specific irregularity is recognized by the inspector while carrying out inspection supervision, he or she will advise the concerned party accordingly and set a time limit to remedy non-performance. If the responsible person fails to act accordingly, the inspector will issue a decision ordering the non-performance to be remedied and set a time limit for the execution of an ordered administrative measure, and may also initiate the procedure to establish the responsibility of such a party.

Inspection supervision is regulated in more detail under the Law on Inspection Supervision (Official Gazette of the Republic of Montenegro 39/03).

Some ministries include inspection bodies that perform inspection supervision in the field of activity that the ministry was established for, such as: the Ministry of Spatial Planning and Environmental Protection includes the construction inspection, urban planning inspection and the inspection for space protection; the Ministry of Labor and Social Welfare includes a labor inspection, and similar.

A special independent control over the work of state bodies is carried out by courts, as follows: Administrative, Constitutional and regular Courts.

Direct judicial control over administration is carried out by the Administrative Court, through administrative dispute. The Administrative Court decides about the legality of legal acts and other single acts when this is stipulated by the law. Administrative ac is an act whereby a state body, local administration body, an institution or other legal person performing public authority, decides on administrative matters, on the rights, obligations or legal interests of a natural or legal person.

Other single acts include those whereby a body or an institution decides on the rights, obligations or legal interests of a natural or legal person in other legal matters.

In Montenegro, accordingly, pursuant to the Law on Administrative Dispute (Official Gazette of the Republic of Montenegro 60/03), a direct administrative and judicial control of final administrative acts is ensured by the Administrative Court, while an indirect judiciary control is ensured by the Supreme Court, as the court having a general jurisdiction to control the decisions of the Administrative Court, through extraordinary legal remedies. Under particular legal conditions, the Administrative Court may make a meritorious decision even regarding the very administrative matter (which is the primary although not an exclusive subject matter of an administrative procedure). In this case, the Administrative Court conducts an administrative dispute having a full jurisdiction, where an administrative matter also becomes a judicial matter. Accordingly, in an administrative-judicial procedure – administrative dispute – the Administrative Court carries out direct judicial control of the administration.

The constitutional and judicial control over the work of the administration is implemented through a special formal constitutional and judicial procedure aimed to assess the constitutionality and legality of general and single acts, as well as actions taken by administration authorities, i.e. their compliance with the Constitution and the law. The competence of the Constitutional Court of Montenegro is established under Article 149 of the Constitution of Montenegro.

Judicial control of the legality of work of administration is carried out by the courts of first instance through civil and criminal procedure.

Additionally, political control of the administration is carried out by political entities, i.e. bodies, such as the Parliament, Government, political parties, the public, and partly the ombudsman.

Administrative bodies provide information relating to their respective activities. Each ministry submits a report on its work and the situation in the related field of activity to the Government at least once a year, whereas each administration body submits a report on its work and the situation in the field of activity that it was established for to its line ministry (Article 72 of the Law on State Administration). The reports must include an overview of enforcement of laws and other regulations, implementation of programmes and conclusions of the Government, undertaken measures and subsequent results.

Ministries are obliged, at the request of the Government, and administrative bodies at the request of the ministries, to submit a special report on particular issues within their scope of work respectively, undertaken measures and subsequent results.

Is there an inspection of public administration, and how does it function?

The inspection of public administration is a part of state administration bodies, i.e. the Ministry of Interior and Public Administration (administrative inspection). The scope of work of administrative inspection is established under the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03).

Namely, Article 290 of the Law stipulates and administrative inspection performs inspection supervision over the application of laws and other regulations in administrative procedure, relating

to the efficiency and accuracy in deciding on administrative matters, and acts in accordance with the rules of procedure, provision of legal aid and costs of administrative procedure by applying the regulations on office operations and keeping of records. Administrative inspection also carries out inspection control over the application of laws and other regulations governing the system of state administration in relation to organization of the administration, equality of language and script, and professional qualifications of employees performing the duties of state administration. Inspection control is carried out in state bodies, courts, local government bodies, national and municipal services and enterprises, institutions and other legal persons performing public authority.

Administrative inspectors carry our inspection supervision in accordance with the Law on Inspection Supervision.

Carrying inspection supervision, administrative inspection is free to use various authorities. In the cases of failure to perform, unprincipled, untimely or careless performance of official duties, abuse of official position or excessive power relating to the application of rules of administrative procedure, decision making, maintenance of the prescribed records, office operations, refusal or provision of incorrect provision of information to an administrative inspector, which is necessary for the performance of his or her duties, an administrative inspector may issue a decision proclaiming the following administrative measures: 1) a servant may be fined in the amount of 30% of his or her salary for the previous month per instance, and 2) a servant may be banned from carrying out his or her administrative duties, maintenance of records or office operations. In this case, the inspector will request an initiation of disciplinary proceedings within 8 days. The ban on the performance of duties will last until the end of disciplinary procedure.

Also, if an administrative inspector establishes that a servant who does not meet the required specifications carries out administrative activities, record keeping or office management work, such person will be banned from performing those duties.

40. What is done to ensure that the public service is open and transparent? Can any citizen affected by an administrative action find out the basis for the action?

The public nature and transparency of activities of the state administration bodies, carried out by ministries and other administration authorities, is guaranteed under the Constitution of Montenegro by guaranteeing access to information in the possession of state bodies and organizations carrying out public authority, and also by the Law on State Administration that stipulates the obligation of the ministries and administrative bodies to inform the public about the performance of activities within their scope of work respectively, and report on their work through public media and in another appropriate way. The state administration bodies are obliged to appoint a person who will issue reports, information and data on the performance of activities of the state administration. The civil servants responsible for the preparation of necessary reports, information and data are personally liable for their accuracy and timeliness. Issuing of inaccurate reports, information or data will be considered as misconduct.

In the process of drafting of a law regulating civil rights, obligations and legal interests, minister will be obliged to have the text of the draft law published by public media and invite all interested parties to provide their comments, proposals or suggestions. The minister decides about the implementation of public debate process in relation to the draft law.

Ministries and administrative bodies, when holding meetings and other forms of professional consultations to discuss the issues within their scope of competence respectively, are obliged to announce it publicly and enable the media to follow their work.

According to the Law on General Administrative Procedure, parties will have the right to review copy or photocopy the required documents and keep themselves informed about the course of the proceedings. According to the law, any party or a third person who makes his or her legal interest in the concerned proceedings probable will have the right to be advised accordingly about the course of the proceedings.

The Law on Free Access to Information stipulates that access to information in the possession of state authorities will be free and implemented in the prescribed manner. Publishing of information in the possession of state authorities is in the public interest, and in relation to that each authority is obliged to draw up and publish in an appropriate manner an overview of information in its possession, including public registers and records, information on the procedure to access data, and names of authorized officials to act on a request to access information, and other relevant information for the implementation of rights. An authority is obliged to enable an inspection of public registers and public records in its possession. An authority, following a request for access to information, issues a decision following a summary procedure, by issuing an administrative act. An appeal may be lodged against an administrative act issued by the authority of first instance, following a request on access to information, i.e. an administrative dispute may be initiated.

41. What are the procedures for administrative control to guarantee citizens' rights of recourse against public service actions? Describe these (e.g. parliamentary committees, ombudsman's office, internal and external audit, inspectorates, standard-setting authorities). To what extent are the recommendations formulated by these bodies (particularly the ombudsman's office) taken into account by the Government? Please provide concrete data.

Articles 19 and 20 of the Constitution of Montenegro stipulate that each person is entitled to equal protection of his or her rights and freedoms, i.e. legal remedy against a resolution deciding on his or her rights or legally based interest.

Appellate procedure - proceedings are governed by the Law on General Administrative Procedure where, in addition to direct party, an appeal against a decision issued by the authority of first instance may be lodged also by the person who was enabled to participate in the procedure of first instance if the decision relates to his or her rights and legal interests.

An interested person, if he or she requests to be issued a decision within the time limit set for a party to lodge an appeal, will be entitled to lodge an appeal within the time limit set for deciding on the appeal of that party.

According to the principle of two instances, particular administrative affairs where no appeal is permitted may be stipulated only by law, and only where the protection of rights and legal interests of a party and legality is ensured in another manner.

An appeal may be lodged against the first instance decision of a ministry only when this is stipulated by the law, and also in the case of an affair excluding an administrative dispute.

An appeal against a decision of the first instance issued by an administration authority, local government, institution or another legal person performing the duties pertaining to public authorization will be decided by its supervising authority.

General time limit for lodging an appeal is 15 days as of the day of delivery of an administrative act.

According to the Law on State Administration, legal control and administrative supervision include the following activities: supervision over the legality of administrative acts; supervision over the legality and appropriateness of the work of administration authorities, local government authorities, institutions and other legal persons while performing their delegated or devolved duties and inspection control.

Supervision over the legality of administrative acts is carried out by the ministries; it includes the control of legality of administrative acts deciding about the rights and obligations and legal interests of natural and legal persons according to the law.

The Law on Inspection Supervision regulates the principles of inspection supervision, the manner and procedure for its performance, in addition to the obligations and authorizations of inspectors. The provisions of this Law apply to all administrative areas, unless otherwise stipulated by a special law. The provisions of the Law accordingly apply to local self-government bodies carrying

out inspection supervision in accordance with the law. Inspection supervision is carried out with respect to compliance with the law, other regulations and general acts, in addition to undertaking of administrative and other measures and actions aimed to harmonize the identified irregularities with the regulations. Inspection supervision is carried out by inspector, as an civil servant vested with special authorizations and responsibilities. The procedure of inspection control is administered in accordance with the Law on Inspection Supervision, special regulations and the Law on General Administrative Procedure.

The Law on the Protector of Human Rights and Freedoms, who is established under the Constitution, stipulates that he or she will protect the human rights and freedoms guaranteed under the Constitution, law, ratified international treaties on human rights, and commonly accepted rules of international law, when those are violated by means of an act or action of state bodies, local government bodies, organizations and other entities performing delegated state administration duties.

The Protector may be approached by any person who believes that his or her rights and freedoms were violated by an act or action of the authorities.

The work of the Protector is public, while the public nature of the Protector's work is ensured through the submission and publication of annual reports and special performance reports, and in another manner as stipulated by the Protector. An annual report, including an overview of the reviewed cases, assessment of the state of human rights and freedoms, and recommendations and measures proposed by the Protector in order to remedy the identified deficiencies, is submitted to the Parliament of Montenegro by the Protector, and following the Parliament's request, the Government is obliged to provide an explanation.

According to the Protector's opinion, an increased responsibility and readiness of public administration bodies to fully respect and accept his recommendations and opinion was confirmed.

Failure to act on a request of the Protector of Human Rights and Freedoms within the meaning of the law is regarded as an obstruction of his work, and the Protector may directly inform the Parliament accordingly, as the superior authority, or the public.

Parliamentary control of administration is accomplished in several ways, as follows:

1. Questions asked by members to the Parliament:

Members ask questions at a special sitting of the Parliament. A member to the Parliament, in order to obtain necessary information on particular issues relating to the work of the Government or the implementation of an established policy, is entitled to ask the Government or competent minister a question, as a member to the Parliament, and be provided with a response.

Ministry is obliged to respond to a question asked in the Parliament by a member of the Parliament.

A question of a member of the Parliament is asked in the same manner as questions for the Prime Minister on current issues relating to the work of the Government (Questions to the Prime Minister). Prime Minister, minister or other authorized representative of the Government answers the questions of members of the Parliament.

2. Interpellation about the work of the Government

Interpellation is submitted to the President of the Parliament in writing, while the question to be considered has to be clearly formulated and explained. The interpellation will be immediately delivered to the members of the Parliament and the Government immediately by the President.

During the procedure following an interpellation initiated in order to review specific political issues relating to the work of the Government, the concerned ministry is obliged to submit the reports on particular issues and the required data from the related administrative field to the Parliament.

3. Parliamentary hearing, investigation

A parliamentary hearing is carried out in order to obtain information or expert opinion on a proposed act that is in the parliamentary procedure, decide on particular issues of importance in

order to prepare the proposal of an act, and also for the purpose of more successful implementation of the Parliament's control function.

The ministry is obliged to submit case files or documents only in the course of parliamentary investigation, where such files or documents constitute no state, military or official secret according to a special law. If such files or documents constitute a secret, the ministry will enable their inspection and transcription.

The judicial system

42. Please provide brief description on legislation or other rules governing the structure and functioning of the judicial system.

Main legislation regulating the structure and functioning of Montenegrin judicial system includes as follows: Constitution of Montenegro (Official Gazette of Montenegro 1/07); Law on Courts (Official Gazette of the Republic of Montenegro 5/02 and 49/04); Law on Judicial Council (Official Gazette of Montenegro 13/08); Law on Public Prosecution Office (Official Gazette of the Republic of Montenegro 69/03 and 40/08); Law on Training in Judicial Authorities (Official Gazette of the Republic of Montenegro 27/06); Law on Bar Exam (Official Gazette of the Republic of Montenegro 52/04); Law on Salaries and Other Income of Judges and Prosecutors and Constitutional Court Judges (Official Gazette of the Republic of Montenegro 36/07 and 53/07); Court Rules (Official Gazette of the Republic of Montenegro 36/04); Rulebook on Internal Operations of the Public Prosecution Office (Official Gazette of the Republic of Montenegro 12/07); Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 50/08) and rulebooks on internal organisation and job descriptions of courts and public prosecutors' offices.

The mentioned legislation regulates establishing, organisation, jurisdiction, requirements and procedures for selection of judges and prosecutors and other issues relevant to orderly and timely functioning of courts and Public Prosecution Office.

Judicial power in Montenegro is exercised by courts. According to the Constitution judicial power is autonomous and independent. The court adjudicates on the basis of the Constitution, laws and ratified and published international treaties. The Judicial Council is an autonomous and independent body ensuring independence and autonomy of courts and judges. The Judicial Council has a president and nine members. The Supreme Court is the highest court in Montenegro. The Supreme Court ensures uniform application of laws by courts.

The Law on Judicial Council governs the manner of election and termination of office of the Judicial Council members, organisation and manner of work of the Judicial Council, the procedure for election of judges and lay judges, manner of confirmation of termination of judicial office, disciplinary responsibility and dismissal of judges and lay judges.

The Law on Courts regulates establishing, organisation and jurisdiction of courts, requirements for the election of judges and lay judges, reasons for disciplinary responsibility, organisation of the work in courts, judicial administration and financing of the courts.

According to the Constitution the Public Prosecution Office is a single and autonomous state body performing the tasks of prosecution of perpetrators of criminal offences and other punishable offences prosecuted *ex officio*. The Public Prosecution Office performs its functions in accordance with the Constitution, laws and ratified international treaties. The Prosecutorial Council ensures the autonomy of Public Prosecution Office and of public prosecutors. The Prosecutorial Council has ten members and a president elected and dismissed by the Parliament. The functions of the Public Prosecution Office are performed by public prosecutors and deputy public prosecutors.

The Law on Public Prosecution Office governs establishing, organisation and jurisdiction of public prosecutors' offices, requirements and procedure for appointment and dismissal of public prosecutors and deputy public prosecutors, their rights and duties, disciplinary responsibility, relationship and cooperation between public prosecutors' offices and other authorities, issues

relating to prosecutorial administration, recruitment of officers, administrative staff and trainees, issues relating to official secret and protection of confidentiality of data, financing of the work of public prosecutors' offices and appointment, composition and jurisdiction of the Prosecutorial Council.

The Law on Training in Judicial Authorities governs the manner and forms of training of judges and prosecutors, and of persons preparing for the exercise of judicial or prosecutorial office, composition and powers of special bodies, financing and other issues relevant to the training in judicial authorities.

For the purpose of organising and implementing training of judges and prosecutors, special bodies have been set up – a Coordination Board, Programme Board and an Examination Commission.

The Coordination Board:

- passes annual training programme and a plan for its implementation within the framework of funds allocated for this purpose;
- sets up programme boards for the implementation of special training programmes, selects members of such boards and determines the number of participants in training programmes;
- monitors evaluation of the programmes;
- sets a list of permanent and visiting lecturers;
- selects members of the Examination Commission;
- passes its Rules of Procedure;
- performs other tasks relevant to training.

The Coordination Board has seven members.

The Programme Board:

- elaborates and implements a special training programme and adopts a plan for its implementation;
- decides on the structure of the participants;
- determines and engages lecturers from the list of lecturers;
- submits a report on the implementation of the special training programme to the Coordination Board, Judicial Council, Prosecutorial Council and Ministry of Justice;
- maintains records on the implementation of special training programmes;
- performs other duties in accordance with law.

The Programme Board has three members.

The Examination Commission organises taking of the admission and final exam for initial training, in accordance with law.

The Examination Commission has three members.

The Law on Bar Exam regulates requirements for and manner of taking bar examination. Bar examination tests the ability of candidates to apply law independently and to perform legal tasks in respect of which bar examination has been prescribed by law or other regulations.

The Law on Salaries and Other Income of Judges and Prosecutors and Constitutional Court Judges regulates the right to salary, right to reimbursement of costs and other rights relating to exercise of judicial or prosecutorial office and salary grades.

The Law on Civil Servants and State Employees governs the employment, titles, rights and obligations, responsibilities, assignment, performance assessment, promotion and professional training and termination of employment of expert advisors and administrative staff in judicial and prosecutorial authorities.

43. Please indicate:

a) The number of courts (by type of court);

The courts are established in accordance with the Law on Courts (Official Gazette of the Republic of Montenegro 5/02 and 49/04) and judicial power is exercised by:

- 15 basic courts
- 2 high courts
- 2 commercial courts
- Appellate Court
- Administrative Court
- Supreme Court.

b) The main competencies and functions of each type of court;

In accordance with the Law on Courts,

Basic courts have the jurisdiction:

- In criminal cases:
  - to hear and determine at first instance criminal offences punishable by law by a fine or imprisonment of up to 10 years as principal punishment, regardless of the character, profession and position of the person against whom the proceedings are conducted and regardless of whether the criminal offence was committed in peace, state of emergency, in a state of imminent war danger or in a state of war, unless the jurisdiction of another court is determined for specific types of these criminal offences;
  - to hear and determine at first instance those criminal offences which are by special legislation prescribed to fall within the jurisdiction of basic courts;
  - to conduct proceedings and decide on requests for expunging of sentence, termination of security measures or legal consequences of sentence; decide in those matters when basic court has pronounced such sentence or measures;
- In civil cases, to hear and determine at first instance
  - disputes relating to property, matrimony, family, personal rights, copyrights and other matters except in those disputes where the law prescribes the jurisdiction of another court;
  - disputes relating to correction or reply to information provided by the media and petitions relating to violation of personal rights committed through the media;
- In labour law cases to hear and determine at first instance disputes relating to:
  - employment;
  - conclusion and application of collective bargaining agreements, as well as all disputes between employers and trade unions;
  - application of the rules on strike;
  - appointment and removal of bodies in companies and other legal entities;
- In other legal matters:

- to resolve at first instance non-contentious cases, unless otherwise provided by the Law on Courts;
- to resolve matters related to enforcement and disputes which arise in the course or due to enforcement proceedings, unless otherwise provided by the Law on Courts.
- to decide on recognition and enforcement of foreign judgments, except for those falling within the jurisdiction of the commercial court;
- to perform duties concerning legal assistance.

Basic courts have jurisdiction to decide at first instance in other matters as well, unless the jurisdiction of another court is prescribed by law.

Basic courts also perform other duties as prescribed by law.

High courts, at first instance:

1) hear and determine criminal proceedings for criminal offences punishable by law by imprisonment in excess of 10 years as principal punishment, regardless of the character, profession and position of the person against whom the proceedings are conducted and regardless of whether the criminal offence was committed in peace, state of emergency, in a state of imminent war danger or in a state of war, and for criminal offences of:
   - manslaughter,
   - rape,
   - endangering the safety of an aircraft in flight by violence,
   - unauthorised production, keeping and releasing for circulation of narcotic drugs,
   - calling for violent change of constitutional order,
   - disclosure of state secret,
   - instigation of ethnic, racial and religious hatred, discord and intolerance,
   - violation of territorial sovereignty,
   - associating for anti-constitutional activity,
   - preparing acts against the constitutional order and security of Montenegro.
2) hear and determine criminal proceedings for criminal offences of organised crime regardless of the severity of prescribed punishment;
3) hear and determine criminal proceedings for criminal offences with the elements of corruption:
   - money laundering;
   - violation of equality in performance of business activity;
   - abuse of monopolistic position;
   - causing bankruptcy;
   - causing false bankruptcy;
   - trading in influence;
   - false financial statement;
   - abuse of appraisal;
   - disclosure of business secret;
   - disclosure and use of stock-exchange secret;
   - passive bribery;
   - active bribery;
   - disclosure of official secret;

- abuse of official position, fraud in performance of official duties and abuse of powers in commerce punishable by imprisonment of eight years or more severe punishment.

4) hear and determine those criminal offences which are by special legislation prescribed to fall within the jurisdiction of high courts;

5) conduct proceedings and decide on requests for extradition of accused and sentenced persons.

High courts decide at second instance on appeals against decisions rendered by the basic courts.

Beyond trials, high courts:

- resolve conflict of jurisdiction between basic courts from their territory;
- decide on requests for expunging of sentence based on judicial decision and on requests for termination of security measures or legal consequences of sentence regarding the prohibition to acquire certain rights, when high court has pronounced such sentence or measure;
- perform duties of international legal assistance in criminal matters;
- perform other duties as prescribed by law.

Commercial courts shall hear and determine at first instance:

- disputes between domestic and foreign companies, other legal persons and entrepreneurs (commercial entities) arising from their commercial law relationships (arising from the performance of activities which are intended to generate certain gain to parties), as well as disputes where parties are not commercial entities but are connected with commercial entities as substantive joint litigants;
- disputes relating to registration of commercial entities as well as disputes arising from relationships governed by company law;
- disputes relating to compulsory settlement, bankruptcy and liquidation of commercial entities, regardless of the capacity of the other party or the time when the dispute was initiated, unless otherwise provided by law;
- disputes relating to copyrights and industrial property rights between parties – commercial entities;
- disputes relating to rights of artists, rights concerning the multiplication, duplication and releasing for circulation of audiovisual works as well as disputes relating to computer programs and their use and transfer between the parties – commercial entities;
- disputes relating to disturbance of possession between the parties – commercial entities;
- disputes relating to distortion of competition, abuse of monopolistic or dominant position on the market and entering into monopolistic agreements;
- disputes relating to ships and navigation at sea and in internal waters as well as disputes governed by navigation law, except for disputes relating to the transport of passengers;
- disputes relating to aircrafts and disputes governed by air law, except for disputes relating to the transport of passengers;
- disputes in other legal matters which the law prescribes as falling within the jurisdiction of commercial courts.

Commercial courts, at first instance:

- hear and determine economic offences;
- conduct the proceedings of compulsory settlement, bankruptcy and liquidation;
- conduct the procedure for registering companies and other entities in the court registry when the law has established their jurisdiction in those matters;

- decide on and conduct the proceedings for enforcement and security when the enforceable instrument has been issued by the commercial court or arbitration, or when the authentic document originates from a commercial entity; decide on and conduct proceedings for enforcement and security on board ships and aircraft, regardless of the capacity of parties;
- decide in non-contentious proceedings concerning ships and aircraft;
- decide on the recognition and enforcement of foreign judicial decisions rendered by commercial courts as well as of foreign arbitral awards.

Commercial courts also perform other duties laid down by law.

The Appellate Court is established for the territory of Montenegro and its seat is in Podgorica. It has jurisdiction to:

- decide on appeals against first-instance decisions of high courts, as well as appeals against decisions of commercial courts;
- resolve conflict of jurisdiction between: basic courts from the territories of different high courts; between basic and high courts; between high courts; between commercial courts;
- perform other duties laid down by law.

The Administrative Court is established for the territory of Montenegro and its seat is in Podgorica. It has jurisdiction to decide:

- in administrative disputes on the legality of administrative acts, and legality of other individual acts as provided by law;
- on extraordinary legal remedies against final and enforceable rulings in misdemeanour proceedings.

The Administrative Court also performs other duties laid down by law. The Supreme Court is the highest court in Montenegro and its seat is in Podgorica and it has jurisdiction to:

- decide in third instance as provided by law;
- decide on extraordinary legal remedies against decisions of the courts in Montenegro;
- decide against decisions of its panel of judges, as provided by law;
- decide on transfer of territorial jurisdiction when it is obvious that another court that has subject-matter jurisdiction will be able to conduct proceedings more efficiently or for other important reasons;
- decide which court has territorial jurisdiction when the jurisdiction of the courts in Montenegro is not excluded, and when, in accordance with the rules on territorial jurisdiction, it is not possible to reliably determine which court has territorial jurisdiction in a particular legal matter;
- resolve conflict of jurisdiction between different types of courts in the territory of Montenegro, except when the jurisdiction of another court has been established;
- perform other duties laid down by law.

In matters relating to the transfer of territorial jurisdiction, designation of the court having territorial jurisdiction and conflict of jurisdiction, the Supreme Court decides without conducting a hearing in a panel of three judges.

The Supreme Court Bench is convened and chaired by the President of the Supreme Court on his/her own initiative, on a proposal from the president of division or on a proposal from the court requesting adoption of or amendment to the legal position of principle. Legal position of principle is a rule on a point of law of general significance to proceedings in legal matters decided by the Supreme Court and points of law which have bearing on equality of persons before the law and respect for other rights and freedoms guaranteed by the Constitution and international treaties. Every court may request the adoption of or amendment to a legal position of principle. Legal opinion of principle is delivered in relation to a particular point of law, which has arisen from the case law of the Supreme Court or lower courts and one that has bearing on uniform application of

the Constitution and laws in the territory of Montenegro. The manner of maintaining records on and publication of legal positions of principle and legal opinions of principle is regulated by the Rules of Procedure of the Supreme Court Bench.

c) The number of judges, prosecutors, defence lawyers, bailiffs, public notaries, court clerks etc;

The Law on Judicial Council (Official Gazette of Montenegro 13/08) prescribes that the number of judges and the number of lay judges in each court is determined by the Judicial Council on a proposal of the Minister of Justice, and on the basis of the initiative of the president of court. If the Minister of Justice fails to act upon the initiative of the president of court within 30 days, the president of court will submit the initiative to the Judicial Council. The decision on the number of judges and lay judges was published in the Official Gazette of Montenegro 70/05, 58/08 and 72/08.

The above-mentioned decision determines the number of judges in Montenegrin courts necessary for lawful, efficient and prompt exercise of judicial office.

In the courts in Montenegro, the following numbers of judges have been determined:

1) In the Supreme Court of Montenegro – President of the Court and 22 judges;
2) In the Administrative Court of Montenegro - President of the Court and 8 judges;
3) In the Appellate Court of Montenegro - President of the Court and 8 judges;
4) In the High Court in Bijelo Polje - President of the Court and 15 judges;
5) In the High Court in Podgorica - President of the Court and 32 judges;
6) In the Commercial Court in Bijelo Polje - President of the Court and 6 judges;
7) In the Commercial Court in Podgorica - President of the Court and 18 judges;
8) In the Basic Court in Bar - President of the Court and 10 judges;
9) In the Basic Court in Bijelo Polje - President of the Court and 14 judges;
10) In the Basic Court in Danilovgrad - President of the Court and 3 judges;
11) In the Basic Court in Zabljak - President of the Court and 2 judges;
12) In the Basic Court in Berane - President of the Court and 10 judges;
13) In the Basic Court in Kolasin - President of the Court and 4 judges;
14) In the Basic Court in Kotor - President of the Court and 13 judges;
15) In the Basic Court in Niksic - President of the Court and 16 judges;
16) In the Basic Court in Plav - President of the Court and 3 judges;
17) In the Basic Court in Pljevlja - President of the Court and 8 judges;
18) In the Basic Court in Rozaje - President of the Court and 6 judges;
19) In the Basic Court in Podgorica - President of the Court and 37 judges;
20) In the Basic Court in Ulcinj - President of the Court and 4 judges;
21) In the Basic Court in Herceg Novi - President of the Court and 8 judges;
22) In the Basic Court in Cetinje - President of the Court and 4 judges.

In Montenegrin courts, judicial office is exercised by 252 judges, enforcement activities are carried out by 49 bailiffs, and there are 1 073 court officers and administrative staff members.

In Montenegro, the functions of the State Prosecution Office are performed by 13 basic public prosecutors' offices, two high public prosecutors' offices and the Supreme Public Prosecutor's

Office. At a personnel level, these functions are performed by 13 basic public prosecutors with 42 deputy basic public prosecutors, two high public prosecutors with 15 deputy high public prosecutors, the Supreme Public Prosecutor of Montenegro with 7 deputy supreme public prosecutors and the Special Prosecutor with 5 deputy special prosecutors. In Montenegro, the prosecutorial office is exercised by a total of 86 public prosecutors and deputy public prosecutors. In accordance with the Law on Public Prosecution Office the number of deputy public prosecutors is determined by the Prosecutorial Council on a proposal from the Minister of Justice and on the basis of the initiative of the Supreme Public Prosecutor. In addition to public prosecutors and deputy public prosecutors, 140 civil servants, administrative staff members and trainees are involved in the tasks of public prosecution service.

The Law on Private Law Practice was published in the Official Gazette of the Republic of Montenegro 79/06 and regulates the requirements for practicing law, manner and form of work of lawyers, rights, obligations and accountability of lawyers and trainee lawyers, competence of the Bar Association and other issues relevant to law practice.

Law practice is an independent and autonomous service providing legal assistance to natural and legal persons. The lawyer becomes entitled to practice law upon entry into the registry of lawyers and by taking the oath.

According to the data from the records of the Bar Association of Montenegro, a total of 525 lawyers who practice law in accordance with the above-mentioned Law have been entered into the register of lawyers.

By enactment of the Law on Notaries (Official Gazette of the Republic of Montenegro 68/05 and the Official Gazette of Montenegro 49/08), the institution of notaries has been introduced in the legal system of Montenegro, which will contribute to reduce the workload of the courts and administration bodies, to faster legal transactions and consequently to fast and safe exercise and protection of rights and interests of citizens and legal persons.

The number of notaries and official seats of notaries in the territory of Montenegro has been laid down by the Rulebook on the number of posts and official seats of notaries (Official Gazette of the Republic of Montenegro 23/06) adopted by the Ministry of Justice.

The number of notaries has been determined according to the number of Montenegrin inhabitants. One notary post has been determined for the territory of municipality per each started 15 000 inhabitants, with the official notary seat in that municipality. Thus, for the territories of 15 basic courts in Montenegro, a total of 54 notary posts have been determined.

Although there is a need to introduce notaries as soon as possible and to attain aims which have been laid down by law, notaries have not been appointed yet since it is necessary to create numerous organisational, personnel, material, technical and other conditions for the commencement of operation of notary service. However, all secondary legislation for the implementation of the Law on Notaries was adopted and it is expected that first notaries in Montenegro will be appointed by the end of this year.

d) The proportion of female judges and of judges belonging to ethnic minorities and, if data are available, the proportion of women and persons belonging to ethnic minorities for the other legal professions mentioned under c).

Out of a total of 252 judges – 128 or 50.79% are women, and 124 or 49.21% are men.

Out of a total of 1 073 court officers and administrative staff members in courts, 734 or 68.41% are women, and 339 or 31.59% are men.

We do not have data on ethnic affiliation of judges, officers and administrative staff members. For more information, see answer to Question 104 (Subchapter Human Rights).

There are a total of 86 prosecutors and deputy prosecutors in the Public Prosecution Office. Out of that number, 54 or 62% are women. Out of a total number of prosecutors in Montenegro, 13 or 8.6% belong to ethnic minorities.

Out of a total of 527 lawyers entered in the Register of Lawyers, 120 or 22.7% are female lawyers.

44. Independence of the judiciary: Is independence guaranteed by the Constitution? How are the rights of the judiciary protected? Please describe the selection, promotion and disciplinary procedures of judges and prosecutors and indicate how they relate to the accountability and independence of the judiciary.

The power in Montenegro is founded on the principle of division of powers into legislative, executive and judicial branches. Judicial power is exercised by courts. The Constitution prescribes that courts are autonomous and independent and that the autonomy and independence of the judiciary and judges is ensured by the Judicial Council as an autonomous and independent body. This fundamental constitutional principle of the judiciary is further elaborated under the Law on Courts and the Law on Judicial Council. Thus, the Law on Courts prescribe that the judge adjudicates and decides independently and autonomously, that the judicial office must not be performed under anybody's influence and that nobody will influence a judge in performance of judicial office. The Law on Judicial Council prescribes under basic provisions that the Judicial Council ensures independence, autonomy, accountability and professionalism of the courts and judges in accordance with the Constitution and law, and that the members of the Judicial Council must be persons of high moral and professional qualities and that they act independently and impartially in the performance of their duties.

The court adjudicates on the basis of the Constitution, laws and ratified and published international treaties. The Constitution prescribes the permanence of judicial office, conditions for the termination of judicial office and grounds for dismissal from office. The judge enjoys functional immunity. Functional immunity means that a judge may not be held responsible for opinion expressed or vote cast during decision-making in court, unless this amounts to a criminal offence, and that, in the proceedings initiated for a criminal offence committed in the exercise of judicial office, the judge may not be detained on remand without the approval of the Judicial Council. The Judicial Council decides on the immunity of judges. A judge may not perform the duty of a Member of Parliament or other public office or perform some other activity professionally.

According to the Constitution, the Public Prosecution Office is a single and autonomous state body performing the tasks of prosecution of perpetrators of criminal offences and other punishable offences prosecuted *ex officio*. The Prosecutorial Council ensures the autonomy of the Public Prosecution Office and of public prosecutors.

Public prosecutors and deputy public prosecutors enjoy functional immunity and may not be held responsible for opinions expressed or decisions made in the exercise of their offices, unless that amounts to a criminal offence. This constitutional provision about the status and position of the Public Prosecution Office is further elaborated under the Law on Public Prosecution Office in a way that a public prosecutor must not exercise his/her office under anybody's influence and that nobody may influence a public prosecutor in the exercise of his/her office, except in cases provided by that Law. The Constitution prescribes that public prosecutors are appointed for a term of five years and the Law on Public Prosecution Office prescribes that the office of a deputy public prosecutor is permanent while a deputy basic public prosecutor is appointed for a term of three years when appointed for the first time.

The President of the Supreme Court and the Supreme Public Prosecutor enjoy full immunity which means that they may not be held criminally responsible or otherwise liable or be detained on remand for opinion expressed or vote cast in the exercise of their offices and that criminal proceedings may not be initiated or detention on remand ordered, without the approval of the Parliament, except when found committing a criminal offence punishable by imprisonment for a term exceeding five years.

The Judicial Council elects and dismisses from office judges, presidents of courts and lay judges. The criteria for the election of judges are professional knowledge, work experience and work results; published research papers and other professional activities; professional training; ability to perform the office for which he/she applies impartially, conscientiously, diligently, determinedly and responsibly; communication skills; relationship with colleagues, conduct outside of work, professionalism, impartiality and reputation. Additionally to the above-mentioned criteria, when a judge is elected to a higher judicial office, special account will be taken of efficiency, responsibility and quality of performance of judicial duty, if the candidate exercised judicial office.

The Judicial Council starts the procedure for the election of judges by publicly announcing vacancy for the position of judge in the Official Gazette of Montenegro and in one of print media. The candidates' applications are submitted to the Judicial Council no later than 15 days from the date of announcement. The candidates apply for the position on a standard form containing warning that providing incorrect or false information will result in candidate being excluded from consideration or in disciplinary proceedings. The Judicial Council forms the Selection Commission. The Commission has a chairperson and two members and it is appointed for a term of one year. The President of the Judicial Council is a chairperson of the Commission. A majority of members of the Selection Commission are judges. The Selection Commission checks whether the applications have been filed timely and whether the documentation enclosed is complete. The Judicial Council will reject late and incomplete applications. The applicant has the right to file a complaint with the Judicial Council against such decision no later than three days from the date of receipt of the Judicial Council's decision. The decision of the Judicial Council on the complaint is final and administrative dispute proceedings may be instituted against it.

