

**Government of Montenegro**

**Ministry of Transport, Maritime Affairs and Telecommunications**

## **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

### **14 Transport policy**

**Minister: Andrija Lompar**

**Podgorica, December 2009**



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

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## **Chapter 14: Transport policy**

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## ***I. BASIC TRENDS AND STATISTICS OF THE TRANSPORT SECTOR***

**Basic data and statistics should be provided by completing the attached charts in Annex 1.**

## **II. MARKET STRUCTURE AND BASIC TRENDS FOR EACH MODE OF TRANSPORT**

### **A. Road Transport**

#### **Conditions of access to market and profession**

#### **1. What are the rules governing access to the profession for operators engaged in national and/or international transport of passengers and goods? How and by whom is this legislation enforced?**

The Law on Road Transport (Official Gazette of Montenegro 45/05) regulates the conditions for access to the profession of transport of passengers and goods in the national and international road transport. The national legal and natural persons registered for performing public transport of passengers and goods by road and having the licence for public transport of passengers and goods can perform public transport of passengers and goods in the national and international road transport.

The licence for performing public transport of passengers and goods in the national and international road transport is issued by the Transport Directorate, and the authority of local self-government issues the licence for transport of passengers and goods in the national road transport for the following:

- regular urban and suburban transport;
- auto-taxi transport;
- transport of goods if the operator is the natural person.

Procedure for issuing licences for public transport of passengers and goods is regulated by the Rulebook on contents of documentation submitted along with the request for obtaining licence for public transport of passengers or goods in the road transport and of licence for providing services of bus or freight stations (Official Gazette of Montenegro 15/2006).

Also, form and contents of the licence for public transport of passengers and goods is regulated by the Rulebook on form and contents of the licence, licence certificate and according to the way of licence evidence and licence certificate for performance of public transport services by road and providing the services of bus and freight stations (Official Gazette of Montenegro 15/2006).

These rules are enforced by the Ministry of Transport, Maritime Affairs and Telecommunications, and the Transport Directorate, as well as the local self-government authority competent for transport affairs on the municipality territory.

#### **2. What are the rules governing market access for national and international road goods transport for resident operators? How and by whom is this legislation enforced?**

The rules governing market access for national and international road goods transport for resident operators are as follows:

- Law on Road Transport (Official Gazette of Montenegro 45/05)
- Decree on more detailed criteria, procedure, manner of distribution and use of foreign permits to the resident operators for international transport of goods (Official Gazette of Montenegro 81/2008);
- Bilateral agreements between Montenegro and other states on international road transport of passengers and goods.



The resident operator must have the licence for public transport of goods to perform transport of goods in the national road transport.

The resident operator performs transport of goods between Montenegro and other states based on the multilateral permits (ECMT) and on exchanged permits unless transport operations between Montenegro and other states are exempted from permits regime based on the bilateral agreements.

The Transport Directorate issues the foreign permits to the resident operators for performing transport of goods in the international road transport that are set on the reciprocity basis and exchanged on a yearly basis.

Procedure and manner of distribution of foreign permits are regulated by the Decree on more detailed criteria, procedure, manner of distribution and use of foreign permits to the resident operators for international transport of goods.

These rules are enforced by the Ministry of Transport, Maritime Affairs and Telecommunications, and the Transport Directorate.

### **3. What are the rules governing market access for national and international road passenger transport for resident operators? Are authorisations required for:**

The rules governing market access for national and international road passenger transport for resident operators are as follows:

- Law on Road Transport (Official Gazette of Montenegro 45/05);
- Rules on manner, procedure and criteria for harmonization of timetables in intercity transport and in the international road transport (Official Gazette of Montenegro 42/2007);
- Bilateral agreements between Montenegro and other states on international road transport of passengers and goods;
- Agreement on the International Occasional Carriage of Passengers by Coach and Bus - INTERBUS Agreement, entered into force in Montenegro on 1 January 2009 (Official Gazette of Montenegro - International agreements 4/08).

#### **a) regular services;**

For performing regular passenger services:

- In the national road transport the authorisation is not required; transport operation is performed on the basis of timetable certified and registered by the authority competent for transport affairs – the Transport Directorate;
- In the international road transport, the authorisation is required.

#### **b) special regular services;**

For performing special regular passenger services:

- In the national and international road transport the authorisation is not required, but it is necessary to have the approval issued by the authority competent for transport affairs – the Transport Directorate.

#### **c) shuttle services (if any);**

For performing shuttle passenger services:

- In the national road transport the resident operator is not required to have the authorisation;
- In the international road transport, the resident operator must have the appropriate foreign authorisation for shuttle service.

**d) occasional services?**

For performing occasional services:

- In the national road transport the resident operator is not required to have the authorisation;
- In the international road transport, the resident operator does not have to have the authorisation if it is provided for by INTERBUS Agreement, or by bilateral agreement.

**4. How do companies obtain this authorisation? What is the normal validity period of these authorisations? Do companies benefit from exclusive rights? How and by whom is this legislation enforced?**

The operators obtain the authorisations based on the submitted request and in accordance with the Law on Road Transport and the Rules on manner, procedure and criteria for harmonization of timetables in intercity transport and in the international road transport.

The authorisations for passenger service to the resident operators are issued by:

- the Transport Directorate for international regular service;
- for international shuttle service, the authority of the state into which the service is performed, or the Transport Directorate if exchange of authorisations is provided for in the bilateral agreement;
- for international occasional service, the authority of the state into which the service is performed, or the Transport Directorate if exchange of authorisations is provided for in the bilateral agreement.

The authorisation for regular passenger service is issued for period of five (5) years. There is possibility of issuing the authorisation valid for one (1) year to the foreign operator.

The authorisations for shuttle and occasional service are issued for a specified number of drives.

No exclusive rights are given to the operators.

These rules are enforced by the Ministry of Transport, Maritime Affairs and Telecommunications, the Transport Directorate and the Chamber of Commerce of Montenegro (Operators' association).

**5. What are the rules regarding competition? How and by whom is this legislation enforced?**

The Law on Amendments to the Law on Protection of Competition (Official Gazette of Montenegro 37/2007) regulates rules of behaviour and contents of measures for protection of competition. This Law shall be implemented to practices and acts conducted in the territory of Montenegro, i.e. to practices and acts conducted out of territory of Montenegro, in cases when such practices and acts distort competition on the territory of Montenegro. This Law shall also apply to all persons that conduct economic activity and are engaged in trade of goods and services, and which by their acts violate or may violate competition. Monopolistic behaviour is prohibited, as well as entering into agreement aimed at or resulting in or whose final effect is to limit the freedom of market earning. These rules are enforced by the Ministry of Economy.

**6. In case of public service contracts and general rules (as defined by Regulation (EC) No. 1370/2007 on public passenger transport service by rail and road), what are the rules governing the public service to be fulfilled by the operator and the areas concerned, the duration of the contract, the award of public service contract (including rules on awards to internal operators and direct awards), the publication requirements, the review/appeal procedures?**

The concept of obligatory public services in the road transport is not applied at the state level. At the local level, i.e. at the level of municipalities, the municipalities themselves regulate these issues. Namely, the municipalities adopt the Rulebooks governing public transport of passengers in the urban and suburban regular transport service pursuant to Article 38 paragraph 5 and Article 45 paragraph 2 of the Law on Road Transport (Official Gazette of Montenegro 45/05), and Article 51 paragraph 3 of the Law on Local Self-government (Official Gazette of Montenegro 42/03, 28/04, 75/05, 13/06). In accordance with these Rulebooks the municipalities may take decision to subsidize transport on certain lines for which there is no commercial interest, and the municipality authorities estimate that transport on such lines is of public interest, and these secondary legislation defines manner of award of contracts, conditions to be fulfilled by the operator, duration of contract, appeal procedure, etc.

At the state level, there are subsidies for transport of students. This area is governed by the Rulebook on criteria, manner, conditions, and compensation for exercise of rights to accommodation and food in the student dormitory, student credit, scholarships and transport participation (Official Gazette of Montenegro 12/07,16/07), and pursuant to Article 103 paragraph 2 of the Law on University Studies (Official Gazette of Montenegro 60/03).

At the state level, there are also subsidies for transport of pupils of elementary and high schools. This area is governed by the Rulebook on criteria and manner of receiving the pupils in the pupils' dormitories and exercise of right to transport participation (Official Gazette of Montenegro 56/03) and pursuant to Article 130 and 131 paragraph 3 and Article 136 of the General Law on Education (Official Gazette of Montenegro 64/02).

## **Social and technical rules and standards**

**7. What are the rules applicable to drivers' hours in domestic and international transport (driving and rest times, daily and weekly driving limits, daily and weekly rest periods, weekly working time etc.)? How and by whom is this legislation enforced?**

Drivers' hours in domestic road transport are regulated in accordance with the Law on Road Traffic Safety (Official Gazette of Montenegro 72/2005).

The regulations refer to the driver that operates a bus, cargo motor vehicle or combination of vehicles whose maximum authorised mass exceeds 5 000 kilograms. The driver that operates a bus, cargo motor vehicle or combination of vehicles whose maximum authorised mass exceeds 5 000 kilograms, for more than 5 hours continuously, must stop driving and take a rest at least half an hour. Driving time per day cannot be longer than 8 hours i.e. 500 passed kilometres within the period of 24 hours. Driver must have an uninterrupted rest period of at least 11 hours per day.

It is planned until the end of 2009 to adopt the Law on Working Time, Obligatory Rest Times of Mobile Workers and Devices for Recording in Road Transport according to which the rules fully harmonized with Directive 561/2006/EC and Directive 2002/15/EC shall be applied to the transport operation in the national road transport.

The provisions of the European Agreement Concerning Work of Crews of Vehicles engaged in International Road Transport (AETR), which Montenegro acceded to on 23 October 2006, by succession, are applied on performing transport operations in the international road transport.

The competent authority of the Ministry of Interior Affairs and Public Administration as well as the Police Directorate enforce the Law and they control drivers' working hours in the national and international road transport.

**8. What are the modalities concerning the attribution of driving licences? What is the minimum age for drivers? What are the driving licence categories? Please provide information on the driving licence model and on the theoretical and practical driving exams (Directives 91/439/EC and 2006/126/EC on driving licences). Which institution is in charge of the organisation and supervision of driving exams? Is possession of the appropriate national driving licence sufficient for entry into the profession of commercial vehicle driver? If no, is complementary initial training, sanctioned by a certificate of professional proficiency (CCP) or an equivalent document required? Is periodic training required for working as a professional driver? How and by whom is this legislation enforced? Which authority issues permits for the establishment of driving schools and according to what procedure are they issued (Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the**

The Law on Road Traffic Safety (Official Gazette of Montenegro 72/05 and 27/06), the Rulebook on a driving licence form, certificate of traffic regulations knowledge, request for their issuing and records file card on penalty points (Official Gazette of Montenegro 28/08), and the Rulebook on manner of issuing a driving licence and certificate of traffic regulations knowledge (Official Gazette of Montenegro 39/08) regulate this area.

Driving licence shall be issued for the following categories: "A" - motorcycles, "B" - motor vehicles whose maximum authorised mass do not exceed 3 500 kg and that have up to eight seats, "C" - for transport of goods whose maximum authorised mass does not exceed 3 500 kg, "D" - more than eight seats, and "E" - combination of vehicles whose tow vehicles belong to categories "B", "C" or "D" and trailers whose mass exceeds 750 kg. Driving licence is issued to a person who is: psychophysically able, 18 years old, passed driver's exam, has no driving prohibition. Right to drive a bus has a person of 21 years of age and a right to drive motorcycle with motor which volume not exceeds 125 cm<sup>3</sup> has a person 16 years old. The right to drive motor vehicle of category "D" can acquire a person who has right to drive vehicle of category "C", if he has been driving motor vehicle of category "B" for at least two years, and for at least one year of category "C" (vehicles for transport of good whose maximum authorised mass does not exceed 3 500 kg). Driving licence is issued for validity period up to drivers' turned 40 years old; and to drivers who turned 40 years old it is issued or prolonged for the period of 10 years up to turned 70 years old, and to drivers older than 70 years the driving licence is issued for the period of two years. Validity period is fixed due to check of driver health condition, and can be limited on shorter period based on medical certification. Also, driving licence for driving a vehicle of category "D" (motor vehicles for transport of persons which beside driver seat have more than eight seats) is issued for validity period of 10 years. We note that the Ministry of Interior Affairs and Public Administration, as of 5 May 2008 has started issuing the driving licences in the form of identification card made in accordance with the standard ISO/IEC 18013-1 and it contains protection elements that ensure the security of document.

Candidate training for drivers of motor vehicles, i.e. vehicles on motor engine can be performed by institutions fulfilling established requirements for educational work performance and particular conditions established by the Law, based on the previous approval issued by the Ministry of Education and Science.

We note that the Ministry of Education and Science prepares the appropriate regulations on particular conditions, way of establishment and work organization of the institutions for educational work performance. Drivers candidate training is conducted by driver instructors, and it includes theoretic (traffic rules, bases of devices functioning on vehicle for stop, driving, lighting signs, pneumatics, safety belts, influence of alcohol, drugs, psycho-active substances and medicaments, influence of being tired, ill or other unfavourable states, influence of natural factors, as well as road

and vehicle condition, and contents contributing human relations development, etc.) and practical part of examination (familiarizing the candidates with operating and technical characteristic of vehicles, technical driving of vehicles). A candidate who, inter alia, possesses certificate on psycho-physical ability can be trained to drive a vehicle.

For access to the profession of professional driver besides having the driving licence of appropriate category, the driver should meet the conditions laid down in Article 9 of the Law on Road Transport. In the forthcoming period, it is planned to implement the Directive 2003/59/EC through the Law Amending the Law on Road Transport.

**9. What are the national limits of maximum weights and dimensions for road vehicles (including maximum axle weights)? Is the road network accessible to vehicles in compliance with Directive 96/53/EC? If not, what would be the timeframe to make it accessible?**

Maximum authorised dimensions and masses of vehicles in road transport are prescribed for in the Rulebook on dimensions, total masses and axle load of vehicles and basic conditions for devices and equipment of road vehicles (Official Gazette of the Socialist Federal Republic of Yugoslavia 50/82, 11/83, 4/85, 65/85, 64/86, 22/90, 50/90 and 51/91).

In accordance with this Rulebook, maximum authorised dimensions of vehicles are as follows:

- length
  - 1) passenger car – 6 m;
  - 2) bus, cargo vehicle, special vehicle and engineering vehicle - 12 m;
  - 3) bus, special passenger car and special cargo motor vehicle, of articulated construction composition - 17 m, and bus for urban and suburban transport and trolleybus for urban transport, of articulated construction composition - 18m;
  - 4) trailer (with shaft):
    - a) with one axle - 6 m;
    - b) with two axles - 10 m;
    - c) with three and more axles - 12 m;
  - 5) combination of vehicles:
    - a) tractor units with semi-trailer – 16.5 m;
    - b) tow vehicle with one or two trailers, except vehicles for passenger transport in urban and suburban transport – 18 m;
    - c) bus with trailer for urban and suburban transport – 20 m;
    - d) passenger car with trailer – 15 m;
  - 6) animal-drawn vehicle including hitched animal - 10 m.
  - width of vehicle is 2.5 m;
  - height of vehicle is 4.00 m.

Maximum authorised mass of motor-powered vehicle or combination of vehicles is 40 t, provided that axle load of such vehicle, i.e. combination of vehicles - in the state of rest, on horizontal foundation cannot exceed the following:

- 1) one axle load – 10 t;
- 2) load of single or more axles whose mutual distance is less than 1 m - 10 t;
- 3) load of double axle whose mutual distance is from 1 to 2 m - 16 t, and any axle must not be loaded over 10 t;
- 4) load of triple axle whose mutual distance of adjacent axles is from 1 to 2 m - 24 t, and any axle must not be loaded over 10 t, and two adjacent axles more than 16 t.

It is planned to draw up the Rulebook on dimensions, total masses and axle load of vehicles and basic conditions for devices and equipment of road vehicles that shall prescribe dimensions, masses and axle load of vehicles in accordance with Directive 96/53/EC and Directive 2002/7/EC, and it is expected to be adopted and published in the Official Gazette of Montenegro in the first quarter of 2010.

**10. Is there national legislation concerning the installation of digital tachographs in trucks and busses (equivalent to Regulation 3821/85/EC as amended)? Does legislation concerning the installation of speed limiting devices on these vehicles exist (equivalent to Directive 92/6/EC)? How and by whom is this legislation enforced? What is the minimum number of controls carried out at the roadside and at the premises companies? What are the penalties?**

Digital tachographs are not yet in use in Montenegro, and it is planned to draw up the Law on Working Time, Obligatory Rest Times of Mobile Workers and Devices for Recording in Road Transport that besides mobile workers' working time shall also regulate the area of application of digital tachographs based on Regulation 3821/85/EC. Drawing up the Law is envisaged for the first quarter of 2010 so that Montenegro would be ready in accordance with the AETR Agreement to start with application of digital tachographs by the middle of 2010, i.e. with issuing cards for drivers, companies, competent control authorities and service workshops by May 2010.

The Law on Road Traffic Safety (Official Gazette of Montenegro 72/05 and 27/06) regulates, inter alia, the special safety measures (Article 283 to 301): examination of drivers by adequate instruments and devices or the specialist medical check. Namely, it is laid down in Article 285 that vehicle speed is determined by the device for measurement of vehicle movement speed (radar and the like) and tachographic recording, and that the photograph and video recording with data about the speed determined, tachographic recording and radar records are used as a proof of the determined vehicle speed. The manual radars are currently used, and then video radars and video system in the official moving vehicles for determination of vehicle speed. In order to improve and upgrade methods of work and efficiency the Police Directorate has planned to procure devices for measurement of vehicle movement speed based on digital tachographs, and officers' training that will ensure the consistent application of regulations of the Law on Road Traffic Safety.

A business organization, other legal person or entrepreneur shall be sanctioned for violation, inter alia, with the fine in the following amount:

- EUR 1 500.00 to 10 000.00, if he/she does not provide that the driver operating a bus, cargo motor vehicle covering more than 500 km over a 24 hours period will be replaced by another driver no later than after eight hours of operation of the vehicle, i.e. after 500 km of operation, and the person in charge with the fine from EUR 100 to 1 000.00 (Article 302 point 4).
- EUR 500 to 5 000.00, if he/she uses the vehicle that does not have regular tachograph, and the person in charge with the fine from EUR 100 to 400 (Article 303 point 28);
- EUR 300 to 3 000.00 if he/she gave order or allows usage of the vehicle that does not have regular devices, and the person in charge with the fine from EUR 50 to 300 (Article 304 point 32).

A fine in the amount of EUR 50 to 150, safety measure prohibiting him/her to operate the vehicle (30 days to 3 months) or penalty points shall be imposed on a driver who, inter alia:

- operates the vehicle or he/she gave to someone else to operate the vehicle that does not have a tachograph or the tachograph is not regular;
- does not adjust the moving speed to characteristics and road conditions;
- operates at speed 30 km/h more than the authorised speed in the settlement, or at speed 50 km/h more than the authorised speed out of the settlement;
- does not stop the vehicle when it is specially regulated with traffic light signals;
- performs forbidden overtaking or increases the speed of his/her vehicle while being overtaken by another vehicle;
- while overtaking he/she moves with the vehicle over the broken line or he/she starts overtaking or passing around the stopped line of vehicles or moving line of vehicles or if he/she starts overtaking or passing around if a driver moving behind him/her began overtaking;
- operates a vehicle if he/she is under the influence of alcohol;
- operates a vehicle whose traffic licence has expired or an unregistered vehicle.

It shall be sanctioned with the fine in the amount of EUR 100 to 300 the driver whose driving licence has been temporarily taken away or who has been excluded from the traffic, and who operates a vehicle while such prohibition is effective, i.e. during the period of time while he/she is excluded from the traffic.

The quoted law is enforced in this part by the Ministry of Interior Affairs and Public Administration and the Police Directorate.

The Police Directorate exercises everyday control of the drivers and legal persons.

**11. Is there national legislation on technical vehicle inspection and control (equivalent to Directive 96/96/EC)? How and by whom is this legislation enforced? What are the scope and frequency of these controls? Are technical inspections of vehicles also conducted at the roadside (equivalent to Directive 2000/30/EC)? If yes, how often on average per year?**

This area is regulated by Articles 244 to 260 of the Law on Road Traffic Safety (Official Gazette of Montenegro 72/05 and 27/06) starting to be applied on 10 March 2006, that inter alia, includes the chapter Vehicles (common provisions, technical inspection of motor vehicles and trailers and power-driven vehicles, inspection surveillance, records). Based on this Law the following Rulebooks were adopted: the Rulebook on form of certificate for registration of tractors, engineering machines, rotary tillers with trailers, bicycle with motor, as well as trailers for tractors (Official Gazette of Montenegro 28/08); the Rulebook on form of traffic license and of shape, design and contents of the sticker of executed regular technical inspection (Official Gazette of Montenegro 28/08), the Rulebook on level of costs of regular technical inspection (Official Gazette of Montenegro 28/08), the Rulebook on manner of registration of motor vehicles and trailers, i.e. of motor-powered vehicles and special police vehicles (Official Gazette of Montenegro 39/08), the Rulebook amending the Rulebook on registered areas, form, contents, size and manner of positioning of registration plates (Official Gazette of Montenegro 26/08).

Article 246 prescribes that control of technical roadworthiness shall take place through technical inspection, and that technical inspection shall be used to determine the following: whether the motor vehicle has the prescribed and roadworthy devices, including the shell and chassis, and especially for operation devices, breaking devices, devices for connecting the towing vehicle and the trailer, pneumatics, devices for light signalling, road and vehicle lighting and release of combustion gasses, and whether those devices are roadworthy, as well as whether they fulfil environmental requirements regarding permissible contents of poisonous elements in the exhaust gases and noise levels as prescribed by standards. It is also regulated that technical inspection shall be regular, preventive and extraordinary. Also, Articles 247, 248, 249 and 253 of the quoted Law prescribe that technical inspection of vehicles shall be performed by a business organization or entrepreneur that fulfils the technical requirements and requirements regarding facilities, space, devices and equipment, as well as regarding the professional staff (the person who completed vocational secondary school: educational profile - machine engineering technician or transport technician, auto-mechanic, and specialist in power-driven vehicle electricity), who has undergone professional training for the performance of such activities. Pursuant to Article 251 of the above mentioned Law it is regulated, inter alia, that regular technical inspections of vehicles shall take place once a year, and in case of vehicles used for public transport of passengers or transport of hazardous substances and vehicles used for training of candidates for drivers – every six months and of the newly produced vehicle - after the first year from the date of joining road traffic.

Articles 254 and 255, inter alia, prescribe that a business organization or entrepreneur shall be obliged to keep records, to acquire integral information system, to perform integral data processing, to keep structures, devices and equipment in good working order (they shall be subject to mandatory inspection at least twice a year).

We note that the quoted Law includes the chapter Testing of vehicles (Article 260 to 266) that prescribes that vehicles for transport of hazardous substances, and vehicles being repaired or significantly remodelled and which have built-in devices and equipment for liquefied petroleum gas

propulsion are subject to testing before entering the traffic. Safety technical characteristics, and particularly load capacity, must not differ from vehicle characteristics, unless foreseen by the manufacturer. Also, mandatory keeping records on testing of vehicles are provided for in Article 265.

The Law and the Rulebooks are partially harmonized with Directive 96/96/EC, but harmonization in the part of close cooperation between State Members aimed at the exchange of information in this area has not been performed. However, these controls are mostly performed through INTERPOL National Central Bureau Podgorica or the Ministry of Interior. Refinement of exhaust gases such as catalyst of triple performance is not foreseen at petrol engines. Also, regular technical inspections of vehicles shall take place once a year, and in case of vehicles used for public transport of passengers or transport of hazardous substances and vehicles used for training of driver candidates – every six months, and it is not prescribed for hospital vehicles.

**12. Is there national legislation concerning road, rail or inland waterway transport of dangerous goods, transportable pressurised equipment and designation/professional qualification of safety advisers to these transports? How and by whom is this legislation enforced? What are the scope and frequency of these controls?**

The Law on Transport of Dangerous Substances (Official Gazette of Montenegro 05/08) was enacted. This Law regulates the conditions for transport of dangerous substances and actions concerning such transport (preparation of substances for transport, loading, unloading, and side operations) and supervision of implementation of this Law.

During transport of dangerous substances:

- in the road transport besides safety measures for transport of dangerous goods provided for in the above mentioned Law, the provisions of the European Agreement on International Transport of Dangerous Goods by Road – ADR are also applied;
- in the rail transport besides safety measures for transport of dangerous substances provided for in the above mentioned Law, the provisions of the Rulebook on International Transport of Dangerous Substances by Rail – RID are also applied, while the manner of transport of dangerous substances in rail transport shall be regulated in more details by secondary regulation adopted by the Ministry in charge of transport affairs;
- in the inland waterway transport besides safety measures for transport of dangerous substances provided for in the above mentioned Law, the provisions of the Rules of the European Provisions concerning International Carriage of Dangerous Goods by Inland Waterways – ADN are also applied, while the manner of transport of dangerous substances in the inland waterway transport shall be regulated in more details by secondary legislation adopted by the Ministry competent for transport affairs.

National legislation does not envisage the institute of "advisor for safety", but it is obligation of the operator, in accordance with the law, regulations adopted on the basis of the law and international agreements on transport of dangerous substances in each transport sector (ADR, RID, ADN), to organize and to control permanently the implementation of measures and whether conditions prescribed for transport of dangerous substances are met and actions concerning such transport are carried out. Also, the national law prescribes inspection control of implementation of Law and regulations adopted on the basis of that Law by the inspection for explosive substances, inflammable substances and liquids and gases.

The above mentioned inspectors being functionally organized in the internal organizational units of the Ministry of Interior Affairs and Public Administration - Department for emergency situations and civil security carry out the inspection control in all municipalities in Montenegro and they are authorised, besides the administrative measures and actions provided for in the Law regulating generally the inspection control (the Law on Inspection Control published in the Official Gazette of the Republic of Montenegro, 39/03) to take administration measures and actions provided for in the Law on Transport of Dangerous Substances, such as:



- to prohibit to the business organization, other legal person and entrepreneur - operator performing transport of dangerous substances or to prohibit temporarily performing of certain actions concerning transport if he/she found that during preparation for transport or during the transport safety measures were failed to be taken, as well as
- to prohibit further transport or handling dangerous substances to the persons who have not undergone professional training for the performance of such activities.

The above mentioned inspection control is performed by the Ministry competent for health and the Ministry competent for transport and maritime affairs depending on the class of dangerous substance that is transported and on the type of transport by which the transport of dangerous substances is performed.

Besides the above mentioned, the inspectors for protection and rescuing in accordance with authorisations provided for in the Law on Protection and Rescuing (Official Gazette of Montenegro, 13/07), and the inspectors for explosive substances, inflammable substances and liquids and gases, in accordance with the Law on explosive substances (Official Gazette of Montenegro, 49/08) take the precaution and protection safety measures and actions in order to provide safe transport of dangerous substances.

With the competent authority for police affairs, regular (daily) controls are carried out in the part of transport of dangerous substances in national transport, import, export and transit.

The project managing transport of dangerous substances, particularly directed to transport of explosive, poisonous and radioactive substances is under realization. All activities concerning transport of explosive substances (procurement, storage, usage and transport) are consolidated and in such manner database for this class of dangerous substances was made. The local units upon receipt of request for procurement and transport of explosive substances and performed necessary checks submit to the Department all necessary data on applicant including types and quantities of explosive substances and place of procurement and direction of transport. The data are inserted into the Sector computer, and the Local unit informs in written form so that it would issue the authorisation for procurement and transport. All data come to the same place so that it is possible at any time to get the correct information on transport of explosive substance at level of entire Montenegro through monthly, semi-annual and annual reports.

### **13. Is there national legislation on vehicle registration documents (equivalent to Directive 1997/37/EC)? What data do these documents contain?**

This area is regulated by the Law on Road Traffic Safety (Official Gazette of Montenegro 72/05 and 27/06) starting to be applied on 10 March 2006, and containing, inter alia, the chapter Vehicles (common provisions, vehicles, inspection surveillance, records). On the basis of this Law the following Rulebooks were adopted: the Rulebook on form of certificate for registration of tractors, engineering machines, rotary tillers with trailers, bicycle with motor, as well as trailers for tractors (Official Gazette of Montenegro 28/08); the Rulebook on form of traffic licence and of shape, design and contents of the sticker of executed regular technical inspection (Official Gazette of Montenegro 28/08), the Rulebook on manner of registration of motor vehicles and trailers, and of motor-powered vehicles and special police vehicles (Official Gazette of Montenegro 39/08), the Rulebook amending the Rulebook on registered areas, form, contents, size and manner of positioning of registration plates (Official Gazette of Montenegro 26/08). Article 266 of the quoted Law prescribes that vehicles taking part in the road traffic must be registered, except for light trailers; vehicles which have been redesigned or repaired and used for trial drive, as well as vehicles moving from the place where they were taken over as unregistered to the place where they will be registered (provided that they are marked with trial plates). Article 267, inter alia, foresees that only vehicles which are proved to be technically regular at the technical check can be registered and that for the registered vehicle traffic licence and registration plates shall be issued, and also, that vehicle owner is obliged to check out the vehicle within 15 days if the vehicle has been stolen, missing, destroyed or written off, or if the owner has changed its permanent residence, that is, seat, and to report within 15 days change of any data from the traffic licence.

Namely, content of the traffic licence is laid down in Article 268 of this Law, and the Rulebook on form of certificate for registration of tractors, engineering machines, rotary tillers with trailers, bicycle with motor, as well as trailers for tractors; the Rulebook on form of traffic licence and of shape, design and contents of the sticker of executed regular technical inspection (Official Gazette of Montenegro 28/08) prescribes forms of documents and shape, design and contents of traffic licence whose form was prepared in accordance with the standards ISO/IEC 7810, for dimensions and physical characteristics, ISO/IEC 10373, for testing physical characteristics.

Law and Rulebooks are partially harmonized with Directive 1999/37/EC, except in the part of close cooperation between State Members aimed at the exchange of information in this area. However, these controls and exchange of information are performed through INTERPOL National Central Bureau Podgorica or the Ministry of Interior.

**14. Is there national legislation on the setting up of a data bank on road accidents? Are the data collected in line with the content of the European road accidents database CARE (Council Decision 93/704/EC)?**

Article 313 of the Law on Road Traffic Safety regulates keeping and consolidation of the records on road accidents and their consequences. The Police Directorate keeps records on available data, but they are not consolidated (with the data available to the other authorities) nor kept in electronic form, and that is not in line with the content of the European database.

Articles 1, 2 and 3 of the Law on Central Population Register (Official Gazette of Montenegro 49/07), which entered into force on 18 August 2007, regulates the contents of the central population register of Montenegro. Setting up of the central register shall be aimed at collecting, keeping, maintaining, storing and using the data on persons for purposes of the State authorities and other users and they shall serve for performing the affairs laid down by the Law in the form of computer data bank of the following persons: the Montenegrin citizens with the residence in Montenegro or those who reside abroad; the foreigners with permanent or temporary residence in Montenegro or with residence not longer than 90 days and the foreigners who have real property in Montenegro and rights and obligations by virtue of retirement and disability insurance, tax, humanitarian and other reasons. Article 12 stipulates that the transfer of data shall be cryptographically protected. Article 34 prescribes that the State authorities that keep sources of data shall be obliged to provide the missing data within three years from the day of entry into force of the Law (by 18 August 2010).

In accordance with the above-stated, the Police Directorate, as well as the other State authorities, is obliged to keep the conjoint records on road accidents and their consequences in Montenegro, in the form of centralized computer data bank that shall be available to the State authorities and other users for performing the competent affaires. That will ensure keeping the data bank on road accidents in line with the content of the European road accidents database in order to provide the efficient exchange of information and experiences at the Community level.

**15. Is there a national scheme for the refurbishment of existing road tunnels as to upgrade their level of safety (equivalent to Directive 2004/54/EC)? Is there a plan for implementing a safety management of road infrastructure (equivalent to 2008/98/EC)?**

There is no national scheme for the refurbishment of existing road tunnels in the given form. However, the Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08) as well as the standards pursuant to Article 74 prescribe, inter alia, the conditions for this area that have to comply with the principles of the European legislation, and the Law on Roads (Official Gazette of the Republic of Montenegro 42/04) Article 20 prescribes that the road structures including tunnels shall be maintained and rehabilitated in a manner foreseen by the Plan for Regular Road Maintenance being adopted every year. We also note that maintenance

and rehabilitation of tunnels, as well as construction of new tunnels is envisaged by Middle-term Maintenance Plan being adopted by the Government of Montenegro as its document at its session held on 31 July 2008.

17 tunnels were rehabilitated on the main road M.2 Podgorica-Kolašin-Bijelo Polje. The tunnel design is made in accordance with the existing Rulebook on technical regulations and conditions for design and construction of tunnels on roads (Official Gazette of the Socialist Federal Republic of Yugoslavia 55/73) and in accordance with Directive (2004/54/EC), on minimum safety conditions for tunnels in the Trans-European network.

TEM standards (Trans European, North-South Motorways) are used for design and construction of motorways.

By the end of 2010 Montenegro plans (in accordance with Directive 2004/54/EC), within the amendments of the Law on Roads to prescribe safety requirements for tunnels, i.e. to transpose the requirements from the mentioned Directive (2004/54/EC) into the national legislation.

Plan for application of safe road infrastructure management (in accordance with 2008/98/EC) does not exist in such form, but preparation of the Strategy for improvement of safety in road transport 2008-2018 is in its final phase and its adoption is in charge of the Ministry of Interior and Public Administration in cooperation with the Ministry of Transport, Maritime Affairs and Telecommunication, the Ministry of Education and Science, the Transport Directorate and the Police Directorate and it includes the part referring to the road infrastructure management from the road safety standpoint.

In our country, from 30 March to 3 April 2009, the pilot project organized by SEETO was carried out concerning the possibility for implementation of Road Safety Audit (RSA) in the road design, as well as Road Safety Inspection (RSI) in the existing road inspection, so that Montenegro plans by the end of 2010 (in accordance with 2008/98/EC) within the Law on Roads to prescribe the mandatory application of (RSA) in the road design, and (RSI) in the existing road inspection.

In order to analyze the management capacities World Bank Office in Montenegro in 2008 funded preparation of project Road Safety Management Capacity Review.

#### **16. What is the administrative capacity to enforce legislation concerning social and technical regulations in the field of road transport?**

There are 748 employees in charge of the road traffic safety affairs in the Police Directorate, as follows: with completed vocational secondary school 687, college degree 30 and university degree 31. The police officers permanently educate and improve themselves, and periodic difficulties in implementation of the law are caused by the lack of modern equipment and technology and the necessary funds for their procurement cannot always be provided from the Budget.

#### **Road and other user charges**

#### **17. What road user charges system, including minimum annual vehicle taxes and minimum excise duty for fuel, has been implemented in your country? What are the fee levels and what are the modalities for collecting them? Do these fees also apply to third country operators? What is the total amount of road fees collected per year? How reliable is the collection system? What are the collected funds used for?**

The Law on Tax on Use of Passenger Motor Vehicles, Vessels, Airplanes and Aircraft and the Law on Tax Administration have been implemented in Montenegro introducing the liability for payment of tax and the administrative tax by the road transport users.

The Law on Tax on Use of Passenger Motor Vehicles, Vessels, Airplanes and Aircraft (Official Gazette of Montenegro 28/04 and 37/04) regulates payment of tax on use of passenger motor vehicles, vessels, airplanes and aircraft. Natural and legal persons owning registered passenger motor vehicles, vessels, airplanes and aircraft shall be subject to payment of this tax. Pursuant to the provisions of Article 4 of the quoted Law, tax on use of passenger motor vehicles shall be paid annually according to engine capacity, as follows for:

- 1) passenger vehicles:
  - a) to 1300 cm<sup>3</sup> EUR 15
  - b) over 1300 to 1600 cm<sup>3</sup> EUR 25
  - c) over 1600 to 2000 cm<sup>3</sup> EUR 50
  - d) over o 2000 to 2500 cm<sup>3</sup> EUR150
  - e) over 2500 to 3000 cm<sup>3</sup> EUR 350
  - f) over 3000 cm<sup>3</sup> EUR 500
- 2) motorcycles:
  - a) to 125 cm<sup>3</sup> EUR 10
  - b) over 125 to 500 cm<sup>3</sup> EUR 30
  - c) over 500 to 1100 cm<sup>3</sup> EUR 100
  - d) over 1100 cm<sup>3</sup> EUR 200

Tax on use of passenger motor vehicles shall be reduced by 5% for each full aging year of vehicle, but total reduction may not exceed 70% of the total prescribed amount of tax.

Tax on motor vehicles shall be paid at the event of registration of the motor vehicle.

The Excise Tax Law (Official Gazette of Montenegro 65/01, 12/02 (corrigendum), 76/05 and Official Gazette of Montenegro 76/08 and 50/09) regulates the level of excise tax for mineral oils, mineral oil derivatives and their substitutes, and it is paid at the following rates:

Type of mineral oil	Level of excise tax
Leaded petrol	EUR 464 per 1 000 litres
Unleaded petrol	EUR 459 per 1000 litres
Kerosene used:	EUR 156 per 1 000 litres
- as motor fuel,	EUR 89.7 per 1 000 litres
- for heating	
Gas oils used :	EUR 270 per 1 000 litres,
- as motor fuel,	EUR 370 per 1 000 litres,
- as motor fuel for industrial and commercial purposes,	
- for heating	EUR 117 per 1 000 litres
Heating oil	EUR 19.5 per 1 000 kilograms
Liquid oil gas used:	EUR 123.5 per 1 000 kilograms
- as motor fuel,	EUR 58.5 per 1 000 kilograms
- as motor fuel for industrial and commercial purposes,	
- for heating	EUR 26 per 1 000 kilograms

The fees laid down in Article 22 of the Law on Roads (Official Gazette of the Republic of Montenegro 42/04) are paid for the usage of the public roads:

- 1) annual fee at the event of registration of motor road vehicles, tractors and trailers;
- 2) special fee for motor road vehicles and their trailers for the purpose of ensuring safe traffic movement and providing informative services to the road users;
- 3) fee for extraordinary transport;

- 4) fee for using certain roads and objects (toll);  
 5) fee for foreign road vehicles in favour of roads.

Note: The fees from point 1) and point 5) are the same type of fees, paid on non-discriminatory basis, if the national users pay them when registering vehicles and the foreign users when entering the country at the border crossings pay them to the custom officers.

The amount of the subject fees is prescribed by the special regulations:

- 1) Decision on determination of amount of annual fee for road usage at the event of registration of motor road vehicles, tractors and trailers (Official Gazette of the Republic of Montenegro 60/05) prescribes the subject amounts according to engine capacity, vehicle load capacity, number of seats, engine power, freight quantity and number of passed kilometres, as follows:

<b>1. PASSENGER VEHICLES</b>	
Operating engine capacity:	
– up to 900 cm <sup>3</sup>	EUR 2.50
– 901 - 1 350 cm <sup>3</sup>	EUR 4.10
– 1 351 - 1 800 cm <sup>3</sup>	EUR 6.10
– 1 801 - 2 500 cm <sup>3</sup>	EUR 9.00
– 2 501 - 3 150 cm <sup>3</sup>	EUR 22.00
– over 3 150 cm <sup>3</sup>	EUR 30.00
– for passenger vehicles from 6 to 9 seats the previous amounts are being multiplied with	EUR 1.30
<b>2. MOTORCYCLES</b>	
Operating capacity	
– 125 cm <sup>3</sup>	EUR 1.50
– 125-250 cm <sup>3</sup>	EUR 1.50
– 251-500 cm <sup>3</sup>	EUR 1.50
– 501 - 1 000 cm <sup>3</sup>	EUR 2.10
– Over 1 000 cm <sup>3</sup>	EUR 2.10
<b>3. CARGO VEHICLES</b>	
Trucks, camionettes and pickup trucks of load capacity:	
– up to 10 kN (i.e. to 1.0 t)	EUR 3.40
– 11-20 kN (1.1-2.0 t)	EUR 6.80
– 21-30 kN (2.1-3.0 t)	EUR 9.30
– 31-40 kN (3.1-4.0 t)	EUR 12.60
– 41-50 kN (4.1-5.0 t)	EUR 16.80
– 51-60 kN (5.1-6.0 t)	EUR 21.80
– 61-70 kN (6.1-7.0 t)	EUR 23.30
– 71-80 kN (7.1-8.0 t)	EUR 30.60
– 81-90 kN (8.1-9.0 t)	EUR 35.00
– 91-100 kN (9.1-10.0 t)	EUR 38.80
– 101-110 kN (10.0-11.0 t)	EUR 46.50
– 111-120 kN (11.1-12.0 t)	EUR 50.50
– 121-130 kN (12.1-13.0 t)	EUR 56.00
– 131-140 kN (13.1-14.0 t)	EUR 63.20
– 141-150 kN (14.1-15.0 t)	EUR 68.00
– for each 10 kN (1.0 t) over 150 kN (15.0 t) it is added:	EUR 6.80
<b>4. BUSES AND VANS</b>	
– 9 to 30 seats,	EUR 11.60
– over 30 to 45 seats	EUR 13.60
– over 45 seats (per seat):	EUR 0.40
<b>5. ENGINEERING VEHICLES</b>	
– per a vehicle	EUR 1.30

<b>6. TRAILERS</b>	
A) Cargo trailers of load capacity:	
– to 10 kN (1.0 t)	EUR 2.50
– 11-20 kN (1.1-2.0 t)	EUR 3.40
– 21-30 kN (2.1-3.0 t)	EUR 4.90
– 31-40 kN (3.1-4.0 t)	EUR 5.80
– 41-50 kN (4.1-5.0 t)	EUR 9.70
– 51-60 kN (5.1-6.0 t)	EUR 14.10
– 61-70 kN (6.1-7.0 t)	EUR 20.40
– 71-80 kN (7.1-8.0 t)	EUR 21.90
– 81-90 kN (8.1-9.0 t)	EUR 23.30
– 91-100 kN (9.1-10.0 t)	EUR 27.20
– for each 10 kN (1.0 t) over 100 kN (10.0 t) it is added:	EUR 2.70
B) Bus trailers:	
– up to 9 seats	EUR 3.10
– over 9 to 30 seats	EUR 8.70
– over 30 to 45 seats	EUR 11.70
– over 45 seats (per seat)	EUR 0.40
C) Engineering trailers, per a trailer	EUR 5.80
<b>7. TOW VEHICLES</b>	
A) Tractors, of motor power:	
– to 20 kW (i.e. 27.2 KS)	EUR 1.40
– 21-47 kW (42.1-63.9 KS)	EUR 2.00
– over 47 kW (over 63.9 KS)	EUR 5.30
B) Tractor units, of motor power:	
– to 70 kW (95 KS)	EUR 13.60
– 71-80 kW (96.5-108.8 KS)	EUR 27.20
– 81-90 kW (110.1-122.4 KS)	EUR 29.10
– 91-100 kW (123.7-136.0 KS)	EUR 23.30
– 101-110 kW (137.3-149.6 KS)	EUR 34.00
– 111-120 kW (150.9-163.2 KS)	EUR 35.00
– 121-130 kW (164.5-176.8 KS)	EUR 37.40
– 131-140 kW (178.1-190.3 KS)	EUR 40.80
– 141-150 kW (191.7-203.0 KS)	EUR 42.70
– 151-160 kW (205.3-217.5 KS)	EUR 50.50
– 161-170 kW (218.9-231.1 KS)	EUR 54.40
– 171-180 kW (232.5-244.7 KS)	EUR 58.30
– 181-190 kW (246.1-258.3 KS)	EUR 62.20
– 191-200 kW (259.7-271.9 KS)	EUR 66.10
– 201-210 kW (273.3-285.5 KS)	EUR 69.90
– 211-220 kW (286.9-299.1 KS)	EUR 73.80
– 221-230 kW (300.5-312.7 KS)	EUR 77.80
– 231-240 kW (314.1-326.3 KS)	EUR 81.60
– 241-250 kW (327.6-339.9 KS)	EUR 89.90
– for each 1-10 kW (1.4-13.6 KS) it is added:	EUR 4.70
<b>8. SPECIAL VEHICLES</b>	
– per vehicle	11.70 €

2) Decision on determination of special fee for motor road vehicles and their trailers (Official Gazette of Montenegro 60/05) prescribes the amount of the subject fee for purpose of ensuring safe traffic movement and providing informative services to the road users, as follows:

- |                             |          |
|-----------------------------|----------|
| 1. motorcycles and tractors | EUR 1.30 |
| 2. passenger cars           | EUR 4.50 |

3. buses, cargo, other vehicles and trailers EUR 5.50
- 3) The fee for extraordinary transport is calculated for transport of heavy goods exceeding by law and vehicle registration prescribed masses, lengths, widths and heights of vehicles in accordance with the provisions of the Law on Roads. These fees are calculated in accordance with the 1990 Act of fees for extraordinary transport being applied on the basis of the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro, 36/06), point 3 in terms of application and taking over the regulations of Serbia and Montenegro that are complied with the juridical system of Montenegro. Drawing up the secondary legislation on amount of fees for extraordinary transport that will be complied with the EU regulation from this area is in progress.
- 4) Decision on amount of fee - toll for usage of Sozina tunnel and access roads (Official Gazette of Montenegro 48/08) defines the amount of the subject fee - toll and manner of payment and it regulates the system of discounts in its collection depending on type of vehicle, dimensions and load capacity, as follows:
- |   |           |
|---|-----------|
| 1. motorcycles, passenger vehicles and passenger vehicles with trailer with one axle                                  | EUR 2.50  |
| 2. passenger vehicles with camping trailer or trailer with two axles, combined vehicles with simple and double wheels | EUR 5.00  |
| 3. cargo vehicles with two axles  | EUR 8.00  |
| 4. cargo vehicles with two axles and trailer with one axle, cargo vehicles with three axles and buses                 | EUR 12.00 |
| 5. cargo vehicles with four or more axles   | EUR 18.00 |

Fee - toll is paid in cash or according to a system of monthly subscription cards or according to a system for passage of passenger vehicles without stopping of vehicles. Concerning the fees - tolls of this Decision the uniform discount of 10% with subscription of at least 50 passages may be used.