The Selection Commission conducts an interview with the applicants who meet legal requirements. During the interview with the candidate, the Selection Commission checks whether the candidate meets election criteria laid down under the Law on Judicial Council and the Rules of Procedure of the Judicial Council. The Judicial Council may conduct written testing of the candidates prior to the interview. The Selection Commission will conduct written test when the Judicial Council so decides. The test for the written testing of candidates is made by the Commission in a way that the following may be assessed based on test results: knowledge of procedural and substantive legislation, knowledge of case law of Montenegrin courts, knowledge and application of international agreements and case law of the European Court of Human Rights, the level of analytical ability to resolve complex legal and factual issues. After interviewing candidates and written test, the Selection Commission will assess each candidate and fill in a standard candidate assessment form. Each member will insert his/her final assessment and reasons for such assessment at the end of the form. Based on the interview and documentation received, the Commission draws up a list of candidates who achieved satisfactory results. The list of candidates contains the assessment of each candidate who was interviewed, and/or who was tested, as well as a short summary of assessment results. The list of candidates is submitted to the Judicial Council which decides on election in closed session. The decision on election must contain a written statement of reasons. The Judicial Council notifies its decision on election to the candidate elected, the court to which the candidate is elected and the Ministry of Justice. The decision on the election of a judge is published in the Official Gazette of Montenegro. All applicants have the right to examine their own documentation and documentation of other candidates which was formed following the public announcement. Decision on election is final and administrative dispute proceedings may be instituted against it.

A judge is subject to disciplinary proceedings if he/she exercises judicial office in a negligent manner or harms the reputation of judicial office in cases laid down by law. The proceedings for establishing disciplinary responsibility of judges are conducted by the Disciplinary Committee which is appointed by the Judicial Council for a term of one year. The Disciplinary Committee has a chairperson and two members who have their deputies. The chairperson of the Disciplinary Committee and his/her deputy are appointed from among the members of the Judicial Council, and members and their deputies are appointed from among the judges who are not members of the Judicial Council. Disciplinary measures comprise reprimand or salary reduction. The salary reduction may not exceed 20% or a period of six months. A proposal for establishing disciplinary responsibility of a judge is submitted to the Disciplinary Committee by the president of the court, president of the immediate superior court and the President of the Supreme Court. The proposal

must be accompanied by written evidence substantiating the proposal. Irregular proposal, late proposal and proposal submitted by an unauthorised person will be dismissed by the Disciplinary Committee. The Disciplinary Committee will deliver timely and admissible proposal to the judge whose responsibility is examined along with the information that he/she may submit written response and that he/she has the right to retain a defence counsel who may only be a lawyer. Upon the expiry of the time limit specified for providing response, the chairperson of the Disciplinary Committee schedules oral hearing. The submitter of proposal and the judge against whom the proposal was submitted, defence counsel, witnesses and expert witnesses, whose hearing was proposed in the proposal to initiate disciplinary proceedings or in response to the proposal, are summoned to the hearing if the Committee found that such evidence should be adduced. If duly summoned submitter of proposal fails to appear at the oral hearing, the proceedings will be discontinued. If duly summoned judge against whom the proceedings have been initiated or his/her defence counsel fails to appear, the proceedings will be conducted in his/her absence. If the reasons for failure to appear are justified, the oral hearing may be adjourned. Oral hearing is chaired by the chairperson of the Disciplinary Committee. The proposal to initiate disciplinary proceedings is defended by the submitter thereof and the burden of proof lies with him/her. In the proceedings for establishing disciplinary responsibility of a judge, the Disciplinary Committee may dismiss the proposal as ill-founded; accept the proposal and impose a disciplinary measure; discontinue the proceedings if it finds that there are reasons for dismissal from office and refer the case to the Judicial Council. Decision made by the Disciplinary Committee will be delivered to the submitter of proposal, to the judge whose responsibility is examined and to the Judicial Council.

A complaint against the decision of the Disciplinary Committee may be filed with the Judicial Council within eight days from the date of receipt of decision. The complaint may be filed by the submitter of proposal, the judge whose responsibility is examined or his/her defence counsel. The complaint is delivered to the opposing party who may respond within three days from the date of receipt of complaint. The Judicial Council decides on the complaint at a session. The decision of the Judicial Council regarding disciplinary responsibility of a judge is final and administrative dispute proceedings may be instituted against it. The chairperson of the Disciplinary Committee may not participate in the work of the Judicial Council when deciding on complaint. The Minister of Justice, as a member of the Judicial Council, does not vote in the proceedings for establishing disciplinary responsibility of judges. The submitter of proposal and those members of the Disciplinary Committee and of the Judicial Council in respect of whom there are circumstances which give rise to doubt as to their impartiality may not participate in the Disciplinary Committee and the Judicial Council when deciding on the responsibility of a judge. The President of the Judicial Council decides on disqualification of a member, while the Judicial Council decides on disqualification of the President of the Judicial Council.

A judge is dismissed from office if he/she has been convicted of an offence that makes him/her unfit for judicial office, if he/she exercises judicial office in an unprofessional or negligent manner or loses permanently the ability to exercise judicial office. The proposal for dismissal may be submitted by the president of the court in which the judge exercises his/her judicial office, the president of immediate superior court, the president of the Supreme Court and another member of the Judicial Council. The proposal for dismissal from office is submitted to the judge concerned along with notification that he/she has the right to retain a defence counsel and to provide his/her response to the proposal for dismissal within eight days. The Disciplinary Committee of the Judicial Council gathers information and evidence for the examination whether the proposal is well-founded. The judge whose dismissal is requested has the right to participate in the work of the Disciplinary Committee. The report on what has been found is submitted by the Disciplinary Committee to the Judicial Council, while a copy thereof is delivered to the judge whose dismissal is requested. On the basis of the report of the Disciplinary Committee, the Judicial Council may dismiss the proposal as ill-founded or pass a decision to dismiss the judge from office. The decision on dismissal from office must contain statement of reasons and the judge has the right to institute administrative dispute proceedings against it. After accepting the proposal to initiate the procedure for dismissal, the Judicial Council may take a decision to suspend the judge until a final decision is rendered.

Public prosecutors are appointed by the Parliament on a proposal from the Prosecutorial Council, while deputy public prosecutors are appointed by the Prosecutorial Council. The criteria for the appointment of public prosecutors and deputy public prosecutors are professional knowledge, work experience and work results; published research papers and other professional activities; professional training; ability to perform the office for which they apply impartially, conscientiously, diligently, determinedly and responsibly; communication skills; relationship with colleagues, conduct outside of work, professionalism and reputation. For the appointment of the public prosecutor, special account is taken of organisational skills. Additionally to the above-mentioned criteria, depending on whether the candidate exercised prosecutorial office previously or not, when proposing the appointment of public prosecutor the following will be taken into account: organisational skills of the candidate (organising work economically and effectively with the aim of faster discharge of duties), coordination of work activities with priority activities of public prosecutor's office, view of the functioning of public prosecutor's office, applying new techniques in operations and willingness to improve work, achieving efficiency and punctuality of public prosecutor's office. When proposing re-appointment of a public prosecutor, the results achieved in the previous term of office will be also assessed, shown by overall punctuality of public prosecutor's office and achieved quality of work, complying with the deadlines, relationship and cooperation with other bodies in the field of suppressing crime and consistent application of the Law on Public Prosecution Office, the Criminal Code and the Criminal Procedure Code.

The Prosecutorial Council announces vacancies for the positions of public prosecutors and deputy public prosecutors in the Official Gazette of Montenegro and in a daily newspaper issued in Montenegro. The candidates' applications are submitted to the Prosecutorial Council no later than 15 days from the date of announcement in a standard application form. On a proposal from the President of the Prosecutorial Council, the Prosecutorial Council forms an Appointment Commission by way of decision. The Commission has a chairperson and two members. The President of the Prosecutorial Council is a chairperson of the Commission. The Appointment Commission is mainly composed of public prosecutors and deputy public prosecutors. The Appointment Commission is formed for a period of one year. The Appointment Commission checks the timeliness of applications and whether the documentation enclosed is complete; prepares the test and conducts testing of candidates if the Prosecutorial Council decides to conduct written testing of candidates; and makes proposal for the ranking list of applicants. The Prosecutorial Council will reject late and incomplete applications. The applicant has the right to file a complaint with the Prosecutorial Council against decision to reject late or incomplete application no later than three days from the date of receipt of decision. The decision of the Prosecutorial Council on the complaint is final and administrative dispute proceedings may be instituted against it.

The Prosecutorial Council conducts interviews with the applicants who meet legal requirements. During the interview, it will be examined whether the candidate meets the requirements for appointment. The Prosecutorial Council may conduct written testing of candidates prior to the interview. Following the interview, or written test, the Prosecutorial Council fills in a standard candidate assessment form which contains the assessment of each candidate and reasons for such assessment. The Prosecutorial Council decides by a majority vote of a total number of members on the assessment of candidates. Based on the interview, the assessment of candidates and documentation received, the Prosecutorial Council draws up a list of candidates who achieved satisfactory results. The list of candidates contains the assessment of each candidate who was interviewed, and/or who was tested, as well as a short summary of assessment results.

The Prosecutorial Council adopts the proposal for the appointment of a public prosecutor in closed session. The Prosecutorial Council submits to the Parliament a reasoned proposal for the appointment of a public prosecutor which contains the list of candidates who achieved satisfactory results. The Prosecutorial Council passes the decision on the appointment of deputy public prosecutors in closed session based on the list of candidates. The decision on appointment of a deputy public prosecutor must contain a written statement of reasons. The Prosecutorial Council decides by a majority vote of all members when adopting the proposal for the appointment of a public prosecutor and when taking decision on the appointment of a deputy public prosecutor. The Prosecutorial Council notifies its decision on appointment to the candidate appointed, the public prosecutor's office to which he/she has been appointed and the Ministry of Justice. The decision on the appointment of a deputy public prosecutor is published in the Official Gazette of

Montenegro. A candidate has the right to examine his/her documentation and documentation of other candidates and to deliver a written statement thereon to the Prosecutorial Council, within three days from the date of such examination. Decision of the Prosecutorial Council on the appointment of a deputy public prosecutor is final and administrative dispute proceedings may be instituted against it.

A public prosecutor or a deputy public prosecutor is subject to disciplinary proceedings if he/she exercises his/her office in a negligent manner or harms the reputation of prosecutorial office. Disciplinary measures comprise reprimand or salary reduction. The salary reduction may not exceed 20% or a period of six months. A proposal for establishing responsibility is submitted to the Prosecutorial Council by the Minister of Justice with respect to the Supreme Public Prosecutor; by the Supreme Public Prosecutor, high public prosecutor and basic public prosecutor with respect to their respective deputies; by the Supreme Public Prosecutor with respect to high public prosecutors and basic public prosecutors; and by high public prosecutor with respect to basic public prosecutor; the proposal must be submitted no later than 15 days from the day they learn of reasons and no later than 60 days from the day the reasons for establishing disciplinary responsibility emerge. The Prosecutorial Council delivers the proposal for establishing responsibility to the public prosecutor or the deputy public prosecutor whose responsibility is examined along with the information that he/she has the right to retain a defence counsel. The proceedings for establishing responsibility of a public prosecutor or a deputy public prosecutor are conducted by the Disciplinary Committee of the Prosecutorial Council. The Disciplinary Committee has a chairperson and two members appointed by the Prosecutorial Council from among their own number. The submitter of proposal and those members of the Prosecutorial Council in respect of whom there are circumstances which give rise to reasonable doubt as to their impartiality may not participate in the work of bodies conducting disciplinary proceedings.

A proposal to initiate disciplinary proceedings is defended at the Disciplinary Committee meeting by the submitter thereof. In the proceedings for establishing responsibility the Disciplinary Committee will hear the public prosecutor or deputy public prosecutor whose responsibility is examined. The Disciplinary Committee will adduce such evidence as it deems necessary for proper and complete determination of facts. Should the submitter of proposal fail to appear at the meeting of the Disciplinary Committee, the proceedings will be discontinued and should the public prosecutor or deputy public prosecutor whose responsibility is established fail to appear without justified reason, the Disciplinary Committee will conduct the proceedings in his/her absence.

Decision made by the Disciplinary Committee will be delivered to the submitter of proposal, to the public prosecutor or deputy public prosecutor whose responsibility is examined and to the Prosecutorial Council. A complaint against the decision of the Disciplinary Committee may be filed to the Prosecutorial Council by the submitter of proposal and the public prosecutor or deputy public prosecutor whose responsibility is examined or his/her defence counsel. The members of the Disciplinary Committee may not participate in the work of the Prosecutorial Council when the latter is deciding on the complaint. The decision of the Prosecutorial Council establishing disciplinary responsibility of a public prosecutor or a deputy public prosecutor is final and administrative dispute proceedings may be instituted against it. The proceedings for establishing disciplinary responsibility must be completed within three months after the date when the proposal was submitted. If the proceedings are not completed within the mentioned time limit, the proceedings will be deemed discontinued.

A public prosecutor will also be dismissed from office if he/she fails to achieve satisfactory results in managing the prosecutorial functions, if he/she fails to initiate proceedings for dismissal from office or establishing disciplinary responsibility of a public prosecutor or a deputy public prosecutor although he/she is so authorised and is aware of or may have been aware of reasons for dismissal or if he/she was imposed a disciplinary measure twice during his/her term of office. The initiative for dismissal from office is submitted to the Prosecutorial Council which, within 30 days from the day of receipt of initiative, decides whether there are grounds to conduct the procedure for establishing the proposal for dismissal from office or for passing the decision on dismissal from office. The public prosecutor or deputy public prosecutor has the right to make oral or written response to the initiative for his/her dismissal from office and may retain defence counsel in the proceedings conducted before the Prosecutorial Council. If the Prosecutorial Council finds that

there are grounds to conduct the proceedings, it will set up the Commission for examination of conditions for dismissal from office. The Commission has a chairperson and two members appointed by the Prosecutorial Council from among their own number. The Commission gathers information and evidence relevant to determination whether or not the initiative is founded and submits a report on its work to the Prosecutorial Council. The submitter of initiative attends the session of the Prosecutorial Council. The public prosecutor or deputy public prosecutor whose dismissal from office is sought has the right to be present at the session of the Prosecutorial Council. When rendering decision on the initiative, the Prosecutorial Council may dismiss the initiative as ill-founded, adopt proposal for dismissal of a public prosecutor from office or pass the decision on dismissal of a deputy public prosecutor from office. The Prosecutorial Council will submit a substantiated proposal for the dismissal of the public prosecutor from office to the Parliament of Montenegro within 60 days from the day of receipt of initiative. The Prosecutorial Council must adopt decision on dismissal of a deputy public prosecutor from office within three months from the date of submission of initiative. The public prosecutor or deputy public prosecutor is dismissed from office on the day the decision on his/her dismissal is made. The decision of the Prosecutorial Council on dismissal of deputy public prosecutor from office is final and administrative dispute proceedings may be instituted against it. The public prosecutor or deputy public prosecutor may be suspended from office if an order was issued that he/she be detained on remand or is subject to investigation for a criminal offence that makes him/her unfit to exercise his/her office. The Prosecutorial Council decides on suspension.

The establishing of independent and autonomous Judicial Council which is competent, *inter alia*, to elect and dismiss judges from office, eliminated political influence on election of judges and their dismissal from office, which is one of preconditions for their independence. Furthermore, the principle of independence is also achieved through the manner of decision making of the Judicial Council and implementation of transparent procedures in the exercise of its powers. In the procedures for election and dismissal from office, a judge has the right to legal remedies as a separate element guaranteeing his/her independence. Accurately prescribed reasons for dismissal from office and termination of office and prescribed disciplinary procedures protect the independence of a judge because a judge may not be dismissed from office beyond the reasons laid down under the Constitution, while in disciplinary proceedings a judge has the right to participate and to defence counsel. Additionally, in the procedures for election and dismissal from office, a judge has the right to legal remedies as a separate element guaranteeing his/her independence. The independence of judges is also guaranteed by the permanence of office, and by enjoying functional immunity and strengthening of their financial position.

The autonomy of public prosecution service is reflected in powers, composition and manner of decision-making of the Prosecutorial Council, and in particular in the fact that deputy public prosecutors are appointed by the Prosecutorial Council and that their office is permanent, with the exception of deputy basic public prosecutors who are appointed for a term of three years when appointed for the first time, whereas if they are subsequently re-appointed their office is permanent. Public prosecutors are appointed by the Parliament on a proposal from the Prosecutorial Council. In the procedure for selection and dismissal from office, a public prosecutor has the right to legal remedies as a separate element guaranteeing his/her independence. Accurately prescribed reasons for dismissal from office and termination of office and prescribed disciplinary proceedings protect the autonomy because he/she may not be dismissed from office beyond the reasons laid down by law, while in disciplinary proceedings he/she has the right to participate and to defence counsel. Furthermore, public prosecutor has the right to legal remedies against imposed disciplinary measures or decision on termination of office or dismissal from office.

Furthermore, the financial position of judges and prosecutors, as a guarantee of their independence and autonomy, has been strengthened by enactment of a separate Law on Salaries and Other Income of Judges and Prosecutors and Constitutional Court Judges and by adopting Decision on Special Quotient for Calculation of Salaries of Judges, as well as by allocating separate funds for the solving of housing needs of judges and prosecutors.

As regards the financial independence of justice, the funds for the work of courts and Public Prosecution Office are provided from the separate sections of the Budget. They independently submit proposals for necessary funds to the Government, while the President of the Supreme

Court and the Supreme Public Prosecutor are entitled to participate in the sitting of the Parliament discussing the Budget.

45. Impartiality of the judiciary: please provide information on the legal provisions and the institutional arrangements in place providing for the impartiality of the courts. Are there provisions eliminating the conflict of interest for judges and prosecutors and how are they implemented? Are there ethics provisions in place for judges and prosecutors? Explain.

The impartiality of courts is provided for by the Constitution of Montenegro (Official Gazette of Montenegro 1/07) which, in the part relating to individual rights and freedoms, prescribes that everyone is entitled to a fair and public trial within a reasonable time before an independent and impartial court established by law, and that the court rules on the basis of the Constitution, laws and ratified and published international treaties. The Constitution also enshrines the principles of public trial, permanence of judicial office, functional immunity, incompatibility of judicial and prosecutorial offices with the duties of Members of Parliament and other public offices and professional engagement in other activities. The Judicial Council, as an autonomous and independent body, whose members are mainly judges, elects and dismisses judges and presidents of courts.

The principle of impartiality of courts enshrined in the Constitution and the above-mentioned constitutional provisions have been elaborated in more detail under organisational laws.

The Law on Courts (Official Gazette of the Republic of Montenegro 5/02 and 49/04) prescribes, under basic principles, that judicial office must not be performed under anybody's influence and that nobody will influence a judge in performance of judicial office; everyone is entitled to an impartial trial within a reasonable time; everyone has the right to have his/her legal matter heard by a randomly selected judge, regardless of the parties to the case and the nature of the case. The Law on Courts elaborates the principle of random allocation of cases in a way that a case is allocated to a judge according to daily order in which requests to initiate court proceedings have been filed, in accordance with the Cyrillic alphabetical order of initial letters of judges' surnames. The cases of removal from the allocated case have also been very strictly defined, namely, only if it has been found that a judge has not been making progress in a case without justified reason, if a judge has been disqualified or if a judge has been unable to attend to his judicial duties for more than three months. The accountability of a president of court has been prescribed if the cases are allocated contrary to law. The method of random allocation of cases has been regulated in detail under the Court Rules and it is applied in practice by the courts while the full implementation of the random allocation of cases in accordance with the above-mentioned legislation will be facilitated after the setting up of the judicial information system.

The Law on Public Prosecution Office prescribes, under the principle of impartiality and objectivity, that the office of public prosecutor is exercised in the public interest in order to ensure the application of law, while ensuring the respect for and protection of human rights and freedoms and that a public prosecutor must exercise his/her office in an impartial and objective manner; that they abide by the Code of Ethics for Prosecutors which is adopted by the Prosecutorial Council. The salaries of prosecutors are regulated by a separate law. The law regulates that the cases are allocated in such manner as to ensure impartiality, independence and efficiency in the performance of duties. Random allocation of cases in the work of public prosecutors is implemented in a way that continuous duty hours and/or standby hours of basic public prosecutors and high public prosecutors are organised to coordinate pre-trial procedures, to ensure participation in procedural actions and other pre-trial procedure tasks, and for other necessary tasks. Weekly duty hours of public prosecutors are organised according to the list of prosecutorial office holders on duty, and on this basis all criminal offences committed in the particular period of time fall within the competence and are assigned to the prosecutor on duty. This method of organisation of allocation of cases based on duty hours of public prosecutors guarantees, *inter alia*, the principle of impartiality in the prosecutors' work.

The Law on Judicial Council (Official Gazette of Montenegro 13/08) prescribes that the Judicial Council ensures independence, autonomy, accountability and professionalism of courts and judges in accordance with the Constitution and law; that in performance of their duties, the most important of which include the election of judges, termination of judicial office and accountability, and the control of the work of courts and judges, the members of the Judicial Council act independently and impartially, as well as that the Judicial Council protects courts and judges from political influence. This Law specifies criteria for the election of judges which are elaborated in more detail under the Rules of Procedure of the Judicial Council while the conditions for termination of and dismissal from judicial office are laid down in the Constitution.

As regards a very important guarantee for impartiality of judicial and prosecutorial authorities, the Criminal Procedure Code and the Civil Procedure Law prescribe reasons for the disqualification of a judge or lay judge which mainly relate to the conflict of interest, or the judge not being a victim of the criminal offence, and a number of reasons including marriage, blood or other relationship between the judge and the parties, previous participation of the sitting judge in the same case, and the case when there are circumstances giving rise to doubt as to impartiality. Apart from detailed reasons for disqualification, the procedural laws also regulate the procedure for disqualification. Namely, as soon as a judge or lay judge learns of any reason for disqualification, he/she has a duty to discontinue all activity on the case and to inform the president of the court thereof who will allocate the case to another judge in a duly prescribed manner. If a judge subject to disqualification is the president of the court, he/she will be substituted in the case in question by the most senior judge of that court according to the length of service, and if this is not possible, the decision will be made by the president of immediate superior court. Procedural laws also list who may request disqualification and at what stage of proceedings, and that the president of court decides on the motion for disqualification; these laws also prescribe the procedure for making decision on disqualification. The ruling dismissing motion for disqualification is subject to appeal. Duties of a judge or lay judge in case when the motion for disqualification has been submitted are also provided for by procedural laws while the disqualification of a public prosecutor and other participants in the proceedings has been regulated separately. The participation in pronouncement of judgment of a judge who has been disqualified or who ought to have been disqualified by final and enforceable decision amounts to a major procedural irregularity. The provisions on disqualification prescribed by the Civil Procedure Law apply to administrative dispute proceedings pursuant to the Law on Administrative Dispute.

Provisions on disqualification of judges and public prosecutors are strictly applied in practice.

The Law on Salaries and Other Income of Judges and Prosecutors and Constitutional Court Judges which has been applied since 2007 has considerably improved the financial position of judges and prosecutors.

The Law on Prevention of Conflict of Interest of 2008 eliminates the conflict of interest as regards judges and public prosecutors as public officials. This Law prescribes restrictions in performance of public offices, imposes obligation on public officials to submit reports on income and property and other measures for preventing the conflict of public and private interest. The law prescribes that a public official may perform scientific, teaching, cultural, artistic and sports activities and that he/she may earn income from copyrights, patent rights and related intellectual property rights and industrial property rights; that a public official has a duty to report this income to the Commission for Prevention of Conflict of Interest which is established by the Parliament of Montenegro; that a judge or public prosecutor may not be a president or a member of a managing or supervisory body, chief executive officer, member of the management of a public enterprise, public institution or another legal person; that he/she may not enter into contract on delivery of services to a public enterprise; if a public official in a public authority in which he/she exercises public office participates in discussion and decision-making in a matter in which he/she or a person related to him/her has a private interest, he/she is obliged to inform other participants in discussion and decision-making of his/her private interest by giving a statement thereof prior to his/her participation in the discussion and prior to the commencement of decision-making at latest; public official may not represent legal or natural person for one year following the termination of his/her public office, he/she may not represent legal or natural person before a public authority in which he/she participated in decision-making as a public official; public official may not accept money,

securities or precious metal, regardless of their value, or accept gifts, with the exception of protocol gifts and appropriate gifts of small value, up to EUR 50; public official who has been offered a gift he/she may not accept is obliged to decline the offer and/or to inform the donor that he/she may not accept the gift; gifts received and their value are recorded in the register of gifts which is maintained by the public authority in which the public official exercises his/her office.

The Law on Prevention of Conflict of Interest also prescribes that a public official must submit to the Montenegrin Commission for Prevention of Conflict of Interest a report on his/her property and income and on property and income of his/her spouse and children if they live in the same household, as at the date of election or appointment, within 15 days from the date of taking up office. In the course of exercise of public office, judges and prosecutors submit report: once a year by the end of February of the current year for the preceding year, and in case of change of data stated in the report regarding increase in assets by more than EUR 5 000 within 15 days from the date of change.

The conflict of interest exists when a public official gives private interest precedence over public interest in order to obtain material gain or privilege for himself/herself or persons related to him/her, while the existence of conflict of interest is established and measures to prevent conflict of interest are undertaken by the Montenegrin Commission for Prevention of Conflict of Interest as an independent body. Information on income and property of judges and prosecutors are available to the public.

Pursuant to the Law on Prevention of Conflict of Interest the infringement of that Law found by final, or final and enforceable, decision, is deemed to constitute exercising public office unconscientiously of which the Commission will inform the Judicial Council for possible initiation of proceedings for dismissal from office.

In July 2008 the Conference of Judges adopted the Code of Ethics for Judges, while in 2006 the Prosecutorial Council adopted the Code of Ethics for Public Prosecutors and Deputy Public Prosecutors, which will certainly help to resolve the issues of professional ethics and autonomy in decision-making and inform the public of standards that may be expected from judges and prosecutors and contribute to providing guarantees to the public that decisions are made in an independent and impartial manner.

46. Please provide a description of your prosecutorial system. How are prosecutors appointed, what is their status and how is their autonomy, impartiality and professionalism guaranteed? Is there any immunity system for prosecutors?

The Constitution of Montenegro (Official Gazette of Montenegro 1/07) defines Public Prosecution Office as a single and autonomous state body performing the tasks of prosecution of perpetrators of criminal offences and other punishable offences prosecuted *ex officio*, while the Prosecutorial Council ensures the autonomy of Public Prosecution Office and of public prosecutors.

Public Prosecution Office performs its functions on the basis of the Constitution, laws and ratified international treaties.

In accordance with the Law on Public Prosecution Office (Official Gazette of the Republic of Montenegro 69/03 and Official Gazette of Montenegro 40/08), the structure of the Montenegrin Public Prosecution Office is composed of: Supreme Public Prosecutors Office, high public prosecutors' offices and basic public prosecutors' offices.

The Supreme Public Prosecutor's Office is established for the territory of Montenegro and its seat is in Podgorica. A high public prosecutor's office is established for the territory of high court and commercial court. Two High Public Prosecutor's Offices have been established in Montenegro; one is based in Podgorica and the other in Bijelo Polje. A basic public prosecutor's office is established for the territory of one or more basic courts. Thirteen Basic Public Prosecutor's Offices have been established in Montenegro. A Division for suppressing organised crime, corruption, terrorism and

war crimes headed by the Special Prosecutor has been established at the Supreme Public Prosecutor's Office.

The functions of the Public Prosecution Office are exercised by the Supreme Public Prosecutor, high public prosecutors and basic public prosecutors, while certain functions of the Public Prosecution Office are exercised by the Special Prosecutor.

Public prosecutors have deputies who have the power to take all actions during the proceedings before a court or other state bodies that public prosecutors they are deputies of are empowered by law to take.

Supreme Public Prosecutor, high public prosecutors and basic public prosecutors are appointed by the Parliament of Montenegro on a proposal from the Prosecutorial Council, while deputy public prosecutors are appointed by the Prosecutorial Council.

The term of office of public prosecutors has been laid down by the Constitution of Montenegro and it lasts five years, with the possibility of re-appointment. Amendments to the Law on Public Prosecution Office of 2008 introduced the permanence of the office of deputy public prosecutor in accordance with the Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, with the exception of first appointment of deputy basic public prosecutors who are appointed for a term of three years when appointed for the first time.

Introduction of permanence of the office of deputy public prosecutor ensures autonomy, impartiality and professionalism in the exercise of prosecutorial office which are laid down by law.

A person who meets general and special requirements for appointment may be appointed as a public prosecutor or deputy public prosecutor. General requirements for appointment of public prosecutors and deputy public prosecutors are Montenegrin nationality, appropriate medical fitness and capacity to exercise rights, having graduated from law faculty and having passed bar exam.

Special requirements are work experience of the following duration in the field of law: for the Supreme Public Prosecutor and his/her deputy – 15 years; for a high public prosecutor and his/her deputy – 10 years; for a basic public prosecutor – six years, and for deputy basic public prosecutor – three years.

In addition to general and special requirements, the Law on Public Prosecution Office prescribes criteria for appointment of public prosecutors and deputy public prosecutors such as professional knowledge, work experience and work results, ability to perform the office for which he/she applies impartially, conscientiously, diligently, determinedly and responsibly, while the more detailed criteria are laid down by the Rules of Procedure of the Prosecutorial Council (Official Gazette of Montenegro 53/03).

Public prosecutors and deputy public prosecutors are appointed on the basis of public announcement published by the Prosecutorial Council in the Official Gazette of Montenegro and in a daily newspaper issued in Montenegro.

The candidates' applications are submitted to the Prosecutorial Council. After obtaining opinion on professional work qualities of all candidates, the Prosecutorial Council organises interview with the applicants who meet appointment criteria.

Based on the interview and documentation received, the Prosecutorial Council assesses each candidate taking into account the criteria for appointment prescribed by the Law on Public Prosecution Office and more detailed criteria prescribed by the Rules of Procedure of the Prosecutorial Council. The method of assessment of candidates, contents of the assessment form and more detailed conditions for the written testing of candidates are prescribed by the Rules of Procedure of the Prosecutorial Council.

Based on the interview, documentation received and the assessment of candidates, the Prosecutorial Council draws up a list of candidates who achieved satisfactory results. On the basis of this list, the Prosecutorial Council adopts the proposal for the appointment of public prosecutor in closed session which is delivered to the Parliament of Montenegro together with the statement of reasons and the list of candidates.

The Prosecutorial Council passes the decision on the appointment of deputy public prosecutors in closed session based on the list of candidates. The decision contains a written statement of reasons and it is published in the Official Gazette of Montenegro. A candidate who has not been appointed has the right to examine his/her documentation and documentation of other candidates and to deliver a written statement thereon to the Prosecutorial Council, within three days from the date of such examination.

Decision of the Prosecutorial Council on the appointment of a deputy public prosecutor is final and administrative dispute proceedings may be instituted against it.

The Special prosecutor for suppressing organised crime, corruption, terrorism and war crimes, within the limits of his/her competence, has the same rights and duties as public prosecutor. The Special Prosecutor has deputies whose number is determined by the Prosecutorial Council on a proposal from the Supreme Public Prosecutor and on the basis of an initiative of the Special Prosecutor.

The Supreme Public Prosecutor appoints the Special Prosecutor with the written consent of the latter, from among public prosecutors and deputy public prosecutors, following a prior opinion from the Prosecutorial Council. The Supreme Public Prosecutor appoints deputy special prosecutor with the written consent of the latter, from among public prosecutors and deputy public prosecutors, on a proposal from the Special Prosecutor.

The Special Prosecutor and deputy special prosecutors are appointed for a term of five years and are eligible for reappointment. A person meeting the requirements for appointment of the Supreme Public Prosecutor may be appointed as a Special Prosecutor. A person meeting the requirements for appointment of high public prosecutor may be appointed as a deputy special prosecutor.

Public prosecutors and deputy public prosecutors enjoy functional immunity and they may not be held responsible for opinions expressed or decisions made in the exercise of their offices, unless that amounts to a criminal offence. Such constitutional provision about the status and position of Public Prosecution Office has been elaborated under the Law on Public Prosecution Office, in a way that a prosecutorial office must not be performed under anybody's influence and that nobody will influence a public prosecutor in performance of his/her office except in cases provided by that Law. The Supreme Public Prosecutor enjoys full immunity which means that he/she may not be held criminally responsible or otherwise liable or be detained on remand for opinion expressed or vote cast in the exercise of his/her office and that criminal proceedings may not be initiated or detention on remand ordered, without the approval of the Parliament, except when found committing a criminal offence punishable by imprisonment for a term exceeding five years.

The Law on Public Prosecution Office prescribes autonomy and independence of prosecutorial office, in a way that a prosecutorial office must not be performed under anybody's influence and that nobody will influence a public prosecutor in performance of his/her office. This Law further prescribes that that the office of public prosecutor must be exercised in an impartial and objective manner, in the public interest in order to ensure the application of law, while ensuring the respect for and protection of human rights and freedoms. Public prosecutors and deputy public prosecutors must abide by the Code of Ethics for Prosecutors in the performance of their offices. Furthermore, the Constitution prescribes that public prosecutors and deputy public prosecutors may not perform the duty of a Member of Parliament or other public office or perform some other activity professionally.

In accordance with the Law on Public Prosecution Office, the Prosecutorial Council is an autonomous and independent body ensuring autonomy of public prosecutors' offices and of public prosecutors on the basis of the Constitution of Montenegro.

The Prosecutorial Council is composed of the Supreme Public Prosecutor who is a president of the Prosecutorial Council by virtue of his/her office, six members from among public prosecutors and deputy public prosecutors, and one representative from each of the Faculty of Law in Podgorica, Bar Association, Ministry of Justice and from among eminent lawyers in Montenegro. The decision on their election is made by the Parliament of Montenegro.

The Prosecutorial Council has a mandate to adopt the proposal for appointment and dismissal from office of public prosecutors and deputy public prosecutors; to determine the number of deputy

public prosecutors; to conduct the proceedings for establishing disciplinary responsibility of public prosecutors and deputy public prosecutors; to adopt general and special training programmes; to adopt the proposal for the section of the budget intended for the financing of the work of the Public Prosecution Office; to adopt the Code of Ethics for Prosecutors; to adopt its Rules of Procedure and to perform other duties laid down by law.

In order to exercise prosecutorial office more effectively, public prosecutors and deputy public prosecutors have the right and duty to develop their professional skills to perform their offices more successfully.

The Supreme Public Prosecutor or a person he/she authorises for such purpose is responsible for the implementation of general and special training programmes and, in connection with that, he/she may organise seminars, courses and other forms of professional training.

Funds for the work of the Public Prosecution Office are provided from a separate section of the State Budget. The Prosecutorial Council adopts the proposal for this section of the Budget and submits it to the Government of Montenegro.

47. How do you ensure that natural and legal persons from EU Member States have access to your courts free of discrimination compared to your own nationals?

The Constitution of Montenegro prohibits any direct or indirect discrimination, on any grounds, which also covers prohibition of discrimination in access of foreign natural and legal persons to courts when compared to Montenegrin nationals.

The Constitution also guarantees the right of everyone to equal protection of their rights and freedoms. Rights and freedoms are exercised on the basis of the Constitution and ratified international agreements. Everyone is equal before the law, regardless of any particularity or personal characteristic. Everyone has the right to address international organisations in order to protect their rights and freedoms guaranteed by the Constitution. Equal access of Montenegrin and foreign natural and legal persons to courts implies also having equal rights to legal aid guaranteed to everyone by the Constitution.