- 5) Decision on fee for foreign road vehicles in favour of roads (Official Gazette of the Republic of Montenegro 36/05) determines amount, manner of collection and calculation of the subject fee, as follows:
- |  |           |
|--|-----------|
| 1. cargo motor vehicle, cargo trailer and semi-trailer, per each gross-tonne kilometre   | EUR 0.006 |
| 2. for other vehicles (engineering vehicles, tractors, engineering machines, self-propelled or by their wheels) per each gross-tonne kilometre | EUR 0.008 |

The mentioned fee is collected by the competent authority of the customs service at the border crossing when the foreign vehicle enters the territory of the Republic, i.e. on the other place where customs supervision is carried out, and from which the foreign motor vehicle starts using the roads in the Republic.

The competent authority of the customs service calculates and controls the fee based on the necessary data for calculation of fee that were obtained upon an insight into the transport documents, i.e. by vehicle measurement.

The national and foreign road users pay all above mentioned fees in the equal amount without discrimination.

The national road users pay the fees specified under 1, 2, 3, 4 and 5, and the foreign road users the fees specified under 5 and 6, except the fee under 6 if they are exempted in accordance with the international agreements (Serbia, Croatia, Bosnia and Herzegovina, Macedonia, Russia, Albania and Kosovo).

Also, the attitude of the line policy of Ministry is to agree with other states through bilateral agreements the abolition of road fees on a reciprocity basis in order to eliminate business barriers and easier goods and cash flow in accordance with the Protocol on the inland transport.

System for toll collection is reliable.

The road fees that are the revenue of the Budget of Montenegro and the fees for construction and maintenance of local roads that are the revenue of the local self-government are specific purpose revenue and they are used for regular road maintenance and upgrading the road infrastructure.

The collection of such revenues for the period 2006-2008 along with the data on collection of excise tax for mineral oils and their substitutes and tax on use of motor vehicles as per data from the annual balance sheets of the Budget of Montenegro are given in the table below:

DESCRIPTION	2006 (EUR)	2007 (EUR)	2008 (EUR)
Fee for roads	5 372 953.17	6 458 859.35	7 089 990.17
Fee for construction and maintenance of local roads	3 161 456.88	4 842 365.18	6 135 762.91
Excise taxes for mineral oils and their substitutes	52 323 032.18	60 495 040.70	72 677 457.65
Tax on use of motor vehicles	3 051 237.21	3 679 950.23	5 626 274.96
<b>TOTAL</b>	<b>63 908 679.44</b>	<b>75 476 215.46</b>	<b>91 529 485.69</b>

**18. Are you applying other charges to heavy good vehicles [and other road vehicles]? If yes, describe their scope (national and/or foreign/ Community vehicles), amount, method of calculation and payment, authorities responsible for managing in the light of the Eurovignette Directive and the Land transport Protocol to the SAA**

Besides the above mentioned fees, the eco-fee is also collected and its amount and criteria for collection are regulated by the special regulations.

The national and foreign road users shall pay eco-fee in the equal amount without discrimination.

The Decree on the amount of fees, manner of calculation and payment of fees for pollution of the environment adopted at the session of the Government of Montenegro held on 24 April 2008, regulates the subject fee. The fee is paid by legal and natural persons when entering the territory of Montenegro as well as by the legal and natural persons at the event of registration of the motor vehicle and their trailers.

One of the key reasons for drawing up the regulations that shall define special fee of this Decree was the recommendations of WTTC (World Tourism and Travel Council), and of the United Nations Economic Commission for Europe. The recommendations were given in order to initiate the introduction of special fee whose income will be used to finance the environmental projects.

The payers are issued a vignette, as a certificate of payment of the eco-fee.

Funds gathered from charging the eco-fee are fully intended for ecological projects.

The amount of eco-fee has been determined in accordance with the motor vehicle classification defined in Article 5 of the Decree, and based on the UNECE classification of vehicles (Trans/WP29/78/Rev. 11/Amend.2), and based on the above-mentioned, the following classification has been introduced:

- 1) Road motor vehicles for passenger transport, with minimum four wheels (Category M):
  - Motor vehicles for passengers transport that have maximum eight seats in addition to driver's seat (Category M1) - **EUR 10;**
  - Motor vehicles for passengers transport that have maximum eight seats in addition to driver's seat and with maximum authorised mass not exceeding 5t (Category M2) - **EUR 30;**
  - Motor vehicles for passengers transport with more than eight seats in addition to driver's seat and with maximum authorised mass over 5t (Category M3) - **EUR 50;**
- 2) Road motor vehicles for cargo transport, with minimum four wheels (Category N)
  - Motor vehicles for cargo transport with maximum authorised mass not exceeding 3.5t (Category N1) - **EUR 80;**
  - Motor vehicles for cargo transport with maximum authorised mass over 3.5t, but not exceeding 12t (Category N2) – **EUR 100;**



- Motor vehicles for cargo transportation with maximum permitted mass over 12t (Category N3) – **EUR 150.**

Introduction of eco-fee has drawn attention of the relevant structures of the European Commission, and it was pointed out that it is necessary to amend the existing Decree. Therefore, a meeting with the representatives of the European Commission was held on 17 July 2009 in Brussels in order to identify the necessary amendments of the existing Decree introducing the eco-tax, so that it would be harmonized with the obligations arising from the Interim Agreement. It refers specifically to the consistent compliance with the principles of non-discrimination for the EU Member States operators. It was pointed out that the EU experience shows that when introducing new systems it is better that the starting point is as simple as possible and that is why the EC prefers the amendment of the existing Decree (including six categories of vehicles being harmonized with EU legislation). It was also noted that it is necessary the amount of fee to be proportional to the time of infrastructure usage.

Following the proposals and conclusions from the above mentioned meeting the version of the Decree was prepared introducing the obligation for payment of an annual eco-fee for the foreign legal and natural persons that use motor vehicles and their trailers with mass not exceeding 3,5 t (category M1, M2, M3, N1), and daily, weekly, monthly and annual eco-fee for usage of motor vehicles and their trailers with mass from 3.5 to 12 t (category N2) and with mass exceeding 12 t (category N3).

Amendments of the Decree keep the obligation of payment the annual eco-fee for national legal and natural persons who use the motor vehicles and their trailers for all categories of vehicles.

The amended Decree is envisaged to start applying on 1 February 2010 and that will give enough time for organizational and other necessary preparations for application of the new rules.

### **19. What is the procedure applied to the selection of contractors for road maintenance and development of road infrastructure?**

The procedure applied to the selection of contractors for road maintenance and development of road infrastructure is the procedure that is in accordance with the Law on Roads (Official Gazette of the Republic of Montenegro 42/04) and the Law on Public Procurement (Official Gazette of Montenegro 46/06) that prescribes the following:

- 1) open procedure;
- 2) restricted procedure;
- 3) negotiated procedure;
- 4) entering into framework agreement.

The procedure starts with public procurement plan and allocation of funds for public procurement. In most cases the open procedure as the main public procurement procedure is applied to the selection of contractors for road maintenance and development of road infrastructure. Public procurement procedure starts by making Decision on initiating the Invitation to tender, establishing the Commission for the opening and evaluation of tenders, and publishing the Invitation to tender on website of the Public Procurement Directorate (<http://www.gov.me/djn>) and in the public media. Tenders shall be opened at the public opening of tenders, after the expiry of the ultimate time limit for the submission of tenders and the opening is attended by all submitting entities. The Commission for the opening and evaluation of tenders keeps Minutes of the tender opening procedure in the form and with all data provided for in the Law. Inspection, evaluation and comparison of tenders shall be carried out by the Commission for the opening and evaluation of tenders at a closed session and it fulfils the prescribed forms. Public procurement procedure ends in passing the decision on the selection of the best tender, on the basis of a special report on public procurement procedure that the Commission for the opening and evaluation of tenders submits to the head of the body for making a decision on the selection of the most favourable tender. Decision is published on website of the Public Procurement Directorate, and at the same time all bidders are informed on Decision. Upon expiration of time limit for making a complaint the

Transport Directorate concludes a public contract with the bidder whose tender has been selected as the best one.

In addition to the criterion of the lowest price offered, the other conditions that the bidder must fulfil pursuant to Articles 46, 47, 48, 49 and 51 of the Public Procurement Law are the following: business and professional capacity, economic and financial standing and technical and professional and staffing abilities.

Public contract may, exceptionally, be awarded by negotiated procedure without prior publication of a contract notice when for reasons of extreme urgency brought about by natural disasters, accidents and damages and other events unforeseeable by the Transport Directorate, the minimum time limits established by the Public Procurement Law cannot be complied.

This is a specific summary procedure concerning the exceptional situations, and the cases when this type of procedure may be carried out are provided for by the Law. This procedure starts by consulting the Public Procurement Directorate by the request for issuing the prior approval. Procedure may be conducted only after receiving approval by the Public Procurement Directorate. Negotiated procedure without prior publication of a contract notice is a procedure in which the Contracting authority negotiates with one or more invited bidders on contract conditions and it is not necessary to publish previously the contract notice.

Procedure starts with submission of equal invitation for negotiations to the bidders.

## **International organisations and conventions**

### **20. On which date did your country sign or intends to sign:**

#### **a) the United Nations ADR agreement;**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06).

European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), of 30 September 1957 - on 23 October 2006 (Succession)

#### **b) the United Nations ATP agreement;**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06).

Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP), of 1 September 1970 - on 23 October 2006 (Succession)

#### **d) the United Nations - ECE legislation on motor vehicle type approval;**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of

Montenegro 36/06).

Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and /or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, of 20 March 1958. - 23. October 2006 (Succession).

**e) the United Nations AETR agreement;**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06).

European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR), of 1 July 1970 - on 3 October 2006. (Succession)

**f) accession to the Vienna Convention of the United Nations (1968)?**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06).

Convention on Road Traffic, of 8 November 1968 - on 23 October 2006 (Succession)

**g) the agreement on the international occasional carriage of passengers by coach and bus – INTERBUS?**

Montenegro signed the above mentioned agreement, and it is applied in accordance with the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06).

Agreement on the International Occasional Carriage of Passengers by Coach and Bus (INTERBUS Agreement) - Entry into force on 1 January 2009.

**21. Do you have national standards for the movement of ammunition and explosives in accordance with the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)?**

The Law on Transport of Dangerous Substances (Official Gazette of Montenegro 5/08), Article 65, regulates that besides the safety measures for transport of dangerous substances laid down by this Law, provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) shall also be applied on the transport of dangerous substances by road. The legal title for adoption and application of the European standards is provided through the stated provision. In accordance with that, in coordination of the Ministry of Interior, Ministry of Defence and Institute for Standardization of Montenegro the procedure of harmonizing the national standards for movement of ammunition and explosives with the ADR is under way. It is expected that the above mentioned standards will be adapted into the national standards in the last quarter of 2010.

ICS	Code JUS	Year	Title
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## 14 Transport policy

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13.300	JUS Z.M6.110	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 10: Special recommendations for packing substances of class 1 - additional requirements for packing
13.300	JUS Z.M.111	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 11: Special recommendations concerning class 5
13.300	JUS.Z.M6.112	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 12: Recommendations for carriage with tankers for all types of transport
13.300	JUS.Z.M6.113	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 13: Recommendations for procedures for shipment
13.300	JUS.Z.M6.114	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 14: Special recommendations concerning class 4
13.300	JUS.Z.M6.115	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 15: Special recommendations for dangerous goods in limited quantities
13.300	JUS.Z.M6.116	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 16: Recommendations for medium containers for carriage of goods in bulk
13.300	JUS.Z.M6.117	1997	Carriage of dangerous substances - Recommendations for carriage of dangerous goods - Chapter 17: Multimodal container tankers for liquid cooled gases

### B. Rail transport

#### Conditions of access to market and profession

**22. What are the rules governing market access (e.g. regarding railway licences, safety certificates, safety certification of rolling stock and of staff)? Have all railway operators been awarded a license and a safety certificate?**

The rules governing market access are the following:

- Law on Railways (Official Gazette of the Republic of Montenegro 21/04 and Official Gazette of Montenegro 54/09),
- Secondary legislation based on the Law on Railways as follows:
  - Rulebook on licensing for railway infrastructure management (Official Gazette of Montenegro 56/08);
  - Rulebook on licensing for railway transport (Official Gazette of Montenegro 56/08);
  - Rulebook on issuance of safety certificate for railway transport (Official Gazette of Montenegro 56/08);
  - Railway Safety Law (Official Gazette of Montenegro 4/08);
- Drawing up the secondary legislation based on the Railway Safety Law is under way and they shall regulate the following:
  - Categorization of railway line, classification and identifications;
  - Scope of notified authority;
  - Technical and other conditions for design, construction and reconstruction of the railway line and facilities, structures and equipment on the railway;
  - Conditions for construction and maintenance of communication system in the rail transport;
  - Manner of maintenance, control and periodical inspections of railway line and facilities, structures and equipment on railway;
  - Technical and other conditions that have to be fulfilled by rolling stock, devices and equipment being built in those vehicles;
  - Special conditions under which the railway vehicles not satisfying the prescribed conditions may operate on the railways in Montenegro;
  - Manner and conditions for execution of technical inspection of railway vehicle and conditions that must be satisfied by institutions and business organizations authorised to perform technical inspections;
  - Manner of maintenance, control and periodical inspections of railway vehicle and other important conditions for rail safety transport;
  - Main conditions and measures for safe rail transport;
  - Timetable, its shape, contents, procedure of publishing and posting;
  - Number of railway employees of appropriate professional qualification, training and health capacity by whom the train in traffic must be possessed, and equipped of train by signalling-safety and telecommunication devices;
  - Signals and signalling marks, type, meaning, shape, colour and minimum visibility distance of signalling signs and marks, as well as places where they would be built in, installation and manner of their usage;
  - Manner of railway line intersection with road, determination of places where intersection of railway line and road can be carried out, manner to secure road crossing, and necessary devices and measures that must be taken in order to ensure safe traffic on the road and pedestrian crossings;
  - Scope of the investigation body, shape and contents of identification card of the investigation body authorised person, manners and procedure of issuance, return, removal and keeping records on identification card, etc.
  - Secondary legislation and regulations adopted by the Community of the Yugoslav railways are in the current use.
- Network Statement 2009, act of Infrastructure Manager, defining information on network, transport, access conditions, and regime of fees for rail infrastructure use (published on the Railway Infrastructure (Željeznička infrastruktura) website -<http://www.zicg.me>).

The business organizations whose activity includes rail infrastructure, transport of passengers in rail transport and carriage of goods in rail transport, perform their business activity in accordance with the following:

1. Law on Railways;
2. Railway Safety Law;
3. status of organization;
4. ruling of the competent court on registration of the business organizations and their business activity;

5. a number of secondary regulations (rulebooks, instructions, orders and the like).

Certificates and licences on railway safety transport, in accordance with the Law on Railways, Rulebooks and the Decree on Government Administration Organization and Manner of Work (Official Gazette of Montenegro 59/09), issues the administration body - the Railways Directorate.

Procedure of issuing certificate and licence to the Railway Transport of Montenegro (Željeznički prevoz Crne Gore AD – Podgorica) that performs transport of passengers, Stock company Montecargo– Podgorica, that performs transport of goods, and the Railway Infrastructure of Montenegro (Željeznička infrastruktura Crne Gore AD – Podgorica). Licensing is also open for other business organizations, at the same procedure.

**23. Does the national railway company have management autonomy in relation to the State (government or parliament)? Is there accounting separation between operations and infrastructure? Is the national railway company financially sound (no accumulated debt burdens imposed by the State)? What is the procedure of adopting the network statement and does the infrastructure manager need approval of the state to adopt it, including setting the charges for using the infrastructure?**

Through implementation of the Strategy for Restructuring of the Railways of Montenegro (document submitted to the European Commission at the meeting of Subcommittee and Enhanced permanent dialogue for transport, environmental sector and regional policy, held on 5 June 2008 in Brussels) three railways companies with majority state ownership were established, and they are the following:

- Railway Infrastructure of Montenegro AD (Joint-stock Company) – Podgorica (Željeznička infrastruktura Crne Gore AD – Podgorica) (Infrastructure manager) with 72.35% of state ownership,
- Railway Transport of Montenegro AD (Joint-stock Company) – Podgorica (Željeznički prevoz Crne Gore AD – Podgorica) (operator for transport of passengers) with 85.45% of state ownership, and
- Stock company Montecargo – Podgorica (operator for transport of goods) with also 85.45% of state ownership.

Managing the above-mentioned companies, in accordance with the Law on Business Organizations (Official Gazette of Montenegro 17/2007 and 80/2008), is carried out by the following managing bodies: Shareholder' Assembly, Board of Directors and Executive Manager. Rights and obligations of the above mentioned bodies are regulated by the law and in accordance with them it could be said that the above mentioned bodies have autonomy in relation to the Government and the Parliament. The shareholders' assemblies select the Boards of directors in which majority of members, considering the majority state ownership have been selected in accordance with the Government proposal.

In accordance with the Strategy for Restructuring the Privatization Plan, the State shall keep the majority property in the company being the Infrastructure manager, and it shall fully privatize the companies being in charge of transport of passengers and goods.

By establishing the independent joint stock companies the Railway Infrastructure of Montenegro AD (Joint-stock Company) – Podgorica and the Railway Transport of Montenegro AD (Joint-stock Company) – Podgorica in July 2008, the accounts of the above mentioned railway companies were separated. In continuation of implementation of railway system reforms in June 2009 the Joint Stock Company Montecargo – Podgorica separated from the company Railway Transport of Montenegro AD (Joint-stock Company) – Podgorica. In such manner two independent joint stock companies were established and one of them is in charge of transport of passengers and the other of transport of goods.

The railway companies do not have debt burdens imposed by the State. In order to resolve the problems of high indebtedness of railway system, the Government of Montenegro assumed debts

and credit commitments of the railway companies incurred to 31 December 2008 inclusive in the total amount of approximately EUR 138.2 million (EUR 107.5 million of the Railway Infrastructure and EUR 30.7 million of the Railway Transport). Debts regarding payment of instalments with related interests from the credits intended for financing the reconstruction of infrastructure and investment maintenance of rolling stock as well as the other outstanding commitments, were assumed. In such manner, the financial consolidation of the system was carried out. Based on assumed debts of the railway companies the recapitalization i.e. their conversion into increase of the state share capital up to the above mentioned percents of state ownership was performed.

The Ministry of Transport, Maritime Affairs and Telecommunications within the reform of railway system and regulation of mutual relations between the railway companies, coordinated the work on preparation of the Network Statement 2009. Besides the Infrastructure Manager the representatives of the Transport Directorate and the operator also took part in preparation of the Network Statement. The Network statement was prepared in accordance with the provisions of the Law on Railways (Official Gazette of Montenegro 21/04) and Directives 2001/14EC and 2004/49/EC. Within making decisions on the above mentioned assuming debts and recapitalisation, the Government adopted the Information on the Network statement 2009 including the part concerning fees for use of railway infrastructure and it entrusted the management bodies of the Railway Infrastructure with publishing it in hardcopy and softcopy on its website, in Montenegrin and English (document available on website of the Railway Infrastructure of Montenegro AD (Joint-stock Company) – Podgorica).

The process of preparation and publication of the future Network Statements will be exclusive right and obligation of the Infrastructure manager as provided for in the Law on Railways (Official Gazette of Montenegro 21/04) not being necessary to inform the Government about it. Part of the Network statement relating to the amount of fee for use of railway infrastructure in accordance with the criteria defined in Article 16 of the Law on Railways (Official Gazette of Montenegro 21/04) is determined by the Infrastructure Manager.

**24. Can new entrants have access to the national rail network, provided that they have a licence which recognises their capacity as a railway carrier and they fulfil other relevant requirements (e.g. safety certificate, etc.)? How are train paths allocated to avoid any discrimination, and how are infrastructure usage fees defined and applied?**

All operators satisfying the conditions laid down in Article 10 of the Law on Railways (Official Gazette of Montenegro 21/04) and in the secondary legislation regulating issuing of transport licences and transport safety certificates in railway transport may access to the railway network of Montenegro.

The procedure of route allocation is carried out in accordance with the procedures for allocation of capacities defined in Directives 2001/14 and 2004/49 and their annexes, as well as the recommendations of RNE organization under the title Procedure with the demands of the international routes that are the integral part of Chapter IV of the Network Statement. The legal title for these procedures is included in the Law on Railways (Official Gazette of Montenegro 21/04) Articles 11, 12, 13 and 14. The procedure of allocation of capacities and routes including principle of non discrimination is controlled by the Railway Directorate.

For calculation of fees for use of railway infrastructure the principle so called “marginal costs-plus” was applied determining the amount of fee that will cover the costs of regular maintenance of railway infrastructure and of fixed charges for transport managing and regulating. The fees level for minimum package of services is determined based on the unit price for use of railway infrastructure per train kilometre, line category and train category with special coefficients for measurement of category of line and train and number of realized kilometres.

**25. Has Montenegro established a regulatory body, a safety authority a safety authority, an accident investigation body and (not compulsory) a notified body? What staff numbers, competences and budgets have been made available to these authorities? Can these institutions take decisions without approval of the ministry? In case of disagreements/complaints, can a railway undertaking lodge a complaint with an appeal body (regulatory body) and can the regulatory body launch an investigation on its own initiative?**

The Amendments to the Decree on Organisation and Manner of Work of the State Administration (Official Gazette of Montenegro 4/2009) established the Transport Directorate within which there is the Department for Railway Transport as a regulatory body (there are currently 6 employees) whose main competences are as follows: issuing infrastructure management licences to the business organizations and safety certificates for railway management, issuing licences and certificates to the operators for public transport and transport for its own needs, allocation of routes and use of railway infrastructure, adoption of timetable and keeping the prescribed records in order to enforce the human resources capacities of the Transport Directorate. The Department for Railway Transport of the Transport Directorate became a separate authority – the Railways Directorate. To that effect the Decree on manner of work of state administration (Official Gazette of Montenegro 4/2009) was amended again with practically the same job descriptions that we mentioned for the Transport Directorate. The detailed description of works and competences of the Railways Directorate was submitted to the European Commission at the Joint Sub-Committee and EPD sectoral meeting on transport, energy, environment and regional policy held in Podgorica on 17 February this year.

The Transport Directorate has been financed by the programme budget that appropriated the amount of EUR 708 588.61 in the part of administrative expenditures. Those funds include the funds for work of the regulatory and other bodies concerning the railway department.

Strengthening of administrative capacities and full application of the Law on Safety shall be allowed, inter alia, through realization of the pre accession assistance of the first component of IPA 07 that will start in spring next year.

The authority competent for safety affairs in accordance with the Railway Safety Law (Official Gazette of Montenegro 4/2008) shall be established within the Railways Directorate and the usage of the technical assistance from the above mentioned IPA 07 funds shall be provided.

By then the Sector for safety control of the Railways Infrastructure of Montenegro AD, in which four employees control the implementation of the regulations on railways safety, shall be competent for these affairs. In the Ministry of Transport the inspector for safety whose competences are described under Article 124 and 125 of the Railway Safety Law shall be competent for safety affairs.

The investigation body in charge of investigation of the railway accidents and incidents shall be established in accordance with the Railway Safety Law within the Ministry of Transport, Maritime Affairs and Telecommunications. In accordance with the same law, the notified body shall be established within the Railways Directorate based on the above mentioned technical assistance that will be provided through the pre accession assistance IPA 07.

The full autonomy of the following authorities: the Regulatory body, the Authority competent for safety matters, the Notified body and the competent authority for investigation of railway accidents and incidents is determined by the Law on Railways (Official Gazette of Montenegro 21/2004) and the Railway Safety Law.

The railway company may submit an appeal or objection to the Railways Directorate as the regulatory body i.e. to the first instance authority in the administrative procedure in the following areas:

- deciding upon objections against the refused or amended proposal for entering into contract on use of railway infrastructure;



- issuing licences to the business organizations for managing railway infrastructure and safety certificate for infrastructure management, licences and certificates to the operators for the public transport and transport for own needs;
- initiate proceedings for deciding on property rights;

Appeal on the first instance decision of the Railways Directorate can be brought to the Ministry of Transport, Maritime Affairs and Telecommunications. Also, after that the party may appeal to the Administrative Court in accordance with the Law on Administration Procedure (Official Gazette of Montenegro 60/2003).

The Railways Directorate while performing the works of expert supervision under the application of regulations from its competence may initiate proceedings on its own initiative and if it finds that there are doubts that regulations are broken it may initiate the inspection supervision at the Republic inspector for rail transport. The competence of the Republic inspector for rail transport and the measures and actions that he/she may take according to this initiative or by virtue of office are defined by the Railway Safety Law, the new Law on Railways and the Law on Inspection Supervision (Official Gazette of Montenegro 39/03).

**26. In case of public service contacts and general rules (as defined by Regulation (EC) No. 1370/2007 on public passenger transport service by rail and road), what are the rules governing the public service to be fulfilled by the operator and the areas concerned, the duration of the contract, the award of public service contract (including rules on awards to internal operators and direct awards), the publication requirements, the review/appeal procedures?**

Performing of transport of public interest is in principle regulated by the Law on Railways (Official Gazette of Montenegro 21/04) Articles 48 and 49, reading, inter alia, that the public transport of passengers in the rail transport is the activity of public interest and it may be performed by a business organization that signs a contract with competent authority on performing the activity of public interest. In this respect the Ministry of Transport, Maritime Affairs and Telecommunications after the activities regarding separation of the passenger and goods operator in June 2009, and completion of *the Feasibility Study for Procurement of necessary number of electromotive rake of coaches for local rail transport* in August 2009, plans preparation of the Contract on performing the activity of public interest in the rail transport of passengers that shall regulate all rights and obligations of the contracting parties in accordance with the EU Regulation No 1370/2007.

The Government of Montenegro, by the Budget Law for 2009 (Official Gazette of Montenegro 82/08), for the first time has appropriated the funds, in the form of a subsidy, as direct support to the company the Railway Transport for organization of local passenger transport.

## **Social and technical regulations and standards**

**27. Who sets the technical and environmental standards/technical specifications applicable for rolling stock and for other rail subsystems? Are these standards in conformity with EU legislation on interoperability and with international standards?**

The Law on Environmental Protection (Official Gazette of Montenegro 48/08) defines the environmental instruments, and one of the basic instruments is the technical standards. The Government of Montenegro, i.e. the line Ministry of Transport, Maritime Affairs and Telecommunications is competent for adopting the technical regulations that have to be satisfied by the railway vehicles, devices and equipment being built-in those vehicles, that is for affairs concerning harmonization of the national regulations with the international technical standards. The

technical and ecological standards are defined by the regulations and standards included in the following: UIC, COTIF, AGC, AGTC, CER, CIT, EN standards, RIC Rulebook, AVV Agreement, JŽS (standards of the Yugoslav Railways), railway rulebooks and instructions adopted by ZJŽ (Community of Yugoslav Railways - Belgrade) and which are still in force until the new ones would be adopted. The above mentioned technical standards prescribe the following: manner of use of devices, equipment; manner of determination and monitoring of quality of devices and equipment; manner of calculation costs for determination and monitoring of quality of devices and equipment, as well as treatment of the devices and equipment when their utilization ends.

Also, the issue of noise protection is of high importance and it is standardized by the special Law on Environmental Protection from Noise (Official Gazette of Montenegro 45/2006) that, inter alia, defines that all machines, means of transport, devices and equipment that are produced in Montenegro or are imported on the territory of Montenegro in order to be put into circulation that is in use must be harmonized with the prescribed technical standards referring to the limited level of noise under certain conditions of use, and the data on sound power emitted under such conditions of use have to be specified on the product in accordance with the special regulations and international standards.

The measures for noise protection regarding selection and use of low noisy machines, devices, instruments of labour and transport are enacted through application of the best available techniques that are technically and economically worthwhile in accordance with the special regulations and international standards.

Having regard that in the economy technical standards are changed continuously and are improved, besides the Ministry of Transport, Maritime Affairs and Telecommunications, the Railways Directorate is competent for monitoring of technical-technological system of railways of the other states and for proposing the measures towards harmonization, modernization and increase of interoperability level. In addition, the Institute for Standardization of Montenegro as the national body for standardization enacts the Montenegrin standards (including the standards regarding the rolling stock and other railway subsystems). The Montenegrin standards are exclusively set up by accepting the European and international standards so that there are no conflicted national standards.

In accordance with the Railways Safety Law the railway vehicles intended for use in the international rail transport must satisfy the interoperability as well as the conditions prescribed by the international contracts and international railway regulations.

**28. Who sets and enforces the safety standards? Are the rules and standards made public? Who delivers the safety certificates? Does an independent national railway safety authority exist?**

In accordance with the Decree on Organization and Manner of Work of State Administration (Official Gazette of Montenegro 59/09) the Ministry of Transport, Maritime Affairs and Telecommunications and the Railways Directorate are in charge of enacting all safety standards and they are implemented by the Railways Directorate and all railway business organizations that exist in Montenegro.

The regulations and standards are available to the public and they are published in the Official Gazettes.

In accordance with the Decree on Organization and Manner of Work of State Administration the Railways Directorate within its competence issues the railway safety certificates and safety certificates for managing railway infrastructure.

Also, as already mentioned in reply to question 25 within competence of the Railways Directorate, in accordance with the Railway Safety Law (Official Gazette of Montenegro 4/08, Article 98) the safety authority shall be established.

**29. Is there a specific fiscal regime for rail transport operations?**

There is no specific fiscal regime for rail transport operations.

**Overall assessment of the transposition of the acquis**

**30. Please describe ongoing work, including plans, for the transposition of the relevant acquis, and in particular in relation to the first railway package (Directives 2001/12, 13, and 14), the second rail package (Directive 2004/49 on rail safety and Directive 2004/51 on rail freight market opening – see Official Journal L164 of 30 April 2004 and corrigendum in OJ L220 of 21 June 2004) and in relation to the directives on “interoperability” (Directives 96/48, 2001/16 and 2004/50), which were recast in Directive 2008/57/EC). Please inform also about such measures in relation to the third railway package (Directive 2007/58/EC on the opening of the international rail passenger market, directive 2007/59/EC on the certification of train drivers, Regulation (EC) No 1370/2007 on public passenger transport services by rail and road and regulation (EC) No 1371 on rail passengers' rights and obligations).**

There are three main laws regulating the area of railway transport in force in Montenegro.

The Law on Railways (Official Gazette of Montenegro 21/04) was adopted on 23 March 2004 and it applies as of 1 January 2005 (document submitted to the European Commission at the meeting of Subcommittee and Enhanced permanent dialogue for transport, environmental sector and regional policy, held on 5 June 2008 in Brussels). The Law regulates railway infrastructure management and performing transport in the rail transport. The Law was harmonized with the following EU Directives: 95/18, 2001/12, 2001/13, 2001/14 2002/49. By the Law Amending the Law on the Railways (Official Gazette of Montenegro 54/09) minor amendments of the existing law were made without essential changes.

The Law on Railway Transport Safety (Official Gazette of Montenegro 04/08) was adopted on 26 December 2007 and it applies as of 1 July 2008. This Law regulates conditions and manners for safe, regular and undisturbed railway operations and functioning of railway system on the territory of Montenegro as well as performance of the public transport of passengers and goods and transport for own needs. The Law was harmonized with the following EU Directives: 95/18, 96/48, 2001/14, 2001/16, 2004/49, 2004/50, 2004/51.

The Law on Contracts in Railway Transport (Official Gazette of the Federal Republic of Yugoslavia 26/95) was adopted in 1995 and it regulates contractual and other obligatory relations in the area of transport of passengers and goods in the rail transport.

It is planned in the future to adopt the new Law on Railways in which inter alia the Directive on opening of national market for the foreign operators in the international passenger transport (2007/58/EC) shall be implemented as well as the Directive on the certification of train drivers (2007/59/EC). It is also planned to adopt the new Law on Contracts in Railway Transport in which the Regulation (EC) No 1371 on rail passengers' rights and obligations shall be implemented.

## **Passengers' rights**

### **31. Is there national legislation on rail passengers' rights equivalent to Regulation (EC) No. 1371/2007? And, in particular:**

The Railway Transport of Montenegro AD applies the Law on Contracts in Railway Transport (Official Gazette of Montenegro 21/04).

This Law regulates the contractual and other obligation relations from the area of rail transport of passengers as well as the Rules on the Contract on International Carriage of Passengers (CIV), Convention Concerning International Carriage by Rail (COTIF) and the Rulebook of the Federation for International Privileges (FIP).

It is also planned to adopt the new Law on Contracts in Railway Transport in which the Regulation (EC) No 1371 on rail passengers' rights and obligations shall be implemented (more details were provided under reply to question 30).

#### **a) What are the rules on minimum requirements for the information to be provided to passengers before and during the journey?**

The rules on requirements for providing the information to the passengers before and during the journey are regulated as follows:

- directly through the counters for information at the railway stations, the passengers ticket-offices, conductors etc.
- indirectly through: website, timetable (printed or station), passenger tariff, daily press, as well as various notifications in the vestibilles, lounges and on the station platforms.

#### **b) What are the rules on availability of tickets, through tickets and reservations?**

Tickets and reservations are available to the passengers through the counter services of the passengers' ticket-offices at the railway stations, as well as through the travel agencies that sell tickets in name of and on behalf of the operator in the rail transport.

The rules regulating this area are the following: Passenger tariff for national and international transport, the Rulebook on services in the train-catering facilities (109), the Instructions on keeping the transport accounting and treasury operations in the railway stations (182) and other regulations and instructions.

#### **c) What are the rules on liability of railway companies for passengers and luggage and in the event of delays, missed connections and cancellations of services?**

The operator shall be held liable for damages caused by delay, i.e. interruption of operation, unless he/she proves that delay, i.e. interruption of operation is not his/her fault (The Law on Contracts in Railway Transport, Official Gazette of the Federal Republic of Yugoslavia 26/95).

Besides the Law on Contracts in Railway Transport, this area is also regulated by the following: Instructions on procedures for transport of passengers and goods (Instr. 161), Passenger fee for the national and international transport, the common regulations on passenger transport operations in the international transport (PIV), general international fee for passenger transport (TCV), etc.

**d) What are the rules on transport conditions (including accessibility, assistance and information to be provided) for persons with reduced mobility?**

Transport conditions for persons with reduced mobility (commercial tariff) are envisaged by the Passenger fee for national and international transport of passengers, general international fee for transport of passengers (TCV), and extras to TCV fee. These regulations envisaged the more favourable commercial- tariff conditions.

In accordance with the Law on Travel Privileges for Disabled Persons (Official Gazette of Montenegro 80/08) the disabled person, and user of nursing and help of the other person that exercised that right in accordance with the regulation concerning the pension and disability insurance, have the right to the travel privilege in the road and rail transport on the territory of Montenegro.

The right to travel privilege has also the escort of the disabled person (parent, custodian or person being authorised by the disabled person) for twelve travels in the rail transport during a calendar year. The right to travel privilege has also the escort when he/she travels to take a disabled person or returns after escorting the disabled person.

The disabled person who is employed has a right to the travel privilege from place of residence to working place and to return in the place of residence.

The procedure for exercising the right to travel privilege is initiated upon the request of disabled person or his/her escort and it is submitted to the social work centre on whose territory the disabled person has residence.

In accordance with the Law on Movement of Blind Persons with Assistance of Guide Dog (Official Gazette of Montenegro 18/08), the blind person with the guide dog and the disabled person in the wheelchair with the service dog that is trained to move with the guide dog i.e service dog has right to use the means of transport in the rail transport.

However, the Railway Transport of Montenegro AD does not have currently the technical conditions and facilities to pick up and set down the persons with reduced mobility, concerning the entry into train that could fully satisfy all conditions and international standards for transport of such passengers.

**e) What are the rules on the handling of complaints and the national body responsible for the protection of passengers' rights? Is that national body independent of any infrastructure manager, charging body, allocation body or railway undertaking?**

The provisions of the Law on Contracts in Railway Transport (Official Gazette of the Federal Republic of Yugoslavia 26/1995) provide for the compulsory passenger insurance in rail transport. All passengers when buying the ticket conclude the Contract on Transport and therefore acquire the right on insurance in certain company that the operator concludes on their behalf. Complaints are lodged to the operator i.e. the competent court.

The issues from this area are laid down by the following regulation:

- Law on Contracts in Railway Transport (Official Gazette of the Federal Republic of Yugoslavia 26/95)
- Law on Consumer Protection (Official Gazette of Montenegro 26/07)
- Instructions on procedures for transport of passengers and goods (Instr. 161)
- General international fee for passenger transport SPT 14, TCV with extras CIV, PIV and
- Passenger fee for national and international passenger transport.

The service user shall be entitled to file a complaint (objection) whenever there are any flaws in the rendering service that are not caused by his/her fault, as well as due to a wrongly calculated price, etc. Along with the complaint, the receipt regarding the purchase of the service shall be submitted.

The complaint shall be filed in the sale facility in which the service was purchased, precisely in the place where the operator conducts the activity, or in other place, subject to the consent of the consumer. In the places in which the complaints are received, a person in charge of complaint settlement must be present during working hours.

If it is established, based on the complaint, that a service has flaws, the consumer shall be entitled to request that flaws be remedied or that price of the service be reduced in proportion to the flaw, at his/her own choice. Exercise of the rights by virtue of the complaint shall have no effect on exercise of the rights from the warranty.

Procedure upon the complaint:

- The person authorised for complaint settlement shall decide on the complaint immediately and on more complex matters not later than 15 days after the complaint was filed, and the consumer will be advised of such process in writing accordingly.
- If the trader fails to decide on the complaint within the deadline referred to in previous paragraph or rejects the complaint, the consumer may initiate the proceedings for protection of rights with a competent inspection authority or before the arbitration or a competent court.

If the service user did not exercise his/her right by means of objection he/she is entitled to proprietary and legal protection as follows:

a) Out-of Court protection before the Arbitration Board

The Arbitration Board shall be set up within the Chamber of Commerce of Montenegro, with the purpose of consensual settlement of disputes between the trader and the consumer (consumer dispute), as the independent authority which is autonomous in decision making.

The proceedings before the Board may be initiated provided that an attempt was previously made to resolve the dispute with the trader. The consumer, or the consumers' organisation, shall initiate the proceedings by filing a complaint.

The Board shall have 20 members. Members of the Board shall be selected by the Chamber and consumers' organisations, in equal proportion.

The Arbitration Board is independent from the Infrastructure Manager, the body in charge for collection, the body responsible for allocation of funds and competences to the Railways companies.

b) Inspection supervision

Supervision over implementation of this Law shall be performed by the Ministry of Economy through market inspectors, and the Ministry responsible for transport and telecommunications through transport inspectors.

In addition to the authorisations set out in law that regulates inspection supervision, the competent inspector shall also be authorised to order the service provider to act pursuant to the objection in the complaint procedure within the prescribed deadline, precisely to remedy the identified flaw and meet the request of the consumer.

If the Inspector did not order the remedy of identified flaws and meeting of the request of the consumer for the purposes of previous paragraph, he/she shall notify the consumer in writing about the possibilities of consumers' rights protection in court proceedings.

c) Judicial protection

The consumer whose right or interest has been infringed may submit a request for compensation of damage before a competent court, in accordance with general regulations. Request may be also submitted by the consumers' organisation.

Until the decision is adopted, the court may impose the following provisional measures:

- Ban on Production and Circulation of Unsafe Products and Services,
- Ban on Unfair Contract Provisions.

## International organisation and conventions

**32. Montenegro has concluded rail border crossing agreements in recent years on both of its international border crossings, i.e. with Kosovo and Albania. In which way do these agreements permit open access by domestic or foreign operators? If they do not provide open access and are thus in yet aligned to Community legislation, what are the plans to make them compliant?**

The Agreement on Rail Border Crossing control between the Government of Montenegro and the Government of the Republic of Serbia signed in March 2009 is a legal title for the improvement of carriage of passengers and goods in the international rail transport. This Agreement will facilitate the border control on the railway and accelerate train crossing from one into another state, i.e. it will reduce delays of trains on the rail border crossings. Besides, there will also be the effect of financial saving for the railway companies – business companies. The Agreement defined the adoption of protocol whose harmonization is in progress, and that shall define cooperation of border polices, the Customs Administrations, inspection bodies (phytosanitary inspections and veterinary administrations) and railways companies. The Agreement does not contain the provisions concerning the mutual recognition of licences and certificates so as to provide the free access to the national and foreign operators. The Ministry of Transport, Maritime Affairs and Telecommunications sent an initiative on mutual recognition of licences and certificates to the Ministry for Infrastructure of the Republic of Serbia but it is still under consideration by the Republic of Serbia although more than a year passed from the initiative. The Law on Railways (Official Gazette of Montenegro 21/2004) defined that the railway infrastructure may be used by the operator for public transport as well as the business organization performing the transport for their own needs if, inter alia, it has the transport licence and safety transport certificate issued by the competent authority in the other state on the reciprocity basis.

The Agreement between the Government of the Republic of Montenegro and the Council of Ministers of the Republic of Albania on organizing the border rail transport between the two states was signed in 2006. The new state agreement should be made.

Montenegro is not connected with Kosovo by the railway so there is no agreement on rail border crossing.

Montenegro participates within the EU Project Support for Implementing Measures for South East Europe Core Regional Transport Network Multi Annual Plan (MAP) 2008-2012 in SEETO organization. This project contains two components, component A: railways. Within the activities referring to the component A, project aim is preparation of the following documents:

- Draft Plan for improvement of operations at border crossings including:
  - border controls of passengers during train operation,
  - introducing of EDI technology (Electronic Data Interchange) for operators in goods transport
- Action plan for better integration of border polices at the rail border crossings in the region.

The Ministry of Transport, Maritime Affairs and Telecommunications shall give full support to entering into Agreement on establishment of transport community and it is ready to start immediately with its application that shall be realized through open and non-discriminatory access to rail services market, mutual recognition of all licences and certificates, improvement of regime of border crossing that basically in most part refers to the cooperation between the customs authorities not only for the East-Europe states but also for the whole area of the European Union.

### **33. To which multilateral agreements regarding international railway organisations (O.T.I.F. and O.S.Zh.D.) is your country party?**

Following the Decision on Declaration of Independence of the Republic of Montenegro (Official Gazette of the Republic of Montenegro 36/06) and the Declaration of the Independent Republic of Montenegro (Official Gazette of the Republic of Montenegro 36/06), Montenegro applies and takes over the international agreements and contracts concluded and acceded to by the State Union of Serbia and Montenegro.

Montenegro is the member of the following multilateral international agreements:

- Agreement on the Establishment of a High Performance Railway Network in South-East Europe (Official Gazette of the Republic of Montenegro 44/07)
- Memorandum of Understanding on Development of the South East Europe Core Regional Transport Network (member of the Regional Secretariat for South East Europe Transport Observatory – SEETO)
- Convention on Establishment of EUROFIMA – the European Company for the Financing of Railroad Rolling Stock.

The railway companies in Montenegro are members/associated members of the following international organizations:

- International Union of Railways – UIC
- Community of European Railways and Infrastructure Companies– CER
- International Railway Forum – FTE
- Federation for International Travel Privileges in Rail Transport -FIP
- International Rail Transport Committee – CIT
- South East Europe Railway Group – SERG.

The Government of Montenegro at its session held on 9 July 2009 adopted the Proposal for the Law on Confirming the Protocol of 3 June 1999 on Modification of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 (Protocol 1999) and Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in a version based on the Protocol on Modification of 3 June 1999 and referred it to the Parliament procedure.

At the following meeting in December 2009 we will become member of RailNet Europe (RNE).

The procedure for adoption of the following international agreements was initiated:

- Foundation Contract on Cooperation of the Trans-European Railway (TER)
- European Agreement on Main International Railway Lines (AGC)
- European Agreement on Important International Combined Transport Lines and Related Installations (AGTC).