Montenegro is a signatory to a number of multilateral and bilateral agreements, both with the EU Member States and with other countries, that regulate the issue of free access to courts such as the Convention for the Protection of Human Rights and Fundamental Freedoms, the Hague Convention on Civil Procedure of 1905 and 1954 and the Hague Convention on International Access to Justice of 1980, International Covenant on Civil and Political Rights of 1966, Universal Declaration of Human Rights of 1948, bilateral agreements on legal assistance in civil and criminal matters with the Czech Republic and Slovakia of 1964, Algeria of 1982, Bosnia and Herzegovina of 2005, Croatia of 1997, Iraq of 1986, Cyprus of 1984, the former Yugoslav Republic of Macedonia of 2004, Mongolia of 1981, Poland of 1962, Russia of 1962, Austria of 1954, Belgium of 1971, Bulgaria of 1956, Greece of 1959, Hungary of 1982, Romania of 1960, Italy of 1960, Turkey of 1934 and the United Kingdom of 1936, as well as special agreements on facilitating application of the Hague Convention on Civil Procedure of 1954 concluded with France in 1969 and Sweden in 1990.

In May 2009 Montenegro and the Republic of Serbia concluded three agreements in the field of judicial cooperation, namely, the Agreement on Legal Assistance in Civil and Criminal Matters, the Agreement on Extradition and the Agreement on Mutual Enforcement of Judicial Decisions in Criminal Matters.

If there is no international agreement, the Law on the Settlement of Conflict of Laws with the Laws of Other Countries prescribes that foreign nationals have the right to be exempted from payment of legal costs on the condition of reciprocity. Besides natural persons, foreign legal persons also have free access to the courts and in this regard they enjoy national treatment in Montenegro. In respect of the natural person’s capacity to sue and be sued the applicable law is the law of the country of his/her nationality.

The Law on Courts prescribes that everyone has the right of access to court for the purpose of exercising their rights and that everyone is equal before the court. The Civil Procedure Law also prescribes equality of parties and binds the court to give each party an opportunity to give statement about claims and allegations of the opposing party. Every natural and legal person may be a party to the proceedings. If the proceedings are not conducted in the language of the party, or of other participants in the proceedings, they will be provided, on their own request, interpretation into their own language or language they understand of all submissions and written evidence and everything stated during the hearing.

The Law prescribes that parties and other participants in the proceedings will be advised of their right to follow oral proceedings before the court in their own language through an interpreter. Parties and other participants in the proceedings who do not understand or do not speak the language officially used in the court have the right to use their own language or language they understand.

The Law on Insolvency prescribes that foreign legal and natural persons have the right of direct access to courts in Montenegro.

48. Detention: Please describe the rules and procedures governing pre-trial detention and, in particular, the rules on extending it. How are human and secure conditions for detainees (in respect of international human rights standards) ensured by the police, justice, prosecution and penitentiary systems? What measures are taken if such standards are not respected?

One of the basic principles of the Criminal Procedure Code (Official Gazette of the Republic of Montenegro 71/03 and 47/06) stipulates that a person deprived of liberty, without a court ruling, must be immediately brought before a competent investigating judge, except in cases provided by this Code.

In relation therewith, the Code provides that a person may be deprived of liberty by police officers, if there is any of the grounds provided by the Code for ordering detention on remand, i.e. if there is a reasonable suspicion that a person has committed a criminal offence and:

- if the person is in hiding or his/her identity cannot be established, or if there are other circumstances indicating a risk of flight,
- if there are circumstances indicating that he/she will destroy, conceal, alter or falsify evidence or traces of criminal offence or indicating that he will hinder the criminal proceedings by influencing witnesses, accomplices or accessories,
- if there are circumstances indicating that he/she will repeat the criminal offence or complete the attempted offence, or perpetrate the criminal offence he/she threatens to commit,
- in the case of criminal offences punishable by imprisonment of ten years or a more severe punishment, if that is justified due to particularly grave circumstances of the offence.

In such a case, persons deprived of liberty must be immediately advised in their language or in a language they understand of the rights they have according to the Code and of the grounds for placing them under arrest and, at the same time, they must be advised that they are not obliged to make any statement, that they have a right to a defence counsel of their own choice and to request that a person of their choosing be informed of their placement under arrest.

The police officers have a duty to bring the person deprived of liberty before the competent investigating judge without delay and together with the criminal complaint. If bringing of the person deprived of liberty before the competent investigating judge took longer than eight hours due to unavoidable obstacles, the authorised police officer has a duty to provide reasons to the investigating judge for such delay. The investigating judge will make a note or record thereof and

he will also enter into the record a statement of the person deprived of liberty about the time and place of his/her deprivation of liberty.

However, the Code also provides for the possibility of placing person deprived of liberty in custody by police authority. Namely, person deprived of liberty on the basis of the grounds for ordering detention on remand, and a person summoned as suspect by the police, may be exceptionally placed in custody by police authority, for the purpose of collecting information or interrogation, for up to 48 hours from the moment of deprivation of liberty. The police will, immediately, and at the latest within two hours, render a decision on police custody and serve it on the person deprived of liberty and defence counsel. The decision will specify criminal offence the suspect is charged with, grounds for suspicion, day and hour of deprivation of liberty as well as the time of the commencement of custody. The suspect and defence counsel may file an appeal against such decision, which is immediately submitted to the investigating judge together with the case files. The investigating judge must decide on the appeal within four hours after receipt of the appeal. The appeal does not stay the enforcement of decision.

The police have a duty to immediately inform the investigating judge and the public prosecutor about the custody. The investigating judge may request that the detainee be immediately brought before him by the police. If the police fail to file a criminal complaint and bring the detainee to the investigating judge within 48 hours, the police are bound to release the detainee. The same person may not be placed in custody again for the same criminal offence. The police have a duty to inform the suspect immediately of the offence he/she is charged with and grounds for suspicion, of his/her right to retain defence counsel who will be present during further interrogation, that he/she is not bound to answer the questions asked, and to advise him, if he is placed in police custody, of the rights that a person deprived of liberty has according to the Criminal Procedure Code and to enable him/her to exercise the right to inform defence counsel or to assist him to find defence counsel.

The suspect must have a defence counsel as early as the police render decision on police custody. If the suspect does not retain the defence counsel by himself/herself, the police will made one available to him *ex officio*, according to the order of the list of lawyers submitted by the Bar Association.

The authorised police officers have the right to send persons found at the crime scene to the investigating judge or to hold them until his/her arrival if these persons may disclose important facts for the criminal proceedings and if it is likely that their interrogation at a later stage might be impossible or might entail considerable delays or other difficulties. Such persons cannot be held at the place of the commission of criminal offence for more than six hours.

Persons held as referred to hereinabove, have the right to file a complaint to the competent public prosecutor or immediate superior police authority.

In accordance with the above-mentioned provisions of the Criminal Procedure Code, a person may not be held in police custody for more than 48 hours, and there is no possibility to extent duration of police custody.

When a person deprived of liberty is brought before the investigating judge, authorised police officer will inform the investigating judge of the grounds for and time of deprivation of liberty. The investigating judge has a duty to immediately inform a person deprived of liberty and brought before him/her of his/her right to retain a defence counsel, to make possible for such person to inform in his/her presence (by telephone, cable or electronic mail) a defence counsel, either directly or through his/her family members or a third person whose identity must be disclosed to the investigating judge, and if necessary to assist him/her to retain a defence counsel. If the person deprived of liberty fails to retain a defence counsel within 24 hours from the moment this was made available to him/her, or declares waiver of the right to defence counsel, the investigating judge will interrogate him/her without delay, and no later than within twelve hours from the moment he/she was brought before the investigating judge. Immediately following the interrogation, the investigating judge will decide whether to release the person deprived of liberty or order that he/she be detained on remand. If the investigating judge decides that the person deprived of liberty be detained on remand, he/she has a duty to inform public prosecutor immediately thereof and to forward the case files to the public prosecutor within two hours.

Based on the ruling of investigating judge, or a ruling of a panel of three judges of the court of first instance (in the case when investigating judge does not agree to the public prosecutor's motion to order detention on remand), the accused may be held in detention on remand for no more than one month from the day he/she has been deprived of liberty. After that period the accused may be held in detention on remand only based on the ruling on extension of detention on remand. On a reasoned motion of investigating judge or public prosecutor, detention on remand may be extended on the basis of the ruling made by a panel of three judges of the court of first instance for two months at most. If the proceedings are conducted for criminal offence punishable by imprisonment in excess of five years or a more severe punishment, a Supreme Court Chamber may extend detention on remand for additional three months at most, for important reasons, on a reasoned motion of investigating judge or public prosecutor. If the indictment is not brought until expiry of the above-mentioned terms, the accused will be released.

In the course of investigation, the investigating judge may terminate pre-trial detention with the consent of the competent public prosecutor. If the investigating judge and the competent prosecutor disagree, the investigating judge will request a panel to decide thereon, and the panel has a duty to render decision within 48 hours.

In the case of summary criminal proceedings (for criminal offences punishable by imprisonment of up to three years as principal punishment), detention on remand may be ordered for the purpose of an uninterrupted conduct of criminal proceedings, against a person where there is a reasonable suspicion that the person committed a criminal offence:

- if the person is in hiding or his/her identity cannot be established, or if there are other circumstances indicating obviously a risk of flight,
- in the case of criminal offence punishable by imprisonment of three years, if there are particular circumstances indicating that he/she will complete the attempted offence, or perpetrate the criminal offence he/she threatens to commit.

Before a bill of indictment is submitted, a pre-trial detention may last only for the time necessary to conduct investigatory actions, but no longer than eight days. A panel of three judges of the court of first instance decides on appeal against a ruling ordering pre-trial detention.

In the case of criminal proceedings conducted against juveniles, juvenile judge may, exceptionally, *ex officio* or on a motion of the public prosecutor order that a juvenile be detained on remand if there are grounds laid down under the Criminal Procedure Code for ordering detention on remand. If the juvenile judge does not consent to the motion of the public prosecutor to order detention on remand, the judge will request that this be decided by the juvenile chamber of the same court. On the basis of the ruling ordering detention on remand rendered by the juvenile judge, detention during preliminary proceedings may last for a maximum of one month. Juvenile chamber of the same court may, for justified reasons, extend detention on remand for additional one month at most.

After the preliminary proceedings are closed, detention on remand may last for four months at most in the case of junior juveniles or six months at most in the case of senior juveniles.

According to new Criminal Procedure Code (Official Gazette of Montenegro 57/09) that entered into force on 26 August 2009 and that will start to apply one year following its entry into force, authorised police officers may deprive a person of liberty if any of the grounds for ordering detention on remand exists, however they have a duty to inform the public prosecutor thereof without delay, to make official note that must contain the time and place of deprivation of liberty and to bring that person before the public prosecutor without delay. The person deprived of liberty must be informed of his/her rights pursuant to the Criminal Procedure Code. On the occasion of bringing the person deprived of liberty before the public prosecutor, an authorised police officer will submit the official note to the public prosecutor and the public prosecutor will enter in the record the statement of the person deprived of liberty as to the time and place of his/her deprivation of liberty. If a person deprived of liberty is not brought before the public prosecutor within 12 hours from the hour of deprivation of liberty, the police will release that person.

The person deprived of liberty as described above may not be deprived of liberty again for the same criminal offence.

After the person deprived of liberty is brought, the public prosecutor must immediately advise that person of his/her right to retain a defence counsel, and enable that person to inform the defence counsel of his/her deprivation of liberty in his/her presence (by phone or via other means of electronic communication), either directly or through his/her family members or a third person whose identity must be disclosed to the public prosecutor, and if necessary public prosecutor must assist him/her in retaining a defence counsel. If the person deprived of liberty fails to ensure the presence of a defence counsel within 12 hours from the moment this was made available to him/her, or if he/she declares waiver of the right to defence counsel, the public prosecutor must interrogate him/her without delay and at the latest within the next 12 hours. The public prosecutor will release the person deprived of liberty immediately after the interrogation, except if he/she assesses there are reasons for the person's detention.

By way of exception, the suspect deprived of liberty may be detained by the public prosecutor, at the longest for 48 hours from the hour of his/her deprivation of liberty, if the public prosecutor finds that any of the grounds for ordering pre-trial detention exist. Public prosecutor will issue and serve on the detainee and his/her defence counsel a ruling on detention immediately or within two hours at the latest. The ruling must specify the offence the suspect is charged with, the grounds for suspicion, the reason of detention, date and hour of deprivation of liberty, and the moment from which detention starts running. The ruling on detention is subject to appeal by the suspect and defence counsel, the appeal being immediately submitted to an investigating judge together with the case files. The investigating judge must decide on the appeal within four hours from its receipt. The appeal will not stay the enforcement of the ruling. A suspect must have a defence counsel as soon as the ruling on detention is issued.

The possibility of depriving a person of liberty or placing that person in police custody is also provided by the Law on Police (Official Gazette of the Republic of Montenegro 28/05). The Law on Police provides that authorised police officers may, by way of exception, deprive of liberty a person who disturbs law and order or jeopardises traffic safety, if law and order or traffic safety may not be ensured otherwise. In these cases, deprivation of liberty may not last longer than 6 hours. By way of exception, deprivation of liberty may last for up to 12 hours: if that is necessary to establish identity of the person and identity cannot be established without deprivation of liberty, if a person was extradited by a foreign authority with a view of surrendering that person to the competent body, and if he/she endangers the safety of another person with a serious threat that he/she will attack life or body of that person.

Deprivation of liberty as described above is ordered by decision on detention issued by the head of organisational police unit. This decision will specify personal data of the person deprived of liberty, time of deprivation of liberty, commencement and grounds for deprivation of liberty and information on the right to appeal. The decision is rendered and served on detainee immediately and at the latest within 2 hours from the beginning of detention. Person deprived of liberty may lodge an appeal against decision on detention to competent Ministry, within 6 hours from the moment of service of decision, or within 12 hours if detention lasted for up to 12 hours. The appeal does not stay the enforcement of decision, and the competent Ministry, as a second instance body, has a duty to issue decision upon detainee's appeal within 6 hours from the receipt of appeal, or within 12 hours if detention lasted for up to 12 hours.

The basis for human and secure treatment of persons held in police custody and persons ordered by court to be placed in pre-trial detention is a legal framework governing custody and pre-trial detention, i.e. relevant laws and secondary legislation and, certainly, supervision over the enforcement of this legislation.

According to the Law on Police, premises intended for the custody of persons deprived of liberty must meet necessary hygienic and technical conditions and especially those regarding cubic content of air, minimum size, lighting and ventilation. Rulebook on conditions to be fulfilled by the premises for detention of persons deprived of liberty (Official Gazette of the Republic of Montenegro 57/06) prescribes necessary hygienic and technical conditions which the premises intended for detention of persons deprived of liberty must meet regarding appropriate size, general hygienic and sanitary requirements, cubic content of air, lighting, ventilation, heating and appropriate furniture.

Following the adoption of the above-mentioned Rulebook, thorough reconstruction of detention premises was carried out in local organisational units of the Police Directorate of Montenegro. Construction and technical interventions included provision of general conditions: size, cubic content of air, lighting, ventilation and heating as well as provision of sanitary facilities in the same room or as an annex to detention premises. Direct access to clean water was provided in detention premises where it was technically feasible, while daylight was ensured by installing the so-called 'anti vandal' glass-windows. System for ventilation and hot and cold air infiltration, wooden beds and spongy under-sheets, were installed in all premises, and the functionality of sanitary facilities has been ensured.

Reconstruction of detention premises is considerably being made difficult by general (poor) conditions in police buildings and principally by impossibility to redesign premises, or to adapt existing police facilities due to general building structure etc. Namely, a large number of police buildings were built without specific purpose and without standards with respect to detention premises. Standards are fully respected in construction of new buildings and in the cases where all norms cannot be complied with in the process of adaptation of existing buildings we are making efforts to comply with and to implement standards to the greatest extent possible.

In all local organisational units, i.e. in detention premises video surveillance has been installed as technical support to surveillance of detainees. Use of video surveillance enables monitoring of detainees and possibility of electronic recording, archiving, searching and using of recorded video material. In parallel to video surveillance, the function of interphone connection ('panic button') between detainees and police officers was enabled.

In addition to maintaining daily hygiene, all premises include periodical hygienic whitewashing and refreshing of premises with neutral colours as well as in-depth cleaning of furniture and space.

The Police Directorate ensures twenty four hours of continuous duty in order to provide detainees with meals at regular intervals (by delivering 'packed lunches') and in accordance with their religious beliefs. In organisational units of the Police Directorate which do not have employees responsible for providing accommodation and food, food is provided from local retail shops by delivering adequate meals.

With the aim of protection of persons deprived of liberty and their rights and ensuring legality of their treatment, a Custody Record has been established, comprising data about all aspects of person's detention, from admission of persons in police units until they are surrendered to competent bodies (Institution for Enforcement of Criminal Sanctions, competent courts, other bodies competent for internal affairs): admission of persons by service on duty, accommodation in detention premises, seizure of personal items and things, meal provision, data on potential provision of medical care, appeal to decision on detention, injuries noticed on the occasion of transfer of persons as well as data about surrendering detainee to competent bodies for further procedure. Record is the basis of a file kept for each detainee; detention file contains decision on detention with reference to legal basis, record on person's breath-test (if a person has been breath-tested), medical examination results if a detainee has been examined by a doctor, copy of detainee's appeal to decision on detention, if he/she appealed to decision, and decision on termination of detention.

Every detainee is to be delivered the so-called 'Detainee's Information Sheet' whose receipt detainee confirms by personal signature. Detainee's Information Sheet is printed in Montenegrin, English, French, German, Russian and Albanian language. The purpose of this is to inform detainee again of his/her rights, i.e. to inform the detainee in his/her own language or language he/she understands of the grounds for deprivation of liberty, that he/she is not obliged to state anything, that he/she may retain defence counsel of his own choice, that his/her closest family, on his/her own request, may be informed of detention, that he/she may request medical care from doctor engaged by the police or detainee at his/her own expense, that he/she gets meals at regular intervals in accordance with his/her religious beliefs and that he/she is provided with drinking water access.

All detainees are placed in detention premises appropriate to human dignity, including permanent supervision of detainees' behaviour and their health condition. Persons of different gender cannot be placed in the same cell.

A media campaign (TV video clips, flyers, compliment cards) has been launched to promote especially a role of telephone number for the citizens to make petitions and complaints about police activities, with special focus on complaints by citizens who believe to be unlawfully deprived of liberty or subjected to torture.

Constitutional jurisdiction and principal legal duty (according to the Criminal Procedure Code) of public prosecutor is to prosecute criminal offenders. Accordingly, for criminal offences prosecuted *ex officio*, public prosecutor is competent to: manage pre-trial procedures, request conducting of investigation and coordinate course of preliminary proceedings in accordance with the Code, bring and represent indictment, or bill of indictment, before the competent court, lodge appeals against final and non-enforceable judicial decisions and submit extraordinary legal remedies against final and enforceable judicial decisions.

In order to exercise the above-mentioned powers, all bodies involved in pre-trial procedures have to inform competent public prosecutor prior to each action taken, except in cases of urgency. Police bodies and other state bodies competent for revealing criminal offences have a duty to act on each request from competent public prosecutor.

In all criminal offences where human and citizen's rights and freedoms are the subject of protection and where an official person is a perpetrator of criminal offence, prosecution is undertaken *ex officio*.

Enforcement of pre-trial detention, i.e. treatment of detainees, is governed by the Criminal Procedure Code and the Rulebook on rules of conduct regarding serving of pre-trial detention. The provisions of the Rulebook on manner of carrying out guarding service, carrying weapon and equipment of security guards in the Institution for Enforcement of Criminal Sanctions (Official Gazette of the Republic of Montenegro 68/06) apply *mutatis mutandis* to enforcement of pre-trial detention.

The basis of treatment of detainees within the meaning of provisions of the Criminal Procedure Code is principally the prohibition to insult personality and dignity of detainee, excluding the possibility of applying other restrictions against detainee, except for those necessary to prevent escape, instigating third persons to destroy, hide, alter or falsify evidence and traces of criminal offence, and direct or indirect contacts of detainee with witnesses, accomplices and accessories.

After admission in a prison unit of the Institution for Enforcement of Criminal Sanctions, detainee is informed of his/her fundamental rights and duties during the period of detention. He/she is enabled to communicate with family and defence counsel and general medical examination of detainee is obligatory.

Pre-trial detainees are separated from sentenced persons and it is prohibited to have persons of different genders detained the same room. Juveniles are separated from adults. Accommodation of detainees must comply with hygienic requirements, and rooms where detainees are accommodated must not be damp, they must have light, be regularly ventilated and heated depending on climate conditions. Hygiene in detainees' accommodation is subjected to control, and necessary measures are taken for this purpose.

In line with the rights they have on the basis of the Criminal Procedure Code, detainees have possibility of:

- uninterrupted night rest for at least 8 hours,
- outdoor stay for at least 2 hours,
- wearing their own clothes and using their own bed linen, procuring at their own expense and using food, books, technical publications, newspapers, stationery, drawing sets and other things appropriate to their regular needs, except for objects suitable for inflicting injuries, health deterioration or preparing escape,
- visits by close relatives, doctors and other persons,
- visits by representatives of national and international organisations which deal with protection of human rights and visits by diplomatic and consular representatives,

Detainee must be provided conditions for keeping their clothes in good condition or replacing them during the visit. Detainee who does not have his/her own clothes is given clothes appropriate to climate conditions and season. In the case when detainee has no money and does not have personal hygiene items, he will be provided with the most necessary things. Health care of detainees is provided at the level of prison health service and public health care institutions.

Guarding service of the Institution for Enforcement of Criminal Sanctions is responsible for the security of detainees which includes an obligation to guard detainees within the Institution and outside of it, as well as maintaining good order and discipline of detainees within the prison. A superior officer is in charge of control over guarding activities and the control is carried out through direct visits, reporting and in other ways.

A president of the court authorised for such purpose is responsible for supervision over enforcement of pre-trial detention. The president of the court or judge designated for this purpose by the court president has a duty to visit detainees at least once a month and inquire, if he finds it necessary without presence of supervisors and guards, about detainees' nutrition, how they are provided with other needs and how they are treated. The president of court, or a judge designated by him/her, has a duty to take measures to rectify irregularities noticed during prison visit. The president of court and investigating judge may at any time visit all detainees, talk to them and receive their complaints.

Investigating judge or the presiding judge may impose disciplinary measure of restricting visits to detainee for disciplinary offences, however, that restriction will not cover communication between a detainee and defence counsel. Detainee has the right to appeal to the panel of the court within 24 hours from the receipt of decision and the panel will make decision on appeal within 3 days from the day of receipt of appeal.

Prison system improvement and development is a subject matter of strategic documents of the Government of Montenegro (Action Plan for the Implementation of the Strategy for the Reform of the Judiciary, Action Plan for Prevention of Torture) which endeavour to improve accommodation conditions for prisoners, i.e. achieving higher level of standards in this area.

In this respect, a number of activities have been implemented both regarding construction of new prison facilities and reconstruction of existing prison facilities.

Namely, construction and equipping of four new prison facilities was completed in the past period: facility for accommodation of sentenced male prisoners (having an area of 1 250m², 144 person capacity), facility for accommodation of juveniles, female prisoners and foreigners (having an area of 1 250m², 56 person capacity), facility for enforcement of short imprisonment sentences – up to 6 months (having an area of 1 250m², 92 person capacity) and facility for enforcement of disciplinary sentence – solitary cell (8 separate cells). Reconstruction and adaptation of two existing facilities intended for accommodation of sentenced male prisoners, as well as equipping of prison hospital, have been also completed.

Certain measures and activities have also been planned for improvement of detainees' treatment and these include concrete measures aimed at solving the problem of overcrowding of existing prison capacities through construction of two new prison buildings for accommodation of detainees as well as measures aimed at security system improvement and improvement of health treatment of persons deprived of liberty.

The Action Plan on Prevention of Torture also provides for measures aimed at improving performance of police tasks, such as implementation of standards ensuring protection from torture of persons deprived of liberty by a police authority, improvement of system controlling lawfulness and efficiency of performance of police tasks, and ensuring that detention premises satisfy necessary hygienic and technical requirements.

49. Is there a higher council of the judiciary? Does it also cover prosecutors? If so, describe its composition, role, premises and budget. How are members appointed and how is its independence guaranteed?

In accordance with the Constitution, in Montenegro, there is a Judicial Council as an autonomous and independent body ensuring independence and autonomy of courts and judges and a Prosecutorial Council which is not a special body but is elected by the Parliament, and the selection of its members, its composition, its powers and manner of work are regulated by law.

The Judicial Council has a president and nine members. The President of the Judicial Council is the President of the Supreme Court, and members include four members from among judges, two from among Members of the Parliament, two from among eminent lawyers and the Minister of Justice. The President of Montenegro proclaims the composition of the Judicial Council.

The Judicial Council has the power to

- elect and dismiss from office judges, presidents of courts and lay judges;
- confirm termination of judicial office;
- determine number of judges and lay judges in a court;
- deliberate on the work report of a court, applications and complaints regarding the work of court and take positions thereon;
- decide on immunity of a judge;
- propose to the Government the amount of funds for the work of courts;
- control the work of courts and judges;
- decide on disciplinary responsibility of judges;
- deliver opinions on draft laws and secondary legislation in the field of justice and initiate adoption of relevant laws and other regulations in this field;
- ensure application, sustainability and uniformity of the Judicial Information System in the part relating to courts;
- take care of training of judges and prosecutors in cooperation with the Prosecutorial Council;
- maintain records containing information about judges;
- deliberate on complaints of judges and take positions regarding threats to their independence and autonomy;
- propose framework criteria regarding necessary number of judges and other court officers and administrative staff;
- adopt methodology for development of work reports of courts and annual allocation of tasks;
- adopt the proposal for the code of ethics which is passed by the Conference of Judges;
- perform also other duties laid down by law.

The Judicial Council has its own premises which are adequately equipped for smooth functioning. Funds for the work of the Judicial Council are provided from the separate section of the Budget of Montenegro. This section of the Budget is proposed by the Judicial Council to the Government, and the President of the Judicial Council has the right to participate in the sitting of the Parliament discussing the Budget.

The members of the Judicial Council from among the judges are elected and dismissed from office by the Conference of Judges, by secret ballot. The Conference of Judges is composed of all judges and presidents of courts. The members of the Judicial Council from among the judges are: two members from among the judges of the Supreme Court, the Appellate Court of Montenegro,

the Administrative Court of Montenegro and high courts and two members from among the judges of all courts. The proposal for the candidates to be elected as members of the Judicial Council from among the judges of the Supreme Court, the Appellate Court of Montenegro, the Administrative Court of Montenegro and high courts is adopted at separate sessions of judges of the Supreme Court, the Appellate Court of Montenegro and the Administrative Court of Montenegro, at which one candidate from each of these courts is proposed, and at the joint session of high courts, at which one candidate from these courts is proposed. The list containing four candidates is made by the President of the Supreme Court and submitted to the Conference of Judges. To adopt proposal for the election of members of the Judicial Council from all courts, the President of the Supreme Court will request each judge and president of court to submit initial proposal, in such manner as to ensure confidentiality of initial proposal. Initial proposal should propose two candidates. On the basis of initial proposals, the President of the Supreme Court will draw up a list of eight candidates who have obtained the greatest number of initial proposals and submit it to the Conference of Judges. This list of candidates may not include a candidate who is included in the list of candidates for members of the Judicial Council from among the judges of the Supreme Court, the Appellate Court of Montenegro, the Administrative Court of Montenegro and high courts regardless of the number of initial proposals he/she obtained. Two candidates from each of the lists who obtained the greatest number of votes at the Conference of Judges will be elected as members of the Judicial Council. Judicial Council members from among the Members of the Parliament are elected and dismissed from office by the Parliament; one of them will be from parliamentary majority and the other from parliamentary opposition. Members of the Judicial Council from among eminent lawyers are elected and dismissed by the President of Montenegro, and the Minister of Justice is an *ex officio* member.

The mandate of the Judicial Council is four years. The members of the Judicial Council from among judges may be re-elected as members of the Judicial Council upon expiry of four years from the termination of previous mandate in the Judicial Council.

The Prosecutorial Council has a president and ten members. The Supreme Public Prosecutor is a president of the Prosecutorial Council by virtue of his/her office. The members of the Prosecutorial Council include six members from among public prosecutors and deputy public prosecutors, one from among the professors of the Faculty of Law in Podgorica, two from among eminent lawyers in Montenegro, one of whom has experience in the field of protection of human rights and freedoms, on a proposal from the President of Montenegro, following a prior opinion from the Protector of Human Rights and Freedoms (Ombudsman) and one representative of the Ministry of Justice.

The Prosecutorial Council:

- adopts the proposal for appointment and dismissal from office of public prosecutors, appoints, dismisses from office and confirms termination of office of deputy public prosecutors,
- determines the number of deputy public prosecutors,
- conducts the proceedings for establishing disciplinary responsibility of public prosecutors and deputy public prosecutors,
- is responsible for the training of prosecutorial office holders in cooperation with the Judicial Council,
- adopts the proposal for the section of the budget intended for the financing of the work of the Public Prosecution Office and the Prosecutorial Council,
- delivers opinions of draft laws and secondary legislation in the field of justice and initiates enactment of relevant laws and other regulations in this field,
- ensures implementation, sustainability and uniformity of the Judicial Information System in the part related to the prosecution service,
- maintains records containing information about public prosecutors and deputy public prosecutors,

- proposes framework criteria regarding the necessary number of public prosecutors and deputy public prosecutors and of other officers and administrative staff in public prosecutors' offices,
- adopts methodology for development of work reports of the Public Prosecution Office and annual allocation of tasks,
- adopts the Code of Ethics for Prosecutors,
- adopts its Rules of Procedure.

Funds for the work of the Public Prosecution Office and of the Prosecutorial Council are provided from a separate section of the Budget of Montenegro, within which the funds for the work of the Prosecutorial Council are stated separately. The Prosecutorial Council adopts the proposal for the section of the Budget and submits it to the Government.

The members of the Prosecutorial Council are selected as follows: six members from among public prosecutors and deputy public prosecutors, one from among the professors of the Faculty of Law in Podgorica, two from among eminent lawyers in Montenegro, one of whom has experience in the field of protection of human rights and freedoms, on a proposal from the President of Montenegro, following a prior opinion from the Protector of Human Rights and Freedoms (Ombudsman) and one representative of the Ministry of Justice. The members of the Prosecutorial Council are elected by the Parliament for a term of four years and they may be re-elected as members of the Prosecutorial Council.

The Parliament elects the members of the Prosecutorial Council from among public prosecutors and deputy public prosecutors on a proposal from the enlarged session of the Supreme Public Prosecutor's Office; those from among the professors of the Faculty of Law in Podgorica on a proposal from the Faculty of Law in Podgorica; from among eminent lawyers in Montenegro on a proposal from the President of Montenegro; and the representative of the Ministry of Justice on a proposal from the Minister of Justice. The proposal for candidates for membership in the Prosecutorial Council from among public prosecutors and deputy public prosecutors is adopted by the enlarged session of the Supreme Public Prosecutor's Office by secret ballot. Prior to the adoption of proposal for membership in the Prosecutorial Council from among public prosecutors and deputy public prosecutors, the enlarged session of the Supreme Public Prosecutor's Office will request initial proposals from each public prosecutor and deputy public prosecutor in Montenegro in such manner as to ensure confidentiality of initiative. The proposal for election of members of the Prosecutorial Council from among public prosecutors and deputy public prosecutors is adopted by a majority vote at the enlarged session of the Supreme Public Prosecutor's Office.

At the session, the Prosecutorial Council decides by a majority vote of the members present. Exceptionally, when adopting the proposal for appointment of public prosecutor and when adopting decision on appointment of deputy public prosecutor or on suspension, the Prosecutorial Council decides by a majority vote of all members of the Prosecutorial Council.

50. Training: Is there an independent national training centre for the judiciary? What is its role?

The education in the judicial authorities is carried out within the Judicial Training Centre, which is organised as a separate organisational unit of the Supreme Court of Montenegro.

The Centre is headed by an Executive Director, who is appointed by the President of the Supreme Court of Montenegro following a prior opinion of the Supreme Public Prosecutor and on the basis of a public vacancy announcement.

The Centre is tasked with providing training to judges and public prosecutors – providing them with an opportunity to adopt and further develop their theoretical and practical knowledge and skills through programmes that allow an active engagement of judges and prosecutors in the course of training.

The aim of training is the development, maintenance and strengthening of such knowledge, capacities and skills on the part of judges and prosecutors which would allow an independent, impartial, professional and efficient performance of their office, in line with the ethical standards of the profession. Judges and prosecutors have the right and a duty to strengthen their professional capacities.

The Law on Training in Judicial Authorities governs the initial and in-service training, professional training of judges and prosecutors and joint training programmes.

The initial training is organised for expert associates at judicial authorities (courts and prosecutors' offices), as well for law graduates who meet the general criteria for the work in state authorities and who have passed the bar exam. The initial training is aimed at preparing these persons for the performance of judicial office.

The in-service training is organised for judges and prosecutors and it is aimed at maintenance and improvement of knowledge, capacities and skills for the purpose of ensuring a high-quality performance of the judicial and prosecutorial offices.

Mandatory professional development is organised through the delivery of special training programmes to judges and prosecutors in the case of promotion to a higher post, change of the field of law they work in, i.e. change of their portfolio and specialisation, introduction of new procedures and work techniques, as well as in other cases.

Joint training programmes are organised for judges and prosecutors and representatives of other state bodies, when it is necessary to organise education which would deal with coordinated approach of several authorities in one specific field of law.

For the purpose of organising and implementing training programmes, special bodies have been set up within the Centre – a Coordination Board, Programme Board and an Examination Commission.

The Coordination Board passes an Annual Training Programme and a Plan for its implementation within the framework of funds allocated for this purpose; sets up programme boards for the implementation of special training programmes, selects members of such boards and determines the number of participants in training programmes; monitors evaluation of the programmes; sets a list of permanent and visiting lecturers; selects members of the Examination Commission; passes its Rules of Procedure and performs other tasks of importance to training. The Coordination Board has seven members two of which are judges of the Supreme Court, one is a Deputy Supreme Public Prosecutor, one is a representative of the Judicial Council, one is a representative of the Prosecutorial Council, one is a representative of the Ministry of Justice and one is a representative of the Faculty of Law.

The Programme Board has three members. Its members are selected by the Coordination Board from among experts in the subject matter which is the topic of a special training programme. The Programme Board elaborates and implements a special training programme and establishes a plan for its implementation; decides on the structure of the participants; establishes a list of lecturers and engages lecturers from the list; submits a report on the implementation of the special training programme to the Coordination Board, Judicial Council, Prosecutorial Council and Ministry of Justice; maintains records on the implementation of special training programmes.

The Examination Commission has three members. The members of the Examination Commission are selected by the Coordination Board from among the lecturers for specific areas which form part of the initial training programme. The Examination Commission organises taking of the admission and final exam for the initial education, in line with the law.

The Coordination Board is accountable for its work to the Judicial Council and Prosecutorial Council, while Programme Boards and Examination Commission report to the Coordination Board.

Lecturers for training in judicial authorities are selected from among judges, prosecutors, professors and eminent national and international experts in specific fields of law.

The funding for the training is provided from a special line of the budget of the Supreme Court, as well as from donations, grants and other sources.

The Judicial Training Centre maintains records on the implemented training programmes; structure and number of participants in training programmes; certificates issued; permanent and visiting lecturers and their engagement; structure and number of judges and prosecutors who have not taken part in the education and other information concerning education.

The Centre submits annual reports to the Judicial Council and the Prosecutorial Council. These reports contain information on the implemented training programmes; structure and number of participants in training programmes, as well as other information on which records are maintained and which are relevant to education.

51. Clerical staff: Please give the number of clerical staff. How does this compare with the number of judges and prosecutors? What is their legal status?

There are 1 073 officers and administrative staff members at Montenegrin courts. Among them, 104 are expert associates and 171 are judicial trainees. Judicial office is exercised by 252 judges, whereas the Decision on the Number of Judges fixes the number at 270.