## **C. Inland waterway transport**

### **34. Please provide a brief description of any transport that may take place on your lakes or, if relevant, rivers.**

At Lake Piva two ships for inland navigation are used for passenger transport. Besides at the lakes (Piva, Plav, Biograd, Crno and Krupac) navigations by the boats that are used for economic and other purposes are carried out.

At the river Tara in the part that belongs to Montenegro navigation by rafting boats is carried out.

At the Skadar Lake and the rivers Rijeka Crnojevica and Bojana there is no inland navigation but maritime navigation by vessels for passenger transport, sport and recreation and fishing in



accordance with the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99, 74/99 and 73/00) and Article 4 of the Law on Sea (Official Gazette of Montenegro 17/07).

**35. Please outline the legislation that covers this area. Are there any rules concerning environmental aspects of transport on lakes? Which institution is in charge of registration and control of boats?**

The area of inland navigation is covered by the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99, 74/99 and 73/00), the Law on Maritime and Inland Navigation (Official Gazette of Montenegro 17/78, 8/79, 19/87, 22/90 and 13/91), the Decree on boats (Official Gazette of Montenegro 51/04 and 44/09), the Decree on maintaining order in ports and other parts of coastal sea and inland sailing routes (Official Gazette of Montenegro 41/06), the Rulebook on conditions for rafting, structure of raft and periods of year when rafting can be carried out (Official Gazette of Montenegro 18/88), the Rulebook on amount and manner of payment of fee for boat examination (Official Gazette of Montenegro 46/03), the Decision on determination of forms issued by the Harbour Master Offices of Kotor and Bar (Official Gazette of Montenegro 29/03), and the Decision on determination of area of the Harbour Master Offices of Kotor and Bar (Official Gazette of Montenegro 10/80 and 20/86).

The Decree on boats Article 16, 18 and 28 prescribed what equipment the boats are obliged to have concerning the environmental aspect.

The Ministry of Transport, Maritime Affairs and Telecommunications – Harbour Master Office of Bar, local office Virpazar is the authorised institution for boats registration. The Maritime Safety Administration - Technical Inspectorate for Navigable Vessels Division through survey establishes seaworthiness of boats. Inspection, in terms of inspection supervision, is carried out by the inspectors for navigation safety of the Ministry of Transport, Maritime Affairs and Telecommunications – Harbour Master Office of Bar.

**36. Are there any requirements regarding access to the profession of carrier of passengers and/or goods by waterway? Are there any rules concerning crew working time and manning in the inland waterway sector? What are the competent authorities responsible for enforcing the relevant legislation and requirements?**

Manner of taking the exam on qualification for boat skipper (composition of the examining board, manner of taking exam, programme of the exam, and certificate on qualification for boat skipper) laid down in Article 66-70 and 73 of the Decree on boats (Official Gazette of Montenegro 51/04). Article 71 of the Decree on boats (Official Gazette of Montenegro 51/04) prescribes that qualification for rafting boat skipper is determined through the exam programme of the Centre for professional training and that the Centre for professional training determines the composition of the examining board, programme of training, manner of taking exam and issuance of certificates.

Professional qualification of the crew of ships for inland navigation as well as crew working time and manning in the ships for internal navigation is in principle regulated by the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99, 74/99 and 73/00).

The Ministry of Transport, Maritime Affairs and Telecommunications and the Maritime Safety Administration are the competent authorities responsible for enforcing the relevant legislation and requirements.

## D. Combined transport

### 37. What is the situation regarding the combined transport sector in your country?

The combined transport in Montenegro is in the initial phases of its development. Involvement of combined transport in the overall transport activities is at the insufficient level. Considering the existing situation in the Transport Development Strategy of Montenegro (adopted by the Government on July 2008 and submitted to the European Commission at the meeting of Subcommittee and Enhanced permanent dialogue for transport, environmental sector and regional policy, held on 17-18 February 2009 in Podgorica) the combined transport was classified in the group of the main development goals.

The Transport Development Strategy of Montenegro envisaged defining the legal measures that refer to the regulation of competition between different types of transport through equal fixing of the prices based on the criteria concerning environmental pollution and traffic safety on the basis of which the railway and line maritime transport as bearers of the combined transport shall be supported. It shall be also considered to exclude the mandatory tariff regulations of the beginning and closing road section, which are part of operations in combined transport, and to encourage the possibilities of concession arrangements and development of companies, which organize and improve combined transport.

### 38. Is there a specific policy in favour of combined transport? Such as exemption from general restrictions imposed on road transport (driving ban, maximum authorised weights and dimensions etc.) when performing combined transport operations.

In accordance with obligations arising from the Stabilization and Association Agreement, i.e. Protocol IV on land transport, mutually harmonized measures necessary for development and improvement of combined transport shall be adopted. The purpose of those measures shall be the following: stimulation of the user and the sender to use combined transport; achieving competition of combined transport in the road transport, stimulation of use the combined transport on the other relations, and especially use of changeable boxes, containers and transport without escort; improvement of speed and reliability of combined transport and particularly the increase of frequency of convey according to the needs of the sender and the user, reduction of waiting time on terminals and increase of their productivity, removal, on the appropriate manner, of all obstacles from the access roads so as to improve access to combined transport, etc.

In order to meet preconditions for combined transport development in Montenegro, it is planned to construct the new and reconstruct the existing terminals for combined transport at the railway stations Bar, Podgorica and Bijelo Polje that will allow further development of combined (truck-rail) transport on the most important transport routes.

The order on temporary suspension of traffic for cargo motor vehicles on the parts of the main road M-2, (Bioče-Mateševo and Virpazar-Petrovac), on the main road M-2.3 (Podgorica-Budva) and part of the main road M-2.4 (Bar-Petrovac) as of 1 July to 1 September each year, issued by the Ministry of Interior Affairs and Public Administration, i.e. the Police Directorate, defines that on Fridays and Sundays traffic of cargo motor vehicles whose maximum authorised mass exceeds five tonnes during the biggest traffic jams, is prohibited.

## **E. Air transport**

### **39. Does competition law apply to air transport? If yes, competition rules applied to air transport different from those applied to other sectors? How and by whom are these rules enforced?**

Article 4 paragraph 1 of the Law on Protection of Competition (Official Gazette of Montenegro 69/05 and 37/07) includes all economy sectors within which the entities that are engaged in trade of goods and services may violate competition by their actions. This means that this Law applies to the sector of air transport without exceptions.

The Law applies to all entities performing economic activities, both to business enterprises, which are specifically defined by the Law on Business Organizations (Official Gazette of Montenegro 6/02, 17/07 and 80/08), and to other entities which perform, directly or indirectly, in a permanent, single or temporary manner, economic activity or participate in the trade of goods or services, regardless of their legal status, nationality, seat or permanent residence (trade unions, business associations, sports organizations, institutions, cooperatives, holders of intellectual property rights, etc.).

### **40. Are there public service obligations or similar schemes introduced in the air transport sector?**

There are no obligations related to public service or similar schemes introduced in the air transport sector, since there is no need for this kind of service.

### **41. What is the legal basis for the establishment of the national air carrier?**

The Law on Air Transport (Official Gazette of Montenegro 66/08) does not make any difference between the establishment procedure of the national and the international air carrier. According to Article 34 of the Law on Air Transport, the transport in public air traffic shall be performed by legal person, established in compliance with the Law on Business Organization (Official Gazette of the Republic of Montenegro 6/02 and Official Gazette of Montenegro 17/07 and 80/08), registered for performing such activity in the Central Registry of the Commercial Court, who possesses valid operator licence and certificate that it fulfils the stipulated conditions referred to in Articles 35 and 36 of the Law on Air Transport.

Article 34 paragraph 3 of the Law stipulates that the air carrier shall have at least one aircraft of the appropriate category entered into the Registry and fulfil conditions according to the type of transport.

Article 35 of the Law on Air Transport stipulates that the Civil Aviation Agency shall issue the operating licence to the air carrier who meets the defined conditions related to: seat, main activity, ownership, internal supervision-control, financial strength, available aircraft, mandatory third party liability insurance, and valid air operator certificate (AOC).

Concerning the air company Montenegro Airlines, in which the Government of Montenegro is the owner of 99.88%, it was registered before the Commercial Court in Podgorica and established as the enterprise Montenegro Airlines d.o.o. at the end of October 1994.

**42. Are there plans to privatise the national air carrier? If yes, please provide relevant details. Is there state aid granted in any form to the national air carrier?**

In December 2007, the Government adopted the Restructuring Strategy of Montenegro Airlines, as the preparation stage for the airlines' privatization. The process of restructuring included the following phases:

- Appraisal of the company's property value;
- Restructuring of the company from limited liability company to joint stock company;
- Technical-technological, organizational, financial, ownership and management restructuring;
- Issue and sale of new shares with the purpose of the increase of capital in the amount of 30% of total value of the company, and
- Sale of 5% of shares of Montenegro Airlines at the stock exchange, with the purpose of stimulating and assessing the demand on the capital market.

After completing the transformation process of Montenegro Airlines from limited liability company into joint stock company (the Government of Montenegro is the owner of 99.88% of shares), as well as a significant technical-technological progress, the negotiations with European Bank for Reconstruction and Development (EBRD) were initiated in September 2007. The EBRD expressed interest in the process of privatization of Montenegro Airlines and to that end engaged the renowned consulting firm SH&E from the USA, which delivered the report on operations and development of the company in mid-August.

The submitted report contains in general affirmative assessment about the future operation and development perspectives of Montenegro Airlines, with reservation that the consequences of global economic crisis shall have negative impact on finding a strategic partner in the process of Montenegro Airlines privatization. The EBRD changed its requirement in relation to the consulting firm SH&E in terms of introducing the opportunity that the largest companies in the air transport industry should be informed about the intention to privatize Montenegro Airlines in near future, and possibly to express their preliminary interest and their opinion on that issue.

With reference to the above-stated, it is important to note that the Restructuring Strategy of Montenegro Airlines has been partly modified, in terms of a made decision to implement the process of increase of capital by 30% of the current company value, and after the two-year period a strategic partner will be given the opportunity to buy the majority block of shares.

There are no forms of aid or subsidies granted to Montenegro Airlines by the State. With respect to the European aviation principles of full openness and liberalization of air industry market, Montenegro, as the signatory to the multilateral ECAA Agreement, shall comply to all provisions in relation to this issue.

## Access to market and profession

### **43. How can air carriers obtain authorisation to operate specific routes, whether they are domestic or international? Do certain air carriers hold exclusive rights on specific air routes? How is the ECAA Agreement taken into account in relation to the authorisation of air services? Who is responsible for the authorisation of air services?**

The issuance of permit for performing public transport has been regulated by provisions of the Law on Air Transport (Official Gazette of Montenegro 66/08 of 31 October 2008, hereinafter referred to as “the Law”).

The air carrier makes decision on establishing a route within Montenegro, and regarding the international air transport, the route is established in accordance with signed multilateral or bilateral agreement.

In case of conflict of interests of two or more air carriers, and in order to preserve the transport connections, the Ministry may establish, by decision, the operations of domestic scheduled air transport on a specific route, taking into consideration the realized quality and quantity of such connection, valorisation of present investments and acquired rights of the air carrier.

If new route is planned to be developed in the international air transport, or if another air carrier intends to introduce operations on an already established route, the carriers shall agree thereon. If the carriers fail to reach an agreement, the Ministry shall designate, by decision, one or two carriers who will perform transport operations on the route which could not be resolved by agreement (Article 38 of the Law).

Foreign air carrier shall operate flights in the international public air transport with Montenegro in accordance with the conditions contained in the signed agreement on international scheduled and non-scheduled air transport, and in accordance with the conditions referred to in the permit for performing transport operations.

The Ministry shall authorize a foreign air carrier to operate commercial transport of goods and passengers by air between two points within the territory of Montenegro (cabotage), in accordance with signed international agreements or on the basis of reciprocity (Article 37 of the Law).

Foreign aircraft shall operate in Montenegrin air space only on the basis of permit, unless the signed international agreement stipulates otherwise.

Permit for flight operations of foreign aircraft shall be issued for:

- 1) foreign government aircraft by the Ministry competent for foreign affairs with the consent of the Ministry competent for defence;
- 2) international civil aircraft by the Agency.

The permit referred to above may be:

- 1) permit for entrance (flight);
- 2) permit for performing operations (scheduled or non-scheduled) (Article 25 of the Law).

Considering the above-stated it can be concluded that there are no carriers who hold exclusive rights on specific routes.

The Civil Aviation Agency shall issue the operating licence to the air carrier who meets the stipulated conditions regarding: the seat, main activity, ownership, internal supervision-control, financial strength, available aircraft, mandatory third party liability insurance and valid air operator certificate.

In accordance with the provisions of the Law, the Ministry initiated the process of drafting the following secondary legislation in this field:

- Rulebook on conditions for issuing permits to foreign aircraft for operations in Montenegrin air space (according to Article 25 of the Law),

- Rulebook on more detailed conditions for issuing the operating licence (according to Article 35 of the Law),
- Rulebook on more detailed conditions for issuing the air operator certificate (according to Article 36 of the Law).

#### **44. What are the rules on setting air fares and rates? How and by whom are these enforced?**

The amounts of tariffs, passenger insurance and reservation fee are set by the air company in accordance with the movements on the market, i.e. supply and demand on a particular route.

The airport of origin and destination is responsible for setting the amounts of airport fees, passenger service at the airport, and possible security fee, based on the provided services, independently from the air company, with the consent of the Ministry, according to Article 55 paragraph 1 of the Law on Air Transport (Official Gazette of Montenegro 66/08).

#### **45. What are the conditions for the certification of airports? What are the conditions for the licensing of air carriers (AOC and operating licence)? Which bodies are competent for certification and licensing in these areas?**

Pursuant to the Law on Air Transport (Official Gazette of Montenegro 66/08 of 31 October 2008), the permit for airport utilization shall be issued in the form of Airport Operating Certificate - Airport Certificate (Article 98 of the Law).

Airport Operating Certificate shall be issued if the inspection, performed by the Civil Aviation Agency, determines that all defined technical and other conditions for the utilization of the airport in terms of providing ground handling services of aircraft, goods and passengers, rescue and fire-fighting services, urgent medical aid, aircraft fuelling and lubrication and other airport services (Article 97 of the Law) were fulfilled.

Airport Operating Certificate shall not be issued before stipulating the manner and procedure for the safe aircraft landing and take-off, instructions on airport utilization, emergency response plans, i.e. airport plan for air transport security on airports for public transport (Article 98 of the Law).

In accordance with the provisions of the Law, the Ministry formed working groups composed of representatives of the Ministry of Transport, Maritime Affairs and Telecommunications, Civil Aviation Agency and other aviation entities, and thus initiated the process of drafting the following bylaws in this field:

- Rulebook on requirements an airport operator must fulfil for issuing and procedure for issuing operating certificate – airport operating certificate (based on Article 99 of the Law),
- Rulebook on the width of protection zone, conditions and manner of construction and setting up aviation obstacles (based on Article 100 of the Law),
- Rulebook on conditions of providing fire and rescue protection and first aid at the airport and airfield (based on Article 103 of the Law),
- Rulebook on conditions required to be provided for handling the aircraft, goods and passengers (based on Article 103 of the Law).

Until the enforcement of secondary legislation, which shall be passed on the basis of authorizations of this Law in the envisaged period of two years, the current, previously adopted regulations shall be applied:

- Rulebook on design, construction and reconstruction of civil airports and their classification (Official Gazette of the Socialist Federal Republic of Yugoslavia 2/66, 4/66),
- Rulebook on maintenance of facilities, equipment, and installations of importance for the safety of air navigation at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 9/84),

- Rulebook on markings and signs of runways and taxiways and apron at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 47/79),
- Rulebook on ground handling service of aircraft, passengers and goods at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 66/87, 57/90, 51/92, 38/95),
- Rulebook on fire and rescue security and fire and rescue service on the airport and airfield (Official Gazette of Montenegro 22/05-63),
- Rulebook on first medical aid at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 57/78, 40/95).

Air Operator Certificate (AOC) acknowledges that the air carrier is professionally capable and organized in the manner that provides the safe use of aircraft for certain aviation activities.

The Agency shall issue AOC – Air Operator Certificate to the air carrier who submits evidence that it meets the required conditions, in particular regarding: operational manual previously approved by the Agency, aviation personnel and type and purpose of the aircraft.

The air carrier shall provide the continued maintenance of the aircraft and possess approved operational manual in accordance with the Law and signed international agreements.

The Agency shall issue the Operating licence to the air carrier, who has valid Air Operator Certificate and meets the required conditions in relation to: seat, main activity, ownership, internal supervision and control, financial strength, available aircraft, mandatory third party liability insurance.

The first operating licence is issued for the period of one year, and after that for the period of maximum five years.

During the period of validity of the operating licence, the air carrier shall provide evidence on meeting the above-stated requirements at the request of the Agency.

The holder of the operating licence shall immediately inform the Agency, in writing, about all changes that affect the conditions on the basis of which the operating licence was issued.

In accordance with the provisions of the Law, the Ministry has initiated the process of drafting the following bylaws in this field:

- Rulebook on more detailed conditions for issuing operating licence (according to Article 35 of the Law), and
- Rulebook on more detailed conditions for issuing air operator certificate (according to Article 36 of the Law).

Until the enforcement of secondary legislation, which shall be adopted based on authorizations stipulated by this Law in the envisaged period of two years, the following current and previously adopted regulations shall be applied:

- Rulebook on conditions and procedure of issuing air operator certificate YU – JAR OPS1 (Official Gazette of the Republic of Montenegro 34/06).

The body competent for certification and licensing in these areas is the Civil Aviation Agency.

#### **46. What are the insurance requirements in the air transport sector?**

The insurance requirements in the air transport sector are defined by the Law on Mandatory Insurance in Transport (Official Gazette of Montenegro 46/07), as well as the Law on Obligatory and Grounds of Property-Legal Relations in Air Transport (Official Gazette of the Federal Republic of Yugoslavia 12/98), Articles 124 to 142.

Namely, in accordance with the insurance agreement in air transport, the insurance covers the following:

- Aircraft and its equipment, as well as the persons and goods transported or on board the

- aircraft;
- Passengers, against the accident consequences; and
- Aircraft owner or operator against the third party liability insurance, caused by owning or operating the aircraft.

The term “third party” means persons who are not the subjects of the insurance agreement.

Also, this insurance agreement may cover the transportation charges, insurance costs, expected revenues, liens and other rights, material benefits existing or may be reasonably expected in relation to air transport, and may be evaluated in money.

Aircraft insurance is made, by rule, for a definite time period, but may be also made for a specific operation.

In addition, the national Law on Mandatory Insurance in Transport (Official Gazette of Montenegro 46/07), *inter alia*, also refers to the insurance of the aircraft owner i.e. operator against third party liability (Article 2 paragraph 1 point 3) and to the mandatory insurance of passengers in public transport against accident consequences (Article 17 paragraph 2 point 8). This Law also defines the minimum insured sum to which the insurance of passengers in public transport against accident consequences may be maintained (Article 19), and the minimum amount of insured sum for third party liability (Articles 34 and 35).

#### **47. What are the rules for ground-handling, slot allocation, and Computer Reservation Systems? How and by whom are these enforced?**

The ground handling operations of aircraft, passengers and cargo at the airports Podgorica and Tivat are performed in compliance with the international regulations and standards, in the first place, of the International Civil Aviation Organization (ICAO) (Annex 14 , 17 and provisions of Annexes 2, 6, 9, 10, 11, 13 and 18) and International Air Transport Association (IATA) (AHM- Airport Handling Manual). In addition to the stated documents, the ground handling operations are performed in accordance with the Law on Air Transport of Montenegro. Both airports possess detailed normative regulations and numerous rulebooks, prepared on the basis of the above-stated documents. The mode of operation and implementation of the stated documents is the subject of constant inspections performed by the ICAO and the ECAC.

The Airports of Podgorica and Tivat have not been slot coordinated, first of all because of the relatively small scope of operations. The slots are approved by the Civil Aviation Agency of Montenegro with the consent of the Airports of Podgorica and Tivat, mainly from the aspects of time required for aircraft ground handling.

The Airports of Podgorica and Tivat have the most modern system for registration and passenger and baggage reconciliation, EDS, as well as the system for tracing baggage World Tracer. The personnel, operating these systems, has all necessary qualifications, with constant recurrent and testing of knowledge.

The only official ground handler at the Airports of Podgorica and Tivat is the JP Aerodromi Crne Gore (PE Airports of Montenegro), which includes the Airports of Podgorica and Tivat.

#### **48. Which bilateral agreements with non-ECAA countries are in force? What type of regime is established under these agreements?**

Pursuant to point 3 of the Resolution on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06), Montenegro applies and takes over all international treaties and agreements signed and acceded by the State Union of Serbia and Montenegro, which are related to Montenegro in compliance with Montenegrin legal system. In this respect, Montenegro adheres to all bilateral agreements with large number of countries, which are



not the signatories of the ECAA agreement, and the air transport with such countries is performed based on the exchange of permits for performing scheduled or charter flights.

Considering the renewal of state independence and the need to enter into new bilateral agreements between Montenegro as an independent state and other countries, on 5 July 2007 the Government of Montenegro adopted the Platform for negotiations in the field of air transport between the delegation of Montenegro and delegations of other countries, with the aim to reach an agreement on air transport, prepared on the basis of standardized ICAO agreement template, which includes the fourth freedom rights in the air transport, with the possibility to increase the level of liberalization in case there is mutual interest for the exercise of the fifth and sixth freedom.

On 10 October 2007, Montenegro initialled the agreement with the Swiss Confederation, which will be signed in September. On the basis of the accompanying Memorandum of Understanding, the provisions of this agreement shall be applied as valid until its signature and enforcement.

In addition to that, in November 2007, the consultations and negotiations about the signing bilateral agreement on air transport between Montenegro and the Russian Federation were initiated and are still in progress. The harmonization of the Agreement and its initialling is expected by the end of 2009, and in the meantime the preparatory activities in relation to the signing of the Memorandum of Understanding were completed.

We would also like to mention that the negotiations with the Republic of Ukraine were initiated in February 2009.

## **Technical and social standards**

### **49. How and by whom are airport charges set? Are they set in a transparent and non-discriminatory manner? Are they cost related? Is there a consultation mechanism? Is airport management separate from airport ownership?**

JP Aerodromi Crne Gore (hereinafter referred to as: PE Airports of Montenegro), as a business enterprise, manages the Airport Podgorica and the Airport Tivat, and is in full ownership of the State of Montenegro, i.e. the Government of Montenegro.

PE Airports of Montenegro has a separate budget, which is not related to the State budget.

Decision about airport services fees shall be made by the managing body of PE Airports of Montenegro, with the consent of the Ministry of Transport, Maritime Affairs and Telecommunications, in accordance with Article 55 paragraph 1 of the Law on Air Transport (Official Gazette of Montenegro 66/08).

Airport services fees are transparent, published in compliance with regulations and best practice, and as such represent the basis for non-discriminatory business policy of the PE Airports of Montenegro.

Airport services fees are related to costs, both direct and indirect, and are formed on market basis. However, we would like to note that the PE Airports of Montenegro has not made any adjustments of its service fees since the process of overtaking the airports from the Serbian enterprise JAT AIRWAYS, in 2003.

PE Airports of Montenegro has established the management bodies, which pursue business policy of the enterprise independently from the State, in accordance with the Law on Public Enterprises (Official Gazette of the Socialist Republic of Montenegro 6/91).

**50. How are aviation safety requirements in the field of design, production, operation, maintenance of aircraft, parts and appliances and persons and organisations involved in the design, production, maintenance and operation of such products, parts and appliances, as well as certification of aerodromes and air navigation service providers implemented and applied (i.e. product certification, issuance of airworthiness certificates, continued airworthiness of aircraft, maintenance and maintenance of aircraft, parts and appliances personnel, licensing of pilots and crew, flight time limitations and training requirements of pilots and cabin crew as well as qualifications for training organisations, certification of aerodromes and air navigation service providers)? Which body is responsible for exercising regulatory control for aeronautical products, persons, organisations, aerodromes and air navigation service providers? Which body is responsible for their oversight and for enforcing aviation safety requirements?**

The Law on Air Transport (Official Gazette of Montenegro 66/08) defines the framework principles, with intention to harmonize the national legislation in domain of civil aviation with international regulations to the fullest possible extent.

Aviation safety requirements in the field of design, manufacture, operation, maintenance of aircraft, parts and appliances and persons and organizations involved in the design, manufacture, maintenance and operation of such products, parts and appliances, have been regulated by the Law and secondary legislation, which will be adopted on the basis of the Law.

In compliance with the provisions of the Law, the Ministry has formed work groups composed of representatives of the Ministry, Civil Aviation Agency and other aviation entities, and initiated the process of innovation of the following secondary legislation, which define the conditions for the safety operations of aircraft and aircraft appliances in accordance with the most recent amendments to Part 21, 66, 145, 147 and adoption of rulebooks in accordance with Part M:

- Rulebook on civil aircraft register (based on Article 57 of the Law),
- Rulebook on the manner and procedure of establishing the aircraft airworthiness (based on Article 68 of the Law),
- Rulebook on technical conditions of construction, modification and homologation of the aircraft and aircraft device (based on Article 72 of the Law),
- Rulebook on maintenance, renewal, modifications on the aircraft and aircraft device, as well as technical inspection and quality control of performed works (based on Article 109 of the Law),
- Rulebook on maintenance programme, fee for programme maintenance of aircraft and aircraft device (based on Articles 76 and 77 of the Law).

Until the adoption of new secondary legislation, the following current, previously adopted regulations shall be applied:

- Rulebook on manner and procedure of establishing the airworthiness of the aircraft (Official Gazette of Montenegro 22/05 of 6 April 2005).
- Rulebook on maintenance, renewal and modifications of the aircraft and aircraft products, and technical control and quality control of performed works (Official Gazette of Montenegro 30/06 of 8 May 2006). This Rulebook has been harmonized with the JAA document JAR-145.
- Rulebook on conditions for the manufacture of aircraft, engine, propellers, aircraft products or their parts (YU JAR - 21) (Official Gazette of Montenegro 30/06 of 8 May 2006). This Rulebook has been harmonized with the JAA document JAR-21.
- Rulebook on technical personnel for aircraft maintenance (Official Gazette of Montenegro 30/06 of 8 May 2006). This Rulebook has been harmonized with the JAA document JAR-66.
- Rulebook on conditions and procedure on issuing the air operator certificate for public air transport (YU JAR - OPS 1) (Official Gazette of Montenegro 34/06 of 30 May 2006). This Rulebook has been harmonized with the JAA document JAR-OPS 1 Chapters “L” and “K” amendment 7.

- Rulebook on conditions required from training centre for technical personnel for aircraft maintenance (Official Gazette of Montenegro 30/06 of 8 May 2006). This Rulebook has been harmonized with the JAA document JAR-147.
- Rulebook on conditions required from training centre for aviation certified staff performing the air transport security activities (Official Gazette of Montenegro 03/05 of 24 January 2005).

The Airport Operator certification has been regulated by the Law on Air Transport (Official Gazette of Montenegro 66/08) and secondary legislation, adopted accordingly:

- Rulebook on planning, design, construction and reconstruction of airport, runways and other ways, apron and facilities (based on Article 95 of the Law),
- Rulebook on requirements an airport operator must fulfil for issuing and procedure for issuing the operating certificate – airport operating certificate (based on Article 99 of the Law),
- Rulebook on the width of protection zone, conditions and manner of construction and setting up aviation obstacles (based on Article 100 of the Law),
- Rulebook on conditions of providing fire and rescue protection and first aid at the airport and airfield (based on Article 103 of the Law),
- Rulebook on conditions required to be provided for handling the aircraft, goods and passengers (based on Article 103 of the Law),
- Rulebook on providing airport flight information services (based on Article 104 of the Law).

The security requirements which are currently applied for airport certification have been harmonized with international regulations (ICAO Annex 14 , Volume I and ICAO Doc. 9774 – Manual on Certification of Aerodromes).

The framework conditions for safe use of airports, before the adoption of the new Law, were defined by the Law on Air Transport (Official Gazette of Montenegro 66/08) (Chapter Part 3 Title 1). Until the adoption of the new secondary legislation the following current, previously adopted, regulations on more detailed conditions shall be applied:

- Rulebook on design, construction and reconstruction of civil airports and their classification (Official Gazette of the Socialist Federal Republic of Yugoslavia 2/66, 4/66)
- Rulebook on maintenance of facilities, equipment, and installations of importance for the safety of air navigation at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 9/84)
- Rulebook on markings and signs of runways and other ways and apron at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 47/79),
- Rulebook on ground handling service of aircraft, passengers and goods at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 66/87, 57/90, 51/92, 38/95),
- Rulebook on fire and rescue security and fire and rescue service on the aircraft and airfield (Official Gazette of Montenegro 22/05 of 6 April 2005),
- Rulebook on requirements from the training centre for personnel performing fire and rescue security and fire and rescue service at the airports and airfield (Official Gazette of Montenegro 33/05 of 3 June 2005, 63/05 of 27 October 2005),
- Rulebook on contents and form of fire and rescue personnel certificate (Official Gazette of Montenegro 75/04 of 10 December 2004),
- Rulebook on conditions required from the training centre for personnel performing the control of adequacy of areas for aircraft manoeuvring, facilities and installations of airports (Official Gazette of Montenegro 33/05 of 3 June 2005).
- Rulebook on first medical aid at the airport (Official Gazette of the Socialist Federal Republic of Yugoslavia 57/78 and 40/95)
- and other regulations.

In accordance with Article 106 of the Law, the Agency shall issue, renew and extend the licences to aviation personnel about fulfilling the stipulated conditions for work, with authorization to perform specific jobs.

Requirements for aviation personnel, conditions for obtaining licences and authorizations, professional training, as well as evaluating health and professional competences have been also laid down by the Law (Articles 105 to 116 of the Law).

Pursuant to the provisions of the Law, the Ministry formed working groups composed of the representatives of the Ministry, Civil Aviation Agency and other aviation entities, and initiated the drafting of the following secondary legislation documents in this area:

- Rulebook on contents and procedure of keeping an aviation personnel registry (based on Article 105 of the Law),
- Rulebook on conditions of obtaining, issuing, renewal and extension of aviation personnel (based on Article 106 of the Law),
- Rulebook on conditions for validation of foreign licences and authorizations for aviation and assisting aviation personnel (based on Article 109 of the Law),
- Rulebook on composition of crew and conditions that aircraft cabin crew members need to fulfil (based on Article 116 of the Law),
- Programme for professional training of aviation personnel (laid down by the Ministry of Education, with the consent of the Ministry, based on Articles 107 and 108 of the Law),
- Rulebook on the assessment procedure of health capacity of aviation personnel (stipulated by the Ministry of Health, with the consent of the Ministry, based on Article 111).

The Civil Aviation Agency shall issue, renew and extend the aviation personnel licence and related authorizations.

Until the adoption of new secondary legislation, the Agency shall establish the conditions and procedure of obtaining, issuing, validation, renewal and extension of licences and authorizations on the basis of the following current, previously adopted regulations:

- Rulebook on licences, authorizations and training centres for pilots (Official Gazette of Montenegro 34/06 of 30 May 2006). This Rulebook has been harmonized with the JAA document FCL 1.
- Rulebook on flight personnel licences (Official Gazette of Montenegro 22/05 of 6 April 2005);
- Rulebook on health requirements for flight personnel (Official Gazette of Montenegro 43/06 of 10 July 2006). This Rulebook has been harmonized with the JAA document FCL 3.
- Rulebook on flight dispatcher training programme and flight dispatcher instructor training programme (Official Gazette of Montenegro 02/06 of 18 January 2006);
- Rulebook on conditions and procedure for validation of licences and authorizations of flight personnel obtained abroad (Official Gazette of Montenegro 67/05 of 11 November 2005);
- Rulebook on conditions required from training centre for personnel performing ground handling services of aircraft, passengers and goods at the airport (Official Gazette of Montenegro 33/05 of 3 June 2005);
- Rulebook on conditions required from the flight personnel training centre (Official Gazette of Montenegro 27/05 of 28 April 2005);
- Rulebook on conditions required from flight dispatcher training centre (Official Gazette of Montenegro 27/05 of 28 April 2005);
- Rulebook on conditions required from training centre for aviation certified staff performing the activities of security of air transport (Official Gazette of Montenegro 03/05 of 24 January 2005).

Working hours of flight crew members are limited by the Law on Air Transport (Article 117 of the Law).

In accordance with the provisions of the Law, the Ministry formed working groups composed of the representatives of the Ministry, Civil Aviation Agency and other aviation entities, and initiated the drafting process of secondary legislation which will define the working hours, flight time, daily, weekly and monthly rest times, duration of transport and readiness, number of take-off and landings, as well as health care and protection measures at work regarding the performance of activities:

- Rulebook on working hours, flight and rest times of aircraft crew members (based on Article 117 of the Law),

Until the adoption of this bylaw the conditions laid down in the current, previously adopted regulations shall be applied:

- Rulebook on flight time in long-line transport, night flight hours, daily working hours, number of takeoffs and landings during working hours, and duration of daily rest times of aircraft crew members (Official Gazette of the Federal Republic of Yugoslavia 51/92, 38/95).

Civil Aviation Agency of Montenegro is responsible for the regulatory control of aeronautical products, persons, organizations and air navigation service providers in air transport in accordance with the Law on Air Transport (Official Gazette of Montenegro 66/08).

The Civil Aviation Agency of Montenegro is responsible for oversight of aeronautical products, persons, organizations and service providers, and the Ministry of Transport, Maritime Affairs and Telecommunications, through the Division for Aviation Inspection, is responsible for supervision and inspection of the enforcement of aviation safety requirements.

**51. Is there legislation on accident investigation and mandatory accident and incident reporting? Are statistical data available on air misses (almost collisions) which have occurred during the last ten years? Is there a specialised administration that coordinates investigation procedures and monitors reports, data and statistics? What rules are in place to protect the confidentiality of information contained in reports submitted in the framework of occurrence reporting and incident and accident investigation by persons involved in the design, production, maintenance, operation and training in safety? When is an independent accident investigation body expected to be established? Is cooperation with other countries considered in this area?**

This issue is regulated by the Law, Part 3 Safety of Air Transport Title 3 – Jeopardized Safety of Aircraft, Aircraft Accident and Serious Incident, Aircraft Search and Rescue (Articles 141 – 153).

Pursuant to the provisions of the Law, the Ministry has established working groups composed of the representatives of the Ministry, Civil Aviation Agency and other aviation entities, and initiated the process of drafting the following bylaws in this area:

- Rulebook on notification procedure in case of jeopardized safety of aircraft (based on Article 141),
- Rulebook on investigation and analysis procedure of jeopardized safety, accidents and incidents (based on Article 145),
- Rulebook on procedure and method of performing investigation of aircraft jeopardized safety, accidents and serious incidents (based on Article 146),
- Rulebook on the method of collecting, analysis, storage of data and reports on aircraft jeopardized safety, accidents and serious incidents and the method of their distribution (based on Article 153),
- Decree on conditions and procedure of aircraft search and rescue (based on Article 156)

Accident investigation and mandatory reporting about accidents and incidents shall be performed by the Civil Aviation Agency, and is regulated by the following bylaws:

- Rulebook on reporting occurrences of importance for the safety of civil aviation and investigation of jeopardized safety,
- Rulebook on procedure of aircraft accident investigation, and
- Rulebook on investigation of jeopardized safety of aircraft.

Safety and Security Service shall coordinate the investigation procedures, monitor data, reports and statistics.

The protection of data confidentiality is regulated by the Law on Confidentiality of Data (Official

Gazette of Montenegro 14/08), as well as the Article 153 of the Law on Air Transport (Official Gazette of Montenegro 66/08).

The Law on Air Transport (Official Gazette of Montenegro 66/08 of 31 October 2008) has defined as follows: "Agency director shall form the Commission for the investigation of jeopardized safety of aircraft, aircraft accident and serious incident composed of listed independent experts based on the regulations adopted pursuant to this Law."

The opportunity of cooperation with other countries in relation to this issue is discussed on all meetings with the representatives of aviation entities of other countries, and is a mandatory subject on such meetings, and regarding the cooperation with the Republic of Serbia, with reference to the joint air traffic control, it has been already established.

**52. Are there measures to monitor and limit noise and emissions levels around airports (i.e. noise zoning, land-use rules) and measures to contain or reduce air pollution resulting from air transport activities? Is there a progressive phase-out programme for Chapter 2 aircraft?**

Articles 165, 166 and 167 of the Law on Air Transport (Official Gazette of Montenegro 66/08) stipulate conditions which every aircraft, as well as the relevant institutions (the Ministry of Environmental Protection and the Ministry of Health) in charge of defining the maximum level of noise in relation to the aircraft landing and take-off, i.e. emission levels, have to meet.

In relation to measures for limiting noise and emission levels, the following regulations are in force in Montenegro: the Law on Noise Protection (Official Gazette of Montenegro 45/06) and the Rulebook on limit values for the environmental noise levels (Official Gazette of Montenegro 75/06), as well.

Aircraft phase-out of the Chapter 2 shall be regulated by the Rulebook, which will be adopted in compliance with Article 32 of the Law on Air Transport, and harmonized with Directives 89/629/EEC and 2002/49/EC and Decrees 2408/92 and 2002/30/EC.

**53. Is the Flight Information Region of Montenegro already recognised by ICAO? What are the name, legislative and regulatory status and ownership of the organisation responsible for provision of Air Navigation services? What is the number of employees? Is there a National Supervisory Authority in ATM? What are the rules regarding safety oversight, standards setting, investment planning, provision of services, service planning and revenue collection? How does the level of fees for over-flight compare with the level of fees charged for flights to or from domestic airports? What are the rules for licensing of air traffic controllers?**

Montenegro has full membership in the International Civil Aviation Organization – ICAO, and on the basis of trans-national agreement with the Republic of Serbia forms joint FIR Belgrade, whose borders are recognized by the ICAO.

The name of organization responsible for provision of air navigation services in the air space of Montenegro is the company Agencija za kontrolu letenja Srbije i Crne Gore d.o.o. (hereinafter referred to as: Serbia and Montenegro Air Traffic Services Agency Ltd. or SMATSA Ltd.).

The Serbia and Montenegro Air Traffic Services Agency Ltd. was established on 29 December 2003, as a limited liability company, on the basis of resolution of the two governments, the Government of Montenegro and the Government of the Republic of Serbia. The share of the Republic of Serbia in the initial capital of SMATSA Ltd. is 92% and the share of the Republic of Montenegro 8%.

Separate organization unit within SMATSA Ltd. is the Terminal Control Area Podgorica (hereinafter referred to as: TMA Podgorica).

The SMATSA Ltd. engages the total number of 855 employees, of which 92 work in TMA Podgorica and AKL Tivat (hereinafter referred to as ATC Tivat – Air Traffic Control Tivat)

Pursuant to the Law on Air Transport of Montenegro (Official Gazette of Montenegro 66/08), the Civil Aviation Agency, with principal place of business in Podgorica, was established, which, inter alia, performs the functions of certification and professional supervision, in terms of continued fulfilment of conditions for performing the air transport operations and other activities in the air transport in accordance with the EC regulations.

SMATSA Ltd. has established the safety management system in accordance with the ICAO standards and recommendations and the Eurocontrol ESSARs.

SMATSA Ltd. plans its business operations on the basis of five-year strategic business plan and annual financial plan of operations approved by the governments of the two states-founders, as well as the Eurocontrol Enlarge Committee.

The revenue collection from providing services has been regulated by its membership in the Eurocontrol CRCO (Central Route Charges Office).

The level of fees charged for over-flight is established on the basis of Decision made by the Enlarge Committee with the consent of the carrier.

The level of fees charged for terminal services provided to the aircraft are defined on the basis of a formulae, the elements of which shall be set by the governments-founders of the SMATSA Ltd.

The Law on Air Transport of Montenegro regulates conditions required to be fulfilled for issuing the air traffic controller licences. Aviation staff shall possess the stipulated qualifications, be properly qualified and fulfil necessary health and other conditions for performing specific jobs. Work permit on fulfilment of the set conditions, with the authorization for performing specific activities, shall be issued, renewed and extended by the Civil Aviation Agency. More detailed conditions for obtaining, issuing, renewing and continuing the licence and authorization shall be defined by the secondary legislation prepared by the Ministry of Transport, Maritime Affairs and Telecommunications.

## **Aviation security**

**54. Which body or bodies is/are responsible for the coordination and monitoring of the implementation of aviation security measures? If more than one body is responsible, please specify which responsibilities each body holds. Please explain how the body (bodies) responsible monitors the implementation and the enforcement of aviation security measures (e.g. national civil aviation security programme, national quality control programme)?**

According to the Law on Air Transport, the following bodies shall be responsible for the coordination and monitoring of aviation security measures implementation:

- Ministry of Transport, Maritime Affairs and Telecommunications,
- Civil Aviation Agency,
- National Committee for Air Transport Security

The Ministry, in accordance with the Law on Air Transport (Official Gazette of Montenegro 66/08) shall be responsible for inspection supervision of entities in the air transport.

The Civil Aviation Agency shall perform certification and professional supervision in terms of continued fulfilment of conditions for performing air transport operations and other activities in the air transport.

The responsibilities of the National Committee for Air Transport Security are as follows: taking precautionary measures, monitoring efficient operations, coordination of activities and remedying consequences caused by illegal interference in the air transport.

Until the establishment of the Agency, all activities of professional and inspection supervision, in terms of implementation of security measures defined in the National Civil Aviation Security Programme of Montenegro, and performance of quality control, as well, were performed by the Civil Aviation Administration. Subject to the new Law, the Agency shall be responsible for the professional supervision, and the Ministry for the inspection supervision of entities in the air transport, which means that both bodies are responsible for monitoring the application and implementation of security measures laid down in the National Civil Aviation Security Programme of Montenegro.

**55. What is the current applicable legislation on civil aviation security? Please provide references to legislation, rules, and any other instruments that are applied.**

The current applicable regulations on civil aviation security are as follows: Law on Air Transport (Official Gazette of Montenegro 66/08) and Security Programme of Civil Aviation of Montenegro, adopted by the Government of Montenegro in April 2008.

The authorized representatives of the Civil Aviation Agency, with the technical support from the representatives of the European Civil Aviation Conference (ECAC), shall draft the new Security Programme, with accompanying appendices (Quality Control Programme, Training Programme, Emergency Response Plan – Contingency Plan, etc.).

**56. To what type of airport does the applicable legislation apply? (e.g. civil/military airports, airports handling certain types of traffic only). Please specify if the applicable legislation applies to all airports? Please provide the names, ICAO codes, and IATA codes of the airports to which the applicable legislation applies. If the applicable legislation does not apply to all airports, please specify which airports are not covered and why?**

The Law applies to all civil airports registered in Montenegro (Airport Podgorica and Airport Tivat).

Special security measures, defined in the National Civil Aviation Security Programme of Montenegro, apply to all airports where public air transport is performed (Airport Podgorica and Airport Tivat).

Airport Podgorica (ICAO code: LYPG, IATA code: TGD), Airport Tivat (ICAO code: LYTV, IATA code: TIV).

**57. Is ECAC Doc No. 30 (PART II) in the field of aviation security applied in full in Montenegro? If so, is ECAC Doc No. 30 (PART II) transposed into national legislation? Please provide references to the applicable legislation. If not, please specify the current level of application of ECAC Doc No. 30 (PART II) and indicate the timeframe for full application.**

Yes, document ECAC Doc. 30 Part II is applied in full in Montenegro.

Yes, as provided in Article 3 of the Law on Air Transport and the ECAA agreement.

This means that the ECAC Doc. 30 is directly implemented through Article 3 of the Law on Air Transport.



**58. Please specify when and where ECAC last conducted an audit in Montenegro (including when audits were last conducted at Podgorica and Tivat airports) and what was the coverage of that audit?**

The ECAC conducted the initial audit of Airport Podgorica in the period 2 – 9 September 2008, and the follow-up audit was conducted from 20 to 27 July 2009.

During the initial audit the control of complete security system was carried out on Airport Podgorica, in the catering company operating on that airport and the national carrier Montenegro Airlines, as well. During the follow up audit, the ECAC addressed the issues of supervision and inspection of entities participating in the air transport, drafting national documents – new National Civil Aviation Security Programme of Montenegro, the audit of Airport Podgorica, in relation to control of entry and anti-diversion control of passengers and baggage, control of parked aircraft and their access, as well as inspection of the entire documentation of the airport. Therefore, the audit conducted at the Podgorica Airport was the comprehensive audit of security system on this airport.

The ECAC did not conduct the audit of Airport Tivat.

**59. Please explain how aviation security measures are financed?**

Aviation security measures are financed from the funds of JP Aerodromi Crne Gore (hereinafter referred to as: PE Airports of Montenegro) and from the Budget of Montenegro.

**International organisations and conventions**

**60. Which international organisations in the field of aviation is your country member of (ICAO, ECAC, JAA, Eurocontrol)? On what date did your country adhere to these organisations? Can you indicate the date or intended date of joining the organisations your country is not member of?**

On 13 March 2007 Montenegro became a full member of the International Civil Aviation Organization (ICAO) and a signatory to the Chicago Convention on International Civil Aviation of 1944.