The number of clerical staff members at a court is determined on the basis of the number of judges who perform their office at that court, as provided by the Rulebook on the Framework Criteria for Determination of the Required Number of Judges, Officers and Administrative Staff Members at Courts. Thus, at Basic and Commercial Courts there is one typist per each judge, and one advisor and trainee per each two judges, while at the High Courts there are one advisor and one trainee per each judge. In these courts, there is one typist per each judge, except in appeal panels, where there is one typist per each two judges.

A total of 140 officers, administrative staff members and trainees (3 secretaries, 19 expert associates, 77 administrative staff members and 41 trainees) are employed in the public prosecution service. The number of public prosecutors and deputy public prosecutors totals 86.

Under the Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 50/08), clerical staff members in courts and public prosecution service have the status of civil servants or state employees.

52. Are archives in courts well managed and computerised? Is there sufficient and direct access to legal databases? Explain.

The archiving, keeping and exclusion of case files is governed by the Court Rules. Closed cases are archived and kept pursuant to an order signed by a judge or an authorised court officer, who certifies that the case is to be archived by signing the stamp on the cover of the case file.

Two types of archives are set up, namely, a reference archive and general archive. The reference archive is located within the Registry Office of the Court and, as a rule, in a separate room. Files of closed cases are in kept in the reference archive for no longer than two years, whereupon they are sent to the general archive. The general archive is common to all types of cases and is kept separate from the Registry Office of the Court, in a separate room. Registers and directories from former years are also kept in the archive in addition to case files. Archived cases are handled by a clerk of the court (Archivist).

Archives are not computerised at the moment, but the introduction of the new information system for the judiciary, which is underway, will bring about computerisation of these affairs as well.

The keeping, selection and exclusion of case files, registers, directories and other auxiliary books is carried out in accordance with the regulations governing keeping, collection and occasional discarding of archived materials.

Software for electronic case management (PRIS) has been designed for the needs of the court system in Montenegro. The installation of this software in courts is underway and it is expected that

case management within all courts in Montenegro will be computerised by the end of this year. The implementation of this software will ensure a compatible software at the national level (implementation includes a central, single database with web-oriented application and creation of a secure network infrastructure, for secure work within the network of state bodies (Intranet, as well as Internet). An ICT and Multimedia Department has been set up within the Secretariat of the Judicial Council with the main aim of assessing the needs, ensuring computerisation and purchase of hardware and software, as well as offering consulting services and providing assistance to the courts.

At the moment, the following courts have broadband Internet connection through the network of state bodies, which allows access to all databases of other authorities available on their respective websites:

- Supreme Court of Montenegro
- Appellate Court of Montenegro
- Administrative Court of Montenegro
- High Court in Podgorica
- Basic Court in Podgorica
- High Court in Bijelo Polje
- Basic Court in Bijelo Polje,
- Basic Court in Nikšić
- Basic Court in Kolašin,
- Basic Court in Danilovgrad,
- Basic Court in Žabljak.

At the moment, efforts are being made to establish internet connection in other municipalities as well.

All decisions rendered by the Supreme Court of Montenegro in 2009 are posted on its website and all decisions rendered by the Administrative Court of Montenegro are available on this court's website since November 2007 onwards.

As of 1 September 2009, all decisions of the Appellate Court of Montenegro, two High Courts and Basic Court in Podgorica are available on their respective websites.

Furthermore, as part of the information system, there is a case-law database available to all users of the Judicial Information System.

53. Accountability and discipline: Is there a code of ethics for members of the judiciary and prosecutors? If so, by whom has it been set up? What is its legal status? How is it being implemented?

In accordance with the Law on Judicial Council, the Conference of Judges adopted the Code of Ethics for Judges on 26 July 2008 laying down ethical principles and rules of conduct for judges which the judges must observe in order to safeguard, promote and improve dignity and reputation of judges and judiciary. Non-observance of the Code of Ethics may constitute grounds for disciplinary responsibility of a judge.

The Judicial Council established a Commission to monitor the implementation of the Code of Ethics for Judges and no disciplinary proceedings have been instituted to date for non-observance of the provisions of the Code relating to the promotion of legality, independence, impartiality, expertise, professionalism, their commitment to work, honesty, incorruptibility, dignity of judicial office, responsibility, relations with the public and media and relationship with colleagues and court employees.

On the basis of a decision of the Prosecutorial Council, the Code of Ethics for Public Prosecutors and Deputy Public Prosecutors entered into force on 10 November 2006. Public prosecutors and deputy public prosecutors had previously had an opportunity to give their opinion on the document. The Code lays down the principles and rules of conduct of public prosecutors and deputy public

prosecutors and is binding on all public prosecutors and deputy public prosecutors. The Law on Public Prosecution Office prescribes that public prosecutors and deputy public prosecutors abide by the Code of Ethics for Prosecutors in the performance of their offices. When taking the oath before the Prosecutorial Council, public prosecutors and deputy public prosecutors also sign a statement on the acceptance of the Code of Ethics, which reads as follows: “I hereby declare that I agree to the provisions of the Code of Ethics and that I shall abide by it in order to safeguard and further develop the dignity and reputation of the Public Prosecution Office, as an independent authority”.

54. What is the procedure for lifting the immunity of a judge? What is done to ensure that this is clear and transparent? Give examples of how this has been implemented?

Judge enjoys functional immunity.

Functional immunity means that a judge may not be held responsible for opinion expressed or vote cast during decision-making in court, unless this amounts to a criminal offence, and that, in the proceedings initiated for a criminal offence committed in the exercise of judicial office, a judge may not be detained on remand without the approval of the Judicial Council. The Judicial Council decides on the immunity of judges. When a competent court assesses that there are reasons to order that a judge be detained on remand, it will have a duty to immediately request the Judicial Council to decide whether it approves ordering of detention on remand. The Judicial Council has to take decision on such request within 24 hours from the receipt of request. The Judicial Council decides by a majority vote of all members of the Judicial Council about the ordering of detention on remand. The judge has the right to institute administrative dispute proceedings against the decision of the Judicial Council approving the ordering of detention.

The work of the Judicial Council is public.

During voting, only the President and members of the Judicial Council may be present in the room where the Judicial Council works. This applies also to the procedure of deciding on the immunity of a judge.

The President of the Supreme Court enjoys full immunity which means that he/she may not be held criminally responsible or otherwise liable or be detained on remand for opinion expressed or vote cast in the exercise of his/her office and that criminal proceedings may not be initiated or detention on remand ordered, without the approval of the Parliament, except when found committing a criminal offence punishable by imprisonment in excess of five years.

Only in one case it has been requested to lift immunity to order detention on remand against one judge. The immunity of the judge was lifted and ordering of detention on remand approved by the decision of the Judicial Council. Criminal proceedings are underway against that judge for the criminal offence of passive bribery.

55. How is co-operation between actors (judges, prosecutors, investigators, clerks, judicial police etc.) in the criminal justice system ensured to facilitate the functioning of the system?

Although competences of different actors in the criminal justice system are clearly divided /see answer to Question 56 in Political Criteria/ between judges, public prosecutors and the police, their close co-operation is especially necessary in early stages of criminal proceedings. It should be mentioned that in our legal system we do not have investigators and judicial police. Cooperation between the other actors (judges, prosecutors and police) is regulated by the Criminal Procedure Code, the Law on Courts, the Law on Public Prosecution Office and the Law on Police. All these actors have direct communication (in nearly all towns, public prosecutors' offices and courts of the same level are physically located in the same buildings so that the communication takes place on a

daily basis and directly). Technical equipment for communication has also been provided – landline and mobile phones, fax machines etc. In situations when urgent communication is necessary – crime scene investigation, deprivation of liberty etc., investigating judges and prosecutors on duty agree about the time and place of taking investigatory actions in direct communication, and there are also direct contacts with the Police Directorate about execution of routine and urgent orders. In all first-instance courts and public prosecutors' offices, continuous duty hours of investigating judges and prosecutors are organised. Without such communication it would not be possible to conduct criminal proceedings because the law prescribes that most procedural actions are carried out jointly, i.e. the prosecutor's office is present when these actions are carried out by the court (crime scene investigation, identity parade, interrogation, main hearing etc). Furthermore, full cooperation has been ensured with the Police Directorate which, pursuant to the Criminal Procedure Code, has a duty to act on each request from the prosecutors and courts for taking of evidence and securing presence of persons in proceedings.

Working arrangements and related assessments between authorised police officers and public prosecutors proved to be very useful in practice in the performance of tasks and role of the Police Directorate in gathering of evidence for the criminal proceedings. This contributes considerably to the raising of quality of gathered evidence and filing of well-grounded criminal complaints.

In order to strengthen co-operation between prosecutors' offices and the police for the purpose of revealing criminal offenders more efficiently and efficient and comprehensive conduct of criminal proceedings, in June 2009 the Supreme Public Prosecutor's Office and the Police Directorate concluded the Memorandum of co-operation and exchange of information in prevention, revealing and prosecution of perpetrators of criminal offences prosecuted *ex officio*. Furthermore, the Memorandum of cooperation in prevention, revealing and prosecution of perpetrators of criminal offences against environment was concluded between the Supreme Public Prosecutor's Office, Ministry of Justice, Ministry of Spatial Planning and Environmental Protection and the Police Directorate, as well as the Memorandum of understanding concluded between the Administration for Prevention of Money Laundering and Terrorism Financing, Police Directorate, Supreme Public Prosecutor's Office and Customs Administration.

In October 2007, a Tripartite Commission was established for analysis of cases in the field of organised crime and corruption, as well as for reporting and development of a uniform methodology of statistical indicators in the field of organised crime and corruption, in accordance with the Action plan for the implementation of the Programme for the fight against corruption and organised crime. The Commission is tasked, *inter alia*, with improving the quality of cooperation between the Police Directorate, Supreme Public Prosecutor's Office and the Supreme Court in the implementation of measures specified under the Action Plan.

56. Do the different actors have clear roles and responsibilities? How is it ensured that an overlap of responsibilities is avoided? How is efficient communication between the different actors ensured?

The Constitution of Montenegro regulates competences of different state bodies, primarily the courts and the Public Prosecution Office. The courts have been defined under the Constitution as autonomous and independent bodies exercising judicial power on the basis of the Constitution, laws and published international treaties, while the Public Prosecution Office has been defined as a single and autonomous state body performing the functions of prosecution of perpetrators of criminal offences and other punishable offences prosecuted *ex officio*. Therefore, an overlap or conflict of jurisdiction between the courts and Public Prosecution Office cannot occur.

Responsibilities within individual bodies are prescribed by the Law on Courts with respect to courts, the Law on Public Prosecution Office with respect to prosecutors, and the Law on Police with respect to the police, and these have been further elaborated by secondary legislation adopted on the basis of these laws.

Criminal Procedure Code also defines responsibilities and clear roles of all actors in the criminal proceedings, and in particular the procedural relationship between the police and Public Prosecution Office, and their relationship towards courts. Thus, legal framework defines clear roles and competences of all bodies involved in revealing and prosecution of criminal offenders and conduct of criminal proceedings.

The overlap of responsibilities may occur only within the courts or within public prosecutors' offices when a dilemma arises about the place of commission of criminal offence or legal qualification of offence. When such situation occurs, it will be resolved by immediate superior court or immediate superior public prosecutor's office. In any case, there is a territorial and subject-matter determination of jurisdiction, so that potential conflicts of jurisdiction are exceptional circumstances which are resolved pursuant to the above-mentioned laws. Organisational laws prescribe also the relationship between the above-mentioned authorities and other bodies as regards duty to deliver files, information and notifications if so requested by the authority.

In order to apply these laws and with the aim of as efficient as possible communication between the bodies involved in the criminal procedure, technical equipment has been provided –– landline and mobile phones, fax machines etc. In situations when urgent communication is necessary – crime scene investigation, deprivation of liberty etc., investigating judges and prosecutors on duty agree about the time and place of taking investigatory actions in direct communication, and there are also direct contacts with the Police Directorate about execution of routine and urgent orders. In all first-instance courts and public prosecutors' offices, continuous duty hours of investigating judges and prosecutors are organised. Without such communication it would not be possible to conduct criminal proceedings because the law prescribes that most procedural actions are carried out jointly, i.e. the prosecutor's office is present when these actions are carried out by the court (crime scene investigation, identity parade, interrogation, main hearing etc). Furthermore, full cooperation has been ensured with the Police Directorate which, pursuant to the Criminal Procedure Code, has a duty to act on each request from the Public Prosecution Office and courts for taking of evidence and securing presence of persons in proceedings.

57. Are court procedures supervised by a higher ranking court? Please describe the current appeal procedures.

A party has the right to appeal against any decision rendered by the courts of first instance. Time limit for filing an appeal is prescribed by law and the appeal is filed to immediate superior court. Higher court examines the decision of first instance within the limits of challenge under the appeal and the higher court must *ex officio* observe proper application of substantive law and absolutely material violations of procedural law. The appeal is filed to the court that has rendered the judgment and thereafter it is communicated to the opposing party to submit response. Upon the expiry of period set for response to appeal, all case files are submitted to the higher court i.e. the court having the jurisdiction to decide on appeal.

In civil cases, appeals are decided in closed session.

In criminal cases and proceedings for a criminal offence punishable by law by imprisonment of up to three years, open session will be held only if the chamber of judges competent to decide on appeal assessed that it is necessary to further clarify matters. In the cases of criminal offences punishable by law by a more severe punishment, public prosecutor is always notified of the session, while the accused and his/her defence counsel are notified if so requested in the appeal.

When deciding on appeal, higher court may:

- accept the appeal and reverse lower-instance decision and remand the case for retrial,
- accept the appeal and amend the challenged decision,
- dismiss the appeal and uphold the challenged decision.

In civil contentious cases, higher court may reverse decision twice at most and the third time it is obliged to open hearing and take a decision on the merits.

In criminal cases, if the higher court finds that decision should be reversed when deciding for the second time on appeal, it is obliged to open the main hearing and to take a decision on merits.

58. Domestic trials for war crimes:

a) Please describe progress in Montenegro concerning investigation and trying of persons held responsible for war crimes for which the Montenegrin courts are competent including any final court rulings and sentences.

Proceedings are underway before courts in Montenegro upon three indictments for the criminal offence of war crime against civilian population referred to in Article 142 paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia and criminal offence of war crime against prisoners of war referred to in Article 144 of the Criminal Code of the Federal Republic of Yugoslavia and upon one motion to conduct investigation for the criminal offence of war crime against humanity referred to in Article 472 of the Criminal Code of the Federal Republic of Yugoslavia in conjunction with Article 7 paragraph 2 of the European Convention on Human Rights and Fundamental Freedoms.

INDICTMENTS

In the case, known to general public as 'deportation of Muslims', on 19 January 2009 indictment was brought against nine persons for the criminal offence of war crime against civilian population referred to in Article 142 paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia. According to the allegations of indictment, the number of victims in that case is 55, and the indictment proposed to examine 118 persons within the taking of evidence who are located in the territories of Bosnia and Herzegovina, Serbia and Montenegro.

After the indictment was received on 21 January 2009, order was issued that the defendants be detained on remand.

In the period from 13 January 2009 to 9 February 2009, defendants submitted objections to the indictment. These objections were decided on 20 February 2009.

On 2 March 2009, the court requested the police to report why five defendants have not been found and deprived of liberty according to the order that they be detained on remand.

On 6 March 2009, notification was received from the police that defendant B.B. was in the Republic of Serbia and was beyond reach, that defendant M.M. could not be found at the address indicated in the case files and according to the statement of his wife she was not aware of his whereabouts; that the defendant M.I. was undergoing medical treatment outside Montenegro; that the defendant R.R. was in the Republic of Serbia for medical treatment, as stated by his wife; that the defendant D.B. was not in the territory of Montenegro, and according to the statement of his wife she was not aware of his whereabouts.

Following such information, order was issued to send out a wanted persons notice for defendants and wanted persons notices were sent out, as notified by the police, on 16 March, 19 March, 25 March, 2 April and 7 April.

On 10 June 2009, the court requested the competent authority to deliver information whether the defendants on the run are nationals of Montenegro. This information was delivered to the court on 23 June 2009. This information showed that four defendants were nationals of Montenegro and one defendant was a national of the Republic of Serbia.

On 25 June 2009, by way of letter rogatory through the Ministry of Justice, the competent authorities of the Republic of Serbia were requested to provide information whether the defendants on the run are nationals of the Republic of Serbia.

On 4 August 2009, the court was delivered information that the remaining four defendants are nationals of the Republic of Serbia.

On 18 September 2009, in accordance with the provisions of the Criminal Procedure Code, the court made an initiative to the Special Prosecutor to file a motion to try the defendants on the run in absentia.

Acting upon this initiative, on 29 September 2009, the Special Prosecutor filed a motion to try the defendants in absentia.

On 1 October 2009, ruling was made to try the defendants on the run in absentia and thus the conditions were fulfilled to schedule main hearing.

By the order of 6 October 2009 of the presiding judge, main hearing in that case was scheduled for 26 November 2009.

In the case, known to general public as 'Morinj', indictment was brought against six persons for the criminal offence of war crime against civilian population referred to in Article 142 paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia and criminal offence of war crime against prisoners of war referred to in Article 144 of the Criminal Code of the Federal Republic of Yugoslavia. According to the allegations of indictment, the number of victims is 210. That indictment was received by the court on 15 August 2008.

On 15 August 2008, the chamber issued the order that the defendants be detained on remand.

On 26 August, 27 August and 27 September 2008, defendants' objections against the indictment were received.

These objections were decided on 1 October 2008.

Since one of the defendants had not been deprived of liberty, the court requested the Police Directorate on 11 September 2008 to inform the court why the court ruling ordering detention on remand had not been executed. On 15 October 2008, the court requested information on that defendant.

On 25 October 2008, notification was received from the police that the defendant could not be found as he was not in the territory of Montenegro, and that, according to operative data, he was in the Republic of Serbia.

Following the receipt of such notification, on 27 October 2008 order was issued to send out a wanted person's notice. On 31 October 2008 the court was notified by the police that the wanted person's notice had been sent out.

On 26 December 2008, initiative was forwarded to the Special Prosecutor to file a motion to try the defendant on the run in absentia. Acting upon this initiative, on 30 December 2008, the Special Prosecutor filed a motion to try the defendant in absentia. On 12 January 2009, the court made a ruling to try the defendant in absentia. Main hearing was scheduled for 28 January 2009, however, on that hearing motions were filed for disqualification of the presiding judge, president of the court, and to delegate the case to another court, and consequently main hearing was adjourned.

On 5 February 2009, the motion for disqualification was dismissed, and on 14 February 2009 the motion for transfer of territorial jurisdiction was also dismissed.

After that, the main hearing was scheduled for 12 March 2009 and defendants were examined on that day and on 16 March, 24 March and 30 March 2009.

Main hearings were also held on 29 May, 2 June, 4 June, 9 June, 11 June, 15 June, 17 June, 19 June, 22 June, 24 June, 26 June, 30 June, 2 July, 20 July, 21 July and 24 September 2009, and 58 witnesses were examined at those hearings (all witnesses were from Croatia except for one witness who was from Bosnia and Herzegovina). At the hearings held on 6 July, 8 July, 16 July and 23 July 2009, statements from witnesses who deceased or those who were duly summoned but failed to appear were read out, and a forensic medical expert witness was examined.

The main hearing is scheduled to continue on 8 October 2009.

In the case, known to general public as 'Kaludjerski laz', on 3 July 2008, indictment was brought against eight persons for the criminal offence of war crime against civilian population referred to in Article 142 paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia.

The indictment proposed that the defendants be detained on remand and on 1 August 2008, the competent chamber issued the order that defendants be detained on remand. According to this order all but one defendant, who was not found, were deprived of liberty. On 6 August 2008 order was issued to send out a wanted person's notice for the defendant who had not been found.

Indictment against the defendants who were deprived of liberty took effect on 10 September 2008.

In accordance with the Law on International Legal Assistance in Criminal Matters the court has taken actions through the Ministry of Justice of Serbia to serve the indictment on the defendant about whom it had been found that he was in the territory of the Republic of Serbia. After the request for urgency from the court, this letter rogatory was executed and the indictment was served on the defendant. The defendant filed objection. The decision on defendant's objection was made on 14 January 2009.

On 10 March 2009, the court forwarded initiative to the competent public prosecutor to file a motion to try the defendant who was beyond the reach in absentia.

A motion to try the defendant in absentia was filed on 16 March 2009, and on the same day the competent chamber decided to conduct trial in absentia.

Main hearing started on 19 March 2009 and lasted without interruption until 30 September 2009. Main hearing scheduled for 30 September 2009 had to start anew due to change in the composition of the chamber which occurred because one former member of the chamber was justifiably prevented from acting in the case further. Since then, hearings have been conducted without interruption, and the evidence is adduced by direct examination of witnesses on a motion of the prosecutor's office.

At the same time, the court has been taking actions to obtain necessary documentation on the activity of military unit whose members the defendants were at that time. The documentation is in possession of the competent authorities of the Republic of Serbia and on 23 July 2009, the court received a letter from the Ministry of Defence of the Republic of Serbia that the unit specified in the indictment had not existed or had been active in the zone of the event described in the indictment. After that, the competent prosecutor filed a motion to obtain documentation on the activity of the military unit different from the one specified in the indictment. Thereafter, the court requested the competent Ministry of Defence of the Republic of Serbia to provide data from the Military Archives; however, such data has not been delivered yet.

INVESTIGATION

In the case, known to general public as 'Bukovica' on 11 December 2007, motion was filed to open investigation against seven persons for the criminal offence of war crime against humanity referred to in Article 427 of the Criminal Code in conjunction with Article 7 paragraph 2 of the European Convention on Human Rights and Fundamental Freedoms. Acting upon this motion, and following the examination of the suspects on 25 December 2007, order was made to conduct investigation. Defence counsel for the accused filed appeal against the order. On 31 December 2007, the chamber made a ruling to dismiss the appeal as ill-founded. In the course of investigation, the investigating judge examined three victims and 19 witnesses.

After the investigation had been completed, the investigating judge forwarded the case files to the competent prosecutor, and the competent prosecutor requested by document Kt.br.107/07 of 5 May and 14 June 2008 supplementary investigations. During supplementary investigations, investigating judge examined one witness and by way of letter rogatory through the competent authority of Bosnia and Herzegovina, four witnesses were examined. Thereafter, the investigating judge forwarded the case files to the competent prosecutor.

On 23 December 2008, the competent prosecutor filed again a motion seeking supplementary investigations. During supplementary investigations, the investigating judge examined six witnesses and obtained the opinion of forensic psychiatry expert witness regarding medical documentation issued in the name of three persons. By way of letter rogatory through the competent authorities of Bosnia and Herzegovina and Serbia, three witnesses were examined. Thereafter, the case files were forwarded to the competent prosecutor.

On 8 April 2009, the prosecutor filed again a motion seeking supplementary investigations. Acting upon this motion, the investigating judge examined four witnesses and on 2 June 2009, the investigating judge sent a request to the competent authority of Bosnia and Herzegovina through the Ministry of Justice of Montenegro seeking from the prosecution office of Bosnia and Herzegovina to summon and enable him to examine again three witnesses living in Sarajevo.

b) Does the Montenegro accept the notion of command responsibility, as defined by the ICTY Statute (Art. 7.3) and the Rome Statute of ICC (Art. 28)? Is evidence coming from the ICTY acceptable, in theory and in practice, in national court proceedings?

Montenegro defined in its Constitution that ratified and published international treaties and generally accepted rules of international law are an integral part of internal legal order and that they have supremacy over domestic law and are directly applicable when they regulate matters differently from domestic law.

Thus, in Montenegrin legislation there are two laws regulating this field: the Law on Ratification of the Rome Statute of the International Criminal Court adopted by the joint state of Serbia and Montenegro, whose application Montenegro accepted by declaration of independence and the Law on Cooperation with the International Criminal Court adopted by the Parliament of Montenegro on 27 June 2009. The Law on Cooperation with the International Criminal Court regulates cooperation with the International Criminal Court and carrying out of other obligations, in accordance with the Rome Statute of the International Criminal Court, as well as other issues concerning prosecution of perpetrators of criminal offences referred to in Article 5 of the Statute and crimes against humanity and other rights protected by international law concerning violation of international humanitarian law referred to in the Criminal Code of Montenegro, whose provisions apply *mutatis mutandis* to the procedure for co-operation with the ICTY.

Concerning implementation of provisions on command responsibility provided by the ICTY Statute and the Rome Statute into its criminal legislation, Montenegro passed new Criminal Code which was published in the Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and the Official Gazette of Montenegro 40/08. This Criminal Code has been fully harmonised as to the provisions on command responsibility with the Rome Statute both with regard to direct command responsibility and with regard to command responsibility for omission to act.

As regards direct command responsibility, it is defined in the Criminal Code of Montenegro in a way that a person who orders commission of criminal offences of genocide, crimes against humanity, war crimes against civilian population, war crimes against the wounded and sick, war crimes against the prisoners of war, use of forbidden means of warfare, unlawful killing or wounding of the enemy, unlawful appropriation of items from the killed, violating the protection granted to bearers of flags of truce, cruel treatment of the wounded, sick and prisoners of war and destruction of cultural assets will be held responsible in the same way as if he/she had perpetrated those offences.

The command responsibility for omission is defined in Article 440 of the Criminal Code of Montenegro in a way that a military commander or a person effectively acting as a military commander who, knowing that forces he/she is commanding or controlling are about to commit or have started committing certain criminal offences, fails to take necessary measures that he/she could have taken and was obliged to take in order to prevent commission of criminal offences, and this results in actual commission of that offence, will be punished by a sentence prescribed for such an offence. Another superior who, knowing that his/her subordinates are about to commit or have started committing criminal offences in the performance of affairs under his/her supervision, fails to take necessary measures that he/she could have taken and was obliged to take in order to prevent the commission of offences, and this results in commission of that offence, will be also punished by a sentence prescribed for such an offence. Where such an offence was committed out of negligence, the offender will be punished by an imprisonment sentence not exceeding three years. Military commander and any other superior or a person effectively acting as a military commander may be held responsible according to the notion of command responsibility for

omission with respect to commission of all criminal offences for which the person issuing orders may be held responsible as already mentioned regarding direct command responsibility.

Criminalisation of the mentioned criminal offence in the Criminal Code of Montenegro has been harmonised with the provisions of Article 28 of the Rome Statute of the International Criminal Court (Montenegro is a party). The act of commission of principal form of this criminal offence (paragraph 1) is not taking measures necessary to prevent criminal offences of: genocide (Article 426 of the Criminal Code), crime against humanity (Article 427 of the Criminal Code), war crime against civilian population (Article 428 of the Criminal Code), war crime against the wounded and sick (Article 429 of the Criminal Code), war crimes against the prisoners of war (Article 430 of the Criminal Code), use of forbidden means of warfare (Article 432 of the Criminal Code), unlawful killing or wounding of the enemy (Article 434 of the Criminal Code), unlawful appropriation of items from the killed (Article 435 of the Criminal Code), violating the protection granted to bearers of flags of truce (Article 436 of the Criminal Code), cruel treatment of the wounded, sick and prisoners of war (Article 437 of the Criminal Code) and destruction of cultural assets (Article 439 of the Criminal Code).

The perpetrator of this criminal offence may be a military commander or person effectively acting as a military commander. Military commander is a person commanding military unit, regardless of its size, but it should be noted that this is also a military person who does not command military unit directly, but performs such military function enabling him/her to order taking of measures necessary to prevent commission of war crimes (e.g. Chief of the General Staff or another high military official). The person effectively acting as a military commander is treated in the same way as military commander. This is a person who does not have the office of a military commander according to the rules of military service, but in concrete case he/she effectively acts as military commander (e.g. in case of death of military commander or if military commander is prevented from exercising his/her duties, this persons commands military unit). As regards punishability, these persons are treated in the same way as direct perpetrators of war crimes.

Subjective element of this offence is the awareness (knowledge) of the perpetrator that the forces he/she commands or controls are about to commit or have started committing a criminal offence mentioned in this article.

The second form of the criminal offence (paragraph 2) is the same, as to substance, as the offence referred to in paragraph 1 (principal form) and is different only in that another superior occurs as perpetrator, not the military commander or person effectively acting as a military commander. These are civilian superiors who may exercise very different offices (most frequently political, but other as well).

The form of offence out of negligence, as a third form of this criminal offence (paragraph 3) relates to both previous forms (paragraphs 1 and 2). It includes both the conscious and unconscious negligence and in that regard our legislator went further than the Rome Statute, because in case of another superior (paragraph 2) criminal offence out of negligence exists even in case of unconscious negligence.

The first two forms of this criminal offence (paragraphs 1 and 2) are punishable by sentences prescribed for the offence which has not been prevented. The third form – offence out of negligence – is punishable by a considerably more lenient punishment – imprisonment for up to three years, which has its criminal and political justification.

The acts defined in Article 28 paragraph 1 item b of the Rome Statute (failure to submit the matter to the competent authorities for investigation and prosecution) have been implemented in the Criminal Code of Montenegro as a separate criminal offence – failure to report criminal offence and offender referred to in Article 386 paragraph 2. The act of this offence is committed by an official or responsible person who knowingly fails to report criminal offence of which he/she learned in the performance of his/her duties, if the offence is punishable by law by imprisonment of five years or more severe punishment.

Therefore, the criminalisation in Article 440 and Article 386 paragraph 2 of the Criminal Code as a whole constitute consistent implementation of Article 28 of the Rome Statute.

The evidence gathered by the ICTY in accordance with the Statute and Rules of the Tribunal can be used in Montenegro.

c) Does your country have the necessary trained judicial personnel (prosecutors, lawyers, judges) to process domestic war crimes trials?

In the Supreme Public Prosecutor's Office of Montenegro – Division for suppressing organised crime, corruption, terrorism and war crimes – relevant specialisations have been undertaken in a way that two deputy special prosecutors deal with the cases of war crimes. They act before High Courts in Podgorica and Bijelo Polje which have jurisdiction to conduct trials in war crime cases.

Specialised divisions conducting trials for criminal offences of organised crime, corruption, terrorism and war crimes have been formed at two High Courts. Six judges work in the specialised division of the High Court in Podgorica, and three judges work in the specialised division of the High Court in Bijelo Polje.

Prosecutors and judges who deal at the moment with war crime cases underwent necessary professional training through seminars, conferences and other forms of training in Montenegro and the countries of the region, which were organised by the OSCE, Montenegrin Judicial Training Centre, Ministry of Justice, the Supreme Court of Montenegro, and by public prosecution offices from the countries of the region. In particular, in 2008, training of prosecutors and judges in the field of war crimes was implemented and lasted for several days; this training was organised by the Montenegrin Judicial Training Centre, within the Twinning Project of support to the Judicial Training Centre by the European Union. Within this training, visits were made to the International Criminal Tribunal for the former Yugoslavia (The Hague Tribunal) and to the International Criminal Court.

In the professional training delivered, prosecutors and judges acquired necessary knowledge and skills for processing war crime trials.

d) Please describe the measures undertaken to improve cooperation with neighbouring in the context of domestic trials for war crimes.

Based on concluded agreements, judicial and prosecutorial authorities of Montenegro established direct co-operation with the judicial and prosecutorial authorities of the Republic of Croatia, Bosnia and Herzegovina and the Republic of Serbia as regards the revealing and prosecution of criminal offences of war crimes. In that sense, in 2006 and 2007, the Supreme Public Prosecutor of Montenegro concluded: a Protocol of Understanding concerning mutual co-operation in combating all forms of serious crime with the Prosecution Office of Bosnia and Herzegovina; Agreement on co-operation and prosecution of perpetrators of criminal offences of war crimes, crimes against humanity and genocide with the Public Prosecutor's Office of the Republic of Croatia; Agreement on co-operation in criminal prosecution of perpetrators of criminal offences against humanity and other rights protected by international law with the Office of the War Crimes Prosecutor of the Republic of Serbia. In accordance with the mentioned agreements, in the period from 2006 until 1 August 2009, direct and very successful co-operation has been established with the public prosecution offices of the mentioned countries as regards collection and exchange of evidence and information necessary for prosecution of war crime cases.

In processed war crime cases (a total of 4 cases), in proceedings conducted before High Courts in Podgorica and Bijelo Polje, it became necessary to interrogate a certain number of witnesses, and injured parties – victims of war crimes, who reside in the territories of neighbouring countries. Based on established co-operation and letters rogatory for legal assistance by the High Court in Podgorica and the High Court in Bijelo Polje, witnesses and victims of war crimes were interrogated in the Prosecution Office of Bosnia and Herzegovina, District Court in Belgrade – Republic of Serbia and in the Republic of Croatia: District Courts in Dubrovnik, Sisak, Koprivnica, Split, Rijeka, Zagreb, Vukovar and Šibenik. Investigating judges and prosecutors from Montenegro

who acted in those cases were present during interrogation and they had an opportunity to ask witnesses and victims questions about specific events which the proceedings concerned, through prosecutors (in Bosnia and Herzegovina) and judges (in the Republic of Serbia and the Republic of Croatia) who carried out interrogations.

As an illustration of well established co-operation between the judicial and prosecutorial authorities of Montenegro and countries of the region we would like to mention the following case:

In March 2007, pursuant to the Agreement on co-operation and prosecution of perpetrators of criminal offences of war crimes, crimes against humanity and genocide, the Public Prosecution Office of the Republic of Croatia submitted to the Supreme Public Prosecutor's Office of Montenegro, with a view to potentially taking over evidence and data, for its opinion case files of the District Public Prosecutor's Office in Dubrovnik in the proceedings conducted before the District Court in Dubrovnik against several persons for criminal offences of war crimes. Following the assessment of delivered data and evidence, High Prosecutor in Podgorica who was competent at the time concluded that there is reasonable suspicion that six persons – nationals of Montenegro, committed the criminal offence of war crime against civilian population referred to in Article 142 paragraph 1 of the Criminal Code of the Federal Republic of Yugoslavia and the criminal offence of war crime against prisoners of war referred to in Article 144 of the Criminal Code of the Federal Republic of Yugoslavia, and filed to the High Court in Podgorica a motion to conduct investigation against those persons for mentioned criminal offences, which was accepted by the court.

Since investigatory actions should have been undertaken during investigation – interrogation of witnesses, victims residing in the Republic of Croatia, on the basis of letters rogatory of the investigating judge of the High Court in Podgorica, a total of 80 witnesses were examined before the District Courts in Dubrovnik, Sisak, Koprivnica, Split, Rijeka, Zagreb, Vukovar and Šibenik. Majority of witnesses – victims have been examined before the investigating judge of the District Court in Dubrovnik, while an investigating judge and a prosecutor from Montenegro were also present during examination.

In this case, main hearing is ongoing before the High Court in Podgorica. To date, 58 victims – witnesses were examined. Newly established Service for Support to Victims/Witnesses at the High Court in Podgorica organised their arrival to and accommodation in Montenegro and provided support to the witnesses – victims of war crimes, and it also organised required medical care, in co-operation with the competent authorities of the Republic of Croatia.

Letters rogatory of the Special Division of the High Court in Podgorica (Morinj case) for service of summons for the main hearing to the witnesses in the territory of the Republic of Croatia were transmitted through the Ministry of Justice of Montenegro to the Ministry of Justice of the Republic of Croatia on several occasions, in accordance with the bilateral Agreement on legal assistance in civil and criminal matters of 1997. Additionally, in the past period the Ministry of Justice transmitted to the neighbouring countries several letters rogatory of judicial authorities concerning the proceedings pending against Montenegrin nationals for the criminal offence of war crime.

Anti-corruption measures

59. Please provide any analysis or research made by your authorities or other bodies (e.g. NGOs) on the problems of corruption faced by your country.

In the last years, Montenegro is approaching the corruption issue in an organised manner, meaning that within anti-corruption activities, in addition to other, research activities are conducted, as well as surveys and analyses on volume of corruption in various areas.