On 1 July 2007 Montenegro became a full member of the European Organization for the Safety of Air Navigation (EUROCONTROL).

On 9 June 2006 Montenegro signed the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the establishment of a European Common Aviation Area, ratified by the Parliament of Montenegro on 9 October 2007.

Montenegro became a full member of the European Civil Aviation Conference (ECAC) on 25 June 2008.

After becoming a full member of the European Civil Aviation Conference (ECAC) and implementing the procedure of accepting and signing the Cyprus Arrangements, Montenegro became a candidate for full membership in the Joint Aviation Authorities of Europe (JAA). However, considering the fact that the European Union established the European Aviation Safety Agency (EASA) and that the JAA ceased to exist on 30 June 2009, in order to continue the activities of

Montenegro in relation to EASA, on 1 July 2009 Montenegro signed the termination of validity of the Cyprus Arrangements, and after that, on 8 July 2009, signed the Working Arrangement with EASA.

**61. What is the timeline for the implementation of the ECAA Agreement? Is there an Action Plan developed and followed for this purpose? What actions have been taken to follow the recommendations in the ECAA Assessment Report of 2008?**

On 9 June 2006 Montenegro signed the ECAA agreement, ratified by the Parliament of Montenegro on 9 October 2007.

Proposal for the Law on the Unification of Certain Rules for International Carriage by Air (the Montreal Convention), which is related to the implementation of the first stage of the ECAA agreement, and has no time limitation, was adopted at the session of the Parliament of Montenegro, and it is expected that the Ministry of Foreign Affairs will submit the accession instruments to the International Civil Aviation Authority (ICAO) as Depository of the mentioned Convention.

In respect of the other Directives referred to in the first stage of the ECAA agreement implementation, due to the specific qualities of Montenegrin legislation, it was not possible to transpose them directly in the Law of Air Transport (Official Gazette of Montenegro 66/08 of 31 October 2008), so currently the rulebooks and other bylaws are under construction, the adoption of which will complete the implementation of the first stage of the ECAA agreement.

It is expected that the accession process to the Convention will be completed by the end of 2009, and according to Article 53 paragraph 7 of the Convention, it will take legal effect.

**62. When is the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 28 May 1999) expected to be ratified?**

The Work Programme of the Government of Montenegro for 2009 envisages the adoption of the Law on Ratification of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention), which became an integral part of the EU legislation, which shall define the relevant characteristics of the new aviation regulations with respect to liability of the carrier, and the obligation to be adopted arises from the National Programme for Integrations and the ratified Multilateral Agreement on European Common Aviation Area (ECAA Agreement).

Proposal for the Law was adopted at the session of the Parliament of Montenegro, and it is expected that the Ministry of Foreign Affairs will submit the accession instruments to the International Civil Aviation Authority (ICAO) as Depository of the mentioned Convention.

The process of accession to the Convention is expected to be completed by the end of 2009, thus, pursuant to Article 53 paragraph 7 of the Convention, it will take legal effect.

**Social and consumer protection**

**63. What are the rules for safety and health protection in the air transport sector? What are the rules for the working time of mobile workers in air transport?**

The procedure for establishing the health capacity of aviation personnel is described in Article 111 of the Law on Air Transport (Official Gazette of Montenegro 66/08). Medical examinations shall be

performed by the legal or natural person who performs the medical activities, meets the set conditions and is authorized by the Civil Aviation Agency to perform such activities, in line with the previously obtained consent from the Ministry in charge of health care. After performed medical examination the authorized person shall issue a health certificate.

Working hours, flight and rest times of the air crew members are defined under Article 117 of the Law on Air Transport (Official Gazette of Montenegro 66/08). Under this Article, the working hours of air crew members in the public air transport and other commercial activities in air transport shall not be more than 2000 hours for one calendar year, and their flight time shall not be more than 900 hours for one calendar year. This Article also defines the period in which the crew member will have the right to be released from all duties, as well as the duration of annual holiday leave.

**64. Are there special consumer protection (legal or administrative) rules in the air transport sector, such as on package holidays? Are there rules establishing a right for compensation and assistance to passengers in the event of denied boarding, cancellation or long delays of flights? Are there (legislative or administrative) rules protecting the rights of disabled persons and persons with reduced mobility when travelling by air? Are there specific national bodies in charge of the enforcement of the rights addressed in this question?**

The carriage conditions between the airline and the passengers, as parties to an agreement, are in line with the IATA regulations in this area, and considering the fact that Montenegro Airlines is the member of IATA, the mentioned regulations are applied.

Travel agencies engaged in organizing package holidays are responsible to introduce their passengers with carriage conditions, which fully define the rights and obligations of both parties involved.

With regard to the regulations related to the enforcement of the rights for compensation and assistance to passengers in the event of denied boarding, cancellation or long delays of international flights, the Law on Obligatory Relations and Grounds for Legal-Property Relations (Official Gazette of the Federal Republic of Yugoslavia 12/98), based on the Warsaw Convention 1929, is in force in Montenegro. We would like to mention that the Law on Ratification of Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) is adopted.

Montenegro Airlines has rulebooks on handling and transport of disabled persons which are in compliance with the IATA resolutions.

**65. What are the rules on the liability of air carriers in the event of accidents?**

The Law on Obligatory Relations and Grounds of Property-Legal Relations in Air Transport (Official Gazette of the Federal Republic of Yugoslavia 12/98), which defines the liability of air carriers in air transport and is implemented under point 4 of the Resolution on Declaration of Independence of the Republic of Montenegro (Official Gazette of Montenegro 36/06), is in force in Montenegro.

It should be noted that the Work Programme of the Government of Montenegro for 2009 has envisaged the adoption of the new Law on Obligatory Relations and Grounds of Property-Legal Relations in Air Transport. It will be adopted by the end of this year.

Also, the national Law on Mandatory Transport Insurance (Official Gazette of the Republic of Montenegro 46/07), inter alia, is related to the insurance of the owner, i.e. operator of the aircraft against third party liability insurance (Article 2 paragraph 1 point 3), and to the mandatory insurance of passengers in public transport against accident consequences (Article 17 paragraph 2 point 8). This Law also stipulates the minimum insured sums on which the insurance of passengers in public transport against accident consequences may be maintained (Article 19), and the minimum level of insured amount for the third party liability insurance (Articles 34 and 35).

## Administrative capacity

**66. Please describe the bodies responsible for the administration of civil aviation in Montenegro with their names, legislative and regulatory status and the relations between them. Please you indicate the number of persons employed each body. How is the training of the employees organized? How are these bodies financed?**

The bodies responsible for the administration of civil aviation in Montenegro are as follows:

- The Ministry of Transport, Maritime Affairs and Telecommunications
- The Council of the Civil Aviation Agency of Montenegro
- The Civil Aviation Agency of Montenegro
- Serbia and Montenegro Air Traffic Services Agency Ltd.

The Ministry of Transport, Maritime Affairs and Telecommunications shall perform the administrative and inspection supervision of the Civil Aviation Agency and other entities in the air industry, pass laws and secondary legislation, follow the international, multilateral and bilateral activities in this area. It is also the leader of the activities in integration processes of legislation harmonization with the EU regulations in the field of air transport.

The Council of the Civil Aviation Agency of Montenegro, in accordance with Article 9 paragraph 4 of the Law on Air Transport (Official Gazette of Montenegro 66/08) shall perform the following activities:

- adopt the Statute of the Agency and other general acts,
- adopt the annual work and development programme of the Agency,
- adopt the financial plan and balance sheet of the Agency,
- announce vacancies for the election of director, appoint and dismiss the director, with the consent of the Ministry of Transport, Maritime Affairs and Telecommunication,
- decide on other issues in accordance with the Law on Air Transport and the Statute of the Agency.

The Agency Council members, in accordance with Article 9 paragraph 5 of the Law on Air Transport, shall be entitled to a monthly fee for their work, which will be paid from the Agency funds in line with the Statute of the Agency.

Under Article 6 of the Law on Air Transport, the Civil Aviation Agency shall perform the following activities:

- certification and professional supervision in terms of continued fulfilment of requirements for performing air transport and other activities in the air transport,
- issue operating licences and certificates on airworthiness (implementation of defined requirements for safe aircraft operation) and approve operation manuals of the air traffic carrier,
- designate organization for the manufacture of the aircraft, spare parts and appliances in Montenegro,
- designate legal and natural persons who perform medical examination of the aircraft personnel,
- designate training centres and programmes for aircraft personnel, aircraft and airport,
- define air ways and routes at the proposal of the air services provider,
- keep the set registries and records,
- participate in international activities including the negotiation processes in signing international agreements,
- represent Montenegro in the International Civil Aviation Organization (ICAO) and other international organizations and institutions in the field of air transport,
- participate in activities of professional bodies and working groups in international organizations in the field of air transport,
- cooperate with international bodies competent for civil aviation transport,

- prepare professional grounds for: drafting bylaws, plans, programmes, registers, fee level and other experts grounds for enactments adopted by the Government and the Ministry of Transport, Maritime Affairs and Telecommunications, in accordance with the Law on Air Transport,
- resolve issues and complaints, consider initiatives and adopt procedures and norms in the field of protection of interests and rights of service user,
- perform other activities in accordance with the Law on Air Transport, other regulations and the Statute of the Agency.

Under Article 11 paragraph 4 of the Law on Air Transport, the funds for operation and development of the Agency shall be provided from the following:

- revenues generated through the Agency activities,
- part of the fee referred to in Article 122 paragraph 4 of the Law on Transport, regarding the route, terminal and other fees paid by the service users,
- part of the fee paid by the aircraft operators per tonnage of transported goods in civil air transport,
- part of the fee paid by the passengers in civil air transport in departure,
- other resources in accordance with the Law on Air Transport.

The Agency shall pay particular attention towards participation in all aspects of international cooperation: membership in international organization in the field of air industry, and numerous participations of its representatives at professional and advisory meetings, conferences, on-job training, forum and workshops.

The Agency representatives took part at the following meetings and trainings: ECAC (ECAC Directors General Meeting, ECAC Forum, ECAC Meeting (ANCAT/75), Workshop on Security Measures for Passenger and Cabin Baggage, ECAC Workshop screener certification, ECAC 7th 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.

The active participation at three current projects of the European Community and training organized within such projects, of particular relevance are as follows: EASA CARDS Project Seminar, ISIS (1<sup>st</sup> 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 implementation of the ECAC programme of technical assistance on the improvement of the following documents - National Civil Aviation Safety Programme (NCASP), National Civil Aviation Safety Quality Control Programme (NCASQCP) and Contingency Plan for emergency situations caused by acts of unlawful interference (Contingency Plan), is in progress.

Also, within technical cooperation with the ECAC-JAA TO, CAA was granted 22 positions for 16 different trainings in 2009 for the purposes of education and training of 7 employees.

It should be also noted that in the previous period the Agency employees attended the training organized by the Human Resources Administration of the Government of Montenegro as follows: British Council – Skills for EU 1, training about the European Union (European Union, Legal system and legal acts of the EU, Stabilisation and Association Agreement, EU assistance in the process of association).

Organization system of the Civil Aviation Agency has been established by the systematisation act defining 35 civil servants and state employees.

Serbia and Montenegro Air Traffic Services Agency Ltd., established as a business entity in which the Government of Montenegro owns 8% of the founding capital, and the Government of Serbia 92%, provides air traffic services in the air space of Montenegro. The founders of the Agency take part in the management of this business entity, share of profit and business risk assumption equivalent to their share in the founding capital, and the assembly and management committee are

mainly composed of representatives of the line ministries and ministries of finance of the both states, whereas the director and deputy director can not be from the same founder state. Currently the director of the Serbia and Montenegro Air Traffic Services Agency Ltd. is from the Republic of Serbia, and the deputy director is from Montenegro.

The total number of employees in the Serbia and Montenegro Air Traffic Services Agency Ltd. is 855, of which 92 employees are engaged in TMA Podgorica (Terminal Control Area Podgorica) and ATC Tivat (Air Traffic Control Tivat).

## **F. Maritime transport**

### **67. What is the flag of registration for nationally owned tonnage, by vessel type (liquid bulk; dry bulk; container; general cargo; roll-on/roll-off; dry cargo), by number of vessels and the DWT?**

There are 12 vessels registered in the Register of Ships, (18994 DWT and 28362 GT), of which 8 vessels under Montenegrin flag (10048 DWT and 8361 GT) and four vessels under foreign flags (8946 DWT and 20001 GT).

#### Dry bulk vessels

- Flag of Montenegro; 1 vessel; 4678 DWT and 3287 GT
- Flag of Honduras; 1 vessel; 3220 DWT and 2193 GT
- Flag of Slovakia; 1 vessel; 3220 DWT and 2193 GT

#### General cargo vessels

- Flag of Montenegro; 2 vessels; 3900 DWT and 3418 GT

#### Roll-on/Roll-off vessels

- Flag of Montenegro; 4 vessels; 750 GT
- Flag of the Bahamas; 2 vessels; 2506 DWT and 15615 GT

#### Dry cargo vessels

- Flag of Montenegro; 1 vessel; 1470 DWT and 906 GT

### **68. How are competition rules applied to the liner-shipping sector? Is there legislation governing the choice of operator and compensations for public maritime service?**

There are no limitations that block market competition in the line navigation for international and domestic passenger lines. There are no laws that regulate the choice of operators and compensations for public maritime service.

### **69. What are the rules governing access to the freedom to provide international maritime transport services and access to freedom to provide national maritime transport services (maritime cabotage)?**

The freedom to provide international maritime transport services has been provided and regulated by provisions of the United Nations Convention on the Law of the Sea, which Montenegro ratified by succession in 2006, Law on the Sea (Official Gazette of Montenegro 17/07), Law on Maritime

and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99, 74/99 and 73/00), Law on Yachts (Official Gazette of Montenegro 46/07) and Law on Ports (Official Gazette of Montenegro 51/08).

Article 6 of the Law on the Sea stipulates that maritime cabotage, i.e. the transport of goods and passengers between domestic ports, shall be performed exclusively by national ships, yachts or boats.

Cabotage does not include transport of persons on a foreign yacht or boat if such transport is carried out without compensation.

Without prejudice to the above-said, the Ministry of Transport, Maritime Affairs and Telecommunications may approve:

- transport of empty containers to a foreign vessel, in their exploitation between domestic ports, under the reciprocity condition,
- transport of goods and passengers to a foreign ship, yacht or boat between domestic ports if that is in the economic interest of Montenegro.

### **70. What are the conditions for the registration of vessels (requirements on ownership for first, and where relevant, second registers, management, crew nationality)?**

Articles 210-417 of the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99 and 73/00) relate to the registration of vessels. A vessel, which is in full ownership of a legal person with residence in Montenegro or of a Montenegrin citizen with residence in Montenegro, may be registered in the Register of Ships.

In addition to that, the following vessels may be entered into the Register of Ships: a ship which is in total or in part the ownership of foreign person or citizen of Montenegro whose residence is abroad, and the operator of such ship is a legal person with registered address in Montenegro under condition that the ship's owner gave consent to the application of Montenegrin operator for the entry of such ship into the Register of Ships; a ship which is in total or in part in the ownership of foreign persons under condition that Montenegro is in control of such ship.

For issuing the registration certificate of a foreign ship in the Montenegrin Register of Ships, the owner or operator shall submit the decision on the approval of temporary import of the ship based on lease and single customs declaration for temporary, i.e. regular import of the ship.

Resolution which cancels the registration of a ship need not contain the reasons due to which the registration was cancelled.

At the request of the ship owner, a ship under construction in the Montenegrin shipyard may be entered into the Register of Ships under construction.

The ships can be entered into the following registers:

- for the registration of commercial ships: commercial ships register, fishing boats register and public ships register
- for the registration of inland vessels: inland vessels register and public inland register
- for the registration of ships under construction there are ships under construction register and inland ships under construction register .

A ship registered in the foreign ship register shall not be entered into Montenegrin Register of Ships.

A ship shall be cancelled from the Register of Ships: if destroyed or assumed to be destroyed; if no longer fulfils the above-stated conditions; if permanently withdrawn from navigation; if entered into another register of ships maintained in Montenegro.

The registration of ships is performed on the basis of ruling made by the competent court (the Commercial Court in Podgorica) and Harbour Master Office.

The following rights may be entered into the Register of Ships: property right, contractual lien, lease, time charter, and pre-emptive right.

The first registration of the ship means the registration of the ship that has not been entered into the Montenegrin ship register before.

The ship may be in the ownership of domestic or foreign natural or legal person. The ship owned by foreign legal or natural person may have Montenegrin nationality subject to the above-stated conditions. The property right and contractual lien on a ship or on a ship under construction may be acquired, transferred, limited and cancelled only by registration in the ship register. The property right and contractual lien may be entered on a ship as entirety or specific part of ship.

Crew member aboard a ship under Montenegrin flag must have discharge booklet or embarking permit, regardless of the nationality, except for the master who must have Montenegrin nationality.

Articles 3 – 19 of the Law on Yachts (Official Gazette of Montenegro 46/07) stipulate the yacht registration procedure in the Register of Yachts. A yacht may be entered into the Yacht Register unless it has been registered elsewhere. A yacht owned by a national business organization, legal person and entrepreneurs or a natural person must be entered into the Register, whereas a yacht owned by a foreign legal or natural person can be entered into the Register.

Yacht on bareboat charter can be entered into the Register under charter's name for the duration of the bareboat charter. Yacht may be registered under the name of the owner, or under the name of one co-owner or under the name of all owners.

Yacht shall be deleted from the Register of Yachts following the decision of the administration body in case one of the following events: at the owner's request; the yacht is destroyed or is considered to be destroyed; if the yacht is permanently withdrawn from service; the yacht is entered under another register; the yacht no longer meets the requirements for registration in the Register; the yacht was repaired or rebuilt without previous consent from the administration body; and more than 30 days passes from the Registration Certificate expiry date.

In accordance with Articles 413-415 of the Law on Maritime and Inland Navigation, Articles 15 -24 of the Law on Maritime and Inland Navigation (Official Gazette of Montenegro 17/78, 8/79, 19/87, 22/90 and 13/91) and Articles 42-56 of the Decree on boats (Official Gazette of Montenegro 51/04) boats and vessels are entered into the register of boats kept by the Ministry of Transport, Maritime Affairs and Telecommunications – Master Harbour Offices of Bar and Kotor, with local offices, on the territory of which the boat owner's residence, i.e. seat is located.

The boats which always or most of the time navigate the inland waterways or territorial sea, regardless of the seat i.e. residence of the boat owner must be entered into the boat register.

The boat in total or part ownership of the foreign natural or legal person, person with or without Montenegrin nationality who has no residence in Montenegro, if the boat mainly navigates at the seas of Montenegro, shall be entered in the boat register.

#### **71. To which extent are technical and social standards based on measures agreed to in the IMO and/or ILO?**

Technical and social standards are harmonised with the Law on Ports (Official Gazette of Montenegro 51/08), Law on Yachts (Official Gazette of Montenegro 46/07), Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99 and 73/00) and Law on Maritime and Inland Navigation (Official Gazette of Montenegro 17/78, 8/79, 19/87, 22/90 and 13/91 ), as well as relevant secondary legislation and technical rules of the Maritime Safety Administration. Full harmonization shall be achieved by adoption and implementation of the Law on Protection of the Sea from Pollution by Vessels, Law on Safety and Security of Navigation, and Law on Obligatory Relations in Maritime Affairs.



**72. Is there national legislation, in particular in the fiscal field, designed to promote registration of vessels into the national registry?**

The procedure of registration and entry of ships and yachts into the national registers is defined under reply to question 70. For the moment there is no promotion of registration of vessels in the fiscal system.

**73. To which extent are safety and environmental regulations and standards based on measures agreed to in the IMO, ILO or other international organisations? Are there any derogations permitted or authorised to vessels under your national flag? Does your country resort to the services of a classification society? To which extent? Indicate which classification society classes each of the vessels under your national flag? Detail the results of your port State control activities in the last calendar year. Describe the functioning of your vessel traffic monitoring and information system.**

Regulations and standards stipulating the area of maritime safety are agreed to standards of International Maritime Organization, International Labour Organization and other international organizations.

There are no derogations permitted or authorized to vessels under Montenegrin flag.

For now Montenegro does not employ the services of any classification society, but the procedure of entering into agreements on providing services to vessels under Montenegrin flag with certain members of IACS according to IMO Resolution A.739(18) has been initiated.

Within the period from 1 January 2008 until 31 December 2008, there were total 97 controls and 843 inspections (of which 657 scheduled inspections and 186 extraordinary inspections), of which:

1) inspections of ships	272
national ships	37
international ships	235
2) inspection of boats	370
commercial boats	73
sports and entertainment boats	197
foreign boats	100
3) inspection of waterways, ports and coastal zones	201.

Maritime Safety Administration performs the supervision and management of maritime transport by means of the following sub-systems of VTMIS (Vessel Traffic Monitoring and Information System):

- 1) Maritime radio service through the Coast Radio Station "BarRadio" performs the activities related to the life protection at sea, safety of navigation and ports, monitoring and analysis of parameters related to meteorology and hydrography of importance for the maritime safety, exchange of information on navigation of ships with dangerous cargo within "Adriatic report" system, performance of obligations of Global Maritime Distress and Safety System "GMDSS", providing communication services during medical assistance to ships, broadcasting radio announcements and warning alerts for seafarers, transmission of weather bulletins and providing radio telephone services and connection with public "PTT" (Post Telegraph and Telephone) network.  
The MRCC Bar (Maritime Rescue Coordination Centre) also uses this service when providing services of GMDSS (Global Maritime Distress Safety System) and coverage of the navigation areas A1 and A2, by adequate VHF and MF radio telecommunication equipment. The following components are installed within the GMDSS system: VHF, MF, Navtex, DSC (VHF I MF) and Inmarsat C equipment. The MRCC Bar also receives SSAS (Ship Security Alert System) messages from ships under Montenegrin flag, with installed system in accordance with Chapter XI-2/6 of the SOLAS Convention.
- 2) AIS (Automatic Identification System) subsystem consists of one AIS base station located at the Coast Station and does not fully cover the Montenegrin Coast (the area of Boka

Kotorska Bay). Besides the Maritime Safety Administration, the Border Police Directorate and the Ministry of Defence also use AIS data. Such data are shared through the MSSIS system (Maritime Safety and Security Information System).