Aimed at implementation of provisions provided for in Article 6, paragraph 1, b of UNCAC referring to the increasing and disseminating knowledge about the prevention of corruption, as well as of GRECO recommendation on the need to conduct necessary researches in order to obtain more clear picture on the scope of corruption and its different characteristics, since 2006 until today,

Montenegro has conducted a set of researches, surveys and analyses on corruption phenomenon in various sectors. The mentioned researches and recommendations arising therein, present a base for organised and permanent planning of anti-corruption activities in various areas.

The Action plan for implementation of the Program of fight against corruption and organised crime from August 2006, within the Chapter C on Public, Civil society (including private sector) and media, provides for the measure of continuous conducting of researches relating to the types, causes and mechanisms of origin of corruptions, the stakeholders for implementation being the Administration for Anti-Corruption Initiative, NGO sector and media.

Aimed at narrowing possibility for potential corruption in public sector, innovated Action plan for implementation of the Programme of fight against corruption and organised crime (May 2008 – 31 December 2009), provided for drawing up of sectoral Action plan against corruption and organised crime in the area of health and social protection, education and spatial planning, incorporating the commitment to conduct researches on corruption.

The Government of Montenegro obliged Administration for Anti-Corruption Initiative to conduct researches on scope/volume, types, causes and mechanisms of origin of corruptions. With regard to the mentioned, the Administrations are widened pursuant to Amendment to the Decree on organisation and manner of functioning of the state administration of 2007. Since then, systemic researches on corruption are conducted in an organised manner, and since September 2009, the Administration conducted researches in regard to integrity and capacity of judicial system and local self-government system, whilst the research on private sector is ongoing. All researches and surveys conducted by the Administration for Anti-Corruption Initiative and other state bodies are placed in the Administration web page http://www.antikorup.vlada.cg.yu (news bar researches and reports), as well as researches conducted by civil society representatives (news bar civil society against corruption).

Within the activities on drawing up the Programme and Action plans against corruption, the authorities and local self-government bodies conducted related surveys and researches.

Moreover, private and NGO sector demonstrated great interest in conducting surveys and corruption related researches (such as the research on impact of corruption on companies business activities, corruption in education, etc.).

The researches are conducted aimed at raising level of awareness on corruption, as well as to establish more efficient anti-corruption plans and initiatives, and undertaking overall measures directed to prevention and suppression of corruptive behaviour based on recommendations within the researches. Recommendations following two complex researches on Assessment of integrity and capacity of judicial system in Montenegro and Assessment of integrity and capacity of local self-government in Montenegro, are submitted to the Ministry of Justice, Ministry of Interior and Public Administration, as well as to other competent bodies. Being the central anti-corruption body for raising public awareness on corruption issue, the Administration for Anti-Corruption Initiative, presented researches and surveys (being conducted among students, state employees and civil servants, etc.) results to the public, especially to different target groups: at the lecturers in higher education institutions, seminars delivered to state employees and civil servants, media representatives, local self-government officials and NGOs, as well as in other activities within the promotion of preventive action. The Administration also undertook a set of other activities aimed at easier access to available information, such as published publications, and CD containing researches results (in Montenegrin and English).

It has showed up that conducting researches and their results contribute to a great interest and continuous support to anti-corruption reforms, public awareness on efficient preventive anti-corruption policy and measures, etc.

As a large number of researches and surveys (conducted by state bodies, local self-government bodies and other subjects) on causes and consequences of corruptive behaviour, has been conducted in last three years, they are divided into three categories upon the subjects who conducted the researches, surveys and analyses: (A) state bodies; (B) local self-government and (C) non-governmental organisations and private sector.

RESEARCHES AND SURVEYS

A. STATE BODIES

- Research on corruption in the Customs Administration in June 2006, conducted by CEED in Serbia and Montenegro, available on the Customs Administration web site: www.gov.me/upravacarina;

- Research on corruption in education, conducted for the needs of the Ministry of Education and Science in May and June 2008 by NGO CEPRIM, which is available on the following web site http://www.nvoceprim.com/;

- Assessment of integrity and capacity of judicial system in Montenegro, which was for the needs of AACI and UNDP conducted by CEED in October 2008 (in Montenegrin and English). The research results also contain relevant recommendations on the activities to be undertaken to strengthen efficiency of the judicial system in Montenegro; http://www.gov.me/files/1223462194.PDF

- Research on assessment of integrity and local self-government capacities in Montenegro, which was for the needs of AACI and UNDP conducted by CEED in June 2009 (in Montenegrin and English). The research results also contain relevant recommendations on the activities to be undertaken to strengthen anti-corruption activities of the local self-government in Montenegro; http://www.gov.me/antikorup/vijesti.php?akcija=vijesti&id=175216

- Results of AACI surveys conducted in higher education institutions, within the campaign "Chose right way, report corruption" in May and June 2007; http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=43761

- Results of AACI surveys conducted in higher education institutions, within the campaign "Chose right way, report corruption" in academic 2007 – 2008; http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=155299

- Results of AACI surveys among state employees and civil servants in March and April 2008; http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=161428

- Results of AACI surveys conducted in higher education institutions, within the campaign "Chose right way, report corruption" in academic 2008 – 2009; http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=175502

- Results of AACI surveys conducted in the Police Directorate in 2009; http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=175506

- Results of AACI surveys conducted among state employees and civil servant in March, April and July 2009. http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=175508

B. LOCAL SELF-GOVERNMENT

Action plan for implementation of the Programme of fight against corruption and organised crime has laid down the obligation of local self-government to draw up and adopt the action plans for suppression of corruption. The above-mentioned researches and surveys are conducted in order to obtain real picture of the corruption issue in individual municipalities, for the purpose of defining concrete measures for its suppression. The mentioned researches and surveys are available in the Administration for Anti-Corruption Initiative web site (http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=177574).

The research "Corruption on local government and other public bodies in the municipality of Budva", was conducted in December 2008;

Results of the survey conducted by the municipality of Niksic during drawing up the Programme and Action plan for fight against corruption in local self-government in December 2008 are attached to the Action plan, pages from 3 to 5;

During drawing up of the Programme and Action Plan for fight against corruption in the municipality of Kotor (2008-2009), public survey was conducted with the results given attached to the Programme, pages from 4 to 13;

The research conducted by the municipality of Berane in first half of 2009, by using focus group method. The questions referred to the existence, volume, causes of corruption, the areas being the most sensitive to corruption, methods to tackle corruption, as well as other issues faced by the citizens in local government functioning;

Results of the research on level of corruption in local government bodies and other public bodies in the municipality of Danilovgrad, conducted in April 2009 by CEED Consulting from Podgorica for the needs of the municipality of Danilovgrad;

During drawing up of the Action Plan for fight against corruption in the municipality of Tivat, adopted in May 2009, the situation analysed was made (research results and proposals for solutions are attached to the Programme and Action plan for fight against corruption in local self-government, pages from 3 to 9);

The researches conducted by the municipality of Pluzine in May 2009 for the needs of drawing up of the Programme and Action Plan for fight against corruption in the municipality of Pluzine;

Results of the survey entitled “BAR WITHOUT CORRUPTION“, conducted by the municipality of Bar in May 2009, for the needs of drawing up of the Programme and Action Plan for fight against corruption in local self-government;

Results of the survey entitled “KOLASIN WITHOUT CORRUPTION“, conducted by the municipality of Kolasin in July 2009, for the needs of drawing up of the Programme and Action Plan for fight against corruption in local self-government;

During drawing up of the Programme and Action Plan for fight against corruption in the municipality of Bijelo Polje (2008-2009), public survey was conducted on existence and the volume of corruption in local self-government, with the results of the survey of groups of municipal assembly members, given attached to the Programme of fight against corruption, pages from 3 to 4;

Results of the survey entitled “MOJKOVAC WITHOUT CORRUPTION“, conducted by the municipality of Mojkovac in June 2009, for the needs of drawing up of the Programme and Action Plan for fight against corruption in local self-government;

Results of the survey of the citizens of Cetinje during drawing up of the Programme for fight against corruption in public administration (pages 2 and 3).

C. NON-GOVERNMENTAL ORGANISATIONS AND PRIVATE SECTOR

1) Results of the survey conducted in April and May 2008 by the Montenegrin Employers Federation among Montenegrin businessmen, aimed at identifying the volume of corruption affecting companies businesses. The survey is available on www.poslodavci.org/;

2) Report on attitudes of citizens of Montenegro to corruption and education, conducted by CEMI and Centre for civic education in 2008.

II. ANALYSIS

Apart from the researches and surveys conducted from 2006 to 2009, variety of analysis were made in regard to corruption in Montenegro. The analysis material was made by the state bodies and NGOs. In this light, analytical materials on corruption and directions of acting of this negative issue in Montenegro were produced.

A. STATE BODIES

1) Report on implementation of the Administration for Anti-Corruption Initiative for actions upon reported cases of corruption, made by the Administration for Anti-Corruption Initiative in 2007 is available on:

http://wwwhttp://www.gov.me/.gov.me/anticorup/vijesti.php?akcija=vijesti&id=25639

2) Information of the Administration for Anti-Corruption Initiative on the level of harmonisation of the national legislation with 2007 United Nations Convention against Corruption is available on:

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=177875

3) Reports on implementation of the measures from the Action plan for implementation of the Programme of fight against corruption and organised crime (I-V), made by the National commission for monitoring of implementation of the Action plan for implementation of the Programme of fight against corruption and organised crime are available on:

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=25152

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=155658

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=162075

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=169669

http://www.gov.me/anticorup/vijesti.php?akcija=vijesti&id=175972

4) Protection of bidders rights in the public procurement procedures in Montenegro (in Montenegrin and English), Commission for control of the public procurement procedures and World Bank Office in Podgorica, 2009;

5) Analysis of the implementation of the Law on Free Access to information, Ministry of Culture, Sports and Media, 2009;

B. NON-GOVERNMENTAL ORGANISATIONS

1) Funding political parties, Report for 2006, prepared by CEMI;

2) Manual on conflict of interest for public officials, prepared by CEMI 2006;

3) Publication “Free access to information and data secrecy – comment on the Law with recommendations, prepared by MANS 2007;

4) Publication “Corruption or EU integration“, prepared by MANS 2008;

5) Publication “Do you know you have the right to know“, prepared by MANS 2008;

6) Publication “I have the right to know“, prepared by MANS;

7) Publication “The right to know“, prepared by MANS;

60. Please give an overview of the efforts geared towards tackling corruption (i.e. adoption of legislation, international conventions, adoption of strategies and action plans to implement legislation, reinforcement of institutional and human resources capacities to deal with corruption). Which are the main priorities in this field? Which are the bodies responsible for coordinating all related efforts?

The Government of Montenegro has developed the system plan of actions and measures to fight corruption and organised crime.

1. Adoption of strategies and action plans

a) The National Strategy

Strategic framework for suppression of corruption and organised crime in Montenegro involves the Programme of fight against corruption and organised crime and the Action plan for its implementation. At the session of 28 July 2005, the Government of Montenegro adopted the Programme of fight against corruption and organised crime, and on 24 August 2006, it adopted the Action plan for 2006-2008. The Action plan established concrete measures and activities, competent bodies and institutions, time frameworks, success indicators and risk factors. When drawn up, special attention was paid to: the Council Decision on principles, priorities and conditions incorporated in the European Partnership of 28 January 2007, UN Convention against

Transnational Organised Crime, UN Convention against Corruption, European Convention on Protection of Human Rights and Fundamental Freedoms, Council of Europe Resolution (97) 24 on twenty guiding principle of fight against corruption (GRECO); Principles for Improvement of Fight against Corruption in the countries acceding EU, candidate countries and third countries. Representatives of non-governmental sector participated in drawing up both of the Programme and the Action plan for its implementation. The Action plan was innovated in 2008, thus increasing the number of measures (from 280 to 309), and the number of bodies and institutions being involved (from 32 to 54), and the implementation period is extended till the end of 2009.

Main goals of the national anti-corruption strategic framework involve the following:

- Political and international commitment to act, among other things by the means of:
  - Intensifying initiated reform of legal and financial system;
  - Implementation of international standards in the field of fight against corruption;
  - Cross-border cooperation in the fight against organised crime;
  - Participation in the work of regional initiatives and implementation of GRECO recommendations;
  - Improvement of conditions for functioning of the competent bodies
- Efficient criminal prosecution of corruption and organised crime;
  - Raising the level of knowledge and specialist training of the police, prosecutors and judges;
  - Assessment of crime situation in regard to corruption and organised crime;
- Prevention and education;
  - Improved working condition and general standards of judges, prosecutors and the police;
  - Increasing integrity of judges, prosecutors and the police;
  - Reducing possibility for potential corruption in public sector;
  - More efficient implementation of the Law on Financing of Political Parties;
  - More efficient implementation of the Law on Free Access to Information;
- Participation of the public, civil society, private sector and media;
  - Joint preventive action of the governmental and non-governmental sector and civil society;
  - Professional information on corruption and organised crime;
  - Improving transparency of business operations;
- Participation of the local self-government;
  - Improving fight against corruption at the local level;
- Strengthening capacities of the police, public prosecution and judicial powers;
- Conducting external and internal budget audit;
  - Control of legality of income and expenditure budgetary allocations;
  - Control of the regularity, legality and efficiency of the budget users functioning;
  - Prevention of abuse in the budget execution;
- Strengthening capacities of institutions for enforcement of anti-corruption policy in privatisation process;
- Enforcement of the policy in prevention of money laundering and financing terrorism;

- Efficient implementation of the Law on Public Procurement;
- Enforcement of the policy for prevention of conflict of interest;
- Efficient functioning of the Tax Administration, Customs Administration and Administration for Anti-Corruption;

b) Strategy on judiciary reform

The Strategy on reform of judiciary (2007-2012) provides for the objectives to reach in the field of efficient fight against corruption, especially organised crime, corruption, terrorism and war crimes, and the Action plan for the implementation of the Strategy provides for the measures to be undertaken to reach the objectives. The following are the policy main objectives in fighting crime, especially organised crime:

- Ratification of international conventions and conclusion of bilateral treaties providing for mechanisms for efficient fight against crime;
- Harmonisation of the legislation with international standards;
- Analysing human resources potential and recruitment of the one being missing;
- Implementation of continuous education and specialist training in the field of judiciary;
- Improvement of working and living conditions, and material position of judges and prosecutors;
- Provision of protection of judges and prosecutors integrity;
- Conduct concentration of jurisdictions of judicial bodies for organised crime and corruption offences;
- Introduce efficient investigative mechanisms for fight against corruption;
- Introduce mechanism for more efficient seizure of proceeds of crime; and provide for more efficient protection of a victim in criminal proceedings.
- The Parliament of Montenegro adopted Resolution on fight against corruption and organised crime (Official Gazette of Montenegro 02/08), which among other things, declared readiness to deploy its own capacities to develop national anti-corruption legislation, and to establish as close as possible international and regional cooperation in the field of suppression of corruption and organised crime.

c) Local strategies and action plans

At the session of 27 June 2008, the Government of Montenegro adopted the Model programme of fight against corruption in local self-government, and the Model action plan of the programme of fight against corruption in local self-government, drawn up according to the Council of Europe methodology, pursuant to the measures of the Strategy on administrative reform of Montenegro for 2002-2009, Programme of work for more efficient local self-government, National Training Strategy (NTS), Action plan for reform of local self-government for 2008 and the Programme of work of the Government for 2008. Based on the established models, as well as on conducted researches on corruption at the local level, the following 11 municipalities adopted the Programme and Action plan for fight against corruption at the local level: Niksic, Pljevlja, Podgorica, Andrijevica, Berane, Bijelo Polje, Budva, Zabljak, Kotor, Pluzine and Rozaje. In five municipalities (Cetinje, Bar, Danilovgrad, Plav and Tivat), the mentioned documents have the draft status.

d) Sectoral action plans

For the purpose of the Strategy on judiciary reform implementation (2007-2012), the Action plan for implementation was adopted, and it provides for the measures, time frameworks, competent bodies, success indicators and the budget for meeting the objectives provided for in the Strategy.

Innovated Action plan for implementation of the Programme of fight against corruption and organised crime, provides for drawing up and adoption of sectoral action plans in the field of:

- Health and social protection,
- Education, and
- Spatial planning.

In the field of education, the Ministry of Education and Science drawn up and published the Action plan for fight against corruption in the field of education (2009-2012), and aimed at informing the public on the document content, it organised several roundtables for parents, and surveys, in cooperation with youth sport clubs.

In regard to the health care field, the Action plan was adopted by the Government of Montenegro, at the session held on 10 September 2009. In the field of spatial planning, the action plan is in the phase of draft, and it is expected to be considered and adopted at a next session of the Government of Montenegro.

2. Legal framework for prevention and suppression if corruption

Within general reform processes in Montenegro, anti-corruption policy involved change of legal system. Thus the relevant legal framework involves a set of legislation, the following ones being the most important:

I. Criminal Code

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) involves the following corruptive criminal offences provided for in the Titles XXIII and XXXIV: Money Laundering from Article 268; Violation of Equality in the Conduct of Business Activities in Article 269; Abuse of Monopolistic Position from Article 270; Causing Bankruptcy from Article 273; Causing False Bankruptcy from Article 274; Abuse of Authorisations in Economy from Article 276; False Balance from Article 278; Abuse of Appraisal from Article 279; Disclosing a Business Secret from Article 280; Disclosing and Using Stock-exchange Secrets from Article 281; Abuse of an Official Position from Article 416; Fraud in the Conduct of an Official Duty from Article 419; Trading in Influence from Article 422; Passive Bribery from Article 423; Active Bribery from Article 424 and Disclosure of an Official Secret from the Article 425.

The above-mentioned criminalisation in the sense of criminal-legal concept of corruption involves all forms of bribery and corruptive behaviour, provided for by the Council of Europe Criminal-Legal Convention on Corruption.

Pursuant to Articles 112 and 113 of the Criminal Code, provides for mandatory seizure of proceeds of crime based on court order which establishes commission of criminal offence. Money, things of value and all other material benefits obtained by a criminal offence is seized from the offender, and provided that such a seizure is not possible, the offender is obliged to pay for the monetary value of the obtained material benefit. Material benefit obtained by a criminal offence is also seized from the persons it has been transferred to without compensation or under a compensation that obviously does not correspond to its real value. If any property is obtained by a criminal offence in favour of other persons, it is also seized. New Criminal Code shall contain substantive-legal provisions of extended confiscation.

In regard to criminalisation on prevention of money laundering provided for in Article 268, amendments to the Criminal Code are ongoing in regard to its further harmonisation with International Convention on Prevention of Money Laundering, and provision of assumptions for more efficient prosecution of all activities which are undertaken for the purpose of laundering of money obtained from any criminal offence.

II. Criminal Procedure Code

Pursuant to the Strategy of reform of the judiciary 2007-2012, a separate title deals with fight against corruption, terrorism and organised crime, providing for further legislative activities directed

at revision of criminal-procedural system, thus abandoning the concept of judicial investigation, and its running is entrusted to the public prosecutor. Pursuant to the Action plan for implementation of the Strategy of judicial reform, new Criminal Procedure Code was adopted (Official Gazette of Montenegro 57/09) on 27 July 2009. The Code is harmonised with the European Convention on Human Rights and Fundamental Freedoms, and other international instruments. Pursuant to the Code, investigation is entrusted to public prosecutor.

New Criminal Procedure Code provides for the procedure for temporary seizure of proceeds, as well as financial investigation for the purpose of extended seizure of the property which legal origin is not proved within pre-trial procedure (Articles 90 and 486 to 489), burden of proof is transferred to the accused (Article 93) who has to prove the lawfulness of the origin of property by plausible documents, or to prove otherwise that the objects, material gain or property do not originate from a crime or criminal activity, or were not obtained illicitly acquired by concealing the origin or the grounds of acquisition. The procedure of managing temporary and permanently seized property obtained from a commission of crime is regulated by separate law, i.e. the Law on Managing Temporary and Permanently Seized Property (Official Gazette of Montenegro 49/08).

New Criminal Procedure Code provides for new proving action – insight in photographs, listening audio recordings, and insight in audiovisual recordings (Article 156).

Application of secret surveillance measures is extended by providing for the catalogues of criminal offences, among which to the criminal offences having elements of corruption, given in Article 158 paragraph 1 item 3 of the new Criminal Procedure Code.

III. Law on Public Prosecution Office

Law on Public Prosecution Office was adopted in December 2003 (Official Gazette of the Republic of Montenegro 69/03), and in addition to other things it provided for establishment of Division for Suppression of Organised Crime within the Supreme Public Prosecutor's Office, headed by Special Prosecutor. Law on Amendments to the Law on Public Prosecution Office was adopted in June 2008 (Official Gazette of Montenegro 40/08), hence extending the Division jurisdiction to involve criminal prosecution of corruption, terrorism and war crimes. Extended jurisdiction of the Special Prosecutor for Suppression of Organised Crime to all corruption related criminal offences, except for petty offences of abuse of official position, fraud and abuse of powers in economy, for which the prescribed penalty is not exceeding five years, and which remained under the jurisdiction of basic public prosecution office.

IV. Law on Courts

Law on Courts (Official Gazette of the Republic of Montenegro 05/02, 49/04 and Official Gazette of Montenegro 22/08) regulates: establishment, organisation and jurisdiction of competent courts; requirements for selection of judges and lay magistrates; organisation of courts functioning; judicial administration; funding courts and other issues relevant for functioning of courts. Extended jurisdiction of a high court in a part of running of pre-trial procedure for all criminal offences with elements of corruption, except for petty offences of abuse of official position, fraud and abuse of powers in economy, for which the prescribed penalty is not exceeding five years, and which remained under the jurisdiction of basic courts.

The law provides for establishment of specialised divisions for criminal offences of organised crime, corruption, terrorism and war crimes, within the High Courts.

V. Law on Judicial Council

Law on Judicial Council was adopted in February 2008 (Official Gazette of Montenegro 13/08). Pursuant to the Constitution, the Judicial Council is established as autonomous and independent body, having as it main jurisdiction selection, dismissal and establishing of disciplinary liability of judges and courts presidents. The Law also provides for in detail the manner of selection and termination of the terms of office of the Judicial Council members, organisation and the manner of functioning of the Judicial Council, the procedure of selection of judges and lay magistrates, the manner of establishing the termination of judicial function, disciplinary liability and dismissal of judges and lay magistrates. As an autonomous body, the Judicial Council provides for autonomy and independence of judges, it protects courts and judges from political influence, controls courts

and judges functioning, it makes decisions on disciplinary liability of judges, and it performs set of other tasks provided for in the Constitution and the law.

VI. Law on Prevention of Conflict of Interest

Law on Prevention of Conflict of Interest (Official Gazette of Montenegro 1/09) regulates limitations in execution of public functions, submission of reports on income and assets, as well as other measures for prevention of conflict of public and private interest.

The Law has four key points-principles, bounding also beyond the Law, prohibited behaviour, a special body in charge of the Law implementation and sanctions, general and special prevention of abuse.

Law on Prevention of Conflict of Interest extends the obligations and prohibitions relating to public officials. For example, especially are explicitly given prohibited actions of public officials, duration of the obligations under the law, also providing for the term following the termination of public function, and the obligation to register all incomes public official is entitled to. The Law specifity is that it is grounded on the principles presenting legal, but also ethical behaviour standards.

Law on Prevention of Conflict of Interest in performing public functions provides for new sanctions, such as a fine.

Detailed elaboration of the Law is given in the answer to the question 50 in the Chapter 23, Judiciary and Fundamental Rights.

VII. Law on Criminal Liability of Legal Persons

Law on Criminal Liability of Legal Persons (Official Gazette of the Republic of Montenegro 2/07 and 13/07) regulates the terms of liability of legal persons for criminal offences, criminal sanctions applied against legal persons, as well as the criminal proceedings pronouncing the criminal sanctions. Pursuant to the Law, a legal person can be liable for criminal offences provided for in the special part of the Criminal Code, as well as for other criminal offences provided for in a separate law, if conditions for liability of a legal person provided for by this law are met.

VIII. Law on Prevention on Money Laundering and Financing Terrorism

Law on Prevention on Money Laundering and Financing Terrorism (Official Gazette of Montenegro 14/07 and 4/08) regulates measures and actions undertaken in order to detect and prevent money laundering and financing terrorism, as well as establishing of the Administration for Prevention on Money Laundering and Financing Terrorism.

IX. Law on Witness Protection

Law on Witness Protection (Official Gazette of the Republic of Montenegro 65/04) regulates out-of-court protection of a witness who testifies on commission of a criminal offence against the constitutional order and security of Montenegro, against humanity and other values protected by international law, criminal offences of organised crime, and criminal offences punishable by 10 years imprisonment sentence or more severe punishment, involving serious corruptive criminal offences for which 10 years imprisonment sentence may be imposed.

X. Law on State Administration (Annex 8)

Law on State Administration adopted in June 2003 (Official Gazette of the Republic of Montenegro 38/03), Law on Amendments to the Law on Public Administration adopted on 02 April 2008 (Official Gazette of Montenegro 22/08). The mentioned Law regulates the public administration organisation, the tasks conducted by the bodies, relations between the bodies and the public, as well as the public administration bodies functioning and responsibility.

XI. Law on State Employees and Civil Servants

Law on State Employees and Civil Servants (Official Gazette of Montenegro 50/08), provides for protection of civil servants who report corruption.

XII. Law on Free Access to Information

Law on Free Access to Information (Official Gazette of the Republic of Montenegro 68/05) entered into force in November 2005, and it guarantees access to information owned by the public authorities, in compliance with the following principles: freedom of information, equal conditions for exercising rights, transparency and openness of the powers authorities and urgency of the procedure (Article 2). All state bodies act pursuant to the Law on Free Access to Information, thus contributing to the strengthening of transparency principles of their functioning.

XIII. Law on Public Procurement

Law on Public Procurement (Official Gazette of Montenegro 46/06) provides for the criteria for selection of the most favourable bidders, protection of the rights of participants in a tender, as well as decentralisation of the procurement.

XIV. Law on Financing of Political Parties (Annex 3)

Law on Financing of Political Parties (Official Gazette of Montenegro 49/08) regulates the manner of acquisition and provision of funds for functioning and electoral campaign of political parties, the manner of control of funding and financial businesses of political parties, aimed at legality and transparency of their activities.

XV. Law on Financing of the Campaign for Selection of President of Montenegro, Mayors and Presidents of Municipalities (Annex 4)

Law on Financing the Campaign for Selection of President of Montenegro, Mayors and Presidents of Municipalities was adopted in January 2009 (Official Gazette of Montenegro 08/09 of 04 February 2009). The Law regulates the manner of acquisition and provision of funds for the electoral campaign, and the manner of control of funding candidates for selection of President of Montenegro, Mayor and President of a municipality, aimed at legality and transparency of their funding.

Provisions of the Law on Financing of Political Parties are applied in financing of the campaign for selection of President of Montenegro, unless otherwise provided by this law.

The Ministry of Finance supervise implementation of the Law.

The candidates are obliged to submit to the competent electoral commission reports on the level and sources of funds obtained for the costs of electoral campaign, before and after the election.

XVI. Law on State Audit Institution

Pursuant to Article 144 of the Constitution of Montenegro (Official Gazette of Montenegro 1/07), State Audit Institution is autonomous and supreme body of the state audit. Law on State Audit Institution (Official Gazette of the Republic of Montenegro 28/04, 27/06, 78/06 and Official Gazette of Montenegro 17/07) regulates the rights, obligations and the manner of functioning of the State Audit Institution, aimed at ensuring control of regularity and efficiency of the audit subjects functioning (bodies and organisations managing the State Budget and assets, local self-government bodies, funds, Central Bank of Montenegro, and other legal persons in which the state is participating in regard to the ownership), i.e. at ensuring expert and objective control of the budget spending, and managing the state assets in Montenegro.

XVII. Law on International Legal Assistance in Criminal Matters

Law on International Legal Assistance in Criminal Matters was adopted in December 2007 (Official Gazette of Montenegro 04/08). International legal assistance includes the extradition of the accused and sentenced persons, transfer and assuming of criminal prosecution, enforcement of foreign criminal verdicts, delivery of documents, written materials and other cases relating to the criminal proceedings in a foreign state, as well as the undertaking of certain procedural actions such as: hearing of the accused, witnesses and experts, crime scene investigation, search of premises and persons and temporary seizure of items.

International legal assistance is provided under the international treaty, and if there is no international treaty or if some issues are not provided under international treaty, international assistance is provided under the principle of reciprocity.

XVIII. Law on Managing Seized and Confiscated Property

Law on Managing Seized and Confiscated Property was adopted in July 2008 (Official Gazette of Montenegro 49/08). The Law regulates the manner of handling and managing seized and confiscated proceeds in the criminal or misdemeanour proceeding. The Court, i.e. the body in charge of conducting misdemeanour proceeding is obliged to send without delay to the body in charge of managing and handling seized property, the final and enforceable order on confiscation of the property, or order on seizure of the property.

Handling and managing property, involving assessment of the value, storing, keeping, recovery and selling, depositing funds obtained from the sale of seized property, keeping records on seized property, is done by the Public Property Administration. The Rulebook on Content of the Records on Seized Property and Record on Taking Over of the Property was adopted (Official Gazette of Montenegro 62/09).

Funds obtained from the sale of confiscated proceeds, after covering costs of assessment of value, storage, keeping and sale and other similar costs, are paid to the Budget of Montenegro, and are used for funding projects on strengthening capacities of judiciary, public prosecution office and the body in charge of internal affairs.

3. International conventions

Montenegro acceded to the following Council of Europe conventions and protocols referring to prevention and fight against corruption:

1) European Convention on Mutual Assistance in Criminal Matters (ETS no. 030), with the Additional Protocols (ETS no. 099): (Law on Ratification of the European Convention on Mutual Assistance in Criminal Matters with the Additional Protocol, Official Gazette of the Federal Republic of Yugoslavia – International Treaties 10/2001),
2) Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS no. 141): (Law on Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Official Gazette of the Federal Republic of Yugoslavia – International Treaties 7/02, Official Gazette of Serbia and Montenegro – International Treaties 18/05),
3) Criminal Law Convention on Corruption (ETS no. 173): (Official Gazette of the Federal Republic of Yugoslavia – International Treaties 2/02, Official Gazette of Serbia and Montenegro – International Treaties 18/05),
4) Additional Protocol to the Criminal Law Convention on Corruption (ETS no. 191), ratified in 21 December 2007 (Law on Ratification of the Additional Protocol to the Criminal Law Convention on Corruption, Official Gazette of Montenegro 11/2007 of 13 December 2007),
5) Civil Law Convention on Corruption (ETS no. 174), ratified on 18 January 2008 (Law on ratification of the Civil Law Convention on Corruption, Official Gazette of Montenegro 01/08 of 10 January 2008),
6) Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS no. 182), ratified on 15 August 2008 (Law on Ratification of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters with the Additional Protocol, Official Gazette of Montenegro – International Treaties 5/2008 of 7 August 2008),
7) Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS no. 198), ratified on 15 August 2008 (Law on Ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Official Gazette of Montenegro – International Treaties 5/2008 of 7 August 2008).

As an independent state, on 28 June 2006, Montenegro became 192 full member of the United Nations. By succession statement, deposited on 23 October 2006 at the United Nations Secretary General, Montenegro acceded to the United Nations Convention against Corruption.

Montenegro is not a member of the Organisation for Economic Cooperation and Development (OECD), however it participates in its projects (such as SIGMA Programme). Nevertheless, the measures are to be undertaken in the upcoming period to sign and ratify OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

4. Coordination of anti-corruption activities

The **National Commission** involving representatives of the Government, Parliament, judiciary and civil society, was establish by the Government Decision of 15 February 2007, to monitor implementation of the Action plan for implementation of the Programmes of fight against corruption and organised crime. The Commission is tasked to coordinate the activities of all stakeholders involved in fight against corruption and organised crime, and it is obliged to report to the Government periodically on implementation of the Action plan for implementation of the Programmes of fight against corruption and organised crime.

The monitoring of the Action plan implementation is done in the following way:

- 54 reporting entities are submitting to the National Commission reports quarterly on implemented measures;
- Expert body for drawing up reports, composed of the representatives of the Police Directorate, Administration for Anti-Corruption Initiative, Ministry of Justice, Supreme Public Prosecutor and the Cabinet of the Minister for European Integration, analyse reports of the competent bodies and preparing the draft of summary report to be submitted to the National Commission;
- After the assessment, the National Commission adopts semi-annual report on the Action plan implementation, with recommendations for further activities;
- The Government of Montenegro assesses and confirms recommendations of the National Commission.

The National Commission semi-annual report is published on the Administration for Anti-Corruption Initiative web page, together with the version in English and individual reports of the competent bodies and institutions (reporting entities). The report is also submitted to the Parliament of Montenegro for the purpose of insight.

Till September 2009, the National Commission drew up **five semi-annual reports** on implementation of the Action plan, informing also the international community and diplomatic missions to Montenegro on the reports contents. All reports are available at the Administration for Anti-Corruption Initiative web site (field: National Commission), both in Montenegrin and English (http://www.gov.me/antikorup/).

The semi-annual reports assess the progress made in one of the following ways:

1) Implemented measure
2) Partly implemented measure
3) Implemented continuously measure
4) Not implemented measure.

The National Commission is making the assessment of the implementation based on the reports provided by the reporting entities, within quarterly report. In all cases requiring further activities of the competent bodies, or requiring extension of the activity scope, the National Commission is forwarding recommendations to the body or institution concerned. As the recommendations are confirmed by the Government of Montenegro, they are binding, thus enabling anti-corruption measures to follow the progress being achieved. Moreover, at the thematic sessions, the National Commission takes into consideration relevant reports of international organisations, such as the Annual Progress Report of Montenegro, published by the European Commission. Furthermore, consideration of those reports resulted in recommendations submitted by the National Commission and the Government of Montenegro to the competent bodies and institutions.

For the purpose of monitoring of implementation of the measures provided for in the Action plan for the implementation of the Strategy of judicial reform (2007-20012), the **Commission** was established by the Government Decision (Official Gazette of Montenegro 28/08) **for the implementation of the Action plan for the implementation of the Strategy of judicial reform (2007-2012)**. The Commission is composed of the Minister of Justice, President of the Supreme Court, Supreme Public Prosecutor, President of the Misdemeanours Council, President of the Bar association, President of the Association of Public Prosecutors and the Minister of Finance. The Commission is tasked to organise and synchronise activities of the competent bodies and institutions on implementation of the measures provided for in the Action plan, to track the priorities and assesses rationalisation of the budgetary and other sources funds, allocated for the implementation of the provided measures, and to submit to the Government the report with proposal for the situation, and assessment of the measures being implemented at least twice a year.

5. Strengthening institutional and human resources

i. Crime detection

The activities on suppression of corruption and other forms of crime, are conducted within the Police Directorate by Criminal Police Department and Border Police Department.

Establishing of the Border Police Department created realistic conditions for suppression of trans-border crime, which is one of the priorities of the border police for the period to come.

Special Section for Fight against Organised Crime and Corruption was established within the Criminal Police Department, conducting continuously activities on fight against all forms of corruption and organised crime in Montenegro. It was established on 04 February 2003, tasked to assess, study and analyse the situation, movement and trends of all forms of corruption and organised crime, based on information –analyses researches and examination of the crime situation, intelligence, identification of security threats (criminal offences), and those involved, possible facts and their elements, identifying characteristics, as well as the forms of organised crime (organisational aspect, inter connection with other persons, professionalism, technical achievements misuse, confidentiality, connection to some political and legal powers related persons, division of tasks, continuity, permanency in work, etc.). In addition to the Section, the role of suppression of corruption is also entrusted to the Section for Fight against Economic Crime, Special Verifications Section and the Witness Protection Unit.