- 3) LRIT (Long Range Identification and Tracking) subsystem is in the process of implementation. The Maritime Safety Administration authorized three companies to perform testing of LRIT ship equipment, and signed a one-year contract with the private company for providing LRIT services in June 2009. On 2 December 2008 request for accession to the EU LRIT DC was submitted to the European Commission.
- 4) Radio goniometer (RDF – Radio Direction Finding) is installed at the Coast Station for the needs of MRCC Bar and is used in search and rescue actions at the sea.

Maritime Safety Administration does not possess its own telecommunication links for connecting the existing subsystem. Leased links from third parties are currently used.

**74. Is there legislation on the operation of ports, and freedom to provide port and auxiliary services to port operations? What are the main provisions of this legislation? How and by whom is it enforced?**

The Law on Ports (Official Gazette of Montenegro 51/08) regulates the issue of port categorization, port management, compensations, concessions and order in the port.

Article 2 of this Law stipulates that the port is a resource of general use under equal conditions to all interested natural and legal persons in accordance with the Law. The port land and infrastructure are the state property. The Law stipulates the categorization of ports by type of maritime transport, purpose and importance.

The utilization of ports and provision of port related services, construction, reconstruction and maintenance of the ports, as well as provision of other services, shall be performed on the basis of concessions. The Government shall make a decision on granting a concession for the period of 30 years in compliance with the regulations governing the field of concessions. Notwithstanding the above-said, the concession may be granted for maximum 60 years with the consent of the Parliament of Montenegro.

The ports of national importance shall be managed by a special administration body, established under the Law on Ports. Decree on organization and work procedure of the state administration (Official Gazette of Montenegro 59/09) stipulates that the Port Administration shall perform administration activities related to the ports of national importance: take care of construction, reconstruction, maintenance, administration, protection and development of ports; supervise the port operation, provide port related services and perform other services in the port; management of construction, reconstruction, maintenance and protection of port infrastructure and supra-structure; providing conditions for performing maritime transport and port related services in the port and at the port anchorage; application of the state legislation, international agreements and standards related to the ports; drafting port development plans adopted by the Government; ensuring the operations of port in accordance with the market principles; preparation of criteria for setting the level of compensation for the use of port infrastructure; drafting the concession document, participation in the procedure for granting a concession, and signing the concession agreement; approval of compensation fee for port services based on the maximum set amount of such fee; control of concession agreement execution; regulation and coordination of relation and activities among concession parties; maintenance and use of port supra-structure in the state property and not granted in concession; preparing the contents and manner of keeping the concession register; setting the maximum amount of fees for port services; initiating the procedure for granting concession; signing the agreement on concession with the winning bidder; ensuring the concessionaire is entered into the register of concessions; providing the concessionaire to meet all conditions in accordance with international and government regulations which define the protection of life at sea; providing the fulfilment of conditions set by international and government regulations which define the prevention of environmental pollution from ships, protection of sea and coastal

zone and civil responsibility for the damages caused by pollution, as well as other activities within its competence.

Public Enterprise for Coastal Zone Management manages the ports of local importance.

The Ministry of Transport, Maritime Affairs and Telecommunications performs the supervision of implementation of this law, and the Maritime Safety Inspection performs the inspection supervision activities.

**75. Is there legislation preventing access to the freedom of providing international maritime transport services? What are the main provisions of this legislation, how and by whom is it enforced?**

There is no legislation preventing access to the freedom of providing international maritime services.

**76. Are there cargo-sharing agreements with third countries? What are the main provisions of these agreements?**

There are no cargo-sharing agreements between Montenegro and third countries.

**77. Please indicate whether a maritime register has been set up or if it is envisaged to create it.**

Current entry-books and registries are provided under reply to question 70. International technical procedures and standards relating to the registration of vessels shall be fully harmonized by the adoption and implementation of the Law on Safety and Security of Navigation. Besides, in the following period the Government shall consider the opportunity of providing favourable fiscal measures that will promote the registration of vessels into the Montenegrin register.

**78. What is the legislation on insurance against this risk of maritime pollution? What is the legislation on the application of sanctions to those responsible for maritime pollution?**

Articles 876 – 888 of the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99 and 70/03) stipulate the responsibility for damage of goods and environmental pollution and responsibility for pollution caused by discharge of oil transported as cargo on ships.

Article 42 paragraph 1 point 15 of the Law on Yachts (Official Gazette of Montenegro 46/07), a fine for offence shall be imposed on any legal person, responsible person of the legal person, entrepreneur or natural person who pollute sea or environment in case such persons do not possess resources and storage for preventing sea pollution.

Pursuant to the Law on Coastal Zone (Official Gazette of Montenegro 14/92), any legal person and responsible person of such person shall be punished by fine for discharging dangerous and harmful substances into the coastal zone, and in case of discharging dangerous substances and waste waters without granted approval from the competent bodies.

In addition to the stated separate laws, the issue of risk insurance and application of sanctions on all responsible parties has been regulated in the domain of general regulations and it is provided under replies to questions 3 and 13 of the Chapter 27.

The Government has planned to adopt the proposal for the Law on Protection of the Sea from Pollution by Vessels during this year, on the basis of which the National Plan for Response in Case of Incidental Sea Pollution will be passed. The legislation in this field will be completed during 2010 by ratification of the International Convention on Civil Liability for Oil Pollution Damage (CLC) and Protocol of 2003 to the International Convention for the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, and the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (BUNKER Convention), and the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention).

**79. Being a party to the SOLAS Convention / Chapter XI/2 and the ISPS Code, what is the situation in Montenegro concerning maritime security?**

Decree on security protection of commercial ships and port facility for international transport in the State Union of Serbia and Montenegro (Official Gazette of Montenegro 32/2004) stipulates the liabilities of the state arising from the International Convention for the Safety of Life at Sea and International Ship and Port Facility Security Code, which are related to the ports opened for international transport and ships used in international navigation.

This Decree has been harmonized with provisions XI-2 of the SOLAS Convention and with the International Ship and Port Facility Security Code (ISPS CODE) and has been fully implemented from the date of its enforcement (2 July 2004).

**80. Solas Chapter XI/2 and the ISPS Code (the so called special measures to enhance maritime security) are in force for international voyages since 1st July 2004. How are the requirements set by those documents applied legally and in practice in your country?**

Decree on security protection of commercial ships and port facility for international transport in the State Union of Serbia and Montenegro (Official Gazette of Montenegro 32/2004) stipulates the following:

- Adequate level of port security,
- Adequate level of security applied by the ships with national flag when entering the ports of certain states signatories to SOLAS Convention,
- Responsibility to develop and approve the evaluation of ship and port security,
- Responsibility to develop and approve ship and port security plan,
- Issuance of the Declaration on Port Security,
- Issuance of the International Ship Security Certificate,
- Responsibility to send notifications to the International Maritime Organization, according to provisions of Chapter XI-2 of the SOLAS Convention and Part A of the ISPS Code,
- Responsibility and conditions related to the recognized port and ship security.

The Ministry of Transport, Maritime Affairs and Telecommunications issues the Declaration on Port Security for the period of five years subject to annual inspection. Annual inspection of the ports for international navigation, according to the provisions of the Decree on security protection of commercial ships and port facility for international transport, Chapter XI-2 of the SOLAS Convention and the ISPS Rulebook, is performed by the Commission formed by the Ministry of Transport, Maritime Affairs and Telecommunications. The Commission is composed of the representatives of the Ministry of Transport, Maritime Affairs and Telecommunications (harbour

masters, inspectors and employees), Maritime Safety Administration, Police Directorate and Customs Administration.

The Maritime Safety Administration issues the International Ship Security Certificate for the period of five years. The Ministry of Transport, Maritime Affairs and Telecommunications shall perform work supervision of the Maritime Safety Administration.

The ships and ports subject to the Decree on security protection of commercial ships and port facility for international transport, Chapter XI-2 of the SOLAS Convention and ISPS Code shall have an officer responsible for the security of ship, i.e. person responsible for the safety of port.

Rulebook on ranks and certification of seafarers (Official Gazette of Montenegro 7/2009), regulates the conditions a seafarer has to fulfil in order to obtain the rank and certification of ship security officer, as well as the rank and certification of a person responsible for port security. The certificates are issued for five year validity period.

The training of seafarers for obtaining such certifications shall be carried out by certified marine schools, i.e. marine training centres, which fulfil the set conditions. There is one certified school and two marine training centres in Montenegro.

Pursuant to Decree on organization and manner of work of state administration (Official Gazette of Montenegro 59/09), the Ministry of Transport, Maritime Affairs and Telecommunications shall form the project group whose task would be to establish whether the certified schools and marine training centres fulfil the required conditions for performing such training.

The Ministry of Transport, Maritime Affairs and Telecommunications shall issue the decision on fulfilment of required conditions for performing the training for the period of five years. Certified marine schools i.e. marine training centres are under supervision of the Ministry of Transport, Maritime Affairs and Telecommunications regarding the approved training.

#### **81. How many ships and port facilities are currently subject to these measures?**

All ships (passenger ships, cargo ships and fast cargo ships of 500 gross tonnes and more) entering the ports of Montenegro, which are open for international navigation, are subject to Special measures to enhance maritime security.

There are four ships under Montenegrin flag, of total weight 10.048 gross tonnes, engaged in international navigation, which are subject to Special measures to enhance maritime security.

Montenegrin ports opened for international navigation, which are subject to Special measures to enhance maritime security, are as follows: Luka Bar (the Port of Bar), Jadransko Brodogradiliste Bijela (Adriatic Shipyard Bijela), Luka Kotor (the Port of Kotor), Luka Risan (the Port of Risan) and Luka Zelenika (the Port of Zelenika).

#### **82. What is the administrative capacity to enforce legislation concerning maritime security both in your capacities of Port State and of Flag State?**

Pursuant to the Decree on organization and manner of work of state administration (Official Gazette of Montenegro 59/09), the Ministry of Transport, Maritime Affairs and Telecommunications, performing the administration functions related to the implementation of legislation in the field of maritime security, was established.

The Maritime Affairs Sector of the Ministry of Transport, Maritime Affairs and Telecommunications: Harbour Master Office of Bar and Harbour Master Office of Kotor, was formed with the aim to create an efficient institutional framework for the implementation of the law provisions and secondary legislation in the field of maritime affairs. The Harbour Master Office of Kotor with local branches in Tivat, Zelenika and Risan covers the area from Montenegrin border with the Republic

of Croatia to Cape Jaz. The Harbour Master Office of Bar with local offices in Ulcinj, Virpazar and Budva, covers the area from Cape Jaz to the border line at the mouth of Bojana River, the Bojana River and the Lake of Skadar, and within the borders of Montenegro, the Krupacko Lake, Plavsko Lake and Biogradsko Lake. Two main maritime security inspectors and two inspectors for maritime security of harbour master offices shall perform the inspection supervision of the implementation of provisions of the Law on Maritime and Inland Navigation (Official Gazette of the Federal Republic of Yugoslavia 12/98, 44/99 and 70/03) and the Law on Maritime and Inland Navigation (Official Gazette of Montenegro 17/78, 8/79, 19/87, 22/90 and 13/91), which are related to the maritime security in the part of state control in the ports.

Maritime Safety Administration was formed pursuant to the above-mentioned Decree on organization and manner of work of state administration. The Ministry of Transport, Maritime Affairs and Telecommunications performs the supervision of the lawfulness and comprehensiveness of the work of Maritime Safety Administration. Maritime Safety Administration performs the administrative activities which relate to: establishing the navigation capacity of vessels, by means of technical supervision, issuing ship documents, books and certificates, adoption of technical regulations and calculation of tonnage during calibration of vessels, as well as, state control of the flag.

### **83. In particular, what is your organisation and staffing in terms of inspections in both capacities?**

The state control of ports shall be performed by two main maritime safety inspectors and two harbour maritime safety inspectors. The Rulebook on internal organization and systematization of the Ministry of Transport, Maritime Affairs and Telecommunications establishes the conditions needed to be fulfilled by the mentioned inspectors, as follows: Graduate Nautical Engineer, Maritime College – Nautical Department, rank: master of long navigation, or Marine Department, rank: chief engineer on ship with main propulsion machinery of 3000 or more, ten years of work experience, knowledge of English language and passed certification exam.

The state control of flag shall be performed by 6 officers. Rulebook on internal organization and systematization of Maritime Safety Administration establishes the conditions that mentioned officers have to fulfil, as follows:

- Advisor I (Head of Division) – University degree, Graduate Marine Architect, 5 years of work experience, active knowledge of English language and passed certification exam,
- Advisor I for electric devices and ship electronics – University degree, Electronics Engineer, 5 years of working experience, active knowledge of English language and passed certification exam,
- Advisor I for machinery devices – University degree, Graduate Nautical Engineer, Graduate Mechanical Engineer, 5 years of working experience, active knowledge of English language, and passed certification exam,
- Advisor I, Engineer for Marine Telecommunications, Electronics Engineer, 3 years of working experience, English language knowledge and passed certification exam,
- Senior Advisor II, University degree, Graduate Nautical Engineer, Graduate Marine Manager, 2 years of working experience, English language knowledge, computer literacy, and passed certification exam,
- Senior Advisor II, University degree, Graduate Nautical Engineer, Graduate Marine Manager, 2 years of working experience, English language, computer knowledge, passed certification exam.

Notwithstanding the above said, in special circumstances or in case of absence, i.e. longer prevention from work of the inspector, the head of inspection body may authorize any state employee who fulfils the stipulated conditions to perform the activities of inspection supervision on a temporary basis, with full authority, until the cessation of such circumstances, as defined in Article 4 of the Law on Inspection Supervision (Official Gazette of Montenegro 39/03).

## **G. Satellite navigation**

### **84. Does your country intend to take part in the activities of the Galileo satellite navigation programme when operational?**

Participation in the activities of the Galileo satellite navigation programme is planned once the programme is operational.

## **H. State aid**

### **85. Are there any State aid individual measures or State aid scheme in force in the following transport sectors?**

#### **a) Air transport;**

There are no State aid measures in air transport.

#### **b) Inland waterways;**

There are no State aid measures.

#### **c) Maritime transport;**

There are no State aid measures in maritime transport.

#### **d) Rail transport;**

Except in the case given in reply to question 26 regarding subsidizing from the State budget for organizing local rail transport, other State aid measures were not being applied.

#### **e) Road transport:**

##### **- Transport of freight,**

There is no State aid scheme in transport of freight by road.

### - Transport of passengers (urban, suburban, regional, long distance)

At the local level, i.e. at the level of municipalities, the municipalities themselves regulate these issues. Namely, the municipalities adopt the Rulebooks governing public transport of passengers in the urban and suburban regular transport service pursuant to Article 38 paragraph 5 and Article 45 paragraph 2 of the Law on Road Transport (Official Gazette of Montenegro 45/05), and Article 51 paragraph 3 of the Law on Local Self-government (Official Gazette of Montenegro 42/03, 28/04, 75/05, 13/06). In accordance to these Rulebooks the municipalities may take decision to subsidize transport on certain lines for which there is no commercial interest, and the municipality authorities estimate that transport on such lines is of public interest, and these secondary legislation defines manner of awarding contracts, conditions to be fulfilled by the operator, duration of contract, appeal procedure, etc.

At the state level, there are subsidies for the transport of students. This area is governed by the Rulebook on criteria, manner, conditions, and compensation for exercise of rights to accommodation and food in the student dormitory, student credit, scholarships and transport participation (Official Gazette of Montenegro 12/07,16/07), and pursuant to Article 103 paragraph 2 of the Law on University Studies (Official Gazette of Montenegro 60/03).

Also, at the State level, there are subsidies for the transport of pupils of primary and secondary schools. This area is governed by the Rulebook on criteria and manner of receiving the pupils in the pupils' dormitories and exercise of right to transport participation (Official Gazette of Montenegro 56/03) and pursuant to Article 130 and 131 paragraph 3 and Article 136 of the General Law on Education (Official Gazette of Montenegro 64/02).

#### f) Combined transport.

There are no State aid measures for combined transport.

### **86. What is the existing legislation governing the granting of State aids? How and by whom is this legislation enforced?**

The issues regarding the granting of State aids are regulated by the Law on State Aid Control (Official Gazette of Montenegro 26/07) adopted on 8 May 2007 and entered into force on 1 June 2007. The Commission for State Aid Control appointed by the Government of Montenegro enforces the Law. Professional, administrative and technical affairs for the Commission are carried out by the Ministry of Finance as well as supervision of implementation of the Law.

The following secondary legislation supervened from the above mentioned Law are also applied and those are as follows:

- Decree on more detailed criteria, purpose and conditions for State aid allocation (Official Gazette of Montenegro 13/07),
- Decree on manner and procedure for adoption and contents of the existing documentation for preliminary and additional State aid control (Official Gazette of Montenegro 13/08),
- Rulebook on contents of Annual report on State aid control (Official Gazette of Montenegro 7/08).

The Government of Montenegro adopted the Proposal for the new Law on State Aid Control harmonized with the latest EU Directives and its adoption is expected until the end of 2009.



**87. Are there any public service obligations imposed on transport operators? In which transport sectors?**

There are no public service obligations imposed on transport operators in any transport sector.

**ANNEX 1: ANNEX**

## I. BASIC TRENDS OF TRANSPORT DEMAND

### A. Development of goods transport demand (tonne-km) 2002-2008\*

(million tonne-km)	2002	2003	2004	2005	2006	2007	2008	National traffic	International traffic	Of which traffic with EU
Road	70	/	/	/	/	92	139	/	/	/
Rail	66.10	15.20	94.10	132.80	181.50	183.50	186.00	47 151	138 813	/
Pipeline	/	/	/	/	/	/	/	/	/	/

Source:MONSTAT

### B. Development of passenger transport demand (passenger-km) 2002-2008\*

(million passenger-km)	2002	2003	2004	2005	2006	2007	2008
Private car	/	/	/	/	/	/	/
Bus	/	121	/	/	/	146	124
Railways	170 601	134 334	115 653	99 967	98 086	97 619	94 566
Air	210 684	320 402	371 088	460 456	414 090	418 158	495 557

Source:MONSTAT

## II. BASIC TRENDS AND MARKET STRUCTURE FOR EACH MODE OF TRANSPORT

### A.1. Road goods transport

	2002	2007	2008
Number of enterprises as at 31 December	/	104	261
- private	/	104	261
- state	/	/	/
Number of employees as at 31 December	No data	No data	No data
Total:			
- private enterprises	No data	No data	No data
- state-owned enterprises	/	/	/
- of which drivers:	No data	No data	No data
- private enterprises	No data	No data	No data
- state-owned enterprises	No data	No data	No data
Number of goods vehicle stock as at 31 December	/	593	1165
Total:	/	593	1165
< 3,5t loading capacity	/	27	114
> 3.5t loading capacity	/	566	1051
Value created (by sector)			
Amount (national currency)	EUR 5 873 million	EUR 3 445 million	EUR 2 590 million
% of GDP	No data	No data	No data
Energy consumption			
Tonnes (fuel)	4 135	4 198	4 272

Source:MONSTAT

## A.2. Road passenger transport (interurban bus transport)

	2002	2007	2008
Number of enterprises as at 31 December	/	103	120
- private	/	103	120
- state-owned	/	/	/
Size of enterprise:			
- 1 bus	/	6	7
- 2-5 buses	/	67	81
- 6-20 buses	/	26	28
- > 20 buses	/	4	4
Value created (by sector)			
Amount (national currency)	EUR 8 337 million	EUR 8 893 million	EUR 11 206 million
% of GDP	No data	No data	No data
Energy consumption			
Tons (fuel)	3 994.00	3 454.00	3 761.00

Source:MONSTAT

## B. Rail transport

	2002	2007	2008
Number of enterprises as at 31 December	1	1	1
- private	/	/	/
- state-owned	1	1	1
Number of employees as at 31 December	2 305	783	862
- Transport services	Goods, passengers	Goods, passengers	Goods, passengers
- Supply industry			
- Number of Rolling stock as at 31 December			
Total:	946	873	879
- Diesel locomotives	18	20	20
- Electric locomotives	17	16	16

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- Steam locomotives	/	/	/
- Electric railcars	6	5	5
- Diesel railcars	/	/	/
- Goods wagons	808	749	760
- Passenger railway vehicles	97	83	78
number of rolling stock by age as at 31 December	946	873	879
< 2 years old	/	/	26
3 – 5 years old	/	/	/
6 – 15 years old	/	/	/
15 - 30 years old	9	22+26+	9
> 30 years old	844	21+46+	844
Value created	2 808.995	9 729.420	15 286 863.00
Amount (national currency)	EUR	EUR	EUR

### C. Combined transport

	2002	2007	2008
Number of enterprises as at 31 December	2	2	2
- private			
- state-owned	2	2	2
Number of employees as at 31 December	3 940	3 369	2 302
Total	2	2	2
Number of transport units as at 31 December			
-Intermodal Transport Units (ITU)			
- Semi-trailers (for carrying ITU)	Number of semi-trailers loaded over the Port of Bar: 2 566	Number of semi-trailers loaded over the Port of Bar: 1 088	Number of semi-trailers loaded over the Port of Bar: 1 279
- Semi-trailers			
- Trailers (for carrying ITU)	Number of trailers available to the Port of Bar: 4	Number of trailers available to the Port of Bar: 4	Number of trailers available to the Port of Bar: 4
Infrastructure	Infrastructure on the Container terminal in the Port of Bar:	Infrastructure on the Container terminal in the Port of Bar:	Infrastructure on the Container terminal in the Port of Bar:

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	- operative shore: 330 m; - depth of aquatorium: 12 m; - storage area: 8,8 ha; - tracks: 1 975 m;	- operative shore: 330 m; - depth of aquatorium: 12 m; - storage area: 8,8 ha; - tracks: 1 975 m;	- operative shore: 330 m; - depth of aquatorium: 12 m; - storage area: 8,8 ha; - tracks: 1 975 m;
Railway lines suitable for carrying ISO-containers (or bigger containers), km	Railway line Bar – Vrbnica suitable for carrying containers HIGH CUBE	Railway line Bar – Vrbnica suitable for carrying containers HIGH CUBE	Railway line Bar – Vrbnica suitable for carrying containers HIGH CUBE
Terminals equipped for combined transport	Container terminal in the Port of Bar	Container terminal in the Port of Bar	Container terminal in the Port of Bar
Transport demand (tkm/ ITUs)			
Rail-road	No data	Transported UTI 687	Transported UTI 1 007

Source: Port of Bar AD Bar and Stock company Montecargo – Podgorica

Note: The companies in charge of the combined transport are in majority state-owned as follows: Port of Bar AD Bar with 54% shares of the State and Railways of Montenegro AD - Podgorica - 69%, whose successor is Stock company Montecargo – Podgorica. Number of employees is total number of employees for both companies because it cannot be separated as the special sector within the company.

### D. Air transport

There are no State aid measures in air transport.