Organisation

Section for Fighting Organised Crime and Corruption pursuant to the Rulebook on Job Descriptions within the Police Directorate, organises its work through three following groups:

1. General Organised Crime Suppression Group through four sections:
    - Serious crimes against life and body, kidnapping, blackmail and robbery
    - Smuggling of motor vehicles, weapons, dangerous substances and works of art
    - Illegal migration, organised smuggling and trafficking in human beings
    - Terrorism and international terrorism
2. Economic Organised Crime Suppression Group through four sections:
    - Money laundering and conducting financial investigations
    - Official position abuse, tax evasion, smuggling of excise and other goods
    - Counterfeiting currency and other instruments of payment, and document forgery
    - Cyber crime and copyright abuse
3. Corruption Suppression Group through two sections:

• Corruption in state and private sector

Tasks of the Section are coordinated by the Head of the Section for Fighting Organised Crime and Corruption, supported by an Operator and an Analyst.

Special Verifications Section is dealing with criminal-intelligence tasks, and implementation of one part of secret surveillance measures (technical surveillance). There are four Groups within the Section:

1. Monitoring and Exploitation Group
2. Crime-Intelligence Analyses Group
3. Observation and Documentation Group
4. Operational Techniques Group

The Witness Protection Unit conducts the programme of witness protection pursuant to the Law on Witness Protection and the Criminal Procedure Code. On 14 July 2008, the Unit signed Cooperation Agreements with Bulgaria, Bosnia and Herzegovina, Serbia and Macedonia.

Section for fight against economic crime is divided into the following three groups:

1) Group for suppression of economic crime in the field of production, internal trade, tourism and the hospitality industry;
2) Group for suppression of economic crime in the field of foreign trade and foreign payment operations;
3) Group for suppression of economic crime in the field of banking and other domestic payment operations financial organisations, and other non-business and autonomous activities.

The Section functioning is organised by the activities of the Headquarters staff, and at the Regional Police Units at regional level, and the Local Police Units at local level.

ii. Criminal prosecution

Division for Suppression of Organised Crime, Corruption, Terrorism and War Crimes is set up within the Supreme Public Prosecutor's Office headed by the Special Prosecutor. There are five Deputies within the Division, who are in the prosecution administration activities assisted by four state employees.

Division is equipped in terms of the offices and required technical equipment.

iii. Trial Proceedings

In September 2008, within two High Courts in Podgorica and Bijelo Polje specialised divisions are set up for running trial proceedings of organised crime, corruption, terrorism and war crimes. Special Division within the High Court in Podgorica has six Judges, and the Division of the High Court in Bijelo Polje has three Judges. The judges working in the Divisions are experienced, and after being positioned in the Divisions, they passed the training delivered by the Judicial Training Centre, and referred to a large number of seminars organised by international organisations, as well as to study visits.

Pursuant to Article 35 of the Law on Amendments to the Law on Courts, the cases received before the commencement of the functioning of the Specialised Divisions within High Court, will be finalised by the courts having jurisdiction pursuant to previous legislation. Aimed at more efficient addressing of those cases, all courts have drawn up the programme of resolving backlogs, and they are addressed as priorities.

iv. Statistics data processing

By the Decision of the Government Vice President for European integration No 10-8045 of 10 October 2007, the **Tripartite Commission** was set up **to analyse organised crime and**

corruption cases, and to report and prepare single methodology of statistics indicators in the field of organised crime and corruption.

The task of Tripartite Commission composed of the representatives of judiciary, prosecution and police, is to conduct statistics processing of data by using single methodology, necessary to assess the volume and scope of corruptive criminal offences and organised crime related criminal offences, by having in mind different criteria used by the police, prosecution and judiciary as basis for assessing and actions, as well as to analyse and periodically reports on actions undertaken on criminal charges filed for organised crime and corruption, and to monitor joint activities in this field, and to make recommendations for improvement of interagency cooperation.

v. Education of state employees and civil servants

Within the state administration reform, the Human Resources Administration is established, with the main task to manage and develop human resources of the state bodies in Montenegro. The Human Resources Administration is in charge of drawing up the Programme of professional development of state employees and civil servants. Within the Programme of professional development of state employees and civil servants in 2008/2009, in addition to 55 current training activities, there is also a specific Programme of fight against corruption in public administration, involving three training activities:

1. Fight against corruption in public administration, involving the following:
   - Prevention of corruption (international instruments, strategic documents);
   - Internal Control in the function of preventing and suppressing corruption;
   - Importance of the integrity development in fight against corruption;
   - Control of the budget resources, as a form of fight against corruption in state bodies;
   - The procedure to report corruption;
   - Investigation cases;
   - Interagency cooperation through conducting of operational activities and the problem in proving corruption.
2. Integrity plan
3. Free access to information

The relevant programmes involve analysis of modern measures of the fight against corruption, with the focus on developing model of fight against corruption, resulting in the possibility the persons responsible in state institutions to be informed timely with the possible preventive measures against corruption in state institutions.

Till today, the Human Resources Administration organised the following training, attended by the state employees and civil servants, both at the national and local level:

Fight against corruption in public administration – the total of 10 training events, 7 training events in 2008, and 3 in 2009.

Free access to information – the total of 46 training events, 23 training events in 2007, 7 training events in 2008, and 16 ones in 2009.

Integrity plan – 2 training events in 2008.

vi. Training of judges and prosecutors

Pursuant to the Law on Education of Judiciary (Official Gazette of the Republic of Montenegro 27/06), the Judicial Training Centre was set up within the Supreme Court in 2006. In compliance with the Programme of professional development of judges and prosecutors, a large number of training activities delivered to judges and prosecutors was organised covering the following topics: organised crime and corruption, seizure of property, solutions provided for by new Criminal Procedure Code, ethical principles of judicial and prosecutorial functions, financial investigations,

secret surveillance measures and seizure of proceeds of crime, criminal liability of legal persons, witness collaborator and protected witness, international instruments on corruption, plea bargaining agreements, budgetary operations and public procurement, pre-trial proceedings – criminal offences with elements of corruption, investigation – criminal offences with elements of corruption, etc.

In December 2008, the Coordination Board of the Judicial Training Centre, adopted the Programme of training of judges and prosecutors in the field of fight against corruption. The Programme was drawn up by the Ministry of Justice with the expert support of the UNDP Programme of judicial reform, and was published in Montenegrin and English, and its implementation was initiated in support of the UNDP Programme of judicial reform and the OSCE Mission to Montenegro.

More detail information on strengthening capacities of the bodies involved in fight against corruption was given in the answer to the question 38, Chapter 23 – Judiciary and Fundamental Rights.

61. Please describe efforts to strengthen implementation of the above and provide concrete results related to the fight against corruption.

1. Detection of crimes

The statistics on cases of corruption are given in the reports of the Tripartite Commission for 2006-2009, up to 30 June 2009. Those reports involve the following criminal offences as corruptive ones:

- Violation of Equality in the Conduct of Business Activities referred to in Article 269 of the Criminal Code;
- Abuse of Monopolistic Position referred to in Article 270 of the Criminal Code;
- Causing Bankruptcy referred to in Article 273 of the Criminal Code;
- Causing False Bankruptcy referred to in Article of the Criminal Code;
- Abuse of Authorisations in Economy referred to in Article 276 of the Criminal Code;
- False Balance referred to in Article 278 of the Criminal Code;
- Abuse of Appraisal referred to in Article 279 of the Criminal Code;
- Disclosing a Business Secret referred to in Article 280 of the Criminal Code;
- Disclosing and Using Stock-exchange Secrets referred to in Article 281 of the Criminal Code;
- Abuse of an Official Position referred to in Article 416 of the Criminal Code;
- Unconscientious Performance of Office referred to in Article 417 of the Criminal Code;
- Trading in Influence referred to in Article 422 of the Criminal Code;
- Passive Bribery referred to in Article 423 of the Criminal Code;
- Active Bribery referred to in Article 424 of the Criminal Code, and
- Disclosure of an Official Secret referred to in Article 425 of the Criminal Code.

Police officers of the Section for Fight against Organised Crime and Corruption and Section for Suppression of Economic Crime, conducted a number of joint police investigations in cooperation with Special Prosecutor for fight against organised crime, corruption, terrorism and war crimes, resulting in filing criminal charges against a number of perpetrators of criminal offences with elements of corruption.

In 2006, 271 charges against 449 persons were filed.

In 2007, the total number of 274 charges against 435 persons were filed.

In 2008, the total number of 231 charges against 363 persons, out of which the Police Directorate filed 50 charges against 64 persons, whilst other entities filed 181 charges against 299 persons.

For the first six months of 2009, 111 charges were filed against 173 persons, out of which the Police Directorate filed 16 charges against 24 persons, whilst other entities filed 95 charges against 149 persons.

It should be pointed out that the charges were filed and processed in 2009 against the responsible persons of the following companies: AD Luka Bar (the Port of Bar), Director of AMS Crne Gore (Automobile Association of Montenegro), Director of JZU Dom zdravlja – Ulcinj (Public Local Health Care Institution), Head of Communal Police in Cetinje, responsible persons for urbanism in Tivat, responsible persons of AD Plavsko jezero (Plavsko Lake), Director of DOO Dzemo from Bar, High Court in Bijelo Polje Judge for passive bribery, Head and employees of the construction inspectorate in Ulcinj, Head of Land-Registry and eight employees for a number of offences of passive bribery and abuse of official position, a number of police officers for passive bribery, customs officers for passive bribery, etc.

2. Criminal Prosecution

The number of the staff within the **Division for Suppression of Organised Crime, Corruption, Terrorism and War Crimes** has been increased, and vacancies were filled, thus in addition to the Special Prosecutor, the prosecutor function is carried out also by five Deputies, whereas the prosecution administrative tasks are conducted by four state employees. The Division is equipped in terms of the offices and required technical equipment.

In 2006, the Public Prosecution Office represented before courts the total number of 79 indictments against 104 persons (five direct indictments against six persons, 67 indictments following the investigation against 89 persons and seven bills of indictment against nine persons).

In 2007, the Public Prosecution Office represented before courts the total number of 61 indictments against 90 persons (five bills of indictment against eight persons, four direct indictments against four persons and 52 indictments following the investigation against 78 persons).

In 2008, the Public Prosecution Office represented before courts the total number of 34 indictments against 50 persons.

In 2009, three bills of indictment were filed against three persons.

3. Adjudication

Within the High Court in Podgorica and the High Court in Bijelo Polje, **Specialised divisions are set up for running trial proceedings of organised crime, corruption, terrorism and war crimes**.

Aimed at more efficient addressing of those cases, all courts have adopted the programme of resolving backlogs, and the corruption cases are addressed as priorities.

In 2006, resolving Prosecution Office indictments, the courts have finalised criminal proceedings in 65 cases against 85 persons, whilst the criminal proceedings in 14 cases against 19 persons are ongoing.

After the criminal proceedings were finalised, 32 judgements of conviction against 42 persons were passed, four judgements of rejection against five persons, and 29 judgements of acquittal against 38 persons.

The judgments of the courts were appealed by the Prosecution Office in 37 cases against 51 persons, of which the appeals proceedings were completed in 26 cases against 28 persons, while the appeals proceedings is pending in 10 cases against 22 persons. Deciding on appeals, second instance courts upheld 11 appeals against 12 persons, while they rejected 15 appeals against 16 individuals. The accused persons lodged seven appeals in five cases.

In 50 cases against 55 persons, the judgements are final and enforceable.

In 2007, deciding on prosecution cases, the courts have finalised criminal proceedings in 59 cases against 89 persons, whilst the criminal proceedings in two cases against one person are ongoing.

After the criminal procedures were completed, 25 judgments of conviction against 45 persons, five judgments of rejection against seven persons and 29 judgments of acquittal against 37 persons were passed.

The Prosecution Office lodged 39 appeals against 60 persons concerning court judgments, of which the appeals proceedings was completed in 22 cases against 23 persons, while the appeals proceedings are pending in 15 cases against 22 persons.

The accused persons lodged appeals in two cases against three persons.

Deciding on appeals, second instance courts have upheld 3 appeals against 3 persons, while they rejected 19 appeals against 20 persons.

In 34 cases against 39 persons, the judgements are final and enforceable.

In 2008, deciding on indictments of the Prosecution Office, the courts have finalised criminal proceedings in 26 cases against 31 persons, whilst the criminal proceedings in eight cases against 19 are ongoing.

After the criminal proceedings were finalised, 18 judgements of conviction against 20 persons, two judgements of rejection against two persons and six judgements of acquittal against nine persons were passed.

The Prosecution Office lodged 13 appeals against 18 persons concerning court judgments, of which the appeals proceedings was completed in 3 cases against 3 persons, while the appeals proceedings are pending in 7 cases against 10 persons. Deciding on appeals, second instance courts have upheld 1 appeal against 1 person, while they rejected 2 appeals against 2 persons.

In nine cases against ten persons, the judgements are final and enforceable.

In 2008, in the cases with elements of corruption the order was issued on seizure of proceeds amounting the total of EUR 1 037 825.00, and US Dollar 116 000.00.

In 2009, deciding on prosecution cases, the courts have finalised criminal proceedings in one case against one person, whilst the criminal proceedings in two cases against two persons are ongoing.

After the completion of criminal proceeding, one judgement of conviction against one person was passed. The judgement is final and enforceable.

On 30 June 2009, the courts in Montenegro had 260 cases with elements of corruption. In that period, 201 cases were resolved (101 judgements of conviction, 86 judgements of acquittal and 14 judgements of rejections). Out of the given number, 107 judgements are final and enforceable, and for other cases the appeal procedure is ongoing.

On 30 June 2009, there are 59 unresolved cases of this kind.

The above-mentioned data of the Tripartite Commission on cases initiated on charges since 1 January 2006, clearly indicate the significant progress achieved in resolving cases with elements of corruption.

The below presented table illustrates comparative summary of the **trend of increase of efficiency in resolving prosecuted and adjudicated corruption cases (June 2008 – June 2009),** referring to the period from 1 January 2006-30 June 2009:

CRIMINAL OFFENCES WITH ELEMENTS OF CORRUPTION	30 June 2008		30 June 2009		Increase INDEX 2009/2009	
1. INDICTMENTS BEFORE COURTS	Number of cases	Number of persons	Number of cases	Number of persons	Number of cases	Number of persons
Number of cases/indictments	**126**	**165**	**177**	**247**	**140**	**150**
2.MAIN HEARING AND JUDGEMENT						
Criminal proceedings finalised by a judgement	70	81	151	206		
Ongoing criminal proceedings	56	84	26	41		
Judgement of conviction	**35**	**41**	**76**	**108**	**217**	**263**
Judgement of rejection	4	5	11	14		
Judgement of acquittal	31	35	64	84		
3. PROCEDURES UPON LEGAL REMEDIES						
Prosecutors' Appeals	45	51	89	129		
Appellate proceedings completed	21	21	51	54		
Appellate proceedings not completed	24	30	32	54		
Appeals upheld	10	10	15	16		
Appeals rejected	11	11	36	38		
Appeals of the accused person	2	2	7	10		
Final and enforceable judgments	**37**	**39**	**94**	**105**	**254**	**269**

Clarification of the table – positive trend in June 2009 compared to June 2008:

- The number of cases before courts prior to 30 June 2009 compared to the status on 30 June 2008 has been increased for 40%
- The number of judgements of conviction prior to 30 June 2009 compared to the status on 30 June 2008 has been increased for 117%
- The number of final and enforceable judgements prior to 30 June 2009 compared to the status on 30 June 2008 has been increased for 154%

After the meeting with the experts for visa liberalisation, the Supreme Court ordered to the courts to submit updated data on the number of cases, the judgements status, as well as on the structure of judgements for criminal cases with elements of corruption, not only for cases from 1 January 2006 to 30 June 2009, but also for older cases from the previous years, i.e. on all corruptive criminal cases with final and enforceable judgements till 20 October 2009.

According to the latest statistics of the Supreme Court, based on the statistics from the Montenegrin courts databases, the number of final and enforceable judgements for cases with elements of corruption on **20 October 2009**, is the following:

The total number of final and enforceable judgements for cases with elements of corruption is 376 against 494 persons.
The number of final and enforceable judgements of conviction for corruption is 136 against 156 persons.
The structure of final and enforceable judgements of conviction against 156 persons is the following:
- **imprisonment sentence up to 8 years – against 35 persons**
- **imprisonment sentence of 8 years – 2 persons**
- **suspended sentence - 113 persons**
- **a fine – 6 persons**

The type of corruptive offence:
a) Abuse of an official position – 81 persons
b) Abuse of authorisations in economy – 45 person
c) Passive bribery – 5
d) Active bribery – 15
e) Unconscientious performance of office – 10

The Office for Reporting Corruption was set up within the Judicial Council, enabling each citizen, anonymously or not, to report corruption in courts. Furthermore, the Judicial Council also organised the campaign for reporting corruption in judiciary, within which the posters were printed out with the phone number to be used by citizens to report corruption in judiciary. The campaign was also organised by the means of printing and electronic media.

Several years ago, an Office for Complaints of the Citizens, was established within the Supreme Court, where citizens can report any irregularity in the works of judges.

Each report is examined pursuant to the procedure laid down in the Law on Judicial Council and in the Rules of Procedure of Judicial Council.

From the date of establishment the Office for Reporting Corruption – 21 May 2009, only one report of corruption in the courts was filed, verification of allegations it contains is in progress.

4. Preventive measures

Practical experience in enforcement of measures for the purpose of prevention of corruption, are given under the answer to question 44, Chapter 23 – Judiciary and Fundamental Rights.

Internal security

62. Please describe the status and the structure of the security forces, both civil and military, and their respective competences concerning internal security. Please provide – where available - organisation charts and indications about the number of employees.

The Constitution of Montenegro (Official Gazette of Montenegro 1/07), provides that the Armed Forces defend the independence, sovereignty and national territory of Montenegro, in accordance with the principles of international law on the use of force, that the Armed Forces is under democratic and civilian control and that members of the Armed Forces may be a part of international forces (Article 129).

The National Security Strategy (Official Gazette of Montenegro 75/08), as a strategic document, which was adopted by the Parliament of Montenegro, determined the structure of the national security system, which consists of institutions and state bodies which manage, plan, organize, coordinate and realize measures and activities in the security system. The basic elements of the national security system are: Parliament of Montenegro, President of Montenegro, Government of Montenegro, Defence and Security Council, security forces, forces for actions in emergency situations, the National Security Agency of Montenegro, Prosecution Office and the courts.

Security forces are the Armed Forces and the police. Security forces are under parliamentary and democratic supervision and civilian control. The Armed Forces is in charge of defence and it constitutes an armed force that defends the independence, sovereignty and national territory of Montenegro, contributes to building and maintaining international peace, in accordance with the principles of international law on the use of force. The Armed Forces assists civil authorities during natural or artificial disasters, and can be engaged as support to police in the fight against terrorism. Management of the national security system is provided by the Constitution of Montenegro, the laws in this field and secondary legislation for their enforcement. Management of the national security system is realized by: Parliament of Montenegro, President of Montenegro, the Montenegrin Government and the Defence and Security Council.

The Defence Strategy of Montenegro (Official Gazette of Montenegro 79/08), defined the defence system of Montenegro as an integral part of the national security system. The basic elements of the defence system are: Parliament of Montenegro, President of Montenegro, Montenegrin Government, Defence and Security Council, Ministry of Defence and the Armed Forces of Montenegro.

The Defence Strategy defined both the missions and tasks of the Armed Forces of Montenegro, by means of whose execution it exercises its constitutional role. Missions of the Armed Forces result from defined defence goals. Missions of the Armed Forces of Montenegro are: defence of Montenegro, support to civilian institutions in the country during natural and artificial disasters and during other crisis situations, including the crisis caused by terrorist activities and contribution to building and maintaining peace in the region and the world. Within the defence of Montenegro, the Armed Forces perform the following tasks: deterring armed threats, defence against armed threats and support the Allied forces engaged in the defence of Montenegro. Through the support to civilian institutions in the country during natural and artificial disasters and in other crisis situations, including the crisis caused by terrorist activities, the Armed Forces perform the following tasks: support to civilian institutions in the country in the rehabilitation of consequences caused by natural or artificial disasters, assisting the police in the fight against terrorism and assistance in search and rescue actions. The Armed Forces contribute to building and maintaining peace in the region and the world, by executing the following tasks: participation in international peacekeeping and humanitarian missions, participation in international military cooperation in view of developing trust and partnership and participation in arms control. The Armed Forces participate in the implementation of state protocol, and may be used to perform other tasks upon the decision of the Defence and Security Council. The Armed Forces execute their tasks in accordance with the Constitution, law and principles of international law.

The Law on the Armed Forces of Montenegro (Official Gazette of the Republic of Montenegro 47/07), Chapter II - Organization and Composition of the Armed Forces – gives a definition of the Armed Forces: a professional defence force, which defends the independence, sovereignty and national territory of Montenegro, in accordance with the principles of international law on the use of force, which is organized in commands and units. The Armed Forces consist of branches, arms and services. Branches of the Armed Forces are: Army, Air Force and Navy, whereas the arms and services are stipulated by the Government. The Armed Forces is under democratic and civilian control (Art. 2 and 3).

The Decree determining arms and services in the armed forces of Montenegro (Official Gazette of Montenegro16/08), stipulated arms and services in the Armed Forces. The arms in the Armed Forces are: infantry, artillery, air defence, engineers, communications, aviation and seamanship. The services in the Armed Forces are: IT, technical, legal, financial, quartermaster, medical, transport, construction, NBC defence (nuclear, biological and chemical) and music.

The Armed Forces consists of active forces, reserve forces and cadets. The active forces of the Armed Forces are: military personnel and civilian personnel serving in the Armed Forces, whereas the reserve forces of the Armed Forces consist of the ready and inactive reserve forces. Persons serving in the Armed Forces are professional military personnel and civilian personnel serving in the Armed Forces (Article 4). Professional military personnel are: contractual soldiers, NCOs and contractual NCOs, officers and contractual officers (Article 5). Civilian personnel are: persons who perform service in the Armed Forces in positions stipulated by the formation (Article 6). Persons in the Armed Forces reserve are: reserve soldiers, reserve NCOs and reserve officers (Article 7).

Cadets are persons educated in professional military schools and academies for professional military service in the Armed Forces (Article 8).

A provision of Article 11 of the Law on the Armed Forces of Montenegro stipulates that commanding in the Armed Forces is based on the principles of subordination, unity of command as regards the use of forces and assets, seniority of command and the obligation to execute decisions, commands, orders and directives of commanding officers and competent authorities. The President of Montenegro commands the Armed Forces based on the decisions of the Defence and Security Council and exercises the function of command through the Minister of Defence in accordance with the Constitution.

A total of 2090 persons are employed in the Armed Forces of Montenegro, as follows: 326 officers, 901 non-commissioned officers, 525 contractual soldiers and 338 civilian personnel serving in the Armed Forces.

An integral part of this reply are organizational schemes of the General staff of the Armed Forces of Montenegro and a scheme of organizational structure of the Armed Forces of Montenegro, as well as a complete overview of the manning level in the Armed Forces of Montenegro.

The Police Directorate was established as a state administration body, under the Decree on the manner and organization of work of state administration (Official Gazette of the Republic of Montenegro 61/05).

Employees of the Police Directorate either have the status of authorized police officers or of civil servants and state employees without police powers.

Rulebook on Internal Organization and Job Descriptions of the Police Directorate as of 11/01/2007, identified the internal organization and job descriptions of the Police Directorate. Affairs of the Police Directorate are performed within the organizational units, as follows:

five departments, (General Police Department, Criminal Police Department, Department for Protection of Persons and Facilities, Border Police Department and the Department for Human Resources, Legal Matters, Telecommunication and IT).

eight regional units, with 11 local units,

three divisions, (Division for InterPolice Directorate Cooperation and European Integration, Division for Planning, Development and Analytics and Division for Internal Control)

Special Anti-terrorist Unit,

Special Police Unit,

Operational and Communications Center and

the Forensic Center.

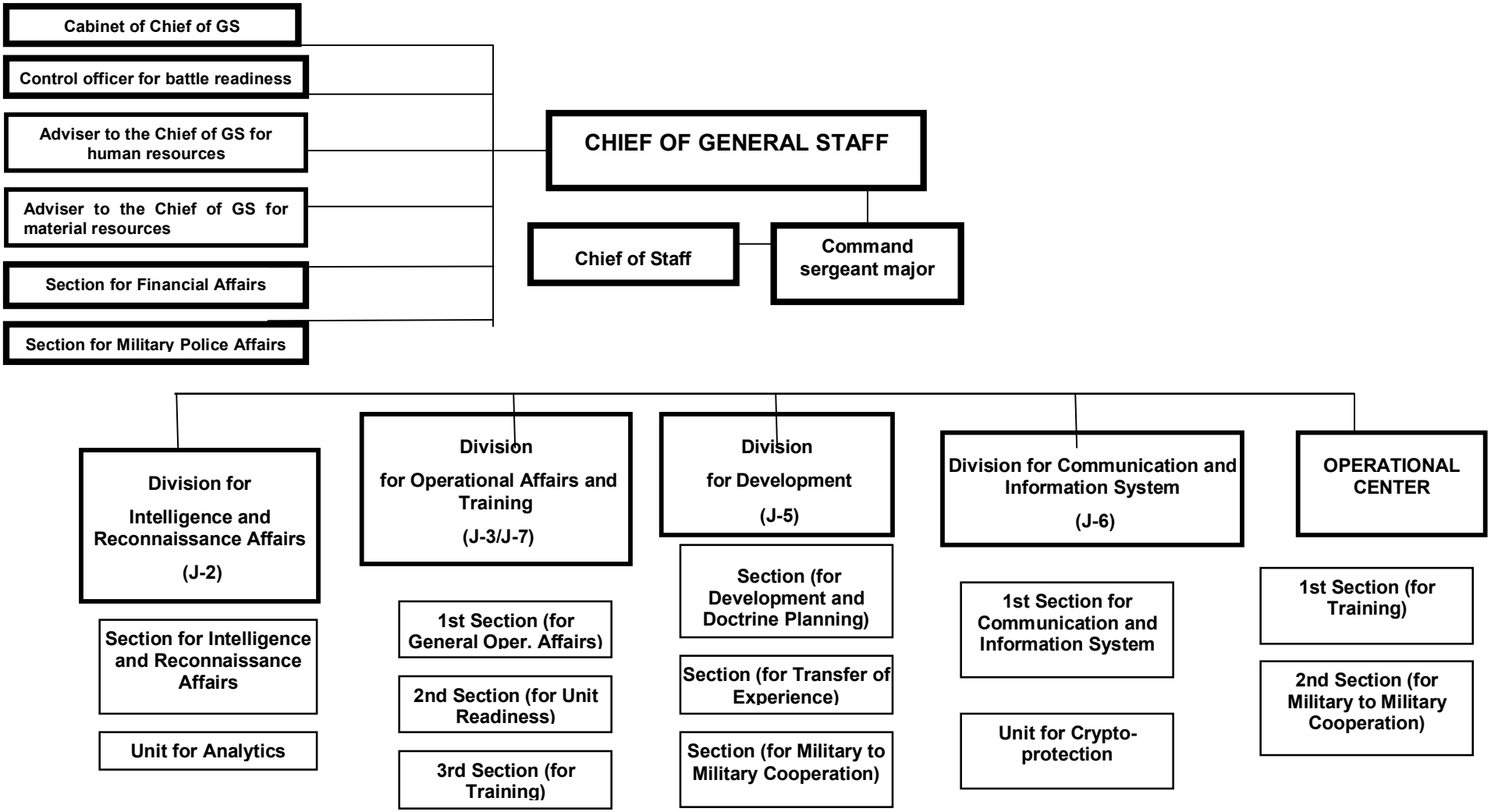
Competences of the Police Directorate were stipulated by the Decree on the manner and organization of work of public administration, and they relate to:

protection of security of citizens and rights and freedoms enshrined in the Constitution; protection of property; prevention of commission and detection of criminal offences and misdemeanors; finding and capturing offenders and perpetrators of misdemeanors and bringing them before the competent authorities; maintenance of public peace and order; providing security to public meetings and other gatherings of citizens; providing security to certain persons and facilities, supervision and control of traffic safety; supervision and providing security to the state border and carrying out border control, control of movement and residence of foreigners; ensuring conditions for the smooth running of courts, maintaining order, protecting persons and property; crime expertise and investigations; criminal and other type of record keeping; interPolice Directorate cooperation; development of analyses, surveys, studies and monitoring of certain security issues; and other duties that are given under its competence.

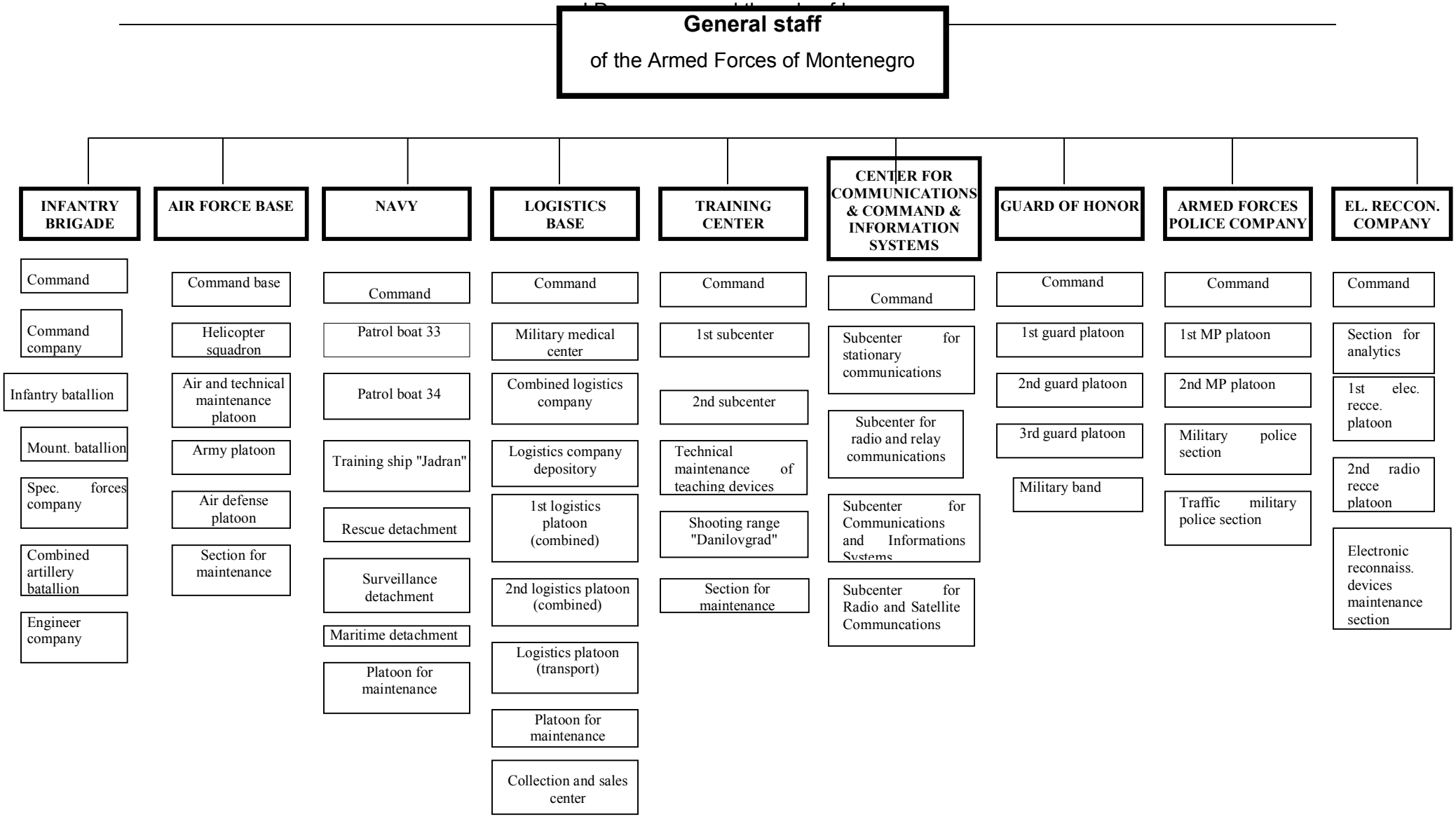
Duties under the competence of the Police Directorate are carried out in accordance with law, by respecting international standards and regulations that protect the dignity of personality, freedoms and rights of citizens (Article 2 of the Law on Police, Official Gazette of the Republic of Montenegro 28/05).

SCHEME OF ORGANIZATIONAL STRUCTURE

OF THE GENERAL STAFF OF THE ARMED FORCES OF MONTENEGRO



MODEL OF THE ORGANIZATION OF THE ARMED FORCES OF MONTENEGRO


General staff
of the Armed Forces of Montenegro
INFANTRY BRIGADE
Command
Command company
Infantry batallion
Mount. batallion
Spec. forces company
Combined artillery batallion
Engineer company
AIR FORCE BASE
Command base
Helicopter squadron
Air and technical maintenance platoon
Army platoon
Air defense platoon
Section for maintenance
NAVY
Command
Patrol boat 33
Patrol boat 34
Training ship "Jadran"
Rescue detachment
Surveillance detachment
Maritime detachment
Platoon for maintenance
LOGISTICS BASE
Command
Military medical center
Combined logistics company
Logistics company depository
1st logistics platoon (combined)
2nd logistics platoon (combined)
Logistics platoon (transport)
Platoon for maintenance
Collection and sales center
TRAINING CENTER
Command
1st subcenter
2nd subcenter
Technical maintenance of teaching devices
Shooting range "Danilovgrad"
Section for maintenance
CENTER FOR COMMUNICATIONS & COMMAND & INFORMATION SYSTEMS
Command
Subcenter for stationary communications
Subcenter for radio and relay communications
Subcenter for Communications and Informations Systems
Subcenter for Radio and Satellite Communcations
GUARD OF HONOR
Command
1st guard platoon
2nd guard platoon
3rd guard platoon
Military band
ARMED FORCES POLICE COMPANY
Command
1st MP platoon
2nd MP platoon
Military police section
Traffic military police section
EL. RECCON. COMPANY
Command
Section for analytics
1st elec. recce. platoon
2nd radio recce platoon
Electronic reconnaiss. devices maintenance section

63. Is there civilian control over the security forces, including intelligence services, and how is it exercised? Please describe the relevant arrangements which are in place for parliamentary control of security forces.

Article 11, paragraph 7 of the Constitution of Montenegro provided that the Armed Forces and security services are under democratic and civilian control.

Article 2, paragraph 2 of the **Law on the Armed Forces of Montenegro** (Official Gazette of Montenegro 47/07) stipulates that the Armed Forces are under democratic and civilian control, and Article 188 of the quoted Law stipulates that the democratic control of Armed Forces is exercised by the Parliament of Montenegro, through the competent working body, and in our system it is the **Defence and Security Committee**. In addition to annual reports on the overall situation in the Armed Forces, the Minister submits special reports upon the request of the competent working body.

The Law on the National Security Agency of Montenegro (Official Gazette of Montenegro 28/05) in Articles 43-46 provides that the parliamentary control of the Agency's work is exercised by the Parliament, through the competent working body, and that is the Defence and Security Committee. The Agency submits an annual report on the work to this Committee. Upon its request, it also submits special reports on certain matters from its scope of work. The Agency can not give data about the identity of its associates, Agency staff with undercover identity and other persons that could be harmed by the disclosure of such data, as well as on security and intelligence sources and actions that are in progress. Sessions of the competent working body are closed to the public and the President, in line with the conclusions, informs the public about the activities of the working body.

At least once a year, the competent working body submits a report on its work to the Parliament of Montenegro, which may decide to hold a sitting behind closed doors, depending on the contents of the report.

Provision of Article 88 of **the Law on Police** (Official Gazette of Montenegro 28/05) set out that the control of police work is ensured by parliamentary, civic and internal control. Articles 89-92 of this law stipulate that parliamentary control of the police is exercised by the Parliament of Montenegro through the competent working body, Defence and Security Committee, and that the head of police, at least once a year, submits a report on the work of the police to the body. The head of the police may submit a report to the working body - as needed, or upon a request. The police can not provide data to the working body on: the identity of police's associates; police members with undercover identity; other persons who might be harmed by the disclosure of such data; security and intelligence sources and actions that are in progress.

Article 93 of the Law on Police set out that civic control of police work is exercised by the **Council for Civic Control of the Police** as the body which assesses the application of police authorizations in view of protection of human rights and freedoms. The Council may be addressed by citizens and police officers, and it consists of five members appointed by: the Bar Association of Montenegro, Chamber of Physicians of Montenegro, Association of Lawyers of Montenegro, University of Montenegro and NGOs dealing with human rights. The President of the Council is elected by majority vote out of the total number of members, and the mandate of members of the Council lasts five years. The procedure of appointment of members of the Council is initiated by the Speaker of the Parliament of Montenegro by sending an invitation to entities authorized for appointment, and the Parliament states the completion of this procedure. Upon the request of the Council, the police is obliged to provide the necessary information and notifications. The Council provides evaluations and recommendations submitted to the head of police who is obliged to inform the Council of the measures taken. The Council adopts its Rules of Procedure, and professional affairs for the Council are conducted by the Parliament's Service.

The Law on Data Confidentiality (Official Gazette of Montenegro 14/08) stipulated a single system of determining data confidentiality, access to classified data, storage, use, record keeping and protection of classified data. The Law on Amendments to the Law on Data Confidentiality was also adopted. It set out that the MPs - members of the Defence and Security Committee can have

access to classified data without a license issued by the Directorate for Protection of Classified Data.

The National Security Strategy in item 5.2, paragraph 4, and the Defence Strategy of Montenegro in item 4.1, paragraph 2, inter alia, stipulates that the Parliament of Montenegro supervises the Armed Forces and security services. Article 41 of the Rules of Procedure of the Parliament of Montenegro stipulates that the Defence and Security Committee exercises parliamentary control of the police and National Security Agency of Montenegro; examines the exercise of rights and freedoms of individuals and citizens enshrined in the Constitution during the application of authorization of police and the National Security Agency of Montenegro; examines draft laws, other regulations and general acts, strategy and other issues from the field of security and defence of Montenegro and its citizens; examines proposals for the appointment of heads of police and the director of the National Security Agency of Montenegro, and the Parliament of Montenegro adopts a positive or negative opinion on the proposed candidates and sends it to the authorized proposers.

Article 72 of the **Rules of Procedure of the Parliament of Montenegro** stipulates that in view of obtaining information or expert opinions on the draft act, which is subject to Parliamentary procedure, clarifications of some of regulations from the proposed or existing act, clarifications of matters important for the preparation of draft act, and for a more successful exercise of the **control function** of the Parliament, **parliamentary interrogations and investigations** may be organized in the competent (parent) Parliament committees**.**

Provisions of Articles 73-82 of the Rules of Procedure govern **consultative interrogation, control interrogation and parliamentary investigation**. Article 73 of the Rules of Procedure stipulates that in view of execution of tasks from its scope (examining draft acts, preparing draft acts or studying specific issues), in order to obtain the necessary information and expert opinions, especially on the proposals of regulations and other issues that are of special interest to citizens and public, the Committee may, if necessary, or for a specific period of time, engage scientific and professional workers in a particular field, representatives of state bodies and NGOs who have no decision making right (**consultative interrogation**). The decision on the engagement of scientific and professional consultants is taken by the Committee.

Article 75 of the Rules of Procedure stipulates that in order to obtain information and expert opinions on certain issues from its scope as well as certain issues of determining the enforcement of policies and laws or other activities of the Government and state administration bodies, which cause uncertainties, principled disputes in order to clarify these issues, the competent Committee may invite to its session the responsible representative of the Government or other state administration body and ask him/her to speak his/her mind on these issues (**control interrogation**). The decision on control interrogation is taken by the Committee by majority vote of the total number of members. The President of the Committee informs the Parliament Speaker and the Deputy Parliament Speaker on the decision to hold a control interrogation, and invites in writing the person to be interrogated and may require him/her to submit in writing his/her opinions and views. The invited authorized representatives of state bodies are obliged to respond to the invitation to the control interrogation. During the control interrogation, the Committee members may ask questions to the person invited for the interrogation, which are exclusively related to the topic of the interrogation. During the Committee sitting, a discussion may be held with the person who gives information, if it is necessary to discuss and clarify specific issues and facts. The need of opening a public discussion, the time of its duration and the participation of each member of the Committee are decisions taken by the Committee itself, but the participation of one Committee member from each parliamentary club who wishes to do so must be enabled. As a rule, control interrogations are recorded phonographically i.e. notes are kept thereon, and technical and other corrections may be made only in consultation and with the consent of the person whose statement it concerns. The Committee draws up and submits a report to the Parliament on the control interrogation, which contains the essence of the explication, and may suggest an appropriate conclusion or any other act.

Article 78 of the Rules of Procedure of the Parliament of Montenegro stipulates that a **parliamentary investigation** can be opened to examine the situation in certain areas and to examine issues of public importance, gather information and facts about certain phenomena and

events related to establishing and pursuing policies and work of the competent authorities in these areas and that could be the basis for the decision-making of the Parliament on the political responsibility of public office holders or for taking other actions within its competence.

For the performance of these duties, the Parliament may form an **Inquiry Committee** consisting of MPs. The proposal to open a parliamentary investigation and to form an Inquiry Committee may be submitted by a particular Committee or at least ¼ of MPs in the Parliament. The President of the Inquiry Committee is a member of the opposition MPs. The proposal for a parliamentary investigation and forming of an Inquiry Committee is proposed for the agenda of the next sitting of the Parliament. The Parliament decides thereon without debate, on the proposal as a whole. The Parliament Speaker immediately notifies the Minister of Justice on the proposal to launch a parliamentary investigation and to form an Inquiry Committee and asks him/her to provide information whether the same facts are the subject of a judicial procedure. If the Minister of Justice confirms that the judicial procedure is in progress, the Parliament Speaker will not propose the said proposal for the next sitting, and decision-making on the proposal will be postponed until the final completion of the judicial procedure. If the judicial procedure begins after the Inquiry Committee has been formed, the Committee in question will cease to work until the final completion of the judicial procedure. In order to conduct the parliamentary investigation, the Inquiry Committee has the right to ask from state bodies and certain organizations the data, documents and information, and to take statements from individuals, if it deems necessary. State bodies and other institutions, including individuals are obliged to give truthful documents, data, information and statements asked from them by the Inquiry Committee. After the completion of the parliamentary investigation, the Inquiry Committee submits to the Parliament a report which may contain a proposal of appropriate measures or acts within the competence of the Parliament.

Article 187 of the Rules of Procedure, inter alia, sets out that, in order to obtain the necessary information on certain issues related to Government's work or related to implementation of established policy, MPs are entitled to put **questions** (***Question*** Time) to the Government or to the competent minister and to get an answer from him/her. ***Questions are*** put at a special sitting of the Parliament, which is held at least once in two months during the regular session. After a given answer to the question of an MP, the MP who asked the question in the first place is entitled to comment the reply and can put an additional question. An MP may use the right to comment the answer and to put an additional question at end of the sitting instead of immediately after getting an answer.

Concerning the enforcement of these regulations in practice, i.e. the exercising of parliamentary control, it is important to emphasize that starting from 2005 and ending with August 2009, the Defence and Security Committee, conducted a control interrogation of the Director of Police Directorate in closed sittings; conducted four consultative interrogations along with examination of special reports, as follows: director of Police Directorate, director of the National Security Agency of Montenegro and the Assistant minister of Interior and Public Administration in closed sittings, while the consultative interrogation of the Minister of Interior and Public Administration was conducted in the sitting attended by representatives of the media. The Committee examined the annual activity reports of the Police Directorate for 2006, 2007 and 2008; examined the annual activity reports of the National Security Agency of Montenegro for 2006 and 2007; examined the annual activity reports of the Ministry of Defence in 2007; examined foreign policy dimension of the Information Paper on the Most Important Activities and Work Results of the Ministry of Defence in 2007 at a joint sitting with the Committee for International Relations and European Integration.

In the exercise of its competences the Committee examined draft laws and other acts from the field of security and defense of Montenegro and its citizens, and draft laws on the budget for 2008 and 2009, concerning the parts related to the Police Directorate, Armed Forces of Montenegro and the National Security Agency of Montenegro; it examined draft decisions on sending Armed Forces members into peacekeeping missions and the participation of civil protection, police and state administration bodies' employees in peacekeeping missions and other activities abroad; conducted interviews with the candidate for the head of police and the candidates for the director of the National Security Agency of Montenegro, and sent to the Parliament reports containing opinions. After the said discussion in the Committee, the Parliament at its sitting gives its opinion on the proposed candidate.

During 2007, members of the Defence and Security Committee visited the Police Directorate, the Armed Forces of Montenegro and the National Security Agency of Montenegro, during which they were acquainted more closely with the type, scope and manner of performing the delegated affairs, conditions of work, staff distribution, capacities of the said institutions and other significant issues. The mentioned visits had the objective to improve parliamentary control, familiarize Committee members more closely with the institutions over which the supervisory role of this working body is exercised and raise awareness among citizens about the role and importance of parliamentary control.

Concerning the enforcement of these regulations in practice, i.e. exercising of civic control of police work, it is necessary to point out that since its establishment in October 2005, the **Council for Civic Control of the Police** has examined more than 150, individual or group, petitions and complaints of citizens and police officers and initiatives of Council members. Examining facts on grounds of petitions, complaints and initiatives, the Council has processed a significant number of potential infringements of human rights to the detriment of citizens and police officers and stated a total of 40 cases of: infringement of the provisions of law, overstepping authorizations, unprofessional or inappropriate conduct of police officers, etc.

Also, it is important to emphasize that Committee members on two occasions participated in visiting detention units of the Police Directorate, during which they were more closely acquainted with the capacities of these units, the conditions in which detained persons stay and other important issues.

64. What percentage of police officers/members of the security forces are from ethnic minorities? If available, please provide a breakdown of such figures by rank and seniority.

We do not have data on the percentage of members of ethnic minorities who are police members. Please see reply to question 104 (subchapter on human rights).

65. What are or were the main elements of the reform of the security forces?

Montenegro began the process of military and defence reforms after its inclusion into the PfP program, during 2007, through two PfP programs: Individual Partnership Program (IPP) and the Planning and Review Process (PARP), which were a prerequisite for initiating the Individual Partnership Action Plan - IPAP and the Intensified Dialogue – ID in 2008.

According to the National Security Strategy of Montenegro, security forces are the Armed Forces of Montenegro and the police force. Their use is governed by law.

Security forces are under parliamentary and democratic supervision and civilian control.

Armed Forces of Montenegro is the entity in charge of providing defence and it constitutes an armed force that defends the independence, sovereignty and national territory of Montenegro, contributes to developing and maintaining international peace in accordance with the principles of international law on the use of force. The Armed Forces assist civil authorities during natural or artificial disasters, and can be engaged as a support to the police in the fight against terrorism.

The renewal of Montenegro's statehood in May 2006 stimulated the need to plan security and defence. In June 2006 the Government of Montenegro adopted the National Security Strategy. The document presented the state commitment to the integration of Montenegro into Euro-Atlantic and other international security structures. The ultimate goal of integration is full membership in NATO and the EU.

The Armed Forces of Montenegro were formed out of the manpower and assets of the former Armed Forces of Serbia and Montenegro, which were located in the territory of Montenegro. These were bulky and inefficient military units, which did not fit the needs of the new state. Radical

changes were necessary for the security forces to respond to new challenges and tasks. The reform of the security forces of Montenegro was influenced by a number of factors:

- changes in size and shape of the new state,
- change of the regional and global security environment,
- changed vision of challenges and threats to security (the old threats have been replaced by new ones, which are not exclusively military ones),
- the new concept of security policy of Montenegro, based on the joint opposition to threats, prevention, cooperation, partnership and integration into collective defence and security systems,
- new missions and tasks of the Armed Forces of Montenegro,
- new technologies,
- globalization and challenges in the future.

Reform of security forces are conducted by the Government of Montenegro through its line ministries. The following elements of the reform of the Armed Forces of Montenegro are planned:

1) conceptual changes,
2) normative and legal grounds,
3) reorganization of the Armed Forces of Montenegro,
4) conversion of military property,
5) application of democratic principles in the Armed Forces of Montenegro,
6) interoperability and standardization.

Conceptual changes and the legal grounds for the reform of the Armed Forces of Montenegro

In June 2007 the Government of Montenegro adopted the Defence Strategy of Montenegro. Based on the estimated security challenges, risks and threats, the document defines the defence policy of Montenegro. It is based on cooperation, partnership and integration into collective security and collective defence systems. Euro-Atlantic integration becomes a certain future of Montenegro, and the old perceptions of security threats and challenges have been changed.

In July 2007, the Parliament of Montenegro adopted the Law on Defence and the Law on the Armed Forces of Montenegro, which allowed the legal framework for the reforms initiated in the field of defence.

In October 2007, the Parliament of Montenegro adopted the Constitution of Montenegro, which is an umbrella document for security and defence issues of Montenegro. It defines the competences of state bodies in matters of security and defence. It is particularly important that it enables the reform of the Armed Forces of Montenegro in accordance with missions and tasks of the Armed Forces of Montenegro. There is a clear subordination of civil authorities and the Armed Forces of Montenegro. The Armed Forces of Montenegro are commanded by the President of Montenegro on the basis of the decisions of the Defence and Security Council, which consists of the Parliament Speaker, the Prime Minister and the President of Montenegro.

At the end of 2008, the Parliament of Montenegro adopted the National Security Strategy and Defence Strategy of Montenegro, which have been harmonized with the Constitution of Montenegro. They defined more precisely the concept of defence, competences of state bodies, elements of the defence system, missions and tasks of the Armed Forces of Montenegro and the defence resources, which was the basis for amendments to the Law on Defence and the Law on the Armed Forces of Montenegro. The proposals for these laws are currently subject to the adoption procedure in the Parliament of Montenegro.

The Defence Strategy defines the following missions of the Armed Forces:

- defence of Montenegro;

- support to civilian institutions in the country during natural and artificial disasters and in other crisis situations, including crises caused by terrorist activities;
- contribution to building and maintaining peace in the region and the world.

Adoption of these documents has set the necessary conceptual and normative frameworks of the security and defence system, and together with the requirements of NATO through the PfP, for the necessary interoperability and standardization, they are the point of departure for the overall defence system reform. The ultimate goal of the reform is to acquire capabilities which ensure execution of missions and tasks of the Armed Forces of Montenegro. The following is achieved by means of the reform: improving the management functions of the Ministry of Defence and command in the Armed Forces of Montenegro, development of operational capabilities of the Armed Forces of Montenegro, provision of quality staff and adjustments required for membership in NATO and the EU. Through the reform we will develop small, modern, efficient, usable, interoperable and professional units of the Armed Forces, contrary to previous forces based on conscription and an antiquated manner of their command and use.

NATO has played a particularly important role, because it promoted and initiated the question of reforms and transformation of the defence system of Montenegro, as one of the key things in its endeavor to become a fully-fledged member.

As a part of the security system reform, the Government of Montenegro adopted a decision on the contents and manner of developing the program budget. The drafting of the Rulebook of Planning, Programming and Budgeting System (PPBS) is in progress.

Reorganization of the Armed Forces of Montenegro

Renewal of statehood left behind in the territory of Montenegro two units of corps level (Podgorica Corps and the Navy) and 17 junior units that were a part of the structure of the Ministry of Defence and the Armed Forces General Staff of the former State Union of Serbia and Montenegro. Total accountable strength of those units was 6 668 persons (officers, NCOs, soldiers and civilian personnel).

Since the formation of the Armed Forces of Montenegro, the formation has changed three times while seeking the optimal organization of the Armed Forces. The reasons for change of formations were: efficiency of performing missions and tasks of the Armed Forces of Montenegro, adoption of military standards of developed countries (NATO and EU) and harmonization with available resources.

During the first formation (July 2006) the total accountable strength of the Armed Forces of Montenegro was 2 519 persons. A total of 7 units were formed (5 units of brigade level, one independent battalion, and one independent company). The disbanding of the old 7 units was in progress in parallel with the formation of new units, which was hindered by resolution of surplus weapons and military equipment and manpower.

The second formation of the Armed Forces of Montenegro (March 2007) brought along the renaming of brigade level units, and the General Staff of the Armed Forces of Montenegro has become from the organizational point of view a part of the Ministry of Defence of Montenegro. The 2007 Rulebook on Internal Organization and Job Descriptions of the Ministry of Defence reduced the number of jobs (the Directorate for Defence was dissolved).

Total accountable strength of the Armed Forces of Montenegro according to this formation was 2 400 persons.

The third formation of the Armed Forces of Montenegro adopted by the Government of Montenegro in November 2008, brought the following changes: in accordance with the recommendations of NATO the number of units was reduced, by merging them, thus achieving better manning of units.

The October 2008 Rulebook on Internal Organization and Job Descriptions of the Ministry of Defence reduced the accountable strength of the Ministry of Defence, including the General Staff of the Armed Forces of Montenegro, from 374 to 347 persons. Integration was performed and

unnecessary overlap of specific organizational units of the Ministry of Defence and the General Staff of the Armed Forces of Montenegro avoided.

According to the valid formation, the Armed Forces of Montenegro have the following composition:

- General Staff of the Armed Forces of Montenegro,
- Army Force Brigade,
- Air Force Base,
- Navy,
- Logistics Base,
- Training Center,
- Center for Communications and Command and Information Systems,
- Guard of Honor,
- Military Police Company,
- Company for Electronic Reconnaissance.

Total accountable strength of the Armed Forces of Montenegro according to this formation is 2 356 persons.

Conversion of military property

The Montenegrin Armed Forces currently have 244 sites, of which it use 50. The other ones are not occupied, but the Armed Forces of Montenegro has the task of providing their security. The plan is to keep 22 military sites in the long run. Other sites will be adapted for civilian purposes or sold. This property has the status of state property and its owner is the Government of Montenegro.

The conversion of military property in Montenegro, includes the following activities:

- surrendering facilities to local authorities;
- transferring facilities to other parts and sectors of state authority and administration;
- sale of certain facilities or renting them,
- sale of arms and ammunition,
- destruction of weapons and mines and explosive ordnance.

Funds earned from the sale are invested in the budget of Montenegro.

At the beginning of the reform, the Montenegrin Armed Forces had a surplus of 9 751 tons of weapons and mines and explosive ordnance. Currently the surplus is 5086.7 t of superfluous ammunition, 45 tons of toxic chemical substances and 150 pcs. of heavy weapons. The plan is to solve the surplus weapons and ammunition issue in 4 manners:

- through a confidential sale,
- destruction conducted by us,
- through the MONDEM program (Montenegro Demilitarization) with the assistance of UNDP and OSCE and
- through the Technical Agreement with the Government of the United States.

Upon completion of the conversion of the property of the Armed Forces of Montenegro, a part of security risks will be eliminated, expenditures for maintenance and security will be reduced, and the proceeds will be advantageously used in the state budget.

Application of democratic principles

The issue of implementation of democratic standards of developed countries within the security

forces of Montenegro is of crucial significance.

Democratic and civilian control of the Armed Forces of Montenegro and security services is exercised by the Parliament of Montenegro. The practice established is that the competent ministries submit an annual report to the Parliament of Montenegro on the work of the Armed Forces of Montenegro and the police. Funds for defence are planned in the budget of Montenegro, which is adopted by the Parliament of Montenegro.

Application of the following elements of democratic principles in the reform of the Armed Forces of Montenegro is planned:

1) democratic and civilian control and supervision of security and defence system (Constitution of Montenegro, Law on Defence, Law on the Armed Forces of Montenegro, the draft Law on Parliamentary Supervision in the Field of Security and Defence),
2) a clear chain of command of the Armed Forces of Montenegro (Defence and Security Council, President of Montenegro, Minister of Defence, Chief of General staff of the Armed Forces of Montenegro),
3) professionalization of the Armed Forces of Montenegro,
4) funds for the operations and reform of the defence system are provided by the Law on the Budget of Montenegro,
5) transparency in the planning and spending of budgetary funds is ensured,
6) controlling the use of funds is conducted by the Parliament of Montenegro and the State Audit Institution,
7) transparency of the Armed Forces' work.

Interoperability and standardization

Montenegro's commitment to Euro-Atlantic and European integration imposes the need for having joint trainings, exercises and participation in crisis management operations with NATO and EU forces. Therefore, achieving interoperability of designated forces is essential for Montenegro. Montenegro has designated the following forces for participation in PfP activities:

1) a medical team,
2) an infantry squad / infantry platoon,
3) a tugboat.

The issue of standardization with reference to assuming obligations related to NATO and the EU membership is very important for Montenegro. Therefore, the Ministry of Defence established a Section for Standardization and Codification.

The issue of standardization includes three segments: operational, financial and administrative. In the operational area, Montenegro will increase the operational capabilities of the Armed Forces of Montenegro, in accordance with NATO standards. The development of the Strategic Defence Review is in progress, which will determine the necessary capabilities for missions and tasks of the Armed Forces of Montenegro. The issue of material standardization imposes the need to ensure funds at the level of compatibility with NATO. In the administrative area, the most important thing for Montenegro is English language knowledge. In this regard, significant progress was achieved through various courses. Adoption and implementation of NATO standards should be a significant step towards the potential membership of Montenegro in the EU as well.

Reform of the defence system will contribute to the adjustment of national institutions to NATO standards in the field of civil-military relations and cooperation.

The police provides general, personal and property safety and protection of citizens. The police is in charge of internal security, it performs tasks related to preventing and suppressing all forms of crime, especially organized crime and corruption, human rights protection, supervision and control

of the state border, ensuring public peace and order, security of citizens and security of traffic and it assists civilian authorities during natural or artificial disasters. It is in charge of fight against terrorism, proliferation of weapons of mass destruction, corruption and drugs.

The national security system of Montenegro as of its independence is being developed in accordance with the national interests of Montenegro, aimed at providing adequate responses to new global security risks and challenges. The concept of internal security is being developed in accordance with the constitutional principle of rule of law, the clear commitment of introducing and implementing European standards in the field of justice, freedom and security.

In the process of establishing its own security system, Montenegro has established the division of the basic elements in the security system into national and internal security.

In this regard, considering the importance of changes in all segments as a precondition for entry into the European Union, the Ministry of Interior and Public Administration in April 2002 began the process of comprehensive reforms in accordance with best practices and European standards. The document for the basic MoI strategy of reform was drawn up, an assessment of the situation in the Ministry conducted and recommendations and directions of development in the areas where reform is needed were determined. The Ministry has set up as a strategic basis of the reform plan a vision of the future police force as a professional, depoliticized and efficient organization.

By means of the Law on Police (Official Gazette of the Republic of Montenegro 28/05), the democratic reform was continued, which aims to strengthen the professionalism, accountability, transparency, organization and methods of work.

Performance of police duties was removed from the competence of the Ministry of Interior and Public Administration and entrusted to an administration authority – the Police Directorate. The Ministry has kept: normative, development, control and development role in the areas of police work and activities, for the purpose of which a Department for Security and Protection Affairs and Supervision was formed.

Police Directorate

The new concept of the internal security system, designed by the Law on Police implied the reform of policing and police actions.

The reform is focused on the following priorities:

- normative regulation of police activities that correspond to European standards;
- development, education and training;
- accountability;
- external control;
- transparency of work;
- effective fight against organized crime;
- modernization of forensics;
- protection and supervision of the state border;
- development of community policing and
- achieving modern standards.

Fundamental principles of police reform, which were planned by the Law on Police are: respect for human rights, professional tasks performance, depolitisation, decentralization, adequate training of personnel (ethical and gender equality), accountability, effective internal control, international police cooperation and harmonization of this law with modern democratic values.

In view of ensuring legality, respect for ethical and other humanistic principles and rules, control is an irreplaceable instrument. Thus, an important novelty in relation to the existing legal regulations, the Law on Police, stipulates for specific regulations in relation to internal and external control - at

the state level. Pursuant to OSCE recommendations (December 2002), three forms of control have been envisaged as standards, as follows: parliamentary, civic and internal control.

The new legal framework and policy in this area have necessarily imposed the need of a new organization of police actions, which implied training of border police members or the transfer of competences of controlling and providing security to the state border (green border) from the Armed Forces of Serbia and Montenegro, to the Ministry of Interior and Public Administration.

In accordance with the decision of the *Supreme Defence Council of Serbia and Montenegro*, the Ministry of Interior and Public Administration of the Republic of Montenegro assumed competences in providing security to the state border on its territory from the Armed Forces as of 31/12/2003.

Accordingly, it was necessary to adopt an adequate legal framework for the performance of state border supervision affairs, in terms of demilitarization of borders and civilian control over them. In this regard, the Law on Supervision of State Border was adopted (Official Gazette of Montenegro 72/05).

The law provided the establishment of organization and methods of work that will ensure effective and comprehensive system of protection and control of state borders in accordance with the European Union and Schengen standards, adequate control of movement and stay of foreign nationals, efficient flow of people and goods, preventing all forms of cross-border crime and terrorism, reaching professional and democratic standards in the border police and the establishment of our own system of border security, as a part of the overall security system of Montenegro.

The Law promoted the following principles:

Borders must be open to trade and movement of persons and for regional cooperation. On the other hand, borders must be closed to all criminal activities and any other activities that threaten stability in the region. Law on the Supervision of State Border determined the authorities to perform the tasks of supervision of the state border (Police Directorate, Border Police Department), the state border crossing system and border crossing points, border control, border line and the protection of state border, police operations in the interior.

The quoted law provides effective cooperation of police forces of neighboring countries and other countries of the region, which especially gains importance in the fight against terrorism, organized crime, smuggling in persons, preventing illegal border crossings, illegal procurements and smuggling of firearms and ammunition, explosives, various poisons, radioactive substances, illegal trade in drugs, counterfeit currency, finding people who are on the run from criminal and other liability, checking documents needed for border crossing, etc.

Depoliticization is a prerequisite for the police to take clear positions regarding its professional status, starting from the fact that while the police protect law, it is serving individuals and citizens.

The overall educational process and needs assessment were analyzed within the reform of the process of police training. It required the development of a Training Vision Program, professional development, and the training system of the Montenegrin police itself.

In addition to the afore-mentioned, the adoption of the said laws, influenced the transformation of the existing models of organization and identification of new ones that were aimed at:

- effective policing for maintaining public peace and order; reducing crime rates; institutionalization of crime prevention and coordination of actions with other agencies and the public;
- fight against organized crime and provision of adequate and efficient solutions in line with the UN Convention against Transnational Organized Crime with additional protocols;
- planning, development and education of police officers with an emphasis on efficient execution of functions which is achieved through organization of various forms and levels of education and training at the Police Academy;
- establishment of an adequate mechanism for personnel management, with special

emphasis on the selection and recruitment of adequate professional staff, their development and promotion;

- fair representation of members of minority communities;
- expertise and cost-effectiveness in performing tasks, which implied precise legal definition and delimitation of responsibilities between the police and the criminal police;
- accountability and motivation to work;
- improvement of regional and international cooperation in the realization of obligations arising from international treaties and conventions;
- introduction of the community policing model, based on the idea that police officers, citizens and social services - institutions, through mutual cooperation, participate together in solving problems at the local community level that are related to crime and various forms of illegal conduct. The action strategy of community policing is a comprehensive process of change and represents a very important reform direction of Police Directorate actions. The ultimate goal is the transformation from the traditional (reactive) model of work into a more modern and efficient, proactive model, aimed at solving problems that affect the quality of life in the community and which potentially cause criminal activities and illegal conduct.

At the conference "Community Policing in Montenegro," held on 19/12/2006 in Podgorica, program tasks and guidelines for work on the project were adopted, and partnership was agreed between the Police Directorate and the OSCE Mission for the preparation and implementation of the project.

The development of the project "Community Policing" is planned in phases.

2003 The preparation phase of the pilot project - from 10/01 to 15/05/2006,

2004 Implementation phase of the pilot project in Podgorica, Niksic and Ulcinj - from 15/05 to 15/11/2006,

2005 Project implementation phase at national level - in the course of 2008.

Police Academy

The adoption of new positions on the essence of police work, where the priority is prevention and proactive action, as opposed to repression and reactive work creates new forms of organizational culture that must be correlated with public expectations. It is these reasons that were decisive to develop the "Education Reform Project of the Montenegrin Police" in cooperation with the Institute for Human Rights of the Kingdom of Denmark. Work on the project began in February 2004 and ended in July 2005.

The project includes a plan that the implementation process takes five years, i.e. it is to be implemented through three phases, as follows:

1) the first phase – during 2005

2) the second phase - during 2006 and 2007

3) the third phase - 2007 to 2009.

The main objective of the new education system, defined by the project is to improve the general knowledge and skills of the Montenegrin police members and application of international standards in policing.

By means of the project the High School of Interior was transformed into the Police Academy which meant establishing new legal grounds for the establishment of the Police Academy, as an educational institution that will educate, train and professionally develop MoI members and alternative security entities.

The Police Academy was established as a public institution by means of the Decision on the Establishment of the Police Academy (Official Gazette of the Republic of Montenegro 25/06).

The activity of the Academy is: education, training and professional development of civil servants and state employees working in the Police Directorate and the Ministry of Interior and Public

Administration; education, training and professional development of persons for conducting customs control, protection of persons and property, detective activity and other protective and security affairs; basic and developmental research in the field of criminology and security, as well as research in the function of development of educational activities; organization of taking the final exam; publishing and librarian activity; realization of cooperation with the University of Montenegro, Ministry of Interior and Public Administration, Ministry of Education and Science & police academies outside of Montenegro in view of implementing the educational program; issuing public documents to attendees and performing other duties in order to realize the basic activity in accordance with the statute.

Elements of security forces of Montenegro reform will allow achieving the necessary capabilities for the execution of all specified-purpose tasks. The selection of elements was particularly affected by the new security challenges in the region and on the global level and Montenegro's commitment to build its security within the Euro-Atlantic and European security structures. Reforms of security forces are carried out as planned.

National Security Agency of Montenegro

The Law on the National Security Agency was adopted (Official Gazette of the Republic of Montenegro 28/05) with adherence to clear democratic principles, primarily the rule of law and conscious accountability before the citizens and the public whom the Agency serves.

The Law on the National Security Agency singled out the national intelligence service from the organizational part of the Ministry of Interior and Public Administration and it became a state body. The Agency collects data of interest to national security, but without operational (police) authorizations. Performing duties of national security is placed under the competence of the National Security Agency of Montenegro, as a specific state body (sui generis). In that regard, an adequate relation is established between the Parliament of the Republic of Montenegro and the Government with the Agency, whereat the Parliament is provided control of the Agency's operations through the competent working body (Article 40), whereas in functional terms, the Agency is related to the Government of Montenegro with specific accountability towards the Government (appointment of the director).

The Agency is part of the security system of Montenegro, it is politically and ideologically neutral, and the basic principles of conducting its affairs are neutrality and legality.

The transformation of the National Security Service into a state body constitutes a strategic component of the efforts of the Government of Montenegro towards the achievement of standards in this area as a guarantor of human rights and freedoms protection and security and democratic society development, which is the basic prerequisite for the integration of Montenegro into the European Union and its access to other international institutions.

66. How is police primacy in dealing with internal security ensured? What is the legal framework and how is it implemented? What arrangements exist for calling up army resources under police command in specific crisis situations?

The National Security Strategy of Montenegro stipulates that the police provide general, personal and property safety and protection of citizens. The Police is in charge of internal security, it performs tasks related to preventing and suppressing all forms of crime, especially organized crime and corruption, human rights protection, state border supervision and control, ensuring public peace and order, security of citizens and security of traffic and it assists civil authorities during natural or artificial disasters. It is in charge of fight against terrorism, proliferation of weapons of mass destruction, corruption and drugs.

The Law on Police defined police duties and stated that they are performed by a separate administration body in charge of police duties. Accordingly, the Decree on organization and method of work of state administration bodies stipulated that the Police Directorate performs administration affairs related to: protection of security of citizens and rights and freedoms

enshrined in the Constitution; protection of property; prevention of commission and detection of criminal offences and misdemeanors; finding and capturing perpetrators of criminal offences and misdemeanors and bringing them before the competent authorities; maintenance of public peace and order; providing security to public meetings and other gatherings of citizens; providing security to specific persons and facilities; supervision and control of traffic safety; supervision and provision of security for the state border and carrying out border controls; control of movement and stay of foreigners; ensuring the conditions for unhindered work of courts, maintaining order, protecting persons and property; crime expertise and investigations, criminal and other records, international police cooperation; development of analyses, surveys, studies and monitoring of certain security issues, and other duties it has been delegated with.

The basis for placing military resources under police command in specific crisis situations is a conceptual and legal one.

The conceptual basis consists of the National Security Strategy and the Defence Strategy of Montenegro. According to the National Security Strategy of Montenegro, 4 missions of the security system were defined: defence, maintenance and improvement of internal security, state of emergency management and participation in international peacekeeping and humanitarian operations led by UN, NATO and the EU. The entities in charge of such participation were also defined. Also, obligations of security forces were precisely stated, including obligations in support to other entities in charge of such participation. This means that Montenegro opted to build an integrated, functional and efficient security system that ensures coordination and cooperation of various organizations and institutions that conduct joint and combined civil, police and military duties at state level in regular, state of emergency and state of war.

According to the National Security Strategy, the police has been given the task of internal security and fight against terrorism provider. The Defence Strategy of Montenegro defined missions and tasks of the Armed Forces of Montenegro. One of the missions of the Armed Forces is "support to civil institutions in the country during natural and artificial disasters and in other crisis situations, including crises caused by terrorist activities." Within this mission one of the tasks of the Armed Forces of Montenegro is to "assist the police in the fight against terrorism."

Also, one of the partnership goals of Montenegro from the NATO Partnership for Peace program is fight against terrorism, which is entrusted to the Ministry of Interior and Public Administration, and the Armed Forces of Montenegro have been given the task of support provision.

The legal grounds consist of: the Constitution of Montenegro, Law on Defence and Law on the Armed Forces of Montenegro. The above-mentioned regulations established the rights and duties of state bodies and state administration bodies for the use and command of the Armed Forces of Montenegro.

The decision on placing the Armed Forces of Montenegro under police command that is, providing assistance to the police in the fight against terrorism by the Armed Forces of Montenegro is taken by the Defence and Security Council. On the basis of this decision the President of Montenegro commands the Armed Forces of Montenegro through the Minister of Defence. Acts of command over the Montenegrin Armed Forces are executed by the Chief of General Staff of the Armed Forces of Montenegro.

Plan of use of the Armed Forces of Montenegro defined forces of the Armed Forces of Montenegro and their involvement under police command on the occasion of assistance in the fight against terrorism. This plan stipulated the variations of direct and indirect support of the Armed Forces of Montenegro to the police in opposing and defence against large scale and intensity terrorism.

In accordance with the Plan for the Use of the Armed Forces of Montenegro, at the level of the General Staff of the Armed Forces of Montenegro, a team was formed for coordination of the task of taking organizational, technical and personnel preparations of the planned units of the Armed Forces of Montenegro for assistance to the police in the fight against terrorism, as well as coordination with the Police Directorate in the event of their use, or placing under police command.

67. Is there or was there a Strategy and an Action Plan for the reform of the Police, including proper budgetary allocations? What is its stage of implementation?

In April 2002, the draft "Basis of the MoI of RoM Reform Strategy" was drawn up. An assessment of situation was conducted recommendations and directions of development were formulated; areas which require reform were identified. The document contained strategic and central affairs to be implemented in the future within the necessary MoI reform.

In January 2003, the "2003-2006 Strategic Activity Program", was developed, as an attachment to the Agenda of the Government of Montenegro activity program for the period 2003-2006.

Cooperation with the Royal Canadian Mounted Police (RCMP), in October 2003, resulted in the drafting of the document "Strategic Planning - Consideration of External and Internal Situation - Trends", which was very positively evaluated by Canadian experts in strategic planning and police system reform.

Ministry of Interior and Public Administration of the Republic of Montenegro and the Danish Institute for Human Rights (DIHR), in late 2003, signed an agreement on cooperation in order to develop and further realize the reforms project. The strategic document, "Vision, Values, Mandate, Mission and Challenges", was drawn up and published in May 2005, having the objective to determine priorities, prepare reform and establish capacities for its implementation.

Tasks and documents were prepared by the Secretariat of the project and 29 working groups established within the Ministry. Within the working groups, all segments of the Ministry took part in writing the Vision Document.

During the process of development of that Document, materials were used which were drawn up in the Ministry before 2003. In addition, views set forth in the European Code of Police Ethics, adopted by the Council of Europe in September 2001, were strictly taken into account. The conclusions related to Montenegro were also appropriately incorporated, which were reached by a group of EU experts within the CARDS program, in October 2002 when they compiled an analysis of the situation in the FRY and formulated important recommendations.

Full support to the development of the document was provided by OSCE, especially the Division for Law Enforcement of the OSCE Mission in Belgrade whose Strategic Planning Unit was actively included in the final phase of work on the document. The Unit has analyzed the Vision Document and it gave specific suggestions that were, after examination by the Strategic Planning Unit of the MoI of Montenegro, included in the Document text. The proposals that were not entered in the text of the Document were of importance later in the development of specific projects and their implementation which were realized with the support of OSCE Mission to Montenegro. Also, OSCE has supported the process in financial terms as well.

The Vision Document and activities of the MoI in its drafting were also supported by the United Nations Development Program Office and the Council of Europe in Podgorica.

Support for this Document was obtained from non-governmental organizations in Montenegro, which have expressed willingness to be actively involved in its implementation and implementation of individual projects.

Permanent contacts were also realized with representatives of DIHR and OSCE in developing the final version of MoI's Strategic Vision document (four books). On this occasion, a public debate was held which was attended by representatives of international organizations and NGOs in Montenegro, who gave their full support to the drafting of the Document.

In September 2005, the draft "Strategy and Vision of the Police" was drawn up.

Analytical and informative materials on the status and trends of all relevant security events in the territory of Montenegro covering the period 2003-2005, including materials on the organization and competences of the Ministry and Police Directorate, were drawn up during 2006 and submitted to the OSCE Office in Belgrade. These materials, together with other attachments submitted under a previous agreement with this international organization, served to create the "Document of Police

Reform in Montenegro 2001 - 2005". OSCE document "Police Reform in Montenegro 2001-2005 - Evaluations and Recommendations" was published in April 2006.

Activities were initiated on the development of the Strategy of Development and Police Operations, which resulted in this draft, which is a very significant strategic document for the Montenegrin police. Based on the defined requirements from the strategic and legal framework, considering the current situation and needs, anticipated trends and previous experiences and evaluations of the necessity of continuing reforms, priority directions and reform fields will be entirely defined in the document "Strategies of Development and Police Operations".

No information was submitted on the budget.

68. What measures have been taken to ensure an increased awareness within the security forces of issues such as human rights, non-discrimination and community policing methods?

Special attention in the previous period was dedicated to increasing awareness among the security forces on issues such as human rights, non-discrimination and methods of community policing. An important segment of the reform of the Police Directorate is a project that is implemented in the whole territory of Montenegro. The project serves the citizens of Montenegro, local governments and all stakeholders of the society.

The objectives of community policing are:

- improve public awareness on the police.
- improve cooperation between the police and citizens.
- prevent crime and prevent potential offenders from committing crimes.
- resolve crimes and problems through building partnerships.
- protection and police assistance to law-abiding citizens.
- support to the police and its activities by the community and citizens.
- reducing the crime rate and criminal behavior.

The priority and focus of work is prevention before repression.

- The police as a service of citizens.
- Improving the reputation of the police.

Before the adoption of the "Model of Community Policing," several models of community policing were tested by the team for project implementation.

Several study visits to the areas for which we believed to have the best practice in the region were carried out. The team also participated in regional forums and round tables which treated issues of the community policing model.

Based on the Project, the Plan was implemented in four phases:

Phase I, preparation:

During this phase, all the logistical and educational requirements were met.

Strategic partnership was formed between the OSCE, the Police Directorate and the Police Academy. A team of experts was formed for implementation, from OSCE and the Police Directorate with defined roles and a list of tasks to be carried out. A series of conferences on community policing were held, including regional police station commanders, their deputies and heads of regional and local units. These conferences were used as a follow-up to already provided trainings on community policing and modern management techniques. The conferences clearly defined roles and responsibilities of each person during implementation.

Phase II, June - December 2007

Implementation of the pilot project (implementation in Podgorica, Niksic and Ulcinj)

Phase III December - June 2008

Implementation in the south (Bar, Budva, Tivat, Kotor, Herceg Novi and Danilovgrad).

Phase IV - June until the end of 2008

Implementation of the project in the north (Kolasin, Bijelo Polje, Plav, Andrijevica, Rozaje, Pljevlja, Zabljak, Savnik and Pluzine).

During all the phases, the following tasks were completed:

At the beginning of the project, the Center for Democratic and Human Rights (CEDEM) conducted a public opinion survey at all three pilot sites concerning citizens' trust in the police. This study was repeated after 5 months of project implementation expired and survey results have indicated the increasing public trust in the police.

In the first phase, selection was performed of 100 policemen who have attended 80 hours of training. Training was focused on the following topics: problem solving techniques, building partnerships in the community, tactical communications, community policing, local government, crime prevention, social psychology and conducting presentations.

- A uniform procedure of writing a two-week activity report of contact police officers was established.

- A system of command and control was established according to which station commanders have specific duties and tasks related to the work of the police in the community and reporting.

- Contact areas were determined in every place where the project is implemented.

- The program was presented to local governments, NGOs, schools and other important segments of society.

- Contact police officers were deployed in contact areas and their first task was to create a list of important persons, facilities and organizations from their respective contact area.

- A strong media campaign was conducted on television, radio and newspapers. After that, the implementation of the project began and contact police officers distributed brochures and business cards in the contact area.

- Contact police officers were then tasked with everyday work on problem solving in the community, crime prevention, holding meetings with citizens and building partnerships on issues that are of community importance.

- Police experts from OSCE and the commissioners from the Police Directorate carried out weekly visits to project sites.

IV. Project assessment and lessons learned

In Ulcinj, Niksic and Podgorica contact police officers have identified problems in kindergartens within their contact areas. Using problem solving and partnership building skills they were able to coordinate with international NGOs. The result of their efforts is rehabilitation of all three kindergartens. This shows to the community that these police officers actively participated in solving problems that are not related to criminal activities. There was an increase in the outcome of operational information received by the citizens due to their successes.

Students were provided about 90 000 brochures on traffic safety and reflective vests inside the contact area. It followed the lectures on traffic safety held by the contact police officers. Some police officers have identified specific problems with children who travel to school and back. Heads of police stations were using the local media to present solutions to this problem to the drivers. This proactive approach reduced the risk of pupils from traffic accidents.

In rural locations, contact police officers assisted in holding meetings where local issues were discussed with the local government. The police officers used these meetings to discuss crime prevention issues that are specific to rural communities.

In some areas that have had problems with waste containers and pollution, police officers were able to organize cleaning days during which all the citizens participated together in the cleaning of parks, beaches, rivers and school yards.

Police officers working in schools have built partnerships with parents of students who were considered delinquents, or those who avoid classes. They devised an individual action plan for solving the problem.

In all observed areas police officers have raised the level of communication with citizens, and furthermore, citizens recognize contact police officers as important members of their communities as those who are actively involved in problem solving.

Ultimately, this has increased their trust in the police; the increase in the volume of information on crime obtained by citizens has also been noticed. This new relation has reduced the crime rate within the contact area.

Contact police officers within their contact areas have also identified vulnerable persons and groups. They were able to provide them with assistance through the competent local services for social assistance. They realized that these people are under a greater likelihood of becoming victims of crime and abuse.

Police officers working in schools have held classes on the noxiousness of narcotics and provided awareness raising for the youth in an attempt to reduce the number of students who use drugs or are thinking about experimenting with drugs.

CEDEM conducted an independent evaluation of the project. This independent organization has estimated that the project is successful and that it is needed. Researches indicate a positive trend regarding the public opinion, particularly of those citizens who have met their contact police officers. It is clear from the research that citizens who have met their contact officers have a better opinion of the police.

OSCE has made an evaluation of the project, although it is one of the partners in its implementation. The police expert estimated that the project works very well and that it could serve as a model for other countries. Office for Community Policing and Crime Prevention of the Police Directorate is working hard on the realization of this project.

The project of community policing includes all cities in Montenegro, 116 contact police officers and 66 police heads. With this number of police officers, 33% of urban areas of Montenegro or 350 000 inhabitants were covered.

The Police Directorate of Montenegro won the I prize in the competition for the best model of community policing for Southeastern Europe, which was announced by the Swiss Agency for Development through SEPCA which monitors the development of the project of community policing.

Finally, full support for this project and recognition was given by the OSCE Mission and ICITAP in Montenegro.

69. Are there any arrangements in place for co-ordination between local self-government structures and police forces in the respective municipalities? Please describe how coordination between municipalities and the local heads of police is carried out. Are there any problems of coordination in practice?

The Law on Police (Official Gazette of the Republic of Montenegro 28/05) in Articles 6, 7 and 8, provides that:

- the police takes measures necessary for protection of life and health of people and elimination of immediate danger to people and property, if such measures can not be taken in due time by other competent authorities, it provides assistance to state administration bodies, local self-government units, legal and natural persons, in the case of general danger caused by natural disasters and epidemics.

- it is obliged to provide assistance to state bodies, local government bodies and legal persons in the procedure of enforcement of their decisions, if physical resistance is expected or displayed during the procedure.

- the police inform the public about the performance of affairs from its scope of work and reports on its work through the media or in any other convenient way and it also informs the municipal Parliament on events and phenomena of relevance for the security of that area.

In accordance with the above-mentioned, organizational units of the Police Directorate operating in municipalities, inform local government bodies of the results achieved, security phenomena and events, important for the municipality in which they operate, periodically, through semi-annual, nine monthly and annual reports.

Informing representatives of local governments, is also conducted more often, directly (orally, during working meetings, board meetings etc.) or in writing, if security problems, or certain security events require special analyses and exchange of information between representatives of the municipality and the police.

In the past practice there were no practical problems in coordination and communication between representatives of municipalities and the Police Directorate, when it comes to activities carried out by the police.

70. What percentage of the police force has received further training over the last 5 years? Is such training obligatory? What is the average amount of training and where and by whom is it offered?

Rulebook on Internal Organization and Job Descriptions, as one of the conditions for the assignment to police duties, envisaged the course of additional training from the basic police training or a course for police officers.

The course is conducted at the Police Academy in Danilovgrad and it lasts for 90 days; it is attended by officers who have no previous police training but perform police duties.

Other types of training are aimed at the renewal of existing knowledge and skills and acquiring new ones which are necessary for successfully carrying out professional duties.

Over the last five years, 50.56% of police officers attended some of the types of training through seminars and courses which are organized at the Police Academy, Human Resources Administration and abroad, in accordance with annual training programs.

71. Please detail the inspection and internal control systems to ensure fairness, transparency and accountability in the security forces, at all levels, particularly at the central level and among senior officers.

Inspection control is regulated by the Law on Inspection Control which was adopted by the Parliament of RoM in December 2003. The provisions of this Law govern the principles, methods and procedure of performing inspection control, duties and powers of inspectors and other issues of importance for the exercise of this function. Inspection control is performed by ministries and administration bodies through inspectors who have special powers and responsibilities.

Inspection control over the enforcement of the Law on Defence and regulations enacted under this law is performed by the Ministry of Defence. Inspection control within the competences of the Ministry of Defence is performed by the Inspection for Defence in accordance with the law regulating inspection control (Article 55 of the Law on Defence). The Law on Armed Forces (Article 13) also stipulated that the Ministry of Defence performs inspection affairs in relation to the Armed Forces.

A provision of Article 56 of the Law on Defence provides that the inspector for defence performs inspection control, particularly in relation to:

a) realization of plans and preparatory measures for the defence of the country;
b) readiness of the Armed Forces to carry out specified-purpose defence tasks;
c) combat readiness of the Armed Forces;
d) operations of the logistics security of the Armed Forces;
e) application of authorizations by the military personnel;
f) manning the Armed Forces and mobilization;
g) application of measures for the protection of classified data.

In accordance with the Rulebook on Internal Organization and Job Descriptions of the Ministry of Defence, which was adopted upon the proposal of the Minister of Defence by the Government of Montenegro in November of 2008, the performance of inspection control and internal control duties was organized within the Division for Inspection Control and Internal Control, as a separate internal organizational unit of the Ministry.

This Rulebook stipulates a total of nine employees covering these affairs, as follows:

- chief inspector (1 employee),
- inspector (7 employees) and
- authorized official and internal control (1 employee).

The Rulebook also defines duties within the competence of this Division, by stipulating that the inspectors of defence perform duties related to the control of:

implementation of plans and preparatory measures for country's defence, which includes the control of: planning, organizing, harmonizing and executing defence preparations in accordance with the Law on Defence and the Defence Plan of Montenegro; the contents and quality of documents governing the organization and operations of entities in charge of defence preparations in case of states of emergency or of war; documents for the implementation of readiness measures; documents relating to the possibility of meeting obligations for the production of objects and performance of services of special importance for the defence and documents relating to the security of state institutions and facilities;

building up combat readiness of the Armed Forces, particularly in relation to: examination and evaluation of state of combat readiness of commands and units; determining the degree and causes of deviations from combat readiness in relation to the ordered state; proposing measures for the removal of weaknesses and raising combat readiness to a certain level; ensuring the strengthening of accountability of commands and units for the state of combat readiness in their components; providing technical assistance to controlled components;

occupational safety, protection against fires and environmental protection, and especially to the control of: development of regulations in this area; the basic occupational protection measures, protection against fires, flammable vapors and gases and environmental protection; providing additional supplies of assets and equipment for personal protection;

application of authorizations by military personnel and providing assistance to members of the Armed Forces in exercising rights arising from labour and employment, in particular: the exercise of control in the application of laws and other regulations from the domain of labour and

employment; providing assistance to members of the Armed Forces in the exercise of their rights; planning and using human and material resources; harmonization of planning and using human and material resources; development of individual administrative acts and business and administrative records;

preparation of measures of protection of classified data and facilities, especially the control of: protection of information systems and documents having a certain degree of confidentiality; protection of armament, military equipment and facilities; protection of information systems and data to be transferred via technical devices; measures taken in case of disappearance of documents, armaments and military equipment and leaks of classified data;

in the field of spatial planning and development, construction and reconstruction of facilities on military grounds, as well as to other affairs under the competence of the Ministry.

Finally, this Rulebook stipulated terms of reference for each inspector i.e. employee.

During 2008 and in 2009 the Division for Inspection Control and Internal Control conducted seven controls of combat readiness and seven controls of occupational safety, protection against fires and environmental protection in the units of the Armed Forces of Montenegro.

The internal control includes: control of accuracy, completeness and reliability of financial and other reports and information, efficiency and effectiveness of execution of tasks in financial operations, control of financial operations winding-up and duties of disbanding units and dissolving institutions, as well as control of motor vehicles planning and use efficiency and cost-effectiveness.

A priority during all the controls is given to identification of risks that can lead to threats to security of persons, protection of property and other resources, and determining correct use of assets.

After the completed control, the Division for Inspection Control and Internal Control submits a report to the Minister of Defence. Measures for the removal of perceived irregularities are delivered to the controlled entity (Armed Forces units or organizational units of the Ministry) and to the organizational unit of the Ministry in charge of removing the perceived irregularities. If, while performing control, the Division for Inspection Control and Internal Control ascertains that specific procedures and practices endanger or impair the security of people and assets, it will prohibit further exercise of such activities.

The conducted inspection control and internal control did not result in establishing irregularities related to transparency and accountability in the work of organizational units of the Ministry of Defence and the Armed Forces as an integral part of the security forces of Montenegro.

In order to ensure legality, fairness and accountability, and transparency of work, the Law on Police (Official Gazette of the Republic of Montenegro 28/05) has institutionalized internal control of police within the Police Directorate, as one of forms of control over police work. In the period before the adoption of the Law on Police and the establishment of the Police Directorate as a public administration body, internal control has, since it was established in February 2003, been organized as a Division for Internal Control and Control of Legality of Application of Authorizations within the then Public Security Service of the MoI of RoM.

In other words, Art. 95 of the Law on Police laid down that internal control over the police is performed by a special organizational unit of the police. This Article of the Law on Police laid down that internal control affairs are:

- control of legality of performing police affairs and control over the application of powers by police officers,
- financial control,
- counter intelligence protection and
- other controls important for efficient and lawful work.

Pursuant to the said provisions of the Law on Police, under the Rulebook on Internal Organization and Job Descriptions of the Police Directorate (No.111/07-7 of 03/01/2007), internal control is organized as a separate organizational unit of the Police Directorate, within the Division for Internal Control.

This Rulebook stipulates that the Division for Internal Control will perform control, operational, instructive and other affairs in the area of internal control of police work and counter-intelligence protection; direct internal control of legality of performing police duties of organizational units of the Police Directorate; financial control of legality of management and expenditure of financial resources by the competent organizational units of the Police Directorate; checks of citizen complaints regarding the work of police officers; initiation of measures for establishing the liability of officers in the case of finding irregularities in their work; suggesting improvements of working methods; preparation of analyses, information papers, reports and other materials from its scope, and other controls relevant to efficient and lawful work.

Division for Internal Control is organized as a separate organizational unit at the Police Directorate level, whose head (chief police commissioner) is directly accountable to the head of police - the Director of Police Directorate.

In consideration of duties laid down by law, three working fields are organized in the Division, which are led by high police commissioners I class, as follows: control of legality of performing police affairs (4 positions), control of legality of application of authorizations (10 positions - 3 in the seat and 7 in regional units) and counter-intelligence protection and internal investigations (6 positions). Besides the afore-mentioned, job descriptions for the Division include positions of a police analyst and an operator.

Employees covering the working field of legality control over the performance of police affairs perform control and instructive duties through the control of legality of performing police duties of organizational units of the Police Directorate, with the aim of determining legality, professionalism, scope, quality and timeliness of performing police duties; they propose improvements of working methods, as well as measures for elimination of ascertained irregularities; draft reports, information papers, analyses and other materials from that scope.

Employees covering the working field of control of legality of application of authorizations cover control duties of legality of authorizations application by police officers; take operational measures and actions on the basis of findings, citizen complaints and other information sources about overstepping official authorizations by police officers - especially the use of coercive means, unprofessional, undisciplined and impolite conduct of officers and other irregularities in the proceeding of officers; initiate measures to determine accountability of officers in the event of ascertained illegality in the process of applying authorizations; propose improvement of working methods, prepare reports, information papers, analyses and other materials from this field.

Employees covering the working field of counter-intelligence protection and internal investigations carry out operational activities related to counter-intelligence protection of the Police Directorate and police officers, by determining and applying preventive and security measures, actions and resources. They take operational measures and actions for the purpose of detecting and sanctioning all forms of unlawful proceeding of police officers, and preventive and security measures with a view of preventing and suppressing these phenomena. Additionally, they perform financial control of legality of financial assets management by the competent organizational units of the police and individual investigations in cases of abuse in this field of work; Other duties include: operational duties on the basis of findings, citizen complaints and other information sources on corruption of employees, commission of criminal offences by police officers, cases of torture and infringements of human rights and freedoms of citizens by police officers and other criminal proceedings of police officers, initiation of measures in view of determining liability of officers in case of suspicion that a criminal offence, misdemeanor or infringement of work discipline were committed; proposing improvement of working methods in the field of counter-intelligence protection, prepare reports, information papers, analyses and other materials from these fields.

In accordance with its position within the police organization, competences and manner of organization, the Division for Internal Control is responsible for duties within its competence in relation to all Police Directorate officers at all levels, regardless of their position in the police hierarchy.

The performance of duties within the competence of the Division for Internal Control is achieved through actions taken under the orders of the Director of the Police Directorate or the head of

Division, as well as by taking operational measures and actions with a view of detecting all forms of unlawful proceedings of Police Directorate officers.

The Division submits a report to the Director of Police Directorate on the measures and actions taken in the performance of affairs under its competence.

If the conducted control resulted in ascertaining work irregularities or unlawful proceedings and conduct of police officers, the report also contains proposed measures to be taken in order to remove the ascertained work irregularities, and in order to sanction the unlawful proceeding or conduct of police officers.

In cases where grounds for suspicion are ascertained on the existence of criminal liability of police officers, the Division for Internal Control proposes to the Director of Police Directorate that the case files be sent to the competent organizational unit of the Police Directorate for filing a criminal charge or submission to the competent Public Prosecutor for an assessment of the existence of criminal liability elements, i.e. for taking further measures from the competence of the Public Prosecutor and, depending on the ascertained facts, the institution of criminal proceedings against police officers.

In cases where grounds for suspicion are ascertained on the existence of criminal liability of police officers, the Division for Internal Control proposes to the Director of Police Directorate that the case files be sent to the immediate superior of the police officer for the imposition of a disciplinary measure for a minor disciplinary offence or for submission of proposal to the disciplinary prosecutor of the Police Directorate for initiation of disciplinary proceedings against the police officer due to a major disciplinary offence and conduct of procedure for ascertaining disciplinary responsibility before the Disciplinary Commission of the Police Directorate. In other words, the Law on Police ascertained that disciplinary measures for minor disciplinary offences are imposed by the immediate superior of the organizational unit, whereas disciplinary measures for major disciplinary offences are imposed by the head of police - Director of Police Directorate (after the conducted proceedings for the establishment of disciplinary responsibility of officers before the Disciplinary Commission).

Pursuant to the provisions of the Law on Police and Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), police officers have disciplinary responsibility for the performance of their duties. The specified laws stipulated minor and major disciplinary offences.

Article 60 of the Law on Civil Servants and State Employees provided a disciplinary measure of a fine of up to 15% of the salary paid for the month in which the offence was committed for a minor disciplinary offence. For major disciplinary offences, however, a fine may be imposed in the amount of 20% to 30% of the salary paid for the month in which the offence was committed, or termination of employment.

The internal control of operations of the National Security Agency of Montenegro refers to: data protection; efficiency of programs and work plans realization; application and overstepping authorizations; financial operations; efficiency of performance of other duties and tasks under the competence of the Agency.

Internal control of the Agency's operations is conducted by the Inspector General who is appointed and removed from office by the Government. The Inspector General is appointed for five years and may be re-appointed. S/he is responsible for his/her work to the Government.

The Inspector General submits a report to the Agency Director on all matters of importance to the Agency's work, violations of laws and other regulations, as well as on other findings that come to his/her knowledge during the control. The Inspector General makes recommendations and sets the deadline for removal of irregularities. The Inspector General submits a report on the conducted control to the Director of the Agency and the Government.

72. What actions have been taken by the Internal Affairs unit in the Police dealing with Professional Standards and with police misconduct? What results have been achieved (number of cases, sanctions applied etc)?

An important and the most extensive part of activities in the previous work of internal control is acting upon complaints submitted by citizens and other entities against the proceeding and conduct of the Police Directorate officers, indicating in them unlawful elements, irregularities and lack of ethical conduct of police officers, as well as expressing other comments and dissatisfaction related to the proceeding and conduct of police officers during work or while not on duty.

In other words, according to Art. 96 of the Law on Police, any natural or legal person may file a complaint against police work if they believe that police officer has, in performance of police affairs, violated some of their rights or inflicted damage to them, not later than 30 days following that of application of powers or other action. On the basis of the filed complaint and once the proceedings of checks of allegations have been completed, the police is obliged to respond in writing to the complainant, within 60 days of receipt of the complaint.

Citizens and legal persons may file a complaint to the work of police officers in writing, orally for the record, by phone, fax or via e-mail.

After receiving complaints, it is recorded in the register of citizens' complaints, after which the head of the Division for Internal Control designates an officer from the Division to make checks on the basis of the complaint. During the verification procedure, all the necessary operational measures and actions laid down by the Law on Police and the Criminal Procedure Code are taken, so that the specific event would be resolved to the fullest extent possible and so as to determine as many facts possible which are necessary to take the correct decision, i.e. to assess the legality of proceeding of officers in the case in question.

After the conducted verification procedure, the acting officer submits a report on verifications made, with a detailed description of measures taken in the process of verification, ascertained circumstances, facts and evidence and assessment of the merits of the complaint.

If it was ascertained during the verification procedure that the police officer acted unlawfully, the report will include a proposal of disciplinary measures, initiation of misdemeanor or criminal proceedings (depending on the gravity of the ascertained irregularity of proceeding).

In the event that the verification procedure failed to provide evidence that would confirm the allegations from the complaint or if it is established beyond doubt that the complaint is unfounded, the report contains such a statement, a recommendation that the complainant be instructed, if not satisfied with the results of verifications and still considers that the proceeding of the police officer constitutes infringement of his/her rights or infliction of damage, on the protection that may be requested in proceedings before the competent court.

The head of the Division submits to the Director of Police Directorate a report on the verifications made on the basis of the complaint, including his/her opinion, assessment on the merits of the complaint and the possible proposal for taking measures for establishing the responsibility of officers.

The Director of Police Directorate, if s/he agrees with the proposed measures, gives an order to the competent head of organizational unit for proceeding in line with the measures proposed by the Division for Internal Control, and sends a written response to the complainant.

The complainant is submitted a written response on the merits of the complaint within 60 days of filing the complaint. If the complainant is not satisfied with the response, s/he may contact the minister, within 15 days of receiving the response.

In the previous period, the Division for Internal Control has taken a number of activities within its competence. Out of them, in the period from 2006 to July of 2009 the most important ones that can be singled out are:

• 2006

During 2006, the Division for Internal Control was submitted 85 citizen and legal persons` complaints for check of allegations against the proceeding of Police Directorate officers.

After the verification procedure is conducted by officers of this Division, it was concluded that 20 complaints were founded, while 65 complaints were established to be unfounded; in other words, during the verification procedure, facts and evidence which would indicate the existence of a disciplinary or other responsibility of the officer were not established.

In cases where this Division established merits of the complaints, the following measures were proposed:

- that the immediate superiors of organizational units of the police submit to the disciplinary prosecutor of the Police Directorate proposals for the initiation of disciplinary proceedings against 19 Police Directorate officers, on the basis of a well-founded suspicion that they have committed major disciplinary offences. In addition, in 2 of these cases it was suggested that, in addition to submitting the proposal for initiation of disciplinary proceedings, the case file of the checks performed about complaints be submitted to the competent Public Prosecutor, so that the Public Prosecutor can assess whether there are elements of criminal liability of police officers in those cases;
- in 3 cases that the case files of checks performed about complaints be submitted to competent Public Prosecutors, so that the Public Prosecutor could assess whether there are elements of criminal liability of police officers in those cases;
- for 4 employees, that their immediate superiors issue decisions on imposing fines, because of committed minor disciplinary offences.

• 2007

During 2007, the Division for Internal Control was submitted for verifications of allegations 142 complaints of citizens and legal persons against the proceeding of the Police Directorate officers.

After the verification procedure has been conducted by officers of this Division, it was assessed that 27 complaints were founded, whereas 115 complaints were established to be unfounded, i.e. the verification procedure did not result in establishing facts and evidence which would indicate the existence of a disciplinary or other responsibility of the officer.

In cases where this Division established merits of the complaints, the following measures were proposed:

- that the immediate superiors of organizational units of the police submit to the disciplinary prosecutor of the Police Directorate proposals for the initiation of disciplinary proceedings against 26 Police Directorate officers, on the basis of well-founded suspicion that they have committed major disciplinary offences. In addition, in 4 of these cases it was proposed that, in addition to submitting the proposal to initiate disciplinary proceedings, the case files including checks made on the basis of the complaint be submitted to the competent Public Prosecutor so that the Public Prosecutor could asess whether there are elements of criminal liability of police officers in those cases;
- that the case files including checks made on the basis of the complaint be submitted to the competent Public Prosecutors in 3 cases, so that the Public Prosecutor could assess whether there are elements of criminal liability of police officers in those cases;
- submission of the case files to the Ethics Committee in 1 case, in order to ascertain the ethics of proceeding of a police officer;
- for 5 employees, that the immediate superiors issue decisions on imposing fines, because of committed minor disciplinary offences;

In addition to the afore-mentioned, in 1 case of the complaint which was assessed as unfounded, the submission of case files was proposed to the competent Public Prosecutor for evaluation and decision on the possible existence of elements of a criminal offence in the actions and proceeding of a police officer.

In other words, this complaint was assessed as unfounded because the checks performed did not result in establishing facts and evidence that would indisputably indicate to the existence of elements of disciplinary or other responsibility of the police officer. However, considering that the said complaint contained serious allegations, due to which they may be treated as a criminal charge, it was proposed to submit the files to the competent Public Prosecutor for the final decision.

Apart from the afore-mentioned, the immediate superior of the organizational unit of the Police Directorate was ordered to review the assessment of the justifiability of use of coercive means in 1 case. The reason was that the Division for Internal Control, acting upon a citizen complaint related to this case, established that coercive means were used unlawfully, i.e. authorizations were overstepped (with a proposal to take measures in order to establish the disciplinary responsibility of the officer in this case).

During 2007, acting upon the order of the Director of Police Directorate, the Division for Internal Control reviewed the legality of performing police duties in fields under the competence of internal control, in all regional units and appurtenant local units. Special reports were drawn up on the performed control, containing proposed measures for the removal of ascertained irregularities, which were delivered to the Police Directorate Director and the Division for Planning, Development and Analytics.

- Repeated control was conducted within this activity during the same year in regional units of Bijelo Polje, Berane, Pljevlja and Bar (with appurtenant local units), in order to control proceeding on the basis of proposed measures for the removal of irregularities ascertained during the previous control of legality of performing police duties. Special reports were drawn up on the measures taken and control results and they were submitted to the Director of Police Directorate and the Division for Planning, Development and Analytics.

• 2008

During 2008, the Division for Internal Control was submitted for checks of allegations 202 complaints of citizens and legal persons to the proceeding of the Police Directorate officers.

After the verification procedure conducted by officers of this Division, it was assessed that 47 complaints were founded, while 155 complaints were established to be unfounded, i.e. the checks performed did not result in establishing facts and evidence which would indicate the existence of a disciplinary or other responsibility of officers.

In cases where this Division established merits of the complaints, the following measures were proposed:

- that the immediate superiors of organizational units of the police submit to the disciplinary prosecutor of the Police Directorate proposals for initiation of disciplinary proceedings against 47 Police Directorate officers, due to well-founded suspicion that they committed major disciplinary offences. In addition, in 14 of these cases it was proposed that, in addition to submitting proposals to initiate disciplinary proceedings, the case files including checks performed on the basis of complaint be submitted to the competent Public Prosecutor, so that the Public Prosecutor can assess whether the specific case has elements of criminal liability of police officers;
- submission of the case file to the Ethics Committee in 3 cases;
- for 10 officers, that immediate superiors issue decisions on imposing fines, due to committed minor disciplinary offences;
- imposition of measure of admonition to a police officer in 2 cases and

- imposition of measure of warning to a police officer in 2 cases.

It is significant to note that, in addition to the afore-mentioned, in 15 cases of complaints that were evaluated as unfounded, the submission of case files to competent Public Prosecutors was proposed for evaluation and decision on the possible existence of elements of a criminal offence in the actions and proceeding of police officers.

Namely, these complaints were assessed as unfounded because the checks performed did not result in establishing facts and evidence that would indisputably indicate to the existence of elements of disciplinary or other responsibility of police officers. However, considering that the said complaints contained serious allegations due to which they may be treated as criminal charges, the submission of files to the competent Public Prosecutors for the final decision was proposed.

Apart from the afore-mentioned, the immediate superiors of organizational units of the Police Directorate were ordered to review the assessment of justifiability of use of coercive means in 6 cases. The reason was that the Division for Internal Control, acting upon citizen complaints related to these cases, established that coercive means were unlawfully used, i.e. or authorizations were overstepped (with a proposal to take measures in order to establish the disciplinary responsibility of officers in the cases in question).

Continuing activities from the previous year, during 2008 repeated control was performed in the regional unit Niksic (including local unit Šavnik), regional unit Budva and regional unit Herceg Novi (with local units Kotor and Tivat), in order to control the proceeding on the basis of measures ordered for elimination of irregularities established during the previous control of legality of performing police duties done during 2007. Special reports were drawn up on the measures taken and the results of controls that were submitted to the Director of Police Directorate and the Division for Planning, Development and Analytics.

The period January - July of 2009

In the period January - July 2009, the Division for Internal Control was submitted 95 citizens and legal persons' complaints for the control of allegations regarding the proceedings of Police Directorate officers.

After the verification procedure conducted by officers of this Division, it was assessed that 20 complaints were founded, while 75 complaints were established to be unfounded, i.e. the checks performed did not result in establishing facts and evidence which would indicate the existence of a disciplinary or other responsibility of officers.

In cases where this Division established merits of the complaints, the following measures were proposed:

- that the immediate superiors of organizational units of the police submit to the disciplinary prosecutor of the Police Directorate proposals for initiation of disciplinary proceedings against 11 Police Directorate officers, due to well-founded suspicion that they committed major disciplinary offences. In addition, in 1 of these cases it was proposed that, in addition to submitting a proposal to initiate disciplinary proceedings, the case files including checks performed on the basis of complaint be submitted to the competent Public Prosecutor, so that the Public Prosecutor can assess whether the specific case has elements of criminal liability of police officers and to the Ethics Committee, in view of establishing the ethics of police officer's proceeding;
- submission of files to the competent Public Prosecutor in 1 case, to assess whether in this case, the actions and proceeding of police officer have elements of criminal liability of that police officer;
- in 1 case, submission of files to the competent Public Prosecutor, to assess whether the specific case has elements of criminal liability of police officers and to the Ethics Committee to determine the ethics of proceeding of the police officer;
- submission of the case file to the Ethics Committee in 2 cases and

- imposition of a measure of admonition to a police officer in 2 cases.

Apart from the afore-mentioned, in the period from 2006 until the month of July of 2009, the Police Directorate filed to the competent Public Prosecutors criminal charges against 187 of its employees, due to well-founded suspicion that they have committed a total of 265 criminal offences for which prosecution is taken ex officio (2006 - 68 employees for 80 criminal offences; 2007 - 53 employees for 85 criminal offences; 2008 - 39 employees for 52 criminal offences, the period January - July 2009 - 27 employees for 48 criminal offences). The Division for Internal Control participated in this segment by providing its operational data which served as the basis for collecting facts and evidence, thus leading to a number of criminal charges, especially for criminal offences against official duty.

In the period from 2006 until July 2009, the Disciplinary Commission of the Police Directorate has conducted procedures of establishing disciplinary responsibility for major disciplinary offences against 764 employees of the Police Directorate.

After the conducted disciplinary procedure, responsibility of 605 employees was established.

In other cases, the proceedings before the Disciplinary Commission did not result in establishing the existence of disciplinary responsibility of police officers (145 officers relieved of liability, discontinued disciplinary proceedings against 13 officers and termination of proceedings against 1 officer).

The structure of imposed final disciplinary measures, per years, was given in the following overview:

Imposed disciplinary measures - 2006 - July 2009					
Disciplinary measure	**2006**	**2007**	**2008**	**I – VII 2009**	**Total**
Termination of employment	**19**	**16**	**5**	**4**	**44**
Fine 30% x 1 month	**102**	**61**	**35**	**11**	**209**
Fine 25% x 1 month	**40**	**23**	**12**	**11**	**86**
Fine 20% x 1 month	**28**	**74**	**93**	**71**	**266**
Relieved of liability	**47**	**33**	**46**	**19**	**145**
Discontinuation of proceedings	**3**	**3**	**4**	**3**	**13**
Termination of proceedings	**1**	**-**	**-**	**-**	**1**
T O T A L:	**240**	**210**	**195**	**119**	**764**

List of Annexes: