



TRANSPARENCY AND ACCOUNTABILITY IN THE MONTENEGRIN GOVERNANCE SYSTEM

REPORT OF AN ASSESSMENT
with Methodology and Assessment Framework Described

PROJECT SPONSORED BY
DEMOCRATIC GOVERNANCE THEMATIC TRUST FUNDS (DGTTF)



The views expressed herein do not necessarily represent
the views of the United Nations Development Programme
or any individual employee of the UNDP.

Podgorica, February 2009



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TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
CHAPTER 1 INTRODUCTION	7
I. BACKGROUND	7
A. Montenegro in Context	7
B. Project Sponsors and Implementers.....	8
II. SCOPE OF ASSESSMENT AND METHODOLOGY	8
A. Scope of Assessment	9
B. Methodology	10
C. Project Limitations	12
III. CONCEPT OF GOVERNANCE, TRANSPARENCY AND ACCOUNTABILITY.....	12
A. Difference between government and Government.....	12
B. Governance.....	13
C. Accountability	13
D. Transparency.....	14
E. Application of Principles – Horizontal vs. Vertical	14
F. Independence versus Autonomy.....	15
CHAPTER 2 FINDINGS: MONTENEGRO GOVERNANCE IN LAW AND PRACTICE	17
I. MONTENEGRO’S GOVERNANCE SYSTEM IN LAW	17
A. Regulation of Legal Obligations	18
B. Legal Regulations Governing Independent Bodies	20
C. Legal Regulations Governing the Work of Parliament	22
II. MONTENEGRO’S GOVERNANCE SYSTEM IN PRACTICE	23
A. Accountability of Government to Parliament	23
B. Accountability of Independent Public Institutions to Parliament	33
C. Vertical Transparency of Public Institutions.....	38
D. Assessment of Parliamentary Oversight Capacity.....	42
CHAPTER 3 CONCLUSIONS AND RECOMMENDATIONS	45
I. ACCOUNTABILITY OF GOVERNMENT TO PARLIAMENT	45
A. Election of Government and Establishment of its Policy Objectives	45
B. Authorizing Budgets and Reviewing Financial Performance.....	46
C. Adopting Legislation	48
D. Periodic Review of Government Performance.....	49
II. ACCOUNTABILITY OF INDEPENDENT INSTITUTIONS	52
A. Appointments to Independent Public Institutions	53
B. Conditions for Independent and Autonomous Conduct	53
C. Periodic Parliamentary Review of Performance of Independent Public Institutions.....	54
III. VERTICAL TRANSPARENCY OF PUBLIC INSTITUTIONS.....	55
IV. PARLIAMENT’S OVERSIGHT CAPACITY.....	57
A. Rules of Procedure of Parliament	57
B. Professionalization of MPs.....	58
C. Establishing a Parliamentary Calendar	59
D. Increasing Parliamentary Resources	59
EPILOGUE: ACCOUNTABILITY OF PARLIAMENT	61

APPENDIX I. NEW CHALLENGES FOR A NEW MANDATE - PLAN OF ACTION	63
Analysis and Recommendations for a Strategy to Develop the Parliament of Montenegro - October 2006	63
APPENDIX II. MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008)	69
APPENDIX III. LIST OF LAWS AND OTHER ACTS REVIEWED	75
APPENDIX IV. ORIGINAL GOVERNANCE ASSESSMENT FRAMEWORK	79
APPENDIX V. LIST OF MEETINGS CONDUCTED	81
APPENDIX VI. IMPROVED GOVERNANCE ASSESSMENT FRAMEWORK	83
APPENDIX VII. TRANSPARENCY AND ACCOUNTABILITY IN LAW	87
1. LEGAL OBLIGATION OF GOVERNMENT AND OTHER STATE ORGANS TO PROVIDE INFORMATION TO PARLIAMENT	87
2. LEGAL OBLIGATION OF GOVERNMENT AND OTHER STATE ORGANS TO RESPOND TO REQUESTS FOR INFORMATION	99
3. LEGAL REQUIREMENTS FOR ALL STATE ORGANS TO MAKE INFORMATION ABOUT THEIR WORK AND DECISION-MAKING PROCESS AVAILABLE TO THE PUBLIC AUTOMATICALLY OR TO GRANT ACCESS TO INFORMATION	104
4. LEGALLY DEFINED RELATIONSHIP OF ACCOUNTABILITY OF GOVERNMENT AND OTHER STATE ORGANS TO PARLIAMENT	118
5. LEGALLY DEFINED MEASURES TO BOLSTER CREDIBILITY OF INFORMATION PROVIDED TO PARLIAMENT BY GOVERNMENT AND OTHER STATE ORGANS	120
6. LEGALLY DEFINED MEASURES FOR PARLIAMENT TO REACT TO INFORMATION RECEIVED AND, THEREFORE, HOLD INSTITUTIONS AND INDIVIDUALS TO ACCOUNT	159
7. LEGALLY DEFINED MEASURES FOR THE PUBLIC TO HOLD INSTITUTIONS AND INDIVIDUALS TO ACCOUNT	167
APPENDIX VIII. EXCERPT FROM PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR: PRINCIPLES, MECHANISMS AND PRACTICES.....	183
APPENDIX IX. HUNGARIAN LAW ON FREEDOM OF ELECTRONIC INFORMATION	185
APPENDIX X. RECOMMENDATIONS FROM MARCH 2008 ROUNDTABLE ON ROLE OF PARLIAMENT IN IMPLEMENTATION OF STABILIZATION AND ASSOCIATION AGREEMENT.....	197

EXECUTIVE SUMMARY

This study describes the purpose, methodology and findings of a pilot assessment of Montenegro's progress in achieving the *political dimensions* of the Copenhagen Criteria. It focuses on the extent to which the governance system in Montenegro is *transparent* and *accountable* and, therefore, focuses on the ability of governance institutions to guarantee democracy, the rule of law, human rights, and respect for and protection of minorities. The assessment followed a structure of looking at and evaluating the legal framework and, then, looking at and evaluating its implementation through one-on-one interviews with key figures and exploration of websites and media archives.

The major purpose of this project was to design a framework that Montenegrin public officials, civil society, and ordinary citizens could use to monitor Montenegro's progress in adopting and implementing reforms necessary for European Union (EU) accession. Thus, the assessment itself served, first, as an instrument to test the assessment framework designed at the outset of the project so that improvements could be made to it. The assessment report also provides a baseline measurement from which future progress can be tracked.

The project recognizes that the Copenhagen Criteria are not just a set of targets that need to be fulfilled; instead, they define the systems needed to be put in place in order to meet the enormous challenges of being a member of the European Union – and not just becoming a member. It is hoped that individual state bodies and public institutions can apply the framework to their own institutions in the future in order to measure their own performance and improve their internal operations in order to meet the challenges of becoming a responsible member of the European Union. Equally, it is expected that civil society in Montenegro will be able to use the framework to conduct its own assessments about the extent to which a public institution or multiple institutions serve the needs of the public in the relevant interest areas.

Main Findings

In the less than three years that Montenegro has operated as an independent state, it has adopted a new Constitution, enacted almost 250 laws and amended laws, established 20 new institutions, and formulated a number of strategies to address the key challenges of European integration. Through these efforts, Montenegro is well on its way to establishing the conditions for fulfillment of the Copenhagen Criteria in order to become a member of the European Union. Based on this initial assessment of Montenegro's governance system, the principle challenges to accountability and transparency are:

- ▶ The overall legal framework establishes a number of legal guarantees, institutions, and regulations that create the basis for stable institutions that can guarantee democracy, rule of law, human rights, and respect for and protection of minorities, but there is an absence of detail necessary to establish accountability and ensure implementation.
- ▶ While the principles of division of state power and of balance and mutual control exist in the new Constitution, neither is fully functional in practice.
- ▶ The supervisory function of Parliament is weak due to a legal framework that minimizes its ability to obtain the information needed to exercise oversight; to a lack of capacity and resources; and, to an excessive concentration on politics and an overemphasis on an effort to control, rather than to oversee.

-
- ▶ Independent public institutions lack the necessary legal framework to guarantee their independence in practice and establish public confidence in the independence of their actions.

This study presents the theoretical basis of 'good governance,' reviews the Montenegrin legal framework and its implementation in practice, and presents suggestions about what can be done to further improve the legal, institutional, and political structure in order to solidify a system of governance that will enable Montenegro to assume the responsibility of European Union membership.

CHAPTER 1 INTRODUCTION

I. BACKGROUND

A. Montenegro in Context

After years of being a recognized entity in the Socialist Federal Republic of Yugoslavia (SFRY), the Federal Republic of Yugoslavia (FRY), and the State Union of Serbia and Montenegro and, as such, exercising governing powers in varying degrees and having established some stable institutions of governance, Montenegro has embarked on its third full year as an independent and sovereign state. A key strategic priority for Montenegro is European Union membership, and the state power had been in dialogue with the European Union about this process even before independence.

After the May 2006 referendum on Montenegro's state status, the European Union decided to continue its relations with Montenegro as an independent and sovereign state and, in September 2006, continued negotiations on a Stabilization and Association Agreement (SAA), which was signed on 15 October 2007 in Luxembourg. Parliament ratified the SAA a month later with overwhelming support; and, the Interim Agreement on Trade and Trade-Related Matters took effect on 1 January 2008. The National Program for Integration covering the period from 2008 to 2012 was adopted in June 2008; and, in December, Montenegro formally submitted an application to the European Union (EU) for status as a candidate country for membership.

The Parliament of Montenegro has supported clearly the strategic priority of European Union membership, first adopting a declaration on European integration in June 2005. From that time, Parliament received regular quarterly reports from Government on its activities in that field. In December 2007, Parliament adopted a Resolution on Fulfillment of Commitments of Montenegro under the SAA, which established the practice of monthly reports from Government on implementation of the SAA. In addition, the Committee for Foreign Affairs and European Integration invites Government representatives responsible for European affairs to make presentations and discuss the reports from time to time.

In the end, achieving the goal of EU membership will require Montenegro to meet certain criteria agreed at the Copenhagen Summit in 1993.

"The European Council today agreed that the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required.

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.¹¹

¹ Conclusions of the Presidency (Copenhagen: European Council, 21-22 June 1993), 13. © Council of the European Union

As the conclusions of the European Council's Presidency make clear, the Copenhagen Criteria are not simply a list of requirements that must be fulfilled. Instead, the Criteria represent a shared understanding of conditions needed to assume the obligations of membership through the creation of a system of governance strong enough to respond to the needs of the people in terms of the delivery of public services, the enforcement of laws, and the promotion of economic development that benefits the population at large.

B. Project Sponsors and Implementers

The Capacity Development Program (CDP) – a partnership between the Government of Montenegro, the Foundation Open Society Institute (FOSI-ROM), and the United Nations Development Programme (UNDP) – launched the current project as part of its mandate to assist in the development of Montenegro's institutional and administrative capacities. The UNDP engaged the National Democratic Institute (NDI) to design the framework, conduct the research, and produce the assessment.

As a nonprofit, nonpartisan organization working to support and strengthen democratic institutions worldwide, NDI has operated in Montenegro since 1999. Through its work over the last 10 years, NDI has established institutional relationships with the country's representative political institutions and civil society actors and has developed an extensive understanding of the political and governance system. In addition to extensive training programs, consultations, and written research and comparative materials, NDI has conducted regular public opinion surveys – both polls and focus groups – and large-scale assessments, including its 2006 comprehensive review of the Parliament of Montenegro, which identified key areas in need of improvement and suggested specific steps the institution could take to increase its administrative and legislative capacity.²

The project team itself was led by Lisa C. McLean, Senior Resident Director of NDI Montenegro and a 10-year foreign resident of Montenegro with 20 years experience working in the field of democratic governance. Joining the team leader were Dr. Peter Hack, a professor of constitutional law in Hungary, who played a key role in the transition of his country from communism to democracy and, finally, to European Union membership. Dr. Hack served as a chairman and member of the Constitutional and Judicial Committee of the Hungarian National Assembly for 12 years, as well as in a number of other positions in the Hungarian Parliament. Additionally, the research team included two citizens of Montenegro: Nataša Komnenić, Deputy Director for Parliamentary Programs at NDI Montenegro who possesses eight years experience in parliamentary reform processes; and Ranka Šarenac, an independent consultant with nine years experience working for a number of international organizations on local government and administrative reforms, as well as evaluations and assessments, in Montenegro.

II. SCOPE OF ASSESSMENT AND METHODOLOGY

While the European Commission issues an annual report on progress achieved in meeting the criteria, the goal of EU integration is Montenegro's, and Montenegrin society needs to assume ownership of the process by developing its own ability to monitor progress as objectively as possible. The capacity to conduct such assessments will contribute to the creation in Montenegro of a shared political

² The recommendations from that report in the form of a Draft Action Plan are reproduced as Appendix I in this document. *New Challenges for a New Mandate: Analysis and Recommendations for a Strategy to Develop a Key Pillar of Montenegro's Democracy: The Parliament of the Republic of Montenegro* (Podgorica: National Democratic Institute, October 2006), available in English at www.access-democracy.org and in Montenegrin at www.ndicrnagora.org.

commitment to the achievement of certain policy goals, as well as improve policy coordination and institutionalization of the reform process.³ Reform that comes about because of outside demands will not result in the societal changes necessary to steer Montenegro successfully on the path to Europe; the process must be driven by domestic demands.

A. Scope of Assessment

This study focuses on the **political dimensions** of the Copenhagen Criteria as important preconditions for achieving a system of good governance that can lead to adoption of standards necessary for EU membership in all spheres. As a first step in this study, the NDI Project Team developed a data matrix that brings together all information related to Montenegro (including strategies, plans, reports, assessments, and opinion polls) from domestic and international sources in the two broad areas related to the political dimensions of the Copenhagen Criteria: (1) democracy and rule of law; and, (2) human rights and respect for and protection of minorities.⁴ Based on the document research, the NDI Project Team concluded that there are an abundance of independent reports and assessments from relatively credible sources (e.g., the Council of Europe, UNDP, UNICEF, and Open Society Institute) in the area of human rights and minority protection to which the state institutions can refer in their effort to expand their capabilities in this area.

This conclusion left the broad area of democracy and rule of law, which is further subdivided into the following categories in most documents related to EU integration (e.g., the Progress Report, the EU Partnership, and the National Program for European Integration):

- 1) constitution,
- 2) parliament and elections,
- 3) government,
- 4) public administration,
- 5) judiciary, and
- 6) anti-corruption.

The first category, the **constitution**, relates to the foundation of the state from which all institutions come. the NDI Project Team concluded that the 2007 Interim Opinion and Opinion by the Council of Europe's Venice Commission regarding Montenegro's constitution provide sufficiently clear recommendations about changes necessary to strengthen the basic law in order to fulfill the Copenhagen Criteria – in both its political and economic aspects. Thus, it decided not to make the Constitution a major focus of its research.

Three of the remaining categories relate to the constitutionally defined state power (namely, **parliament**, **government** and **judiciary**), while the other three categories relate to functions. The **election** function begets the parliament and president; the **public administration** underpins the functioning of government and, in its broad interpretation, all other institutions, including parliament, judiciary, and other independent institutions. Finally, **anti-corruption** policies and programs exist in order to improve the functioning of the state institutions and their efforts to guarantee democracy, rule of law, and respect for human and minority rights.

In an effort to address as many of these topics as possible and yet to provide a useful and focused assessment tool, the NDI Project Team studied the recommendations from the 2007 EC Progress Report and 2007 EU Partnership document to find cross-cutting themes that could be applied to a broad range of insti-

³ *Supporting Country-Led Democratic Governance Assessments: A Practice Note* (New York: United Nations Development Program, August 2008), 3 and 21-22.

⁴ See Appendix II for a full list of strategies, plans, reports, and assessments consulted in designing this research.

tutions and functions. NDI further recognized that the EC focuses not only on 'checking boxes' or establishing bodies, but also on examining how the body or practice functions in reality. On the basis of the EC documents, the NDI Project Team found **transparency** and **accountability** to be consistently recurring themes that challenge the functioning of state institutions and are key components in the struggle against corruption. The degree to which these two principles of governance exist in public institutions are fundamental determinants of the degree to which the institutions can deliver democracy, rule of law, and respect for human and minority rights. Thus, the focus of the research is on defining these two globally recognized terms in a Montenegrin context and pinpointing practical – rather than theoretical – areas for attention.

B. Methodology

In developing its assessment framework, the NDI Project Team defined four general steps to gauge transparency and accountability:

- 1) ***What does the law say?*** Describe the legal provisions and instruments that function as tools to establish transparent and accountable government.
- 2) ***What are the positive and negative aspects of these legal instruments?*** Evaluate the ability of these legal instruments to create a transparent and accountable environment for the functioning of public institutions that serve the interests of the citizens.
- 3) ***How are legal instruments used in practice?*** Describe the implementation of these legal instruments.
- 4) ***Does the use of the legal instrument support the development of a transparent and accountable environment in the state institutions?*** Evaluate the implementation of the legal instruments.

Recognizing that Montenegro's 2007 Constitution established that the legislative, executive, and judicial branches exercise state power and that they are based on the principle of balance and mutual control, the NDI Project Team decided to focus its assessment on the rule-making body – i.e., the legislature – and the implementing bodies of the executive branch and independent institutions established by and having a direct legal relationship to the legislature, in some capacity. To find these institutions, a broad search of the Montenegrin system began with the Constitution and continued through to legislation, decisions, and regulations enacted as of 31 December 2008.⁵

Then, the team designed a set of broad measurement tools for each step of the framework that seek to identify the legal and factual state of affairs. Many of these tools are qualitative measurements phrased in a comparative mode – e.g., how effective, how inclusive, how strong – demonstrating that, in many cases, there is no tangible ideal, but rather a range from bad to good to best or from non-existent to existent in law to existent and achieving its purpose. Judgments about Montenegro's place in the range depend, to some extent, on its legal, political, and administrative culture. It also depends on recognized international best practice, which accepts the fact that historical traditions cannot be an excuse for failure to achieve the basic goal of giving citizens the right to access and exercise power.

Using this assessment framework,⁶ the NDI Project Team conducted a pilot assessment by analyzing relevant laws and documents and conducting interviews with 62 people and 35 institutions.⁷ The results of that assessment are contained in the following study, which traverses the four steps mentioned above from the initial assessment framework. It broadly examines the topic of governance

⁵ Appendix III provides a complete list of laws reviewed in the course of this research.

⁶ See Appendix IV for the original framework that guided the assessment.

⁷ See Appendix V for a complete list of persons met and institutions visited.

applied to all three branches of government – executive, judicial, and legislative; and it looks at the question of whether the legal environment and actual practice enable citizens to exercise and access power to achieve their interests. The study also provides a series of recommendations for concrete action to help move the governance system in Montenegro along the continuum toward greater accountability and transparency. It concludes with an improved framework for use and adaptation by all public institutions at any level of government.⁸

Throughout the process, the Capacity Development Program (CDP) and NDI have tried to inform and engage the National Council for European Integration (NCEI) – a body formed by a parliamentary resolution bringing together a broad range of state and non-state actors to monitor Montenegro’s progress in the European integration process. CDP and NDI will present this report to the NCEI in the hope that it will be able to use the findings and the assessment frameworks from Appendices IV and VI to monitor progress and build broad societal support for further reforms.

Methodology for Developing an Assessment Framework

- Step 1:** Research existing documents on strategies, plans, reports, assessments, and opinion polls from domestic and international sources.
- Step 2:** Narrow the focus to transparency and accountability that affect all aspects of the political dimensions of the Copenhagen Criteria.
- Step 3:** Develop a framework to assess the transparency and accountability of the state powers (i.e., executive, judiciary, and legislature).
- Step 4:** Through a comprehensive examination of the legal framework, narrow the focus further to the executive branch and independent institutions with a legally defined relationship with Parliament.
- Step 5:** Develop a standard set of questions that can be broadly used in one-on-one interviews with representatives of assessed institutions.
- Step 6:** Review legislation and conduct interviews.
- Step 7:** Write up findings from legal review and interviews.
- Step 8:** Return to assessment framework and make adjustments to improve its applicability to a broad range of institutions.

At the end of the day, democracy is simply a means to an end. The strength of the democratic form of government is its ability to establish a system through which state organs – i.e., the system of governance funded by taxpayers – enable all citizens improved chances to earn a living, to access affordable public services, and to enjoy personal security and equitable justice.⁹ Democracy empowers citizens to exercise their right to decide who will manage the system governing people’s lives – and, in that way, it removes the elite monopoly over decision-making and the benefits of that decision-making.

⁸ See Appendix VI for improved assessment framework.

⁹ Beetham, David, Sarah Bracking, Iain Kearton, and Stuart Weir, *International IDEA Handbook on Democracy Assessment* (The Hague: Kluwer Law International, 2002), 10.

C. Project Limitations

Aware that a number of legislative and institutional reforms are imminent, the Project Team hopes that this study can contribute to those reform processes and has made every effort to build a basis for expanding on the assessment framework over time.

Some institutions were left out, not because they were not important, but because they fell outside of the defined scope of research. In addition to formal state-funded institutions, such as the election commissions and the public service media, institutions that play a role in vertical accountability – namely, civil society, political parties, and the private media – are not included in this study. In addition, the public and citizens was looked at as a broad concept without the ability to disaggregate information by gender, ethnic minority, or specific vulnerable groups. Still, the overall findings can be applied generally to all groups and the assessment methodology can be used by any civil society or public institution to conduct a targeted assessment.

The study focuses on qualitative measurements, which inherently involve a degree of subjectivity. Nonetheless, the project team stands by its methodology because governance itself is hard to be quantitatively defined or measured. There is no country in the world that achieves all the ideals of governance and much depends on a country's legal, administrative, and political culture. In this research, an attempt has been made to define terms and accepted standards of good governance and to establish where Montenegro lies in terms of those standards in both a legal and practical sense.

III. CONCEPT OF GOVERNANCE, TRANSPARENCY AND ACCOUNTABILITY

A. Difference between government and Government

In this study, a difference is made between state power (government) and executive power (Government). The state power is that defined by Article 11 of the Constitution with Government exercising the specific executive power:

Constitution of Montenegro Division of Power Article 11

The power shall be regulated following the principle of the division of powers into the legislative, executive and judicial.

The legislative power shall be exercised by the Parliament, the executive power by the Government and the judicial by court.

The power is limited by the Constitution and the law.

The relationship between powers shall be based on balance and mutual control.

Montenegro shall be represented by the President of Montenegro.

Constitutionality and legality shall be protected by the Constitutional Court.

Army and security services shall be under democratic and civil control.

Similarly, the research recognizes the difference between the state and public administration insofar as the state administration is made up of ministries and their administrations, on the one hand, and secretariats, bureaus, directorates and agencies, on the other hand.¹⁰ Public administration, however, is a broader term that comprises all those employed in institutions of government at the state and local levels, including the three branches of power, other bodies established by the Constitution, and independent institutions established by law and defined as independent.

B. Governance

This research borrows the definition of governance from a paper developed for the Organization for Economic Co-operation and Development (OECD) by Rob Laking, a Professor at Victoria University in Wellington, New Zealand:

...[G]overnance... means the constitutional, legal and administrative arrangements by which governments exercise their power, as well as the related mechanisms for public accountability, rule of law, transparency and citizen participation.¹¹

In his paper, Professor Laking further defines 'organizational governance' as:

...the rules and processes by which organizations are directed and controlled so that they achieve the purposes for which they have been established and that their activities conform to the general principles of good governance.

Finally, Laking makes a distinction between external and internal governance as the rules imposed from outside by controlling bodies, on the one hand, and the rules created by the governing body and senior management of each public organization, on the other hand.

C. Accountability

The South Slavic languages use the term *odgovornost* as a translation for accountability, as well as for responsibility and responsiveness, and the root of the word – *odgovor* – translates as answer. In contrast, the English term *accountability* is based on the root *account* and implies the ability to give an explanation for actions taken or decisions made, whereas the term *responsibility* implies being in charge, and *responsiveness* is the ability to react and to provide an answer. In English, *accountability* is distinguished from the other two terms because it has the strongest inference of the obligation to explain (rather than to just shoulder a burden) and of consequences of a legal or political nature based on the information provided by the explanation. In order to assess consequences, accountability also requires a clear indication of who is in charge.

A report by Democracy Reporting International (DRI) related to international standards for democratic governance provides a two-dimensional political science concept of accountability that involves the notions of:

- 1) **ANSWERABILITY**, as in the need to respond to questions, to provide information and explain actions taken, and for public officeholders to provide public reasoning (i.e., explain their decisions publicly); and,
- 2) **ENFORCEABILITY**, implying the ability to punish an individual who does not respond or who responds with unsatisfactory answers.¹²

¹⁰ Article 29, *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

¹¹ Laking, Rob, "The Governance of the Wider State Sector: Principles for Control and Accountability of Delegated and Devolved Bodies," (Bratislava: Organization for Economic Co-operation and Development - OECD, 22-23 November 2001), 3. © OECD

¹² "Discussing International Standards for Democratic Governance: A Preliminary Research Report," Discussion Paper No. 2, (Berlin: Democracy Reporting International, September 2007), 16-17.

Punishment refers to consequences that can be political or legal -- political, in the sense of reporting that leads to public embarrassment, loss of credibility, resignation, or dismissal; and, legal, in the sense that an individual or action is referred to an appropriate state institution and is subject to penalties in the form of fines or incarceration.

D. Transparency

In governance terms, transparency requires government bodies that are open to public scrutiny because, as the literature on European principles of public administration states, "[o]penness and transparency are also necessary instruments for the rule of law, equality before the law, and accountability."¹³ There is a slight distinction between the often synonymous terms of **openness** and **transparency** with openness suggesting that a government body is "available for outside scrutiny" and transparency suggesting that, "when examined closely, it can be 'seen through' for the purpose of scrutiny and supervision."¹⁴ Together, the terms help to protect "the public interest [by reducing] the likelihood of maladministration and corruption" and "individual rights" by providing the reasons for decisions taken and helping an "interested party to exercise the right to redress through appeal."¹⁵

Transparency can happen in two ways:

- 1) on the one hand, there can be a legal obligation on the part of government institutions to make information available; and,
- 2) on the other hand, there can be an established right to ask for and get information.

In both cases, the timeliness of supplying information and the information provided are important aspects of evaluating implementation in practice. The independent media and the Law on Free Access to Information are important instruments for achieving public openness, as well as regulations requiring publication of decisions with a statement of reasons (e.g., facts, evidence, and applicable legal justification that make the decision necessary).¹⁶ In addition, the tools of oversight provided to the legislature are fundamental for transparency between institutions of state power (horizontal), as is the legislature's openness important for transparency toward the public (vertical).

It must also be acknowledged that transparency itself is the *sine qua non* for accountability, which makes it an important dimension on its own and an important dimension for accountability. Without access to information, an individual or an institution cannot be held to account.

E. Application of Principles - Horizontal vs. Vertical

In this study, the principles of accountability and transparency are applied both vertically and horizontally. In this sense, the relationship between the citizen and the state – or the **vertical** relationship – in terms of accountability and transparency is explored. The exception in this exploration is an assessment of the institutions that play a mediating role in the vertical relationship (e.g., civil society, media, and political parties),¹⁷ although it is hoped that interested parties can explore the role of these institutions in governance using the assessment framework.

¹³ "European Principles for Public Administration," (Paris: SIGMA, 22 November 1999), 11. © OECD

¹⁴ *Ibid.*

¹⁵ *Ibid.*, 12.

¹⁶ *Ibid.*

¹⁷ "Discussing International Standards for Democratic Governance: A Preliminary Research Report," Discussion Paper No. 2, (Berlin: Democracy Reporting International, September 2007), 3.

In addition, the research explores the relationship between state institutions – i.e., the *horizontal* relationship. In a system like Montenegro's, whose Constitution affirms a separation of powers between the executive, judicial, and legislative powers, the research examines the balance of power among the branches and assesses the ability of each of the branches to play a meaningful role in the overall governance of the country.

F. Independence versus Autonomy

The terms independence and autonomy both imply the ability to act freely without interference of other institutions. But, in management terms, *independence* usually refers to the freedom to interpret and decide policy, while *autonomy* refers to the ability to manage resources (human, financial, and material) freely in order to achieve policy objectives. Thus, while an autonomous institution may have management and budget flexibility, the independent institution should be able to make decisions on the issues within its jurisdiction without interference from those bodies to which it reports.¹⁸

However, non-interference does not mean the absence of oversight. In order to enjoy the trust of the oversight bodies and the public, the laws establishing public institutions as independent and their sub-laws need to define guidelines related to the publicity of their operations in order to permit periodic review of whether the institution is fulfilling the purposes for which it was established. Thus, decisions should be published, those affected by decisions should be able to monitor the decision-making process, to participate in decision-making, to appeal against decisions, and to seek redress, if necessary. In addition, the oversight body should have the right to provide to the independent institution suggestions for improving policy outcomes for which the body was established. Similarly, with autonomous institutions, it is perfectly legitimate for an oversight body to have the right to review the legality of the management process and the accomplishments of the institution, again, to ensure that the institution effectively fulfills the purposes for which it was set up. In the end, oversight in both cases requires a clear understanding of the purpose of the institution and information about internal management processes and outcomes.

¹⁸ Laking, Rob, "The Governance of the Wider State Sector: Principles for Control and Accountability of Delegated and Devolved Bodies," (Bratislava: Organization for Economic Co-operation and Development - OECD, 22-23 November 2001), 13. © OECD

CHAPTER 2 FINDINGS: MONTENEGRO GOVERNANCE IN LAW AND PRACTICE

I. MONTENEGRO'S GOVERNANCE SYSTEM IN LAW

Since independence and with the adoption of the 2007 Constitution, a number of significant steps have been taken to bring Montenegro's legislative framework into line with European legal standards. The Constitution itself establishes a number of legal guarantees, institutions, and regulations that create the basis for stable institutions that can guarantee democracy, rule of law, human rights, and respect for and protection of minorities. From the long list of specific laws reviewed by the NDI Project Team, there are also clear efforts to establish a legal environment that can create a transparent and accountable system of governance.

Based on the original assessment framework, members of the Project Team read each of the laws and considered the questions from the framework related to transparency and accountability. In particular, legal provisions within the laws related to the following issues were found and examined:

- 1) legal obligation of Government and other state organs to provide information to Parliament;
- 2) legal obligation of Government and other state organs to respond to requests for information;
- 3) legal requirements for all state organs to make information about their work and decision-making process available to the public automatically or to grant access to information;
- 4) legally defined relationship of accountability of Government and other state organs to Parliament;
- 5) legally defined measures to bolster credibility of information provided to Parliament by Government and other state organs;
- 6) legally defined measures for Parliament to react to information received and, therefore, hold institutions and individuals to account;
- 7) legally defined measures for the public to hold institutions and individuals to account.

By grouping legal provisions into the above categories, Appendix VII presents the laws reviewed and the provisions in those laws related to transparency and accountability. The extensive list of legal provisions demonstrates that there are a variety of legal solutions related to the basic principles of transparency and accountability and that there is a range of detail provided about these legal solutions.

Rather than going into an extensive analysis of the information presented in Appendix VII, the purpose of this section is to help lawmakers and interested individuals understand the strengths and weaknesses of the legal system because, while challenges to the functioning of democratic institutions often result from flawed implementation of the law, there are also numerous cases where the root of the problem lies not in its implementation, but in the law itself. Thus, the Montenegrin legal framework in many cases affirms the principles of transparency and accountability, but there are three broad conclusions about the overall legal framework that may pose a challenge for full respect of the principles of transparency and accountability:

- 1) Many of the adopted regulations lack sufficiently specific details to enable fulfillment of the established rules or achievement of the legal principles; and, the regulations related to sanctions for violation of legal obligations are not sufficiently clear to serve as a deterrent for those who would impede implementation of the regulation.
- 2) Legal regulations related to independent institutions are not sufficient to ensure their genuine independence.
- 3) The legal framework related to Parliament's oversight function is weak.

A. Regulation of Legal Obligations

1. Clear Statement of Legal Procedure

A first aspect of proper regulation of legal obligations is **a clear statement of the required procedure** that should be followed by the different organizations. In several of the Montenegrin laws reviewed, the rules and procedures are quite vague. For instance, several laws require that annual reports from the different institutions be provided to Parliament, but from the existing legal regulations, it is quite unclear what Parliament should or could do with these reports. Should it discuss the report in plenary session or is discussion in committee sufficient? Should Parliament vote on the report or not? If Parliament votes on the report, what is the procedure should it not vote to accept the report?

Similarly, in many cases, Parliament has the legal power to 'appoint and dismiss' individuals or bodies that manage independent institutions. While some laws provide extensive details about how candidates are nominated to a position, there are quite a few laws that offer no clear procedure. Furthermore, in most cases, there are no details about how Parliament initiates and exercises its power to dismiss.

This legal confusion related to a lack of proper procedural regulations does not necessarily create a legal or political crisis. However, as each specific case is dealt with in the absence of uniform procedural regulations, citizens can develop the impression that the legal regulations do not fulfill the primary goal of creating legal stability and rule of law. Although individual cases might have minor importance, these situations could create the general impression among the population that the law is just another tool in the hand of those it labels "powerful" to play their own games and to use "legal acrobatics" to get maximum gain from every situation.

2. Legal Sanctions for Violation of Law

A second aspect of proper regulation of legal obligations is defining the legal sanctions for violation of the law. Since Roman times, laws that have no legal sanction for violations of the law have been referred to as **lex imperfecta**, meaning that, in practice, a certain regulation is just an empty declaration with no way to enforce its obligation. The concept of **lex imperfecta** especially applies to legal regulations that formally create an obligation on the part of state officials and state organs, i.e., Government, a ministry, or any state organization, without answering the question of what happens should an institution or individual fail to fulfill the obligation. In the Montenegrin legal system, there are quite a large number of **lex imperfecta** regulations in which the Constitution or a specific law states that a certain institution "has to do" something without clarifying what the consequences of not respecting the law might be.

A good example of such legislation was the Law on Conflict of Interest prevailing up until the end of 2008, which declared obligations for members of Parliament, members of local government, or other public officials without defining proper sanctions for violating the law. As a result, the law seriously undermined the credibility of the legal instrument preventing conflicts of interest. To the credit of lawmakers, the law adopted on 27 December 2008¹⁹ is greatly improved in this respect, and its implementation should contribute to the establishment of public confidence in the ability of public officials to act objectively.

¹⁹ Law on Preventing Conflict of Interests, "Official Gazette CG," No. 01/09.

Another example is Article 51 of the Law on State Administration, which states: "Citizens shall have free access to data, documents, reports and information of state administration authorities."²⁰ But, no regulations to enforce this obligation could be found in this law. Equally, the same right appears in another law – namely, the Law on Free Access to Information, which states: "Any national or foreign legal and natural entity shall be entitled to access the information filed with government agencies."²¹ Article 2 of that law establishes that the principles of "freedom of informing," "equal conditions to exercise the right," "openness and publicity of the work of organs of authority," and "urgency of procedure" should determine access to information in possession of government authorities. But, even then, it is still questionable whether the Administrative Court, as a last resort, has enough legal power to enforce this obligation of the state because it is hard to determine how the Court can force the state and public employees to provide the information as described in the two laws.

Obviously, there are a number of countries in Europe without detailed legal regulations for violating a specific constitutional or legal obligation, but in these countries, the general legal culture fills in the legal gaps due to an accepted political tradition that governing structures follow the law. As such, the state is able to expect citizens to follow the law, as well. In Hungary, the legacy of the socialist state in Hungary did not establish this legal culture. In fact, the scientific literature often referred to Hungary as "the state of no consequences." As a result, lawmakers took measures to define legal sanctions in order to introduce a new practice of respecting the law and to undo the former established principle of state administration based on secrecy and total lack of accountability.

The Hungarian Experience

With the transition, Hungary took several steps to introduce and ensure enforcement of the new principles of transparency and accountability of state administration. First, as in Montenegro, the Law on State Administration declared that every citizen had the right to access freely information regarding the work of the state administration. But, the law also made state employees accountable for violating the legal obligation and failing to provide information. Thus, if the violation is minor, the legal consequence is a disciplinary procedure against the state employee. But, Hungary also found it necessary to introduce an article in the Criminal Code, criminalizing the "Misuse of Public Information." Thus, Article 177/B of the Criminal Code states:

"(1) Any person who, in violation of the statutory provisions governing access to public information:

- a) fails to comply with the obligation to provide information;
- b) falsifies or renders inaccessible any public information;
- c) conveys or publishes any public information that is untrue or has been falsified;

is guilty of a misdemeanor punishable by imprisonment for up to two years, community service or a fine.

(2) The acts described under Subsection (1) shall be upgraded to felonies and punishable by imprisonment for up to three years if they are committed for unlawful financial gain or advantage."

Besides these regulations, there is a Free Access to Information Act that gives full power to the court to enforce legal obligations in this field, and the Hungarian Constitution establishes the role of a Data Protection and Freedom of Information Commissioner whose job is not just to monitor the protection of private information, but also to monitor the citizens right to access freely information so citizens are not left alone to fight for their rights.

²⁰ Law on State Administration, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

²¹ Article 1, paragraph 2, Law on Free Access to Information, "Official Gazette RCG," No. 68/05.

B. Legal Regulations Governing Independent Bodies

Many of the independent institutions established by law have a significant role to ensure both transparency and accountability. Without the proper functioning of independent bodies, like courts, prosecutors, Protector for Human Rights and Freedoms, or the State Audit Institution, it would be impossible to ensure transparency and to hold other governing bodies accountable. Thus, it is important to examine carefully what legal regulations underpin an institution's independence. While there are different solutions in different legal systems to ensure the genuine independence of institutions, there are some obvious general requirements, which are discussed below.

1. Nomination Process

First and foremost, the nomination and appointment process for persons expected to fill independent positions must be transparent and based on merits and professional accomplishments, rather than political loyalties or personal relationships to the executive branch. Transparency means that information about all the candidates and their qualifications are made public officially and, often, that there is a publicly advertised competition. Before election or appointment, it is also best for public hearings to be a part of the nomination and appointments procedure of candidates to enable the public to learn about the candidate and to hear arguments in favor and in opposition from those who have greater familiarity with what qualifications might be necessary for the position. Finally, the election process should also be transparent – about which more will be said in the next section.

However, in the Montenegrin legal framework, there is very little detail about the nomination or appointments procedure except details about which institution has the power to nominate candidates and which institution decides on the appointment. There are a few requirements for a public competition, as in the case of judicial vacancies that are announced in the Official Gazette – a publication available for purchase – or the case of candidates for the Agency for Electronic Communications and Postal Services;²² and, there are no requirements for public hearings, although Parliament has the right to hold a hearing for certain Government appointments, such as the heads of the Police Administration and National Security Agency, whose result is non-binding.

The authority of the office proposing or electing the candidate is not sufficient to guarantee the public's confidence in an individual's qualifications to exercise the office responsibly and independently. The public has the right to be informed thoroughly and receive a reasonable explanation about why the candidate is considered to be qualified to exercise a certain public function. In other words, the public has the right to demand an 'accounting' from the body making the nomination and should not have to rely on the media's interpretation of a candidate's qualifications.

2. Election or Appointment Process

The election process should also be transparent. In many cases, the selection process is done in Parliament based on a simple majority vote, but records on how MPs voted are not available publicly. In other cases, the actual process of deciding whom to appoint to a position is not open to the public, as is the case for judges, prosecutors, and Government appointments.

For those appointed by Parliament, the legitimacy of and respect for the independence of the institution can be enhanced if the election requires a qualified majority and not simply the votes of the ruling majority. In the case of collective bodies, a staggered election of members to a council or managing body – such as is the case for the Board of the Energy Regulatory Agency²³ – can help to ensure

²² Article 28, paragraphs 1 and 3, *Law on Judicial Council*, "Official Gazette CG," No. 13/08, and Article 10, paragraph 1, *Law on Electronic Communications*, "Official Gazette CG," No. 50/08.

²³ Article 9, paragraph 2, *Law on Energy*, "Official Gazette RCG," No. 39/03.

that the same majority does not elect all members of the body. Similarly, defining the length of the mandate so that it does not coincide with the regular term of Parliament – as is the case for the Council of the Central Bank, the judges of the Constitutional Court, and the Ombudsman, for example²⁴ – can introduce the possibility for changing parliamentary majorities to select candidates.

Finally, while not found in Montenegrin law, limiting the ability of an elected or appointed individual to serve only one mandate bolsters the possibility for independent behavior as the individual will not exercise power in an effort to reassure re-election by those who may have a role in deciding on a second mandate. The term limitation can be further supported by another limitation not generally found in Montenegrin law, which is a limitation on post-employment work²⁵ or provision of generous severance or pension benefits – again, to ensure that an individual does not feel the need to curry favor with those who might decide on his or her future employment prospects.

3. Staffing and Financial Independence

Independent organizations have to be funded transparently and sufficiently and to have the right to adequate staff. During the fiscal year, additional funding of an independent organization should be the exception and, if absolutely necessary, should happen in a transparent way that is defined by law.

Without these kinds of regulations, there could be serious doubts about the real independence of specific institutions. For example, if the head of a constitutionally independent organization is nominated in a non-transparent way or is a well-known figure of the ruling political party, there is less chance that the public will consider the organization led by this person independent. The same is true if the independent organization can easily get additional funding from the state budget during the course of the fiscal year through the budget reserves. In such a case, the public might easily conclude that additional budgetary support was a payment from Government for a favorable decision from the independent organization.

In Montenegro, most of the independent institutions are defined as separate spending units in the state budget, and they submit a nonbinding proposal to Government for funding. In the case of the Court system, the President of the Judicial Council has the right to participate in the sitting of Parliament where the Court budget is debated.²⁶ Similarly, in the case of the State Audit Institution, "the request for allocation of budget funds to the Institution shall be submitted by the working body of the Parliament in charge of financial activities, upon request of the Institution."²⁷ Some regulatory bodies, such as the Securities Commission and the Agency for Insurance Supervision, have independent sources of income and do not rely on the state budget,²⁸ while the financing of the Central Bank is regulated by the Law on Central Bank with clear legal provisions stating under what conditions state funds are used.²⁹

In terms of staff, the legal framework provides little detail about how the staff of independent institutions is recruited, only specifying whether it is subject to the Law on Civil Servants and Public Employees and/or labor legislation. Thus, most independent agencies rely on the Administration for Human Resources (AHR) – an executive body established by the Law on Civil Servants and Public Employees – for assistance in recruiting staff, although some of the regulatory bodies have the abili-

²⁴ Article 81, paragraph 3, and Article 153, paragraph 2, *Constitution of Montenegro*, "Official Gazette CG," No. 01/07, and Article 16, *Law on Central Bank*, "Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05.

²⁵ Article 27 of the Law on Central Bank states: "Member of the Council may not be an officer or an employee in a bank operating in the Republic a year after his term in the Council has ended." *Law on Central Bank*, "Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05.

²⁶ Article 110, paragraph 4, *Law on Courts*, "Official Gazette RCG," No. 5/02, 49/04 and "Official Gazette CG," No. 22/08.

²⁷ Article 51, paragraph 1, *Law on State Audit Institution*, "Official Gazette RCG," No. 28/04, 27/06, 78/06 and "Official Gazette CG," No. 17/07.

²⁸ Article 19, *Law on Securities*, "Official Gazette RCG," No. 59/00, 10/01, 43/05, 28/06, and Article 190, *Law on Insurance*, "Official Gazette RCG," No. 78/06, 19/07.

²⁹ Article 153, *Law on Central Bank*, "Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05.

ty to hire outside the Government system. Ultimately, under the Law on Civil Servants and Public Employees, heads of independent institutions make the selection of personnel based on a short list provided by AHR, and employees report to the head of the institution through their superior.³⁰

C. Legal Regulations Governing the Work of Parliament

Regarding transparency and accountability of the institutions exercising state power, the most important body is Parliament as the body composed of the elected representatives of the people. The Rules of Procedure are one of the most important documents that Parliament adopts. They provide the basis for Parliament's work and execution of its basic functions.

1. Legal Nature of the Rules of Procedure

Rules of Procedure do not deal only with internal operations of Parliament. They also establish certain obligations for entities operating outside of Parliament. Instruments, such as MP Question Period, interpellations, hearings, and parliamentary inquiry, require the presence and information of people outside of Parliament. Thus, they are not meant only to oblige MPs and parliamentary staff, but also individuals outside of the body.

The Constitution establishes the legal framework for adoption of the Rules.³¹ A majority of European constitutions provide a very detailed outline of the role and functioning of parliaments. The Montenegrin Constitution does not provide such level of detail with regard to the work of its Parliament. There are no provisions related to the right of Parliament to demand information from state administration and other institutions, as well as to demand the presence of certain governmental representatives at parliamentary sessions, which is one of the preconditions for successful fulfillment of Parliament's basic functions.

Like a majority of European countries, Montenegro is a parliamentary democracy. The Parliament of Montenegro is the sole legislature in country and has important powers with regard to the executive power, such as the right to elect the Prime Minister and members of Government. Furthermore, a majority of members of Parliament have to support the Government program. The responsibility and accountability of Government toward Parliament are established in Article 82, paragraph 12 of the Montenegrin Constitution, which states that Parliament elects and dismisses the Government; Article 107, giving Parliament the right to vote no confidence in Government; and, Articles 108 and 109, establishing the parliamentary institutions of interpellation and parliamentary inquiry. Executive accountability is also reflected in daily parliamentary life through cooperation between Parliament and Government, especially through the presence of Government officials at plenary and committee sittings and the provision of information and explanations to MPs and parliamentary bodies. Understanding this relationship, countries including Croatia, Norway, France, Poland, Germany, Greece, Austria, Ireland, Spain, Netherlands, Slovenia, Switzerland, Italy, Slovakia, Czech Republic, Slovakia, Estonia, Hungary, Lithuania and others assign to committees, through their Rules of Procedure, the function of following and reviewing the implementation by the executive of adopted laws. Not only is this intended as a method of establishing executive accountability, but it is also used as a way to determine whether improvements in the legal framework are needed as a result of societal change, institutional reforms, or other reasons.

Currently, the rules in Montenegro are adopted as an act of Parliament and are not a part of its primary legislation. As a result, they do not establish legal obligations for people operating outside of Parliament and weaken the ability of Parliament to fulfill its legislative and oversight functions. To address this problem, provisions of the Constitution can be strengthened or Rules of Procedure can be adopted as a law.

³⁰ Articles 21-22, 24-26, and 46, *Law on Civil Servants and Public Employees*, "Official Gazette CG," No. 50/08.

³¹ Article 91, paragraph 2, *Constitution of Montenegro*, "Official Gazette CG," No. 01/07.

2. Adoption of the Budget

The state budget is one of the most important tools that a parliament and the public have to establish transparency and accountability of the work of the state power because they can get a realistic picture from the budget about the work of state power through the detailed information about public income and spending. As is stated in NDI's International Minimum Standards for the Functioning of Democratic Legislatures:

"Oversight of the executive branch and its spending of taxpayer's money is one of the prime functions of the legislature. While the majority of legislators may have means and mechanisms to perform this oversight function, the likelihood of thorough oversight is decreased when both the executive and legislative majority come from the same, or similar, parties. Hence, it is essential that the rules of procedure governing the legislature not be drawn in such a way as to entirely empower the majority at the expense of the minority. Minority rights within the legislature must be protected during the legislative process, on the floor as well as in the committees. Any deterioration of minority rights would be especially problematic were the majority to abrogate its role of executive oversight."³²

In most European countries, the procedure regulating the adoption of the budget is a special procedure; and, since all European countries consider the adoption of the budget as an especially important part of the work of a parliament, there are regulations in their Constitutions regarding the budget with more detailed provisions usually appearing in the Rules of Procedures and sometimes in special laws concerning public finances. There are significant differences in regulations among EU countries regarding the timeframe for discussion of the draft budget in parliaments. In Denmark, Government has to submit the draft budget four months before the next budgetary year. In Montenegro's case, the Rules of Procedure provide no special procedure for adoption of the budget; and, Government is required to send the budget for the fiscal year that begins on 1 January to Parliament 'in November.'

Length of Budget Debate in European Parliaments

In Ireland and Greece, it must happen 30 days or one month before the new budgetary year. Between these two extremes, the most common practice is three months in the case of Poland, the Czech Republic, Spain, and Cyprus or 75 days in the case of Lithuania.

II. MONTENEGRO'S GOVERNANCE SYSTEM IN PRACTICE

A. Accountability of Government to Parliament

Government is the largest of the three state powers that executes decisions that are supposed to guarantee democracy, rule of law, human rights, and respect for and protection of minorities. Parliament adopts the legal framework to be applied, while Government adopts implementing regulations, decisions, and orders. In addition to its legislative function, Parliament has an oversight function to determine whether the execution of power in Government bodies is achieving its intended aims. In this sense, Government is accountable or answerable to Parliament. In the process of holding bodies to account, Parliament should base its judgments regarding the operations of the executive and other public institutions on:

- 1) a clear, credible set of objectives related to policy priorities;
- 2) sufficient information about financial performance to assure Parliament and the public of the proper functioning of the institutions; and,

³² *Toward the Development of International Standards for Democratic Legislatures* (Washington: National Democratic Institute, January 2007), 53.

- 3) sufficient information about non-financial performance of the institutions in the fulfillment of policy priorities and the affect on target groups, as well as any failures and corrections that the institutions expect to make.³³

In terms of accountability, the relationship of Parliament to the executive branch is one of external governance and includes:

- 1) election of Government and review of its performance;
- 2) approval of policy objectives (i.e., program of Government);
- 3) authorization of budgets;
- 4) review of expenditures (i.e., final financial statement and State Audit Institution audit of final financial statement);
- 5) adoption of legislation related to operations of government, including a wide range of legislation related to functioning of the state administration (e.g., laws related to state administration and laws on civil servants and their salaries), as well as to the functioning of individual bodies of state and public administration (e.g., law on local self-government, law on labor inspection, law on army, police law and other systemic laws); and,
- 6) periodic review of non-financial operations through committee hearings, MP Question Period, and interpellations.³⁴

Thus, Parliament's oversight role is related to policy and the achievement of policy outcomes. Its role in budget approval and review of expenditures relates to its control of public resources in line with law (i.e., its legality) and with the achievement of expected policy outcomes. However, special attention must be paid to the fact that the balance and mutual control provisions of the Constitution do not give Parliament either a judicial role or an executive role. Government is independent of Parliament, but accountable to it for its financial and operational performance.

The 2007 Constitution of Montenegro establishes the relationship between Parliament and Government. The Law on State Administration, the Regulation on Government, and Government's Rules of Procedure provide details about how that relationship is operationalized, which is mainly by providing opinions, representing the positions of Government, and answering questions.³⁵ The following sections describe and assess Parliament's external governance role in terms of: 1) electing Government and establishing its policy objectives, 2) authorizing its budgets and reviewing expenditures; 3) adopting legislation related to operations of government; and, 4) periodically reviewing its non-financial operations.

1. Election of Government and Establishment of Its Policy Objectives

After Parliament elects Government based on a proposed program, the relationship with Parliament for the rest of the mandate goes through Government as that is the body accountable to Parliament. Members of the state administration report to their respective minister who "represents the ministry and manages and directs its affairs."³⁶ Ministers are members of Government and "liable for [their] work, the operation of the ministry and for the condition in the respective administrative field to the Parliament of the Republic of Montenegro (hereinafter: the Parliament) and to the Prime Minister."³⁷

³³ Laking, Rob, "The Governance of the Wider State Sector: Principles for Control and Accountability of Delegated and Devolved Bodies," (Bratislava: Organization for Economic Co-operation and Development - OECD, 22-23 November 2001), 11. © OECD

³⁴ Ibid., 6.

³⁵ Articles 73 and 74, *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08; Articles 2, 7, and 26-29, *Regulation on the Government of Montenegro*, "Official Gazette CG," No. 80/08; Articles 12, 53-54, 81, 83-84, *Government of Montenegro Rules of Procedures*, "Official Gazette RCG," No. 45/01, 09/03, 71/04, 71/06 and "Official Gazette CG," No. 18/08.

³⁶ Article 41, paragraph 1, *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

³⁷ Article 41, paragraph 2, *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

The only exceptions are laws regulating some Government institutions, such as the Police Administration, the Army, or the National Security Agency,³⁸ that define Parliament's oversight function. Even then, Government approves annual reports before they are sent to Parliament.

In terms of providing information to Parliament, in addition to the provisions of Article 95 of the Law on State Administration about the need to provide requested information to Parliament in the case of interpellations and MP Questions, a government regulation adopted on December 11, 2008, for the first time, acknowledged the control hearing of Parliament by obliging members of Government to "answer the call for a control hearing at a sitting of the competent committee of Parliament in order to give explanations about the issue that is the subject of the hearing."³⁹

The office of the General Secretary coordinates the activities of Government and the ministers. Also, Article 18 of the Government Rules of Procedure establishes four Government Commissions (Political System, Internal and Foreign Affairs; Economic Policy and Finances; Human Resources and Administrative Issues; and Allocation of a Portion of Funds from Budget Reserve). Before an item can be put on the agenda of a Government session, each issue needs to go through one of these Commissions.

Although it is common in many countries for the Prime Minister to come to Parliament once a year to present a report on the state of the country and to outline policy priorities for the coming year,⁴⁰ it has not been the practice in Montenegro to date. Instead, in the establishment of policy priorities, all ministers are invited to submit proposals for an annual workplan that is approved at a session of Government and posted on the website. In preparing the workplan, Government asks ministers to refer to: 1) the Law on Implementation of the Constitution; 2) the National Program for Integration (NPI); 3) the EC's Progress Report; 4) the National Action Plan for Implementation of the Strategy to Combat Corruption and Organized Crime; 5) various strategic documents, such as the Judicial Reform Strategy and the Defense Strategy; and, 6) the various commitments that derive from membership in international organizations, including the United Nations, Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe, among others.

Ministers' proposals are incorporated into an annual Government workplan whose performance is reviewed quarterly as the first item at Government session. The Government will not interfere in the activities of the ministries as their management is the responsibility of the ministers and their proposals should reflect a concrete understanding of what work is involved in a project, how long it should take, and what human and financial resources are necessary. While this process is considered to work well, some in Government acknowledged that Government itself needed to be able to acquire more information from ministries about decision-making in order to be able to monitor the success of its own policy implementation.

Ministers bear two types of accountability for their work – political and legal. As such, ministers are politically responsible for the achievement of targets related to the policy priorities; and, on more than one occasion, the NDI Project Team was told that the Prime Minister had made very clear that there would be consequences for policy failures. Representatives of the executive accepted that some failures could be beyond the control of a minister in the event, for example, that Parliament failed to adopt a law whose existence is a pre-condition for development of another law. The judicial system

³⁸ Articles 89-92, *Law on Police*, "Official Gazette RCG," No. 28/05; Article 188, *Law on Army of Montenegro*, "Official Gazette RCG," No. 47/07; and, Articles 43-46, *Law on Agency for National Security*, "Official Gazette RCG," No. 28/05.

³⁹ Article 29, *Regulation on the Government of Montenegro*, "Official Gazette CG," No. 80/08.

⁴⁰ In the United States, there is the State of the Union held in January. In Great Britain, the Queen delivers a speech to Parliament at the beginning of its session (in November or December, usually) outlining the Government's proposed policies, legislation for the coming session and a review of the last session. In Hungary, there is a separate, non-binding political debate with clear time limits in which the Prime Minister presents a 'state of the country' and a debate ensues.

through the application of administrative law, labor law, the Law on Civil Servants and Public Employees, and, ultimately, Chapter 34 of the Criminal Code is expected to deal with legal failures and their consequences.

Employees in ministries are accountable to the minister or the head of the state institution, if it is subordinate to a minister. For the legality of their decisions, they are accountable to the judicial system and are subject to disciplinary measures as outlined in the Law on Civil Servants and Public Employees for minor and serious violations of their duties.⁴¹

2. Authorizing Budgets and Reviewing Financial Performance

The Ministry of Finance plays a key role in establishing the basis for financial performance, reporting, and control. According to the Budget Law, the budgets of each of the spending units are negotiated with the Ministry of Finance based on policy priorities of individual spending units, as well as their estimate of operational costs.⁴² When the fiscal year is finished, the Ministry of Finance conducts an internal audit of expenditures and produces the final financial statement; and, the State Audit Institution conducts an audit of the financial statement based on the internal audits. The NDI Project Team was told that internal audits are confidential documents between the Ministry of Finance and the head of the spending unit, which are provided to the State Audit Institution, but which only the head of the spending unit can decide to make public.

While the annual budget is becoming more detailed and the budget for 2009 for the first time made an effort at program budgeting and included a 500-page explanation,⁴³ the budget and the final financial statement do not provide much information to Parliament about the relationship between public expenditures, activities, and outputs. The 2008 budget provided little more detail about planned expenditures in ministries than overall figures for total salaries and benefits, total regular costs related to supplies, equipment, and travel, total capital expenditures, and total transfers to other institutions. Some ministries did divide these general budget items into the broad functions of the ministry, and the budget contained a list of all budgeted public works projects on buildings and roads. The budget also contained a reserve fund equal to 1 percent of the total in 2008,⁴⁴ which is used for urgent and unexpected costs after approval from the Minister of Finance and, subsequently, from Government.⁴⁵

The report of the State Audit Institution (SAI) on the final financial statement of the 2007 Budget provided the most detailed information and was recognized generally as a significant improvement over the previous year's reports and a sign that the four-year-old body is maturing. That report primarily focused

⁴¹ According to Articles 58 and 59 of the *Law on Civil Servants and Public Employees*, "Official Gazette CG," No. 50/08, *minor disciplinary offenses include*: 1) disregard for working hours; 2) lack of diligence in keeping official files or data; 3) unexcused absence from work for one working day; 4) failure to wear official attire or nametag; 5) failure to inform a superior of omissions related to protection at work; 6) violation of rules and standards envisaged by the Code of Ethics for Civil Servants and State Employees as minor disciplinary offenses; and, 7) other violations stipulated by law or other regulations as minor disciplinary offenses. *Serious disciplinary offenses include*: 1) nonperformance or, unconscientiously, untimely or negligent performance of official duties; 2) refusal to execute an order or work task; 3) improper management of allotted resources; 4) abuse of position or surpassing official authorities; 5) any omission or act that prevents a citizen or a legal entity in exercise of their legal rights; 6) unexcused absence from work from two to four consecutive days; 7) revealing business, official or other secrets stipulated by law or other regulation; 8) expression of political opinions in performing work; 9) violent, improper or insulting conduct toward clients or expression of any form of intolerance; 10) appearance at work intoxicated, drinking alcohol while working, or using narcotics; 11) providing false data that impacts decision-making; 12) repeated minor disciplinary offenses; 13) violation of duties that has serious consequences for clients or state organ; 14) performance of duties in contravention to this law, acts or omissions that constitute conflict of interest situations in terms with this law; 15) abusing, limiting or depriving of rights any civil servant and state employee who report a criminal offence with element of corruption or give an official deposition thereupon as stipulated in this law; and, 16) other violations stipulated by this law or other regulation as serious disciplinary offenses.

⁴² Article 21 and 22, *Law on Budget*, "Official Gazette RCG," No. 40/01, 44/01, 71/05 and "Official Gazette CG," No. 12/07, 73/08.

⁴³ <http://www.gov.me/files/1228136041.pdf>, accessed 28 January 2009.

⁴⁴ *Law on Budget of Montenegro for 2008* (Podgorica: Government of Montenegro, 26 December 2007), pp. 2 and 5, <http://www.gov.me/biblioteka/1206363969.pdf>, accessed 28 January 2009.

⁴⁵ Article 33, *Law on Budget*, "Official Gazette RCG," No. 40/01, 44/01, 71/05 and "Official Gazette CG," No. 12/07, 73/08.

on the legality of the use of public funds, but also made reference to the efficient spending of resources and public procurement. It noted that spending units do not expend funds according to the budget plan and need to increase their efficiency and fiscal discipline. Specifically, the report recommended that resources be used more economically for solving housing issues for employees of state administration and establishing precise criteria for using budget reserves.⁴⁶ Thus, SAI demonstrated that it is developing its ability to assess the effectiveness and efficiency of the use of public funds as its expertise grows.

Despite the improved SAI report, Parliament would have been unable to discern from the information it was given whether public expenditures in 2007 were spent for the realization of policy priorities. For example, the salary line item in any spending unit gives no indication of how many staff there are or at what levels, which would make it hard for Parliament or the public to determine whether that spending unit is addressing the issue of administrative capacity so often mentioned as a priority by Government officials. There is also no information about travel expenditures in a spending unit and what purpose these trips served, who went, or what was accomplished.

Additionally, other than the total amount budgeted for or spent from the budget reserves, there is no additional information provided to Parliament on what happened to the budget reserves as required by Article 51, paragraph 2, item 4 of the Law on Budget. While the reserves may have been only 1 percent of the budget in 2007, the SAI report on the final financial statement for 2007 noted that funds were "used not just for urgent and unforeseen expenses, but also for payments to certain state organs."⁴⁷ Thus, €10 million for the 2007 budget reserves represents a considerable sum that understandably could be of significant interest to MPs and the public, who could benefit from understanding what types of expenditures are unpredictable to a developing state and can use that information to assess the internal management capabilities of any public institution. In its conclusions on the final 2007 financial statement, Parliament included a suggestion to, "in accordance with Article 33 [of the Budget Law], establish more detailed criteria for use of the budget reserves,"⁴⁸ which may help improve transparency in the distribution and reporting on the use of these funds.

Finally, the annual report of the Directorate for Public Procurements, which must be provided to Government by 31 May of the following year, does provide detailed information about contracts concluded in terms of which spending unit, amount, and company awarded the contract and was posted on the Directorate's website on 14 October 2008.⁴⁹ With some research on the website of the Public Procurement Directorate, an MP or ordinary citizen can connect information from that report to the announced tender describing the actual purpose of the public procurement and the final decision, which includes reasons for awarding a contract.

A new law on internal financial control in the public sector that will be implemented in 2009 requires the "head of the entity [to] appoint a person to be responsible for the establishment, implementation and development of financial management and controls" that are to be "carried out in all organisational units and at all levels of the entity, and cover all resources of the entity, including EU funds."⁵⁰ Thus, with the need to improve its transparency in the use of EU funds, progress in providing information to members of Parliament can also be expected. The 2008 reports of the State Audit Institution on the 2007 final financial statement, the Ministry of Defense, and the Public Company "Railroads" represented a certain step in the right direction; but, at present, MPs can hardly be said to have sufficient information to be able to judge the financial performance of a ministry or other public institution in relation to its outputs.

⁴⁶ *Report on the Audit of the Final Financial Statement of Montenegro for 2007* (Podgorica: State Audit Institution, 30 July 2008), 4-5.

⁴⁷ *Report on the Audit of the Final Financial Statement of Montenegro for 2007* (Podgorica: State Audit Institution, 30 July 2008), 28.

⁴⁸ Heading 3, item 7 from parliamentary Conclusions on SU-SK No. 01/814/10, "Official Gazette CG," No. 75/08.

⁴⁹ Reports for state organs, state agencies and state companies, and local agencies and local companies are available at <http://www.djn.vlada.cg.yu/vijesti.php?akcija=rubrika&rubrika=174>, accessed 28 January 2009.

⁵⁰ Article 14, paragraph 1 and Article 5, paragraph 3, *Law on System of Internal Financial Control in the Public Sector*, "Official Gazette CG," No. 73/08.

MPs judge that the time provided to discuss the budget or the final financial statement of last year's budget and the report of the State Audit Institution (one day each in the Committee for Budget, Economy, and Finance and plenary) is insufficient. According to Article 24, paragraph 1 of the Law on Budget, the budget should be submitted 'in November.' In 2008, MPs report having received the 2009 draft budget on Tuesday, 2 December, which, allowing for the fact that distribution to 81 MPs does take time, does not mean that the law was violated, but does mean that, according to the Rules of Procedure, the first session to discuss the budget could not be held before the passage of 15 days or until the middle of December.⁵¹ Furthermore, it is parliamentary practice in Montenegro for the budget, the financial statement of the budget, and the report of the State Audit Institution to be considered only in the Committee of the Budget, Economy, and Finance. In a sign of positive progress, the Committee for Security and Defense has debated the budget for the security services, recognizing that the plan for expenditure of public funds and the report on their expenditure are the most basic instruments of accountability. Other committees may consider the budgets of spending units within their jurisdiction, but there is no information publicly available about such debates. Scrutinizing the final financial statements and budgets of spending units to determine whether the expenditure of public funds fulfilled or are sufficient to fulfill the desired policy goals are fundamental to the process of governance that Government, independent institutions, and Parliament are engaged in.

3. Adopting Legislation

From its perspective, Government works hard to meet the legislative needs of European integration based on its workplan. The adoption of the legislation, however, is outside its jurisdiction. Government representatives expressed the view that Parliament and its committees do not function well enough or in accordance with the parliamentary Rules of Procedure and, as a result, slowed down the legislative process. While there was a limited recognition on the part of the executive that Parliament does not have the elementary conditions (administrative support, offices) to perform its legislative and oversight function, there was also a prevailing attitude in Government that MPs lacked interest in pursuing their legislative function in a substantive and informed manner. Instead, the impression was that Parliament was overly focused on launching peripheral initiatives aimed at scoring political party points that waste time and do not solve problems.

Despite a declared effort to coordinate with Parliament in order to maintain the pace of reform, there was also a rigid interpretation on the part of Government about the division of powers.⁵² As such, there appeared to be an absence of official lines of communication and assigned responsibility for informing Parliament, its leadership, individual committees, or individual MPs about Government priorities. The former practice of having a member of Government participate in Collegium sessions was judged to have been a good one that was discontinued for reasons unknown to Government. Thus, current lines of communication between Parliament and Government are largely unofficial and, therefore, not transparent, which contributes to the lack of understanding and mistrust that exists between the two branches of power. The highest levels of mutual trust, understanding, and respect exist on issues where there is the highest degree of communication between Government and all MPs – namely, European Affairs and national security issues – demonstrating that oversight begins with understanding the basic issues and the key actors.

From the perspective of Parliament, MPs noted that they have neither the staff resources, nor research facilities, nor time to be able to examine legislation in a high-quality manner. They also cannot investigate Government claims about a certain legislative solution being an "international standard," "in line with European practice," or "similar to how it is done in neighboring countries." As a result, several months after passage, it is not uncommon for MPs to realize that legislation that they were told was good does not fulfill the stated needs.

⁵¹ Article 85, *Rules of Procedure of the Parliament of the Republic of Montenegro*, "Official Gazette RCG," No. 51/06, 66/06.

⁵² This conclusion derives from statements such as "No one can go to Parliament without an invitation;" "We only communicate with Parliament on joint projects or privately;" and, "I saw in the media that Parliament".

Governing and opposition party MPs alike complained about the frequent use of shortened procedure as limiting Parliament's ability to study and review legislation. But, Government explained that they are aware of and respect the procedure related to this process, only using it after providing an explanation of why urgency was necessary. In the end, Government believed that the Collegium of Parliament had the discretion to accept the argumentation or not; and, in December 2008, the Collegium rejected Government's argumentation and the recommendation of the Committee for Security and Defense related to urgent consideration of the Law on Army and amendments to the Law on Defense.

Still, some of the examples related to complaints about use of shortened procedures – e.g., labor law and law on public service media – represented issues that were discussed in the media and opened for public debate prior to adoption as proposed legislation in either Government or Parliament. Given the political will, committees could have convened sessions during the public discussion period on these reform laws without the need to wait until the law appeared in Parliament as a formal proposal. In addition to opening an expert discussion on the issue that could have informed committee members about the advantages and disadvantages of proposed solutions, governing party MPs could have provided a public forum for ministers to explain the benefits of the offered solutions. Ministers may have refused to attend such committee sessions, but the political consequences of not appearing at committee sessions where issues of importance to the public are under discussion could change the behavior of the executive over time.

4. *Periodic Review of Government Performance*

Parliament has several tools to review Government performance. The Constitution provides Parliament and its bodies with the ability to initiate either an interpellation or a parliamentary inquiry, to exercise civilian oversight of the security services, and to express its opinion on the appointment of ambassadors and heads of diplomatic missions.⁵³ The Parliament's Rules of Procedure provide for a special session, at least, every two months for Prime Minister's Question Hour and MP Questions, as well as for control hearings.⁵⁴ Since adoption of the Constitution in October 2007, Parliament has not exercised its right to initiate a parliamentary inquiry or to express its opinion on diplomatic appointments. In fact, instruments that require the support of the governing majority are those used most infrequently.

MP Questions and Prime Minister's Hour: The special session for MP Questions and an hour of questions to the Prime Minister from the heads of parliamentary party clubs was established with the new Rules of Procedure adopted in July 2006. During 2007, party clubs used the opportunity to pose questions quite extensively, and the Prime Minister and ministers appeared in Parliament to provide answers for the most part. Furthermore, questions were answered on the spot as opposed to the previous practice of waiting until the beginning of the next session, which often took place months after the question was asked and months after the issue was topical. Still, current members of parliament (MPs) consider the use of the accountability instrument of MP Questions and Prime Minister's Hour inadequate. In addition to the fact that MPs consider questions are answered superficially or that ministers often attempt to evade the question, the special session for this event that is to be held every two months was held only three times in 2008. Opposition MPs also complain that the Prime Minister's Hour and the need to submit questions 48 hours in advance ruins the dynamic of what is supposed to be a Westminster-style back and forth.

⁵³ Article 108, Article 109, Article 82, item 10, and Article 95, paragraph 6, *Constitution of Montenegro*, "Official Gazette CG," No. 01/07.

⁵⁴ Article 187, *Rules of Procedure of the Parliament of the Republic of Montenegro*, "Official Gazette RCG," No. 51/06, 66/06.

Interpellation: The use of interpellations is equally not considered to be an effective instrument of accountability. In 2007, there were numerous announced plans for interpellations and three related to energy, telecommunications, and privatization policies that actually took place. In the case of energy and privatization, conclusions were adopted after great discussion, which, in the first case, stopped the privatization of the Thermo-Electric Plant in Pljevlja and, in the second case, established a parliamentary commission to monitor privatization. In the case of telecommunications, the government refused to give an opinion because the formulation of the interpellation was thought to be aimed more at the independent Agency for Telecommunications and, therefore, not within the jurisdiction of Government.

In 2008, the opposition submitted an interpellation on transportation policy on 20 May, which was debated only at the beginning of December, more than five months after it was submitted and right after Government hosted an investors' conference on building a major highway that would link Montenegro with one of the European highway corridors. Part of the delay was caused by the opposition's own four-month boycott of Parliament, giving the initiative to the governing majority to choose when to schedule the debate. In the end, none of the interpellations held anyone in Government accountable for the conduct of domestic affairs. Each ended up being clouded in so much confusion and political machinations and lasted quite a long time so that they failed to have the effect of putting a quick spotlight on Government policy in a major area and demanding explanations.

Civilian Oversight of Security Services: Members of parliament (MPs) from governing and opposition parties agree that there has been some progress in the area of civilian oversight of the security services. First, the laws on Police, the Army, and the National Security Agency establish parliamentary control, primarily through consideration of an annual report submitted through Government to the Committee.⁵⁵ In addition, Parliament adopts the National Security Strategy and Defense Strategy and decides on the participation of the Army in peace-keeping operations abroad.⁵⁶ A 2008 law gives Parliament the responsibility to decide on use of the Army of Montenegro in international missions based on a proposal from the Council for Defense and Security, as well as its withdrawal in emergency situations.⁵⁷ Further, it requires the Council to give an annual report to Parliament on the use of Army units.⁵⁸ These positive legal measures providing for civilian oversight in this sensitive area may be supplemented in 2009 by adoption of a law on parliamentary oversight of the security services to define their role in greater detail.

The heads of security and defense services acknowledged their responsibility toward Parliament, appeared before the Committee for Security and Defense more frequently than any other members of the executive have come in front of any body of Parliament,⁵⁹ and even organized visits in 2007 for the Committee of Security and Defense to the institutions. Moreover, the Committee was the only Committee other than the Committee for Economy, Budget and Finance to hold a committee sitting to review the 2009 budget of the institutions under its jurisdiction. Ability to assess the real quality of oversight is limited, however, by the fact that many of its sittings were closed to the public; and, there

⁵⁵ Article 90, *Law on Police*, "Official Gazette RCG," No. 28/05; Article 188, *Law on Army of Montenegro*, "Official Gazette RCG," No. 47/07; and, Article 43, *Law on Agency for National Security*, "Official Gazette RCG," No. 28/05.

⁵⁶ Article 82, items 6 and 8, *Constitution of Montenegro*, "Official Gazette CG," No. 01/07.

⁵⁷ Article 4, paragraph 1, *Law on Use of Army of Montenegro Units in International Forces and Participation of Members of Civil Protection, Police, and Employees in Organs of State Administration in Peace Missions and Other Activities Abroad*, "Official Gazette CG," No. 61/08; and, Article 10 states: "If there are important changes to the circumstances of carrying out activities from Article 2 of this law [related to participation in peace-keeping missions or other activities abroad] or if Army units are brought into serious danger or in the case of declaring a state of emergency or war in Montenegro, the decision about continuing participation, or withdrawing the Army units is brought by Parliament at the proposal of the Council [for Defense and Security]."

⁵⁸ Article 11, paragraph 1, *Law on Use of Army of Montenegro Units in International Forces and Participation of Members of Civil Protection, Police, and Employees in Organs of State Administration in Peace Missions and Other Activities Abroad*, "Official Gazette CG," No. 61/08.

⁵⁹ According to Parliament's Committee for Defense and Security, individuals from the Ministry of Defense appeared eight times in 2008, from the Police and Ministry of Internal Affairs and Public Administration five times, and from the Agency for National Security twice.

is limited written information available on the parliamentary website about its work. Still, the Geneva Center for Democratic Control of the Armed Forces has noted:

"Inevitably, in order to protect security, there is a limit to what can or should be reported publicly. Nevertheless, unless the committee itself is responsible for such decisions the oversight system will lack credibility and will be capable of being abused in order to cover inefficiency or malpractice."⁶⁰

From the perspectives of both Parliament and the security services, there appeared to be the beginnings of a working relationship. But, both acknowledge the need to overcome the legacy of distrust toward the security agencies built up over years and the culture of secrecy that was the norm in the security services throughout the 20th Century and up until independence. They also both recognize the imperative that members of the committee develop a clear understanding of their responsibilities to advance Montenegro's national security by protecting confidential information, advocating the interests of the security services and the public, and recognizing that security issues are public interest concerns that are above political interests. But, while committee members recognized their need to develop a respect for the 'security culture,' they also believed that the security services needed to be careful to ensure that confidentiality protects, first and foremost, the rights of citizens and is not open to accusations of protecting only the rights of Government or serving narrow personal interests.

Control Hearing: MPs generally acknowledge that the control hearing is an improved instrument for accountability, which is being used somewhat more frequently with mixed results. In Article 29 of its new Regulation on Government, Government recognized this instrument and obliged members of Government to respond to control hearing invitations in order to express Government positions on the subject of the hearing. Still, there are complaints about the lack of political will to use the instrument, and Parliament's Rules of Procedure give the ruling parties with a majority in the committees the power to prevent such hearings, a right that is used frequently. The few control hearings that have been held with the Director of Police, Minister of Defense and the Director for National Security were held behind closed doors for security reasons. Unfortunately, leaks from these hearings have undermined trust between the executive and legislative branches and act as a deterrent to future information sharing.

Other requests for control hearings from members of the Committee for Security and Defense or from members of other Committees, for the most part, have not received the support of the ruling majority on the committees. In the view of the governing parties, the requests are submitted deliberately in violation of the Rules or on a provocative basis for the simple purpose of making the Government look bad in the eyes of the domestic and international public. The view of opposition party MPs is that members of governing parties want to stymie accountability efforts and frequently cited the example from the Commission for Monitoring and Privatization Process to support their claims (see case study on next page).

Whatever the case, it is true that the control hearing as an instrument is overly politicized and aimed at finding fault or a 'smoking gun', rather than at examining a policy or an action and seeking to find a solution for the benefit of the citizens. The less controversial consultative hearing, which could allow different organizations, experts, and individuals to develop public opinion, is used much less frequently. The behavior of both opposition and ruling parties demonstrates a lack of shared understanding of the function of the committee, first and foremost, as a body to review legislation and oversee its implementation in the interest of citizens. While ruling and opposition parties can gain political points from their activities in committees, that should be a secondary objective.

⁶⁰ Born, Hans and Ian Leigh, *Making Intelligence Accountable: Legal Standards and Best Practices for Oversight of the Intelligence Agencies*, (Oslo: The Geneva Center for the Democratic Control of the Armed Forces and Parliament of Norway, 2005), 94.

Case Study - Commission for Monitoring and Control of the Privatization Process

The Commission was established on 18 December 2007 as a result of an earlier interpellation on the privatization process, which produced a rare compromise made between the sponsor of the interpellation's conclusions and the ruling parties. According to Article 4 of the decision establishing the Commission, its task is to "follow and control the privatization process by:

- ▶ monitoring annual plans adopted by the Government of Montenegro (hereinafter: the Government);
- ▶ monitoring activities of the Privatization Council;
- ▶ acquainting the public with the privatization process and procedures, as well as other regulations that enable legality, openness and control of privatization;
- ▶ considering objections made by participants in the privatization process;
- ▶ examining information, which is provided by those responsible for the process of privatization (i.e., the Privatization Council);
- ▶ proposing regulations and amendments to regulations that provide principles of openness and transparency of the privatization, which enhance privatization procedures and processes;
- ▶ initiating debate in Parliament regarding issues of validity, openness and control of the privatization process;
- ▶ offering recommendations to state institutions or those responsible for the privatization process in the sense of providing legality, openness and transparency in the privatization process;
- ▶ initiating and proposing investigation on the accountability of institutions and individuals in case of violation of legality and the principle of openness in the privatization process;
- ▶ examining proposals for interpreting the law on privatization issues;
- ▶ performing other tasks that enable monitoring and control of the privatization process.⁶¹

In March 2008, the composition of the Commission - four governing MPs, including the chair, and four opposition MPs - was appointed. In May, the amended Action Plan for Conducting the Fight against Corruption and Organized Crime established the effectiveness of parliamentary control of privatization processes as an Action Plan goal to be carried out by the Commission based on the number of meetings held, of requests for information sent, of responses received, of consultative hearings held, of proposals made, and of proposals enacted.⁶²

The constitutive session was held in May; and, a session to adopt rules of procedure was held in July, but no rules were formally adopted. The first substantive session to discuss charges filed by the owner of the Aluminum Kombinat (KAP) in a Frankfurt court against the Montenegrin Government was held in September. At that meeting, the Commission agreed to ask Government for a number of documents related to the case. A month later, documents reported to number in the tens of thousands of pages arrived from Government and were distributed to members; and, the chair announced that he would give Commission members until March 2009 to study the documents. A visit to the parliamentary website provides no information about past or future activities of the Commission.

In the meantime, complaints about privatization processes in the Mljekara (Milk Company), Livnica (a subsidiary of the Steelworks) and two other privatizations arrived; privatizations in the Obod appliance factory, Tobacco Company, and Bijela Shipyard failed; negotiations are underway for the Simo Milošević Health Institute; and, preparations have been announced for a share increase in the Electricity Company. Still, no sessions have been called.

Article 5 of the decision to establish the Commission states that the "Commission submits a report to Parliament on results of monitoring and control of the privatization process, at least once a year." But, a year since its establishment there is no report and no clear indication of what that report if produced would contain. The opposition believes that every effort has been made to obstruct the functioning of the Commission. The governing parties argue that the existence of the Commission does not mean that Parliament has a right to interfere in the work of the executive and the Agency for Economic Restructuring and to be an obstruction.

⁶¹ Decision on Establishment of the Commission for Following and Control of the Process of Privatization, "Official Gazette CG," No. 16/07.

⁶² Innovated Action Plan for Carrying Out the Program for Fight Against Corruption and Organized Crime: 2008-2009 (Podgorica: Government of Montenegro, May 2008), 25, <http://www.gom.cg.yu/files/1214396517.doc>, accessed 1 February 2009.

Requests for Information: A number of MPs report that Government has a varied record of responding to requests for information outside of obligatory MP questions and based on Article 50 of the Parliament's Rules of Procedures.

Independent institutions are considered to be better at providing requested information immediately than executive bodies, which sometimes require repeated requests and sometimes do not provide the information at all. A particular complaint, topical at the time of the assessment, was the inability to have access to the Ministry of Finance's internal audit of expenditures of Parliament, which the Ministry says is confidential and can only be released by the subject of the audit.⁶³ Thus, MPs were not even able to access information about the expenditure of public funds in the institution in which they work. But, another case mentioned was an attempt to obtain a copy of the agreement signed between Government and the Trade Union Confederation for the payment of severance; while the MP's request was sent in mid-August 2008, a response was not received until December when the MP formally asked via the instrument of MP Question.⁶⁴

In fact, there is legal confusion about whether MPs can have access to all government documents or not and within what timeframe. Despite the Parliament's Rules of Procedure, which do not have the force of law, Articles 73 and 74 of the Law on State Administration appear to limit the obligation of Government to provide information (see provisions of these acts reproduced on next page).

The continuation of this legal confusion leads to repeated conflicts over interpretation of the rights of MPs, which could be cleared up immediately if the political will existed.

The fact is that the Law on State Administration clearly states that Ministers are accountable to Parliament (Article 41), which means that they should be prepared to 'give an account,' when asked, on the financial and non-financial performance of institutions they manage so that, in its external governance role, Parliament can determine if public resources have been used economically, effectively, efficiently and legally. Incidences of executive and independent bodies explaining their decisions by providing information are positive signs of accountability; and, absence of such incidences or reports of refusals are negative signs of accountability.

B. Accountability of Independent Public Institutions to Parliament

Parliament's relationship to regulatory agencies, independent institutions, and other public institutions with obligations to Parliament is established in the Constitution and by law and is similar to that of Government in terms of appointments, understanding policy objectives, and periodically reviewing financial and non-financial performance. In addition, constitutional bodies, such as the State Audit Institution and the Protector for Human Rights and Freedom, provide information to Parliament that can guide legislative reform and oversight processes.

1. Appointment to Independent Public Institutions

In most cases, Parliament has the role of appointing the managing boards or heads of a number of independent and/or autonomous institutions, which include regulatory agencies, constitutional bod-

⁶³ Article 57a, paragraph 2 of the Budget Law says that "The information that the auditor has access to during the audit procedure is deemed to be confidential and may be used solely for the needs of the audit" and does not seem to preclude access to the final audit report. Nonetheless, this provision became obsolete within eight days after the Law on System of Internal Financial Control in the Public Sector was published in the Official Gazette, according to Article 44, *Law on System of Internal Financial Control in the Public Sector*, "Official Gazette CG," No. 73/08. Article 30 of the new law states: "The head of the Internal audit unit and internal auditors shall be obliged to keep documents and data and information made available to them during the audit confidential," which again would not seem to preclude access to the final audit report.

⁶⁴ The MP Question and Answer asked at the 8th Special Sitting of the 2nd Regular Session in 2008, held on 18 December 2008, can be found at: <http://www.snp.cg.yu/strana.asp?kat=1&id=2901>, accessed 1 February 2009.

Rules of Procedure

Article 50

An MP has the right to access all official materials, documents and data that are prepared or gathered in committees or the Parliamentary Service, the Government, ministries and other organs of state administration and that are of importance for fulfillment of the MP function.

An MP is entitled to ask for information and explanations necessary for performing the function of an MP from the Speaker, chairs of working bodies, ministers, and other officials, connected with functions in the scope of rights and duties of these officials, or tasks from the jurisdiction of the bodies that they lead.

Request for information and explanations from paragraph 2 of this article are submitted in written form.

Law on State Administration

4. Relations of Ministries with the Parliament

Article 73

A ministry shall be obliged, on the occasion of considering an interpellation, to submit to the Parliament reports on specific issues as well as requested data from the administrative field.

A ministry shall be obliged to deliver to the Parliament acts respectively documents, only within the scope of a parliamentary investigation, if those acts, respectively documents do not represent a state, military or official secret according to a specific law.

Should the acts, respectively documents specified in paragraph 2 of this Article represent a state, military or official secret, the ministry shall enable the insight into and a transcript of the same.

A ministry shall submit the reports, acts and documents to the Parliament through the Government.

Article 74

A ministry shall be obliged to reply to questions of representatives raised in the Parliament.

ies, and other public institutions with obligations to Parliament (hereinafter, independent public institutions). In terms of these appointments, there is little to no official information about appointments made, debates about the candidates, biographies of the candidates, or reasons for approving their appointments. In fact, few of the principals of independent institutions could explain to the NDI Project Team how they were nominated as candidates, other than that Parliament's Administrative Committee (or other legally appointed body) made the nomination. In 2008, only in the case of the two NGOs nominated as members of the National Council for European Integration did the Administrative Committee issue a public announcement, but neither the announcement nor details about deliberation of candidates could be found on the parliamentary website.

In one report from 2008, it is stated that the Administrative Committee confirmed the proposed decision on appointing one member of the Council of the Central Bank with a short explanation of how Parliament had confirmed the resignation of the previous member and that the Committee by majority vote decided to propose to Parliament the appointment of a new candidate. While there is mention of an attachment with biographical data, it cannot be found on the website although the minutes do contain biographical details provided by the proposer. But, neither the report nor the minutes provide any further details on the committee debate or how individual Committee members voted on the proposed candidate. Similarly, although Parliament recently appointed a number of prosecutors, there is no information about the discussion in Parliament and no information other than their names on the site of the Prosecutor General. If there were other appointments suggested by the Committee in 2008, this information is not available on the parliamentary website.

Both members of Parliament and institutions whose management Parliament appoints believe that there is no other option than a vote by the majority to appoint those elected by Parliament given the nature of politics in Montenegro. A higher majority of two thirds would result, most believe, in either a stalemate or a political trade that would not provide greater assurance of an individual's qualifications and independent character. There has been no thought given to enhancing the transparency of the nomination and selection process because both governing parties and, reluctantly, opposition parties accept that the majority rules and can appoint who it wants.

While the Administrative Committee acknowledged that most laws provide scant details about the process of nomination, appointment or dismissal, there appeared to be no intention to use its legislative power to change the situation, and instead, some members expressed satisfaction about the ability to arrive at *ad hoc* solutions based on informal negotiations among members of the Committee. In the event that another body, such as the President of Montenegro, had the legal authority to nominate candidates, most believed that the authority of the office provided sufficient grounds for approval of the nomination. Furthermore, the issue of dismissals was not even a consideration on anyone's mind, which was a telling sign of how little thought is given to holding officials to account in Montenegro.

Unfortunately, the lack of transparency represents a disservice to the public, which has no way of knowing about the decision-making process or how to judge if the candidate will be able to fulfill the role for which they have been selected objectively. Whether it is the Administrative Committee, the Government, or the President in charge of making a selection, the individuals deciding on the appointment serve on behalf of the citizens and have an obligation to explain their decisions to them – if for no other reason than that they can be held accountable at the next election.

2. Conditions for Independent and Autonomous Conduct

Independent institutions consider themselves independent in the sense that they are able to act without interference from other governing bodies and/or autonomous in the sense that they are able to independently manage their institutions in terms of financing and staffing. Still, many inde-

pendent institutions have to negotiate their budgets with the Ministry of Finance and employ staff through the Government's Administration for Human Resources. While a number of these public institutions do not believe that they have sufficient resources to cover the subjects within their jurisdiction, there is scant information about their financial performance (i.e., the use of public funds) that would enable the public or Parliament to serve as an advocate for their interests with the Ministry of Finance.

Many of the independent institutions have a regulatory and control role themselves, but feel constrained in their ability to impose sanctions or to investigate wrongdoings. The most important tool that an independent body, like the Commission for Establishing Conflicts of Interest⁶⁵ or the Securities Commission, possesses is making public announcements about those found violating the law and filing charges with the prosecutors. While this may make sense for the soft power⁶⁶ oversight bodies, such as the Protector for Human Rights and Freedom, it probably leads to an overburdening of the prosecution and judiciary that slows down the legal process and the assessment of legal consequences in other cases.

The interviewed independent institutions understand that their own acts are subject to appeal in accordance with the Law on Administrative Disputes to the Administrative Court and, in the second instance, the Supreme Court. In addition, employment inside the independent institutions is subject to the Law on Labor and, in the event that employees are civil servants, the Law on Civil Servants and Public Employees and the Law on Salaries of Civil Servants and Public Employees.

The Conflict of Interest Law and the incompatibility of functions clauses in the laws governing these independent bodies are for the most part respected – although there were a few inconsistencies discovered after searches of multiple websites that demonstrate a lack of respect for the law. While these inconsistencies would seem to be grounds for dismissal, the laws do not provide details about what the procedure for dismissal is, and some felt that the individuals in question should initiate their own dismissal.

Furthermore, while the selected candidate may fulfill the requirements by resigning from political or managerial posts upon assuming office, there was no evidence that anyone had considered the effect of the way that those previous positions may influence future decision-making. The fact is that few of the independent institutions make any attempt on their websites to provide information to the public that would give confidence about the independence of the managing boards or senior management. In some cases, information on the management board cannot be found, and the biographies leave out details relevant and available on other websites.

Furthermore, the websites do not always contain full information about the rules and procedures that govern an institution – even though these may be available through the Official Gazette, which is available for purchase only. Equally, none of the websites clearly state the remunerations of the members of a managing board or senior managers, although this information can sometimes be found in other places, such as the website of the Commission for Establishing Conflicts of Interest.⁶⁷ In the case of independent institutions, the discovery of the fact that principal officers, members of the managing boards, or senior managers had received 'nonrefundable housing credits,' i.e., grants, in order to 'settle their housing problem' should give rise to serious concern about the ability of these individuals to serve the public interest in an independent manner. Still, it was good to hear that some of the regulatory agencies expected to use their independent budgets to 'solve housing problems.'

⁶⁵ Although a new Conflict of Interest Law was adopted 27 December 2008, reference here is to the power of the Commission for Establishing Conflicts of Interest under the law prevailing at the time that the NDI Project Team met with the Commission, i.e., *Law on Conflict of Interest*, "Official Gazette RCG," No. 42/04, 07/05, 17/05.

⁶⁶ Soft power oversight means the power to raise issues, create awareness, and draw attention of a responsible need to regulate something, as opposed to being able to assess legal consequences.

⁶⁷ The submitted reports of public functionaries are available on the website of the Commission for Establishing Conflicts of Interest, <http://www.konfliktinteresa.cg.yu/funkcioneri/EvidencijaFun.php>, accessed 28 January 2009.

3. Periodic Parliamentary Review of Performance of Independent Public Institutions

In general, most independent institutions define their accountability to Parliament by their need to provide the annual report about activities of their institution and the area under their control, while a few also have to provide an annual workplan and financial plan. All independent institutions reviewed in this study provide information to Parliament as required and within the timeframe required by law, and some (although not all) make this information available on the website. Reports sent to Parliament, however, can not be found on the parliamentary website. From the reports available on the websites of the independent institutions, there was a general attempt in the structure of the report to provide information about the situation and all relevant activities in the area covered by the independent institution whether it is respect for human rights or monetary and financial stability. For the most part, the regulatory reports do not deal with challenges faced in carrying out their duties although plans for future activities give an indication of what these nascent bodies plan to do to improve the functioning of their institution and the regulated area. The report of the Protector for Human Rights and Freedom includes a complete chapter with evaluations and suggestions.

Most of the independent institutions report that their contact with Parliament is exclusively through the discussion of the required annual reports, as well as workplans and financial plans required of some institutions. The Central Bank reported that it has received requests from MPs for information and that it has endeavored to reply to these requests as long as they do not violate banking secrecy laws. Other independent institutions expressed equal willingness to reply to requests, but reported rarely having received requests. Thus, independent public institutions understand their legal obligations toward Parliament and that parliamentary approval of something proposed by an independent public body gives the proposal legitimacy; but, in general, independent public institutions felt uncomfortable when the discussions in plenary and committee sittings or data they produced were thrust into the political battles between the opposition and ruling parties. They also mentioned the unpredictability of work in Parliament that resulted in hours wasted in waiting for behind-the-scenes political discussions to end and in gathering a quorum.

Many institutions consider their reports to be independent and, as such, not subject to approval or amendment by Parliament. The legal framework provides either no detail of what Parliament is to do with a report or simply says information is provided for adoption. Institutions do acknowledge Parliament's right to adopt conclusions and make suggestions, but apparently, there have been procedural arguments in the past about what is to be done with a report. Almost none of the MPs or principals of independent public institutions could explain what might happen if Parliament were to reject the report or adopt conclusions that judged a report to be inadequate⁶⁸ – another telling sign of the need to develop the legal concept of holding officials to account in Montenegro.⁶⁹

While some opposition MPs expressed dissatisfaction about the discussion of reports of independent institutions, which they claimed were not discussed for more than an hour, all MPs with which the NDI Project Team spoke did acknowledge that the reports and debate on the reports have improved over time and produced some results, indicating that practice is improving. Particular mention was made of the Prosecutor's report, the report of the State Audit Institution, and the report of the Central Bank, which MPs thought provided an ever more thorough picture of the issues covered by these institutions. Still, some MPs complained about several aspects of the reporting process, suggesting areas for improvement:

- 1) Reports arrive several to many months after the period covered by the report has passed and 'after the issues were front page news items,' making the debate meaningless and causing MPs not to discuss the findings in the report, but the report's relationship to the latest newspaper headline.

⁶⁸ Article 162, paragraph 2 of the Rules of Procedure state: "After reviewing the reports, Parliament may adopt assessments, stands and conclusions." *Rules of Procedure of the Parliament of the Republic of Montenegro*, "Official Gazette RCG," No. 51/06, 66/06.

⁶⁹ In one of the 35 interviews, the head of an independent public body articulated his expectation that, if the report of an institution were rejected, then the management of the institution would lose credibility and would face consequences.

- 2) These same reports deal with the entire function of an institution over the course of a year-long period. They contain so much information that MPs complain that it is hard to analyze in a quality manner and that time provided for discussion is not sufficient for the content of the report.
- 3) Also, many of the legal deadlines for the delivery of reports coincide with the summer holiday and cause their discussion to be rushed or put off until the autumn session – a problem that could be solved by changing the legal deadlines or planning in advance for the convocation of a session.
- 4) In some cases, MPs do not think that the reports provide enough information about the challenges faced in the public institution's area of expertise and, as such, are not informative. Special mention was made of the lack of discussion of problems in some regulatory reports.

The institutions themselves complain that MPs – especially those from the opposition – focus on individual cases, rather than looking at the report in its entirety from a policy perspective. These institutions should consider whether the provision of shorter, policy-focused reports during the year, perhaps, could concentrate MPs' attention on the strategic issues and address the MPs' desire to be able to follow events in the institution on a constant basis and not just once a year.

C. Vertical Transparency of Public Institutions

A fundamental part of accountability depends on the availability of information, which is why Parliament receives periodic reports as stipulated in law and is able to request and receive information from institutions. At the same time, in its duty towards the public, Parliament needs to be open in its deliberations by making information public through reports, minutes, and verbatim notes, as well as by responding to requests for information as other public institutions do. For all parts of the governance system, transparency is only useful if it provides information related to all of the issues discussed in the previous section and is timely. The word *timely* is a rather vague term that, in the absence of deadlines defined in legal acts, can mean anything. But, timely implies receipt of information within a timeframe that allows an oversight body – be it a voter or a parliament – to exercise its external governance function.

The 2007 Constitution, the Law on State Administration, and numerous other laws provide for the transparency of the work of 'organizations exercising public authority,' and the Law on Free Access to Information provides the legal framework on how to access information. In addition, numerous laws mention documents – especially reports, data or decisions – that are to be made public with some stating that these reports or decisions must be published on the institution's website.

Constitution Access to Information Article 51

Everyone shall have the right to access information held by the state authorities and organizations exercising public authority.

The right to access to information may be limited if this is in the interest of: the protection of life; public health; morality and privacy; carrying of criminal proceedings; security and defense of Montenegro; foreign, monetary and economic policy.

Law on State Administration Article 4

The work of the state administration shall be public.

Citizens shall have access to data, documents, reports and information of the state administration authorities, except in cases determined by the law.

1. Vertical Transparency of Government

The principal tool used by Government proactively to provide information to the public is its website, which was launched in 2002 and provides a wealth of information in a number of areas. Information from press conferences is available on the website, as well as press releases throughout the week about important government events, international travel, and visits of foreign dignitaries. In a section called "Library," key documents can be found such as the 2008 workplan, the 2008 budget, Government's 2009 economic policy, and many other strategies, decisions, and reports with broad social impact. In addition, each ministry has its own page – some of which provide a great deal of information and others which are less useful for a variety of reasons. Finally, the Bureau for Public Relations manages the organization of a regular Thursday Government Press Conference at 14.00 where ministers give statements about policies – details of which are put on the website and covered by the broadcast and print media.

While law proposals, decisions, decrees, and regulations adopted by Government and judged to be of public interest are posted on the website, it is not a practice to publish draft laws unless there has been a decision to open a public debate. Government decides which laws will undergo a public debate process based on Article 97 of the Law on State Administration.⁷⁰ In this process, the public is informed at the Government Press Conference about the public debate, is invited to submit its comments and suggestions to the appropriate ministry, and is given details about the length of the debate (usually 15 to 30 days). The assigned ministry collects these comments, reviews them, and returns the draft to Government with proposed changes and explanation.

As a result, members of the public can submit comments, but are not necessarily told whether their comment or suggestion were accepted or rejected. The individual can find out, though, if the proposed law sent to Parliament is posted on the website before parliamentary debate, if s/he can get a copy of the proposed law from someone in Government or Parliament, or when the law is approved and eventually posted on the Government or Parliament websites. In some cases – especially related to sensitive legislation – these avenues are not available to ordinary citizens.

In addition to the Government Public Relations Bureau, each of the ministries has its own public relations division responsible for relations with the media and the public at large and for updating its section of the Government website. A major reconstruction of the Government website is planned in the coming year that will make it easier for ministries to maintain their own websites. But, there are no written rules or guidelines regarding how to interpret Chapter XII of the Law on State Administration related to publicity and transparency of work of state administration authorities or how to approach the public (reproduced on next page).

The unwritten operating policy of the Public Relations Bureau is to get as much information out to the public to anticipate and forestall requests under the Law on Free Access to Information. The recently adopted Law on Secrecy of Data defines how data is to be classified and limits access to such data, while the Law on Protection of Personal Data has provisions to protect an individual's personal data.⁷¹

2. Vertical Transparency of Independent Bodies and Parliament

In almost all cases, the principal tool used by all independent public institutions to supply information to the public is the website. Press statements, as well as reports, analysis and statistics insofar as

⁷⁰ Article 97 of the Law on State Administration says: "In preparing laws that shall regulate rights, obligations and legal interests of citizens, a minister shall have the draft law published through media and invite all stakeholders to present their comments, proposals and suggestions. A minister also may decide to implement the procedure of public debate when preparing other laws." *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

⁷¹ *Law on Secrecy of Data*, "Official Gazette CG," No. 14/08, and *Law on Protection of Personal Data*, "Official Gazette CG," No. 79/08.

Law on State Administration

XII. PUBLICITY AND TRANSPARENCY OF WORK OF STATE ADMINISTRATION AUTHORITIES

Article 95

Ministries and administration authorities shall be obliged to acquaint the public with the performance of activities within their purview and inform it about their work through means of public information or in other appropriate ways.

The presentation of certain reports and data may be refused only if their disclosure would represent, in accordance with a specific law, a violation of keeping secrets (state, military, official) relating to the protection of security and privacy of citizens.

Article 96

The state administration authorities shall be obliged to assign a person to provide reports, information and data on the performance of affairs of the state administration authorities.

Civil servants who are authorized for the preparation of relevant reports, information and data shall be personally responsible for the accuracy and timeliness thereof.

Unauthorized giving of reports, information and data or giving inaccurate reports, information and data shall represent a violation of duty.

Article 97

In preparing laws that shall regulate rights, obligations and legal interests of citizens, a minister shall have the draft law published through media and invite all stakeholders to present their comments, proposals and suggestions.

A minister may as well decide to implement the procedure of public debate when preparing other laws.

Article 98

When organizing consultations or other forms of professional treatment of issues from their competence, ministries and administrative authorities shall announce it in public means of information and enable the media to follow the work, consultation or other form of professional treatment of an issue.

they are within the competence of the institution, can be found on the sites. Also, information about the institution's role and function, legislation related to the institution's establishment, and information on its senior management or governing bodies can be found in many cases.

Some institutions produce publications for the general public to acquaint them with the functions of the institution and ways to approach it; and, some hold regular office hours or have 'open days' throughout the country with ordinary citizens. In some cases, like the Securities Commission, they publish draft rules governing the capital market with an invitation for the public to review and comment on a rule before it is adopted;⁷² and, they also have a brief guide on their website about investing in the capital market.

While many of the websites of independent public institutions provide quite a bit of useful information, a number of websites are not updated in a timely manner, and few include information designed to bolster confidence in the independence of the organization. Also there is no coherent address for public institutions in Montenegro, with some having a .org, others .com, and still others cg.yu extensions; and, in some cases, a simple Google search fails to locate an official website. In most cases, information on the websites is also quite difficult to locate. Thus, it is a dedicated individual who can get information from official bodies, suggesting that having a website is not the same thing as being transparent.

In the case of Parliament, in particular, which gathers information as the representatives of those who voted for them, the website lacks quite a bit of information and is difficult to navigate. Furthermore, information provided is not always informative. Thus, while much of the information about discussions of reports from public institutions that are considered in committee are not available on the parliamentary website, a review of the information that can be found reveals that parliamentary reports provide limited details about the substance of the discussion. Although some parliamentary reports elaborate on the questions posed by MPs, there is no information on what the answers were and, instead, only a confirmation that they were answered in an exhaustive manner and that the report was prepared in accordance with the law. In some cases, parliamentary reports provide suggestions about further action. In a minority of the cases, these suggestions also refer to steps the institution should take to improve the management of the institution in order to achieve its policy objectives. Reports of daily newspapers sometimes provide additional information on the tone and content of the discussion. The production and publication of verbatim notes from committees might be a useful answer to some of these challenges.

There are at least two coordinating bodies that unite members from the entire governance system and civil society in order to improve horizontal coordination in the achievement of a national goal – i.e., the National Council for European Integration (NSEI) and the National Commission for Monitoring the Implementation of the Action Plan to Combat Corruption and Organized Crime. The latter body has operated since early 2007 and, while there are loud differences of opinion about its effectiveness and how to measure effectiveness, there is no doubt that its existence – and, perhaps, even the media debate about effectiveness – has promoted transparency and awareness about the issue. The NSEI only began to function in the second half of 2008, but it too can be expected to promote transparency, awareness, and public debate about Montenegro's progress toward European Union membership and, hopefully, will create measures to inform the public about its work.

⁷² The Commission reports that it usually allows up to two months for public discussion after publishing a rule in the newspapers and on the Internet. Comments received are considered and, if found useful, are incorporated into the final rule through amendments. The Commission reported that, in responding to suggestions, the Commission only communicates with the individual submitting a suggestion. Therefore, while the rule is made public in advance, the discussion on the rule is not a public, meaning that it represents more of a public comment period.

3. Free Access to Information

Almost all public institutions mentioned the Law on Free Access to Information as a method through which citizens could request information of public institutions. But, many institutions complained that the bulk of requests come from only two nongovernmental organizations or media, which they believed demonstrated that the Law did not really work as a tool for citizens, but rather as a tool of harassment by a couple of NGOs. Members of the executive are satisfied that the new laws on secrecy of data and protection of personal data will succeed in clarifying for the public institutions what can be classified, how and by whom and will reduce the number of complaints submitted against refusals to provide information and the consequent media reports on alleged Government cover-ups.

Of the 161 cases published by the Administrative Court in 2008, two thirds (67 percent) of them had to do with charges filed because of 'silence of the administration' or lack of response.⁷³ Thus, it seems that the actions of NGOs may have some sense in establishing a practice related to the Law on Free Access to Information. Still, the Administrative Court is unable to order a public institution to provide information and is only able to cancel the refusal to respond or rationale for rejecting the request after which the petitioner must begin the search for information over again, making access to information less than timely. As a result, it is not unheard of for the Administrative Court's decision to be ignored. The argument that the Administrative Court cannot decide a case based on the merits because that would mean interfering in the executive power, unfortunately, renders moot the constitutional principle of power exercised on the basis of balance and mutual control. Should the executive fail to act, the judiciary should be able to compel action. The judiciary's job is not just to sanction, but to provide the balanced control when necessary.

D. Assessment of Parliamentary Oversight Capacity

In practice, the relationship between the executive and legislative branches is not yet a balanced one. For years, Parliament operated as a service to Government in terms of ensuring that the executive's initiatives would succeed. The new Rules of Procedure introduced oversight instruments, which have slowly begun to strengthen Parliament's role as an equal branch of power. Still, given the overwhelming advantages that continue to accrue to the executive branch and the continued role of governing parties in protecting Government's legislative agenda and limiting oversight, the opposition political parties feel powerless to exercise their legislative and oversight functions and, thereby, powerless to convince the public of the value of their work.

As a consequence, politics has a significant influence on proceedings in Parliament to the detriment of its legislative and oversight functions. Governing party loyalty in Parliament to the executive branch leads to rare instances of criticisms from the governing party benches, while complimentary words or constructive solutions from the opposition benches are equally rare. Because MPs belong more to their party than to Parliament, they are uncomfortable assuming responsibility without approval from the party leaders. While this situation is not uncommon in parliamentary democracies with proportional representation systems of elections, it is more prevalent in Montenegro, leaving decision-making power in the hands of only a few individuals in Parliament and resulting in confusion and obstructions.

In addition, the lack of professional members of Parliament, whose primary, full-time job is in Parliament, is a major obstacle to execution of its legislative and oversight functions. With more than half of the current MPs from the ruling coalition holding other full-time jobs or sitting on boards of public companies, and with a smaller number of opposition MPs holding other professional positions, committees frequently have a hard time establishing or maintaining a quorum for decision-making, and legislation and reports frequently remain unread. Furthermore, the potential for conflicts of interests are significant.

⁷³ http://www.upravnisudcg.org/odluke2008/Slobodan_pristup_informacijama.doc, accessed 26 January 2008.

The **lack of a parliamentary calendar**, as well as the corollary lack of committee workplans, that does more than list the planned meetings of the international parliamentary assemblies to which the Montenegro Parliament belongs contributes to the inability to exercise oversight. For the first time in 2008, Parliament adopted a calendar that set aside separate time for committees and plenary sessions, which was a positive step. However, the schedule was not developed or turned into a concrete plan of activities, and it was not respected. Part of the problem is the need for a plan of legislation, coordinated with the Government's legislative plan; but, the problem also is the result of legislation arriving at Parliament with short notice and under the 'shortened' procedure. The issue of MPs pre-occupied by professional responsibilities arising from other jobs is an added challenge, such that they do not have enough time to attend plenary and committee sessions outlined in the calendar and the schedule is compressed; and, finally, the general mentality that Government legislation is good because it came from Government and MPs should not question their expertise results in a compressed legislative calendar.

The **lack of personnel resources** are a significant problem for ruling and opposition parties alike. The largest ruling party has a staff of three to serve all the technical, logistical and research needs of 34 MPs; smaller parliamentary clubs have a technical secretary and a single advisor. While a few committees have two, most committees have only one committee clerk; and, the assignment of several clerks changed throughout 2008, such that some MPs complained that constant personnel changes disrupt committee work. At present, the research unit does not have staff to meet the research needs of 81 MPs. New members of staff have not received the training or mentoring to enable them to provide more than basic technical assistance to MPs in committees, although the limited senior staff does have the ability to help MPs navigate the legal and institutional framework within their area of expertise.

At the end of 2008, a new staff structure for Parliament, raising the planned number of employees to 150, was adopted. In addition, the Secretary General reports that a plan for more experienced staff to provide training to new staff has been designed; and, a library began to function, although it still remains understaffed and under-resourced.

Finally, Parliament continues to suffer from a lack of material resources, although there have been some improvements in the last several years. There are now four fully equipped rooms available for committee sittings; and, four committees were provided with office space at an off-site location near Parliament. A permanent plan to deal with the serious limitations on office space still has not been decided although it was reported that a decision would be forthcoming within the next several months with estimates that it would be operational in four to five years. It is hard to imagine that MPs – even if professional – would be able to adequately perform their jobs if they continue to lack the office space necessary to do their jobs, and four to five years is a considerably long time to wait for the solution to a problem that has been urgent for many years already.

CHAPTER 3 CONCLUSIONS AND RECOMMENDATIONS

In considering how the system of governance works in Montenegro, this study has looked at transparency and accountability as two important dimensions of good governance. If governance is the system of "constitutional, legal and administrative arrangements by which governments exercise their power, as well as the related mechanisms for public accountability, rule of law, transparency and citizen participation,"⁷⁴ the question is whether each of the three powers of the state – the legislature, judiciary, and executive – are able to play a meaningful role and whether the legal environment and actual practice enable citizens to exercise and access state power to achieve their interests. This study concludes that lack of political will on the part of all political parties hampers the ability of the legislature to exercise its role, limiting a very important avenue for citizen participation in the exercise of state power.

Based on an evaluation of the legal regulations governing transparency and accountability, it is clear that a number of legal and constitutional problems that affect the political debate in Montenegro arise from a weakness of the legal regulations. Some weaknesses in the legal regulations undermine the credibility of independent organizations that are supposed to provide information to Parliament to carry out its oversight function. Furthermore, in a legal culture without a strong rule of law tradition, regulations without proper legal sanctions or legal consequences can undermine the whole regulation itself. Thus, in Montenegro's case, the absence of trust in the independence of some bodies and of legal sanctions have caused the opposition to take on the role of judge, which those in power frustrate, arguing interference in the division of power.

I. ACCOUNTABILITY OF GOVERNMENT TO PARLIAMENT

A. Election of Government and Establishment of its Policy Objectives

The relationship of Government to Parliament is established in a number of laws and provides for Parliament to elect Government and, at the same time, to approve its policy objectives. During the course of the mandate, Parliament approves changes of the composition of Government upon the proposal of the Prime Minister, and further communication between Parliament and members of Government goes through Government. Once elected, ministers hold exclusive authority over the functioning of their ministries and for accountability of those within the ministry, leaving some with the impression of ministries as independent bodies. As provided by the legal regulations, ministers appear in Parliament in order to defend draft legislation and, in limited cases, to provide answers about the conduct of "internal and foreign affairs of Montenegro, for the laws and implementation of decrees, as well as of for the work of the bodies of state administration."⁷⁵

The Law on State Administration and other laws regulating state administration provide a legal framework for managing and directing affairs within individual ministries, while employees of the state administration are subject to a disciplinary process for which the head of an organization, who is almost always a well-known member of the political elite, has final control.⁷⁶ Given the lack of procedural details and sanctions in administrative law for noncompliance, ministers themselves have few

⁷⁴ See page 4. Laking, Rob, "The Governance of the Wider State Sector: Principles for Control and Accountability of Delegated and Devolved Bodies," (Bratislava: Organization for Economic Co-operation and Development - OECD, 22-23 November 2001), 3. © OECD

⁷⁵ Article 2, *Regulation on the Government of Montenegro*, "Official Gazette CG," No. 80/08.

⁷⁶ Articles 61-64, *Law on Civil Servants and Public Employees*, "Official Gazette CG," No. 50/08.

guidelines and fewer incentives to implement the lofty principles elaborated in them. Thus, once elected, they can operate fairly independently, while counting on the loyalty of staff and being politically accountable to the Prime Minister with limited parliamentary oversight.

Unfortunately, this system does not create sufficient means for MPs and the public to develop confidence in the operations of Government, especially at the implementation stage; and, it does not establish sufficient means for Parliament to hold ministers accountable politically. Increased efforts are needed on the part of Government to open up direct lines of communication with members of Parliament so that they develop an understanding of policy objectives of Government and individual ministries and can use it to play their part in the governance field. As noted earlier, where the closest communication exists (i.e., with the Secretariat for European Integration and national security bodies), the relationship between the two branches is most developed.

Thus, establishing the practice of going to Parliament once a year for a presentation of annual policy objectives and debate could improve Parliament's understanding of the Government's overall priorities and help them plan their own activities. In addition, individual ministries can offer such annual plans, strategies and progress reports to their related committees – again, in the spirit of providing information to exercise the shared governance function. Another way to improve cooperation and coordination with Parliament is for Government to have a high-level position within the office of the Secretary General responsible for liaison with Parliament (and all parties represented in the Parliament). A similar function could be established in individual ministries – again, in an effort to include all parties represented in Parliament in the dialogue.

In the end, strengthening the relationship between Government and Parliament in the policy implementation field – and not just the legislative field – will increase the sense of accountability of ministers to Parliament that is articulated in Article 41 of the Law on State Administration. Furthermore, it will serve as an example for the employees in the state administration and a reminder for them of their public service function. For, during the course of their careers, employees of the state will serve many masters, and they need to feel accountable to the state at large for their performance and not only to an individual minister.

Recommendations: In order to strengthen Parliament's understanding of Government policy objectives and its ability to review policy achievements, Government can:

- ▶ Devise a practice of presenting an annual policy program to Parliament for a limited, non-binding debate;
- ▶ Strengthen formal communication channels with Parliament and its individual committees in order to discuss specific policy proposals and their implementation; and,
- ▶ Assign an individual within Government and individual ministries to serve as a liaison with Parliament and the responsible committees.

Such recommendations will only work if Parliament offers a hand of cooperation to Government and if all parties represented in Parliament actively engage on policy issues and their implementation on behalf of the citizens. Using offered information to achieve narrow political interests or to interfere in the work of the other power branches will lead to a Government that is less forthcoming and will not serve the citizens' interests.

B. Authorizing Budgets and Reviewing Financial Performance

In terms of authorizing budgets and reviewing financial performance, it is clear that the budget process in the Montenegrin governance system has improved over the years – first, with the establishment of a Treasury; second, with the establishment of the State Audit Institution; third, with the introduction of program budgeting, which was tried for the first time in the 2009 budget; and, fourth, with

the adoption of the Law on Internal Financial Control of Public Spending to be implemented in 2009. In particular, the improved functioning of the State Audit Institution has provided valuable information for Parliament's exercise of its oversight function that surely will be developed over the coming years. Still, Government needs to remember that Parliament's oversight function should give it the right to have access to all Government documents, including all information about public expenditures. Access to complete information is essential to Parliament's ability to serve citizens by assuring them of the responsible use of their taxes.

The Budget Law does not provide sufficient time for Parliament to review the budget in a meaningful way in order to understand the future policy objectives of spending units and the relationship of projected expenditures to the fulfillment of these objectives. As evidenced by the experience of 2008, the law's provision requiring next year's budget to be delivered to Parliament 'in November' essentially means that it can arrive on the very last day of the month, giving MPs less than one month to review it by the time it arrives in their offices. A more precise date should be established in law. In establishing that date, Parliament and Government should recognize that three-quarters of the members of the Organization for Economic Cooperation and Development (OECD) in continental Europe provide three months for Parliament and its committees to review the budget;⁷⁷ and, in fact, the OECD has said that in "no case should [the proposed national budget be presented to parliament] less than three months."⁷⁸

With regard to the budget reserves, the State Audit Institution and Parliament suggested establishing more detailed criteria about allocation of these funds as required by Article 33 of the Budget Law; and, a detailed accounting of which spending units received money from the reserves, for which purpose, and for what amount should be provided to Parliament and made available publicly. Moreover, independent institutions that hope to establish their ability to make decisions without interference of other branches of government should avoid asking the Ministry of Finance for funds from the budget reserve during the course of the year.

Recommendations: In order to improve Parliament's ability to review financial performance and understand how planned expenditures relate to policy priorities, the following measures are recommended:

- ▶ Government should continue to develop its budget process with an eye to improving transparency;
- ▶ Government should implement Parliament's conclusion to provide more detailed criteria about allocation of budget reserves and should provide Parliament and the public with detailed information on the purposes and users of the budget reserve;
- ▶ Government should recognize that, as representatives of the citizens, Parliament has a right to "have access to data, documents, reports and information of the state administration authorities, except in cases determined by the law,"⁷⁹ and, in fact, should be entitled to receive requested information on budget expenditures from all those who use public funds;
- ▶ The State Audit Institution should continue to develop its ability to audit the expenditure of public funds in terms of legality, efficiency and effectiveness;
- ▶ Changes should be made to the Law on Budget to:
 - 1) provide a precise deadline for its delivery to Parliament; and,
 - 2) allow Parliament sufficient time to consider the budget, keeping in mind the practice in other European Union member countries; and,

⁷⁷ OECD's International Database of Budget Practices and Procedures, www.oecd.org/gov/budget/database, accessed 25 January 2009.

⁷⁸ OECD *Best Practices for Budget Transparency* (Paris: Organization for Economic Cooperation and Development, May 2001), cited in footnote 189, *Toward the Development of International Standards for Democratic Legislatures* (Washington: National Democratic Institute, January 2007), 44. © OECD

⁷⁹ Article 4, paragraph 2, *Law on State Administration*, "Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08.

- ▶ Parliament should introduce changes to the Rules of Procedure to ensure that each committee reviews sections of the budget within its jurisdiction and to consider whether six hours of debate in plenary⁸⁰ is sufficient for discussing the annual budget.

Again, such recommendations will only work if Parliament remembers that its role is one of external governance and that the goal is to understand the planned use of the budget and to review the use of public funds for the achievement of policy goals.

C. Adopting Legislation

While Parliament adopted a record number of acts in 2008,⁸¹ the process of legislative review was often limited. Parliament and Government should explore avenues for increased coordination in the next mandate, which will require information sharing and regular communication. The Constitutional division of state power does not negate communication. The fact that Government and Parliament actually are two sides of the same coin as drafters and approvers of legislation necessitates coordination; and, inclusion of the opposition parties in the planning process might encourage their understanding of national policy priorities and the need for cooperation.

In addition to the Constitutional principle of division of power, the Constitution also establishes the principle of balance and mutual control, which requires Parliament's knowledge of Government's legislative agenda and timeframe in order for the governance system to function efficiently and avoid the use of 'shortened procedure.' But, if Government is expected to share information with and provide explanations to Parliament in committee or plenary sittings, Parliament needs to respect the other competing responsibilities and busy schedules of members of Government. Therefore, Parliament needs to adopt clear parliamentary and committee work programs that are respected.

Recommendations: In addition to the recommendations below, the earlier recommendations related to understanding Government's policy objectives are applicable to improving the process of adopting legislation.

- ▶ In order to enable Montenegro to meet its policy goals and its international commitments, Government should provide formally Parliament with an annual legislative workplan, which Parliament and its committees should use to create work schedules that are implemented.
- ▶ Official lines of communication between ministries and parliamentary committees should be created and used in order to advance the important work of adopting legislation, while allowing sufficient time for due consideration of legislative solutions.
- ▶ Sufficient parliamentary resources – in terms of research facilities, research staff, offices, and equipment – need to be secured to enable MPs to inform themselves on the issues.
- ▶ The Collegium of the Speaker should continue to examine carefully requests for shortened procedure, rejecting those that do not meet the established conditions and, thereby, preventing the marginalization of Parliament in the governance process and adoption of legislation without the appropriate parliamentary consideration for unsound reasons.
- ▶ Parliamentary committees need not wait for legislation to arrive in Parliament in order to convene sittings to discuss important reform matters, but committee members also need to be prepared to work on a full-time basis if they plan to accomplish the legislative and oversight functions for which they are paid.
- ▶ As discussed in more detail later, Parliament should separate political debates and the practical work on legislation.

⁸⁰ Article 99, *Rules of Procedure of the Parliament of the Republic of Montenegro*, "Official Gazette RCG," No. 51/06, 66/06.

⁸¹ According to figures from the Public Relations Bureau of Parliament, Parliament adopted 128 laws or amendments, 48 decisions, 1 declaration, 1 resolution and 10 conclusions in 2008, D.M., "Annual Record," *Vijesti*, 30 December 2008, www.arhiva-medija.com.

D. Periodic Review of Government Performance

The 2006 Rules of Procedures provided new instruments to enable Parliament to review periodically the performance of Government and other state bodies; and, some Government regulations were recently improved to take those changes into account. In the last several years, there have been more hearings, more interpellations, more questions of MPs to ministers and the Prime Minister,⁸² and more answers provided by ministers, rather than subordinates who do not bear political responsibility. Both ruling and opposition parties have become more comfortable with the use of the oversight instruments as evidenced by the small increase in their use. But, there remains significant room for improvement.

In particular, there is an overemphasis on the word *control* as opposed to *oversight* – both in law and in practice. Above all, Parliament’s job is to regulate the operations of government and review periodically the financial and non-financial operations as they relate to the achievement of policy objectives – i.e., oversee. In this process, there will be times when Parliament will want to demand that a minister or public institution do something – i.e., control. But, without the first function, it is hard to do the second function effectively. Thus, without insight and understanding of the functioning of state bodies and their policy objectives (internal governance), it is hard to exercise an external governance function.

1. MP Questions and Prime Minister’s Hour

Even if the provision in the Rules of Procedure related to MP Questions and Prime Minister’s Hour were respected and a special session was held at least once in two months, the convocation of MP Question Period is not sufficient for Parliament to exercise its duty to oversee the executive.⁸³ Common practice in European parliaments, as well as in other modern parliaments around the world, is to hold Question Period much more frequently, representing a sign of the important role parliaments play in the governance process.⁸⁴ It is also not uncommon to require that questions be submitted in advance. Having a more regular Question Period would still result in attempts to evade questions or answer them superficially (which is a natural reaction of the executive branch in most countries), but MPs would be able to ask follow up questions until they received an answer.

Furthermore, the Montenegro electoral system and parliamentary tradition is wholly unsuited to a British-style Prime Minister’s Hour, predicated on the formal role of Leader of the Opposition in which there is a dominant opposition party. In Montenegro, the electoral system and the political tradition of creating pre-election coalitions necessarily result in a parliament made up of a plethora of parties in which there is no undisputed Leader of the Opposition. Parliament elects the Prime Minister and his cabinet as a whole; it can vote no-confidence only in Government as a whole, not in individual ministers; and, although ministers are accountable to Parliament and the Prime Minister, only the Prime Minister can replace a minister. As such, the Prime Minister carries accountability for the whole Government and should be present throughout MP Question Period, even if s/he does not answer all the questions. In addition, since ministers are the ones who carry political responsibility, they should be legally obliged to appear and respond to questions.⁸⁵

⁸² From October 2006 until the end of 2008, there were 382 questions posed to ministers, including the Prime Minister, and four interpellations.

⁸³ Since October 2006, there were a total of seven special sessions - four in 2007 and three in 2008.

⁸⁴ The most common practice is to hold a question period once a week when a parliament is in session. According to NDI’s research conducted in December 2004, Slovenia has the most infrequent question period, using the model of convening a special sitting once a month.

⁸⁵ While Article 74 of the Law on State Administration obliges a **ministry** to reply to questions raised in Parliament by an MP, the Government’s Rules of Procedure (Article 84) and the new Regulation on Government (Article 28) oblige Members of Government to participate in the special MP Question Period sitting of Parliament.

Recommendations: The Parliament's Rules of Procedure should be changed to create a shorter and more regular MP Question Period held at a fixed time which is no less than once a month and as frequently as once a week. In addition, the Prime Minister's Hour should be eliminated and replaced by a legally binding requirement that all Members of Government, including the Prime Minister, be present at MP Question Period with clear procedures that are implemented for explaining the inevitable periodic need for absences.⁸⁶

2. Interpellations

An interpellation is more extensive than an MP question that permits the opening of a debate for a more thorough discussion of a broad policy area and often results in a vote on recommendations for some sort of Government action – i.e., the control discussed previously. In some parliamentary systems, it can also result in a motion of no-confidence in an individual minister, which is not the case in Montenegro since the instrument of no-confidence is applied to the whole Government. In most parliaments that use the instrument of interpellation, the debate is a separate one focused on a policy area, but many fewer MPs – in some cases, only one – is needed to initiate the debate, Government is given much less than 30 days (usually 10-20 days) to respond, and the debate lasts for 30 minutes to an hour.⁸⁷

Since an interpellation in the Montenegrin Parliament can be initiated by only one-third of the MPs, it is one of the few oversight instruments that do not require the consent of the ruling parties to initiate, although adopting conclusions does require a majority. Still, the infrequency of the use of the instrument and the drama surrounding those that do take place do not fulfill the purpose of demanding policy answers and, in extreme cases, political accountability. If designed correctly, the opposition can use the instrument to ask Government what it is doing about something and, more importantly, to announce its alternative solutions in the process of querying the minister.

Recommendation: Changes should be made to the instrument of interpellation to allow it to be an instrument of scrutiny on broad policy topics that are held more frequently and for a shorter, but defined, time period.

3. Civilian Oversight of the Security Services

After nearly a year of work, Parliament is almost ready to adopt a law on parliamentary oversight of the security services. If the law were passed and implemented at some point, it would represent another positive example from the Committee for Defense and Security to the rest of Parliament. After the next election, there will be new members of the Committee, who hopefully can establish a good working relationship with the security services and advance the positive work that has been done so far so that Parliament has more information about the activities and plans of the security and defense services and can use its authority to ensure an appropriate balance between the safety and human rights of citizens and the need to safeguard the country's national security.

However, members of the Committee should understand that their role is, above all, oversight, rather than control. As such, it is not the Committee's role to pursue individual cases, to interfere in the work of the services, or to jeopardize Montenegro's national security interests. Instead, their job is to ensure that the framework and policies exist to protect the country's national security with the least obstruction to citizens' human rights. If individual cases raise concern, the practical root of the problem should be found and legal solutions introduced to ensure that the negative example raised by the individual case no longer occurs.

⁸⁶ In implementing this recommendation, care should be taken not to create a legal regulation that states "in exceptional cases, a Member of Government can be excused." Instead, it should require the Member to clearly explain within a clearly defined deadline why the case is exceptional. Such clarity will ensure that exceptions do not become the rule.

⁸⁷ *Procedures Committee Official Report* (Edinburgh: The Scottish Parliament, 21 February 2006), <http://www.scottish.parliament.uk/business/committees/procedures/or-06/pr06-0402.htm>, accessed 1 February 2009.

In addition, members and staff of the Committee for Security and Defense should understand that the executive will only be forthcoming with information if it is used responsibly. If members want information, they have to be ready to respect the requirements to protect information.

Finally, in order to establish their credibility, the Committee needs to report to Parliament and the public on its deliberations, while protecting the secrecy of national security information. Transparency of the Committee is particularly important considering its oversight role as Montenegro establishes whole new security and defense structures, separate from the Yugoslav system. The Committee bears a great deal of responsibility in building up public confidence in the new institutions of the state, which requires the provision of information.

Recommendations: In order to improve parliamentary oversight of the security and defense services, the following measures are recommended:

- ▶ Parliament should adopt a law on parliamentary oversight of the security services;
- ▶ Security and defense services should continue to extend cooperation to members of the Committee for Security and Defense to understand the purpose and functions of these bodies and to permit parliamentary oversight;
- ▶ Members of Parliament should remember that their role is to oversee whether the security services are doing, and have the resources to do, their jobs effectively without interfering in their work or compromising the country's national security; and,
- ▶ The Committee for Security and Defense should make it a practice to issue sufficient information to demonstrate to the public that it is fulfilling its oversight, which, at the very least, would be an annual report on its activities, but which could include a host of other information that does not involve the release of protected information.⁸⁸

4. Control Hearings

The definition in the Rules of Procedure of consultative hearings and control hearings politicizes the function of the latter and prevents their convocation. The control hearing might be less politicized and menacing if called an oversight hearing, but a more effective solution might be to amend the Rules to eliminate the distinction of control and consultative hearings. The latter option would define committees and their function as reviewing legislation and overseeing implementation and a hearing as one way to fulfill the committee's dual function. Rules would make clear that committees hold sittings to which they can invite members of the executive branch, representatives of independent institutions, members of civil society, and ordinary citizens. The Rules of Procedure would be defined as a law and would require the attendance of invited persons and the supply of information requested.⁸⁹

⁸⁸ Appendix VIII reproduces the suggestions on this topic from the Geneva Centre for the Democratic Control of the Armed Forces and the Inter-Parliamentary Union in their joint publication, *Parliamentary Oversight of the Security Sector*.

⁸⁹ Article 23, paragraphs 2 and 3 of the Bulgarian Rules of Procedure state: "(2) Government authorities, officials from the government and municipal administration and members of the public shall be obliged to make available on request any information and documents required for the work of the Standing Committees. (3) The Chairperson shall be obliged, on the motion of one third of the Committee members, to address forthwith a request to the government authorities and the officials from the government and municipal administration to attend Committee meetings. The persons so invited shall be obliged to appear before the Committee and to present the requested information as well as to answer the questions they are asked within ten days after the sending of the invitation or at the first regular meeting if it is after the expiry of the said ten days." Article 97 further states: "(1) Officials and members of the public, if invited, shall be bound to appear before the Committees of the National Assembly and to provide any requested information and papers." Rule 45, paragraph 3 of the Slovenian Rules of Procedure states: "(3) The Government, other state authorities, public institutes, public enterprises and public funds founded by the state must immediately forward the information and documents requested by the working body referred to in the first paragraph of this Rule or one third of its members referred to in the second paragraph of this Rule, unless such is contrary to the law." Article 22 of the Estonian Rules of Procedures states: "(1) A committee of the Riigikogu has the right to: 1) demand information necessary for the performance of its functions from the Government of the Republic and agencies of executive power; 2) demand that a member of the Government of the Republic participate in a committee sitting in order to obtain information on matters within the powers of the member of the Government." Finally, Article 53, paragraph 2 of the Slovak Rules of Procedures states: "Committees shall have the right to invite to their meetings Deputies of the Government, the heads of other governmental authorities, and the Attorney-General, and to require their clarifications, reports or necessary documents. When invited, they shall attend the meetings, and submit their clarifications, reports and documents as required. With the consent of the committee, they may be substituted by duly commissioned representatives."

In practice, MPs should use a hearing to focus on the external governance function of Parliament and the need for Parliament to understand the goals of an institution, the activities underway to achieve those goals, and the outcomes that the institution expects as a result of fulfillment of the goals. If the goals, activities or outcomes are found wanting, Parliament can adopt a conclusion or amend a law. In addition, Parliament can and should explore the allocation and use of funds in the achievement of goals. In this process, MPs should try to gather information to determine whether or not the goals can be realized based on planned actions and budgets. However, it is never the job of an MP to pursue individual cases or to interfere in the work of any other branch of government.

Recommendations: In order to improve the legislative and oversight function in committees, the following changes to the Rules of Procedure and parliamentary behavior are recommended:

- ▶ The Rules of Procedure should define the legislative and oversight functions of committees, eliminating the distinction between control and consultative hearings and replacing it with the ability of committees to invite members of the executive branches, any other public institutions, and civil society, as well as ordinary citizens to provide opinions and information related to the topic at hand;
- ▶ Rules of Procedure should be defined as a law and define stronger provisions about the rights of MPs to request and receive information and the duties of others to provide information and be present;
- ▶ MPs should concentrate on overseeing the functioning of Government, legislation, plans and strategies in order to determine if activities undertaken and public funds spent are achieving desired policy outcomes; and,
- ▶ Ruling parties should demonstrate greater political willingness to enable committees to carry out their legislative and oversight functions.

5. *MP Rights to Information*

The rights of MPs to information need to be clearly spelled out in a legal act with the force of law. Right now, the only legal provisions with the force of law are contained in Articles 73 and 74 of the Law on State Administration and have a limiting function on MPs ability to receive information. In detailing and expanding MPs' legal right to information, every effort should be made to enable an MP to participate as an equal member in the governance process. Government should not be allowed to decide what type of information an MP needs. As part of the state power, the members of Parliament have the right to access all information that will enable them to exercise their external governance role and be confident in the internal governance procedures. Above all, members have the right to information about the use of public funds.

Recommendation: Parliament's right to oversee the work of Government should be guaranteed in law with a defined right to have access to all official materials, documents and data.

II. ACCOUNTABILITY OF INDEPENDENT INSTITUTIONS

The principle of independence does not rule out the principle of accountability. Instead, accountability and transparency beget independence; in other words, the credibility of an institution and its independence is established through its transparency and accountability. The credibility of the independent bodies is undermined when the selection and internal governance processes are not transparent. Also, budget and management autonomy can bolster confidence in an independent institution's ability to make decisions without involvement or influence of those who hold the power as external governance factors.

A. Appointments to Independent Public Institutions

The legal provisions for appointing heads of and/or managing boards of independent institutions need to be expanded greatly with a view to establishing procedures that can give confidence to the public of the ability of the principals of these independent institutions to act without interference from other bodies.

Recommendations: In order to improve transparency of appointments to independent public institutions and to enhance confidence in their independence, legal provisions related to the appointments and dismissal process must be much more detailed and include, depending on institution:

- ▶ Details about the process for choosing nominees and making appointments that include a requirement for public competition and a public hearing of candidates, as well as other provisions that will illuminate for the public the qualifications of candidates and assure the public of the ability of candidates to act independently;
- ▶ Requirements for more than a simple majority to appoint leading individuals, staggering the election of members to collective bodies, ensuring the mandate does not coincide with the mandate of Parliament, and/or limiting the candidate's ability for re-election;
- ▶ More serious conflict of interests provisions that prohibit party membership and membership in other bodies for a period before appointment in an effort to avoid undermining an individual's credibility before s/he takes office; and,
- ▶ More serious restrictions on allowable types of employment after serving as a leading individual of an independent body, depending on the types of inside information the independent institution had access to, the ability to benefit from that inside information, and the influence future positions could have on the individual's current decision-making.

B. Conditions for Independent and Autonomous Conduct

Every effort should be made to provide independent bodies with financial and staff resources that do not allow interference in the independence of their work. As such, the provision allowing the President of the Judicial Council to participate in the parliamentary debate on the budget related to the court system and the legal provision in the Law on State Audit Institution that provides for the parliamentary committee to submit SAI's budget request are positive legal provisions for independent bodies that have no choice but to rely on funds from the national budget.⁹⁰ Self-financing regulatory bodies also have a secure source of financing that enables them not to be dependent on the executive branch. Other independent bodies do not have the luxury of independent budget or staff recruitment, which might be understandable for a new, developing state, but which has the potential to interfere in their freedom to act by withholding resources. Therefore, if independent bodies want to be given more budget or staff independence, they have to demonstrate full transparency and accountability in the expenditure of their budgets. Moreover, greater communication with Parliament about their activities and resource needs based on concrete facts and details might help turn MPs into advocates for the independent institutions.

Given the pride that principals of independent institutions take in the independence of their respective bodies, they should make every effort to be as public as possible about any aspect that could interfere with independent policy making or proper internal management. As such, all rules and procedures governing internal management, including rules of decision-making, information about remunerations, budgets, and operational plans, should be easily accessible on the websites. Information should be posted even if a perceived conflict might exist because, by publicizing it, doubts will be reduced.

⁹⁰ Article 110, paragraph 4, *Law on Courts*, "Official Gazette RCG," No. 05/02, 49/04 and "Official Gazette CG," No. 22/08; and, Article 51, paragraph 2, *Law on State Audit Institution*, "Official Gazette RCG," No. 28/04, 27/06, 78/06 and "Official Gazette CG," No. 17/07.

Recommendations: In order to improve the conditions for independent public institutions to operate free from interference, the following measures are recommended:

- ▶ Every effort should be made to permit budget and staff independence, through self-financing, mechanisms that allow parliamentary participation in the determination of the budget, or other appropriate mechanisms, depending on the situation;
- ▶ Parliament should seek to be an advocate for independent public institutions by understanding their mission, their activities, and their real resource needs; and,
- ▶ Independent public institutions should make much greater efforts to publish information about internal management (budgets, remunerations, operational plans) and decision-making in an effort to reassure the public of their independence.

C. Periodic Parliamentary Review of Performance of Independent Public Institutions

It is important for those who write the institutions' annual reports and the members of Parliament to reflect on the purposes of reporting to Parliament and, more specifically, providing annual reports. In almost all cases, a law establishes the institutions that report to Parliament, and that law states the purpose of the institution. The law itself may establish details about internal governance – i.e., appointment of boards, senior management, or incompatibility of functions; and, sub-acts may provide additional details about internal governance – which can be used to assess performance.

Given Parliament's legislative and oversight function, the function of the annual report for the previous year or an operational or financial plan for the coming year is to provide information about how the institution has or will perform its function in terms of activities, expenditures, and results; and, in some cases, the content of the report is defined clearly in law.⁹¹ The function of a committee (and Parliament as a whole) is to review that information, asking questions about whether money spent is producing results expected by the legislation and previously provided information and whether the results justify the levels of effort and expenditure.

Committee members, however, should be careful not to interfere in the execution of the institution's role. If committee members perceive problems, they should demand corrections within a certain deadline or, if need be, demand dismissals. However, incessant demands for the dismissals can render the accountability function meaningless, especially when the demands produce no result. Lawmakers and managers of independent public institutions reporting to Parliament can increase the influence of annual reports on Government policy-making and public awareness through changes in the legislation and through mutual cooperation based on the shared goal of increasing the credibility of the independent bodies.

Recommendations: In order to make the periodic parliamentary review of the work of independent public institutions more effective, Parliament should recognize that many of these institutions can provide useful information to help that body in its legislative and oversight function. Therefore, the following measures are recommended:

- ▶ Parliament should be careful not to use the institutions to pursue narrow political interests, but to examine the issues dealt with by the independent public institution with an eye to improving the legislative framework governing that area and, if necessary, the function and internal management of the institution;
- ▶ Institutions reporting to Parliament should recognize their supportive role, seek to outline the challenges faced in the area and suggest possible improvements, especially to the legislative framework;

⁹¹ Articles 191 and 192, *Law on Insurance*, "Official Gazette RCG," No. 78/06, 19/07.

- ▶ Through the initiatives of Parliament or public independent institutions, an effort should be made to establish a regular dialogue, which would make discussion of an annual report more fruitful;
- ▶ Changes to the legal framework should be made to spell out what is to be included in the annual report and what Parliament is to do with information provided to it and, importantly, the consequences of negative parliamentary opinions; and,
- ▶ If Parliament feels that deadlines and reporting requirements are insufficient to undertake their oversight functions, it should initiate changes to the legal framework or simply request additional information to suit its needs within the possibilities available to the independent institutions.

III. VERTICAL TRANSPARENCY OF PUBLIC INSTITUTIONS

When discussing transparency of public institutions, the Law on Free Access to Information and websites are the most frequently cited methods of providing information. However, since the law is a reactive form of providing information, since requests are often met with 'silence of the administration,' and since the Court has no ability to enforce its decisions, it is a less than perfect solution. Websites – insofar as they are updated, easy to navigate, and informative – are good tools for proactive provision of information. However, since unofficial data indicates that only 31 percent of Montenegrins use the Internet, additional proactive measures are warranted. Another frequently cited source of information is the Official Gazette, but since it is available only for purchase, it currently limits access to decision-making. Nonetheless, the Law on Publication of Regulations and Other Acts adopted by Parliament on 26 December 2007 mandates that the Official Gazette should be available in electronic form for free as of 1 July 2009, which will certainly prove to be a positive development.⁹²

Implementation of the 2005 Law on Free Access to Information and the proliferation of official websites have demonstrated that information is fundamental to holding public officials to account. The media, NGOs, and ordinary citizens increasingly have used information to raise questions about public decision-making. Public officials express frustration about an aggressive and hostile media scene that sometimes has created negative public perceptions about an issue. For example, many officials would argue that the public perception of corruption is much greater than the actual existence of corruption in Montenegro. But, media or NGOs alone cannot be blamed for negative perceptions. In the absence of reliable, credible positive information, negative judgments will expand to fill the void. As such, public bodies can improve awareness through their complete openness, which necessitates a proactive approach to providing information.

However, proactive information sharing is not the same thing as public information campaigns, which often involve carefully planned release of information in order to mold public opinion. Any Government will find public information campaigns necessary in the policy making process, but they cannot replace sharing information to instill public confidence in the official decision-making process. Such proactive information sharing requires the provision of information about decision-making in an effort to explain decisions and reveal tough decisions in order to pre-empt possible negative publicity.

The executive branch is the center of decision-making, but independent public institutions also have decision-making functions. Since the citizens through their votes hire the public officials exercising decision-making power, those officials have a strong obligation to announce their decisions publicly and – even more important – explain the reasoning behind the decisions in a detailed manner. Decision-making goes beyond publishing laws, regulations, and decisions; it also entails providing the public

⁹² Article 49, *Law on Publication of Regulations and Other Acts*, "Official Gazette CG," No. 05/08.

with the analytical information that Government and independent institutions possess. It also requires providing detailed information about decision-making on public expenditures, such as decisions on state aid or grants made for housing that answer questions, including who applied for state aid or housing grants, who received state aid or housing grants, how much was received, which individuals were involved in the decision and how were they chosen, and on what basis was the decision made. Without such detailed information, suspicions will arise among the population – sometimes fueled by the media or NGO sector – that decisions were not made based on the public interest.

Ideally, there should be a law or regulation on making decisions public that would give force to the provisions of the Law on State Administration (and a host of other pieces of legislation) regarding the transparency of its work; the Law on Publication of Regulations and Other Acts is a positive step in this process, but is not sufficient. Further legal regulations are necessary to go beyond providing free **access** to information upon request and beyond publishing official decisions and to require the provision of information about a host of decision-making processes, placing the burden on the state organs to be proactive. The law would define what the 'public interest' is so that all public officials use the same criteria to make determinations of public interest. Since 2005, Hungary has had a law on Freedom of Electronic Information that requires government initiatives and measures to be publicized on homepages of ministries and other public administrative bodies.⁹³ The adoption of a law or a policy would give clear guidelines to representatives of the state organs of the definition of public documents beyond the legal regulations.

The recent establishment of a Ministry for an Information Society, the announced plan for a strategy for an information society, and the announced plan to perform a major reconstruction of the Government website are also positive developments. In reconstructing the website, every effort should be made to make the website as searchable, as easy to navigate, and as uniform as possible for the ordinary citizen. Furthermore, information about all Government bodies should be found there, including information about decisions on state aid and on grants made for housing. Equally, Parliament and independent public institutions should review their websites and reconstruct them, as needed, so that information about decision-making processes and decisions are easy to access and provide complete details. Parliament, in particular, should develop a legislative tracking system so that the public can monitor its decision-making processes. Finally, changes to the legal framework should be made to ensure timely access to information through means of the Law on Access to Information with the threat of penalties that go beyond fines.⁹⁴ It is unacceptable that unjustified silence of the administration prevents citizens' access to information without consequence.

Recommendations: In order to enhance the transparency of public institutions, the following measures are recommended:

- ▶ All state organs should be guided by its obligation to serve the public interest and its obligation to explain decisions to the public and inform the public about the use of public funds;
- ▶ A law should be adopted providing guidelines on how to determine what data, documents, reports, and information on state administration are to be made public and how;
- ▶ Government should continue to pursue its plan to reconstruct the Government website, making it as easy to navigate and search and as uniform as possible;

⁹³ *Corruption Risks in Hungary 2007: National Integrity System Country Study: Part One* (Budapest: Transparency International, 2007), 28. The full act can be found at: http://www.lexadin.nl/wlg/legis/nofr/eur/arch/hun/act_xc_of_2005_on_the_freedom_of_information_by_electronic_means.pdf, and a translation of this act is included in Appendix IX.

⁹⁴ For example, Section 177/B of the Hungarian Criminal Code related to the Misuse of Public Information states:

"(1) Any person who, in violation of the statutory provisions governing access to public information: a) fails to comply with the obligation to provide information; b) falsifies or renders inaccessible any public information; c) conveys or publishes any public information that is untrue or has been falsified; is guilty of a misdemeanor punishable by imprisonment for up to two years, community service or a fine.

"(2) The acts described under Subsection (1) shall be upgraded to felonies and punishable by imprisonment for up to three years if they are committed for unlawful financial gain or advantage."

- ▶ Independent public institutions should maintain up-to-date, searchable, easy to navigate websites that include information about decision-making and information about management and internal governance that bolster confidence in their ability to truly act independently; and,
- ▶ The legal framework related to access to information should be changed to allow timely access to information, to compel respect for the constitutional principles, and to sanction non-compliance with the threat of incarceration, as well as fines.

IV. PARLIAMENT'S OVERSIGHT CAPACITY

Because of political, legal and institutional reasons, the functioning of Parliament is a serious obstacle to transparency and accountability in Montenegro's governance system. The constant political struggle between governing and opposition parties dominates the operations of Parliament to the detriment of its effective operations. Unfortunately, the lack of a unified vision of the role of Parliament diminishes its effectiveness and threatens to marginalize the body in the EU integration process.

For governing parties, the policy making expertise of those parties is in Government, and the traditional role of its representatives in Parliament has been to shepherd policy initiatives through the body with as little discussion and scrutiny as possible. With limited human, financial or research resources and limited access to information about Government's actions and finances, the opposition is incapable of coming close to competing with governing parties and the resources available to them. An underdeveloped understanding of accountability leads to the creation of obstacles to Parliament's oversight function. With understandable frustration about the lack of critical oversight of the executive, the opposition assumes the role of judge and prosecutor in an effort to force accountability, leading governing parties to obstruct oversight that they consider to be interference in the work of executive or judicial branches or independent institutions. It is time for this long-existing vicious circle that prevents Parliament from assuming its role in the governance process to stop, which will only be possible based on political dialogue and political compromise.

In order to define a meaningful role for Parliament in the governance process, Parliament needs to establish its credibility as a reliable partner, which requires concerted action from all members of the body and the parliamentary administration. The members of Parliament need to enhance their understanding of the complementary role of Parliament in the governance process and in the success of the European integration process. They need to assume some responsibility for the process, rather than to simply allow politics to dominate the agenda. The first step in assuming that responsibility is addressing the institutional and legal challenges that prevent the exercise of its parliamentary oversight function, which include establishing a work schedule that is respected, securing the necessary financial, human and material resources needed, and making changes to legal procedures. Also, in order to garner respect as an important institution bearing a burden of oversight, Parliament needs to set the example by being the leader in terms of its transparency and accountability to the public and to other branches of state power.⁹⁵

A. Rules of Procedure of Parliament

After two years of implementation, the Rules of Procedure have demonstrated the need for amendments in order to improve efficiency of debate. The Montenegrin Parliament would be more effective if it created time in its weekly schedule for strictly political debates including a MP Question Period,

⁹⁵ In addition to the recommendations offered here, Appendices I and VII reproduce recommendations from the NDI assessment of Parliament released in October 2006 and recommendations from a joint roundtable of the parliamentary committees for International Relations and European Integration and for Constitutional Issues and Legislation organized by the Capacity Development Program in March 2008.

shorter, more focused interpellations, and so-called 'speeches before the agenda.' With the release of political tension, Parliament could proceed with the concrete legislative and oversight work primarily in committee sittings.

Similarly, the process of 'readings' needs to be improved so that a 'first reading' debates the political need for an act in plenary, including those acts introduced by the opposition. Should a majority decide by voting that the act is necessary, it should be sent to committee for detailed analysis and consideration and brought back to plenary for a similarly detailed 'second reading' where committee reports are heard and amendments considered.⁹⁶ A 'third reading' would involve a final debate on the law with amendments included. Such a system would function only if Parliament had a work schedule and legislative agenda that is public and respected.

Also, as mentioned earlier, the distinction between consultative and control hearings needs to be eliminated and replaced with the definition of the role of committee as a legislative and oversight working body that can invite public and non-public officials to share their opinions and provide information on any legislative or oversight matter. Furthermore, if governing parties would like the opposition to behave more responsibly, it needs to give them responsibility in terms of a proportional number of chairs of committee and meaningful functions as deputy chairs. Of course, the opposition needs to demonstrate its responsibility in the execution of these functions.

Finally, the Collegium has to be treated as a planning body with real power to decide based on the interests of all party clubs. In order to function, the Collegium must be composed of members who are decision-makers, and decisions need to be made public.

Recommendations: In order to increase the efficiency of decision-making, the Rules of Procedure should be changed to:

- ▶ Create time for political debate that is separated from legislative and oversight business;
- ▶ Allow for political consideration of acts, followed by more detailed and serious consideration of acts by amending the 'readings' procedure;
- ▶ Establish committees as bodies that conduct legislative review and oversight, give responsibility to the opposition, and allow oversight on policy processes; and,
- ▶ Formalize the role of the Collegium as an authoritative planning body that makes its decisions public.

B. Professionalization of MPs

It is the view of most of the leading MPs in Parliament that the position of an MP must be professionalized. But, if the MPs are going to be professional, they need to be treated like professionals and be provided the space, staff, equipment, and legislative services necessary to do their jobs. They also need to receive remuneration for work performed (i.e, attendance) and not just for positions held.

However, the professionalization of Parliament will not be a panacea unless there is a fundamental change in the attitude toward the role of Parliament. The third branch of state power should not be viewed as a battleground over the headlines in the newspapers, but rather as a body adopting laws and monitoring their implementation with an eye to creating the political and economic conditions to assume the responsibilities of EU membership. The next mandate of Parliament must be ready to assume its share of the responsibility in bringing Montenegro into the European Union, which

⁹⁶ The preparatory and technical function of determining if the act is in line with the Constitution and legal system should not be performed by members of the Committee for Legislation and Constitutional Affairs, but would be performed by a technical legislative service, which needs to be established without delay.

requires political will to improve the functioning of Parliament, to accept that the question of Montenegro's statehood has been decided, and to give a role to the opposition to question responsibly the policies of the executive branch and independent institutions. After the next election, the political parties need to accept the outcome of an election if it is judged free and fair, to accept the legitimacy of the Government that results for the next four years, and to understand that 'good scrutiny begets good government.'

Recommendation: In order to improve the efficiency of Parliament's operations, members of Parliament should fulfill their positions as professionals ready to work 40 hours a week in plenary and committees, as well as in contact with voters, with the necessary financial, human and material resources.

C. Establishing a Parliamentary Calendar

In order to create a more balanced relationship between Government and Parliament, more communication and coordination is necessary to acknowledge the respective roles that each branch plays in the governance process. Thus, after the next Government is elected, the new leaders of Parliament and Government should sit down and coordinate a schedule for legislative proposals in the coming year that is respected. In fact, a good idea might be to establish an informal coordinating body within the governing coalition at the leadership level in Parliament and Government to meet on a regular basis to review Government priorities and make adjustment to Government and Parliament workplans, accordingly. To be effective, the results of these coordinating sessions need to be shared with chairs and deputy chairs of parliamentary committees (regardless of party affiliation) and Government commissions.

Subsequently, parliamentary committees should outline a legislative plan of work based on that timetable so that they can organize their research and work in a rational fashion. In these **committee workplans**, in particular, committee members should review the jurisdiction of the committee and identify current and EU-related policy issues that will be important in the coming year. Based on that list of policy priorities, committee members should design a schedule for policy review of important reforms with an eye to monitoring the effectiveness of the reform's implementation and making the public aware of accomplishments and shortcomings. To be effective, the agreed list of policy priorities will reflect a negotiated balance of interests among governing and opposition MPs based on a dialogue about priorities with public institutions within its jurisdiction. As an example, if the Police have decided that improved traffic safety is a policy priority and if the Police produce quarterly statistics on traffic-related incidences, committee members might want to schedule quarterly committee sessions to discuss the Police statistics, putting a spotlight on an issue that matters to all interested parties. The important thing is for the committees to be proactive, rather than reactive, in their scheduling.

Recommendations: In order to exercise its role in the governance system, Parliament needs to:

- ▶ Create and follow a clear legislative agenda and work schedule based on the established priorities of Government and on communication and coordination between the two branches at the leadership level and at the level of ministries and committees; and,
- ▶ Create committee workplans that provide time for legislative review and policy oversight.

D. Increasing Parliamentary Resources

Without delay, Parliament should implement its newly approved staff structure with an eye to hiring young staff with proven language and computer skills and a commitment to public service. A thorough training and mentoring program should be put in place to promote their effective and quick integration into the parliamentary service.

Specifically, Parliament has an urgent need to establish a *legislative unit* with non-partisan legal experts knowledgeable about Montenegrin legal traditions, EU law, and general international law to review compliance of legal drafts with the Constitution, the EU's *acquis communautaire*, and international conventions. Establishment of a legislative unit should replace the legal and constitutional review function performed by the Committee for Constitutional Affairs and Legislation, which prevents it from being able to perform its other functions of monitoring the Rules of Procedure. In establishing a legislative unit, special attention should be paid to the recruitment of personnel with English-language and computer skills – even at the expense of legal experience. Prior to the creation of the unit, the parliamentary administration should develop a written training plan that balances the need for adult education and mentoring with the need for a functioning legislative unit. Parliament should not shy away from young recruits, for they could form the basis of a new staff corps that will serve the needs of a new modern parliament in the decades to come.

Parliament also has an urgent need to improve the functioning of a research center and library for the needs of MPs so that they can request research and information related to the laws under consideration. Again, English-language and computer skills should be essential requirements for staff recruited in this area.

Finally, if the expectation is for 81 MPs to fulfill their functions as professionals, they need to be given the office space to fulfill their functions in a professional manner. It is not just committee chairs that need office space, but all 81 MPs need a desk, chair, computer, and bookcase at the very least, and party clubs need meeting space.

Recommendations: In order to increase the effectiveness of Parliament's operations, Parliament should:

- ▶ Hire new, young staff with proven language and computer skills and a serious commitment to public service;
- ▶ Design and implement a training and mentoring program for new and recently hired staff;
- ▶ Establish a legislative unit without delay;
- ▶ Continue to concentrate on improving the functioning of a research center and library; and,
- ▶ Without delay, provide 81 MPs with the office space necessary to be able to fulfill their roles as professional MPs and decide on a permanent solution to the space issue that is realized in the shortest possible time.

EPILOGUE: ACCOUNTABILITY OF PARLIAMENT

Members of Parliament are elected by the citizens at regular periodic elections and, in turn, elect the Government and many of the heads of independent public institutions, decide on the legislative framework for the operations of the governance system, and periodically review the financial and non-financial performance of public institutions. They are held to account at the next election.

In between elections, the Constitutional Court in its function of controlling the constitutionality of legislation exercises control on the legality of Parliament's decisions, while the State Audit Institution exercises control over financial performance. In addition, the President of Montenegro has the right to return legislation to Parliament for reconsideration. With the exception of the actions of a few NGOs, there are very few additional efforts between election periods to hold MPs accountable. The activities of one NGO in documenting the hours spent in plenary and committee sessions on the part of MPs has raised awareness about the function of MPs – and, in some cases, resulted in increased MP activity. Still, the increase may lead to more speeches or procedural interventions in plenary sessions, rather than an improved quality of legislative review and oversight.

In the end, the ultimate measure of public accountability of MPs will come, first, from the composition of the party lists for the upcoming elections and, second, from the number of votes received for each party list. While the practice in Montenegro has been to assemble the party list based on party hierarchy, party loyalty, and geographic distribution, political parties also have the ability to assemble the list based on creating a competent, hard working parliamentary club. The composition of the party lists for the upcoming elections will depend on some degree to what extent political parties demonstrate an interest in making Parliament an effective part of the governance system in Montenegro. It is hoped that suggestions made in this study will help political parties – and voters – in deciding which individuals should be chosen to lead the governance system in Montenegro and that the next Government and Parliament will help provide suggestions for necessary steps to create the conditions for transparent and accountable governing institutions that guarantee democracy, rule of law, human rights, and respect for and protection of minorities.

APPENDIX I. NEW CHALLENGES FOR A NEW MANDATE - PLAN OF ACTION

ANALYSIS AND RECOMMENDATIONS FOR A STRATEGY TO DEVELOP THE PARLIAMENT OF MONTENEGRO - OCTOBER 2006

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
A. EFFECTIVE WORK OF PARLIAMENT			
1) Professionalization of MPs	a. Make the position of MP professional through the Constitution and implement the provision after the next election	Committee for Constitutional Affairs and Legislation, Parliament	Upon adoption of the Constitution
	b. Introduce into the Rules of Procedure measures to sanction unexcused absences	Collegium, Committee for Constitutional Affairs and Legislation, Administrative Committee, Parliament	Deadline: 10/2008 (midway through the mandate)
2) Efficient Legislative Procedure	a. Make a firm commitment to respect the Rules of Procedure	All MPs and Parliamentary Service	Continuously
	b. Establish an annual work plan and a detailed two-month work plan	Collegium and Parliamentary Service in cooperation with Government	Deadline: 12/2006 for the 2007 annual plan and for the first two-month plan; thereafter, continuously
	c. Follow implementation of the Rules of Procedure and, if needed, propose amendments	Committee for Constitutional Affairs and Legislation and Parliament	Continuously; major package of necessary amendments introduced in 10/2008 (midway through the mandate)
	d. Introduce the principle of "Never debating the same thing more than once!" in order to improve the three-readings procedure	Committee for Constitutional Affairs and Legislation and Parliament	Deadline: 10/2008
3) Challenge of EU Integration	a. Define clearly the position and duties of Parliament in the European integration process	Committee for International Relations and European Integration, Parliament in cooperation with Government	Immediately
	b. Ensure that all committees remain engaged in the EU integration process in areas under their respective jurisdiction	All committees	Continuously
	c. Expand the jurisdiction of the committee that deals with European integration	Committee for Constitutional Affairs and Legislation, Committee for International Relations and European Integration, Parliament	Deadline: 10/2008

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
4) Supportive Parliamentary Service	a. Establish efficient and independent central service and service for party caucus	Parliament leadership, Collegium, Administrative Committee	Deadline: 10/2010; start immediately and gradually improve conditions and train necessary personnel
B. PARTY CAUCUSES AND CONSTITUENCY RELATIONS			
1) Improving the Work of Party Caucuses	a. Establish both a general and detailed plan of work that establishes time for party caucus meetings (see recommendation A2)b. above)	Collegium, MP clubs	Deadline: 12/2006 for the 2007 annual plan and for the first two-month plan; thereafter, continuously
	b. Establish clear rules of procedures for work of party caucuses	MP clubs	At the beginning of this mandate
	c. Provide each party caucus with resources to engage expert staff and/or to commission expert analysis	Collegium, Parliamentary Service leadership and Parliament	Start with the 2007 budget and gradually increase it each year
	d. Provide resources for at least one more administrative assistant per party caucus and, if the caucus is large, an additional administrative assistant for every 10 MPs	Collegium, Parliamentary Service leadership and Parliament	Start with the 2007 budget and gradually increase it each year
	e. Define clear rules for responsible use of resources dedicated to party caucuses and reporting requirements	Parliamentary Service, Collegium, Administrative Committee	01/2007
2) Improving Constituency Relations	a. Establish both a general and detailed plan of work that establishes time for MPs to meet with citizens (see recommendation A2)b. above)	Collegium and Parliamentary Service, in cooperation with Government	Deadline: 12/2006 for the 2007 annual plan and for the first two-month plan; then continuously
	b. Determine number of constituency offices (at the beginning, at least one in each municipality) and provide necessary funds for this purpose	Collegium and MP clubs, Parliament	In the 2007 budget allocate funds to open a certain number of offices and gradually increase it each year
3) Improving Knowledge and Skills of MPs	a. Adopt a plan for training MPs	Parliamentary Service, Collegium, Administrative Committee	03/2007
	b. Provide funds for training MPs	Parliamentary Service, Collegium, Administrative Committee, Parliament	In the 2008 budget, as well as through foreign assistance

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
C. PARLIAMENT'S OVERSIGHT FUNCTION AND RELATIONSHIP WITH CONTROL INSTITUTIONS			
1) Strengthening Parliament's Oversight Function	a. Through the Constitution and other legal acts, define the legal relationship of Parliament to supervisory institutions and institutions accountable to Parliament	Committee for Constitutional Affairs and Legislation, Parliament	Upon adoption of the Constitution and other legal acts
	b. Through the Constitution, define the relationship between Parliament and Government, along with the instruments for oversight or, alternatively, adopt Rules of Procedure as a law	Committee for Constitutional Affairs and Legislation, Parliament	Upon adoption of the Constitution and other legal acts
	c. "Activate" the oversight function of committees, using instruments provided by the new Rules of Procedure	Committees	Continuously
	d. Define more clearly the authority of a committee in charge of overseeing the Police and National Security Agency; consider adoption of a special law on parliamentary control of these services	Committee for Security and Defense, Committee for Constitutional Affairs and Legislation, Parliament in cooperation with Government	10/2008 (midway through the mandate)
	e. Establish a special committee for budget control through the Rules of Procedure and make a member of the opposition chair of this committee	Committee for Constitutional Affairs and Legislation, Parliament	10/2008 (midway through the mandate)
	f. Pay special attention to the role of the opposition in overseeing the executive and consider making a member of the opposition chair of key oversight committees	Parliament	After committees are formed
	g. Through the law on Conflicts of Interest, improve anticorruption efforts	Parliament	Deadline: 03/2007
D. PARLIAMENT'S RELATIONS WITH THE PUBLIC			
1) Strengthening Relations with the Public	a. As provided by the new Rulebook, establish without delay a public relations unit serving the public information needs of Parliament, in general, as well as working bodies, all party caucuses and MPs	Secretary General and Parliamentary Service	Immediately
	b. Employ at least 2 staff in the public relations unit	Secretary General	Immediately

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
	c. Define more precisely in the Rulebook the tasks of the public relations unit	Secretary General and Administrative Committee	1/2007
	d. Deliver press clippings on a regular basis to MPs and party caucuses by perhaps engaging an outside company	Collegium, Secretary General and public relations unit in cooperation with parliamentary leadership	Once the public relations unit is established; thereafter, continuously; if contracting an outside company, provide for it in the 2007 budget
	e. Produce parliamentary publications for the public	Secretary General and public relations unit in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service	Deadline for initial production: 03/2007; thereafter, continuously
	f. Edit parliamentary website and then keep it up-to-date	Secretary General, public relations unit, IT center in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service	Deadline for editing: 12/2006, then update it continuously
	g. Organize "open doors" days (e.g., once a month or quarterly)	Secretary General and public relations unit in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service	First "open door" day by 05/2007 and, from then on, once every three months
	h. Organize visits to Parliament for groups of interested citizens who could apply through the website	Secretary General and public relations unit in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service	First visit by 03/2007; thereafter, continuously
	i. Open press center in Parliament with working conditions for journalists that report on Parliament	Parliamentary leadership, Secretary General and public relations unit	Deadline: 03/2007
E. HUMAN AND MATERIAL RESOURCES			
1. Autonomy of Parliament	a. Amend the Law on Civil Servants and related acts to provide administrative and regulatory autonomy of Parliament	Collegium, Administrative Committee, Secretary General, Parliament in cooperation with Government	12/2007
	b. Adopt a long-term development strategy with realistic financial projections for the future and share it with Government	Collegium, Administrative Committee, Secretary General, Parliament in cooperation with Government	07/2007
2. Staff Support	a. Establish adequate partisan and nonpartisan expert, administrative and technical support, including for party caucuses in accordance with the new Rules of Procedure (see recommendation A4)a. above)	Parliamentary Service leadership, Collegium, and Administrative Committee	Deadline: 10/2010; start immediately and gradually improve conditions

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
	<p>b. Recruit young personnel with knowledge of languages and modern technical skills who can be developed over time into a new skilled workforce by existing staff</p> <p>c. Develop a program for advancement of Parliamentary Service (with defined long-term and short-term needs)</p> <p>d. Create a positive and stimulating work environment that creates incentives for long-term employment</p> <p>e. Provide a constant flow of information among all units through regular staff meetings and access to internal and external information</p>	<p>Parliamentary Service leadership, Collegium</p> <p>Parliamentary Service leadership, Collegium, and Administrative Committee</p> <p>Parliamentary Service leadership and all staff</p> <p>Parliamentary Service leadership and all staff</p>	<p>Begin immediately; thereafter, continuously</p> <p>01/2007</p> <p>Continuously</p> <p>Deadline for establishing Intranet 01/2007; thereafter, continuously</p>
3. Office Space and Other Parliament-Provided Business Resources	<p>a. Define a plan to address the office space needs</p> <p>b. Adopt standards that define types and amount of business resources</p>	<p>Collegium, Secretary General with possible engagement of external assistance</p> <p>Drafted by Parliamentary Service, considered by Collegium, and adopted by Administrative Committee</p>	<p>Deadline: 07/2007</p> <p>Deadline: 10/2008</p>
4. Information Systems	<p>a. Establish a regularly updated internal network with materials of importance for parliamentary work (see recommendation E2)f. above)</p> <p>b. Improve Parliamentary Internet presentation and establish a system of responsibility for its regular updating (see recommendation Df. above)</p>	<p>Secretary General, public relations unit, IT center in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service</p> <p>Secretary General, public relations unit, IT center in cooperation with parliamentary leadership, MPs and other units from the Parliamentary Service</p>	<p>Deadline for establishing Intranet 01/2007; thereafter, continuously</p> <p>Deadline for editing: 12/2006, then update continuously</p>
F. FINANCIAL RESOURCES			
<p>In order to improve Parliament's operations, it is necessary to secure resources for an increased budget in the coming years, which is estimated to be close to €11 million annually, excluding one-time capital costs. As already noted, the actual amount will depend on plans regarding number of employees, increasing MP and staff salaries, expert support to party caucuses, and operating costs. The proposed new budget (Table 3) anticipates an amount for small investments only. In the absence of a plan for solving the space problems, larger one-time investments in building additional premises for Parliament cannot be estimated at this time.</p>			
1. Salaries and Allowances of MPs and Employees	a. Increase MP salaries to a gross salary of about €3,000	Parliament in cooperation with Ministry of Finance	Start with the 2007 budget and gradually increase salaries of MPs on annual basis in order to reach the target amount by 10/2010

TOPIC	RECOMMENDED ACTION	BODY RESPONSIBLE FOR IMPLEMENTATION	DEADLINE
	b. Increase staff salaries to a gross salary of about €1,300 (net salaries between 300 for the lowest to €1,000 for the highest paid staff)	Parliament in cooperation with Ministry of Finance	Start with the 2007 budget and gradually increase salaries of staff on annual basis in order to reach the target amount by 10/2010
2. Operating Costs and Daily Maintenance	a. Increase the item in the budget for operating costs and daily maintenance fourfold (to 2 million)	Parliament in cooperation with Ministry of Finance	Start with the 2007 budget and gradually increase operating costs on annual basis in order to reach the target amount by 10/2010
3. Investments and Investment Maintenance	a. Increase the budget for basic investments, at least, nine-fold in the next year - from €120,000 to €1 million	Parliament in cooperation with Ministry of Finance	Start with the 2007 budget and gradually increase the level of investments annually in order to reach the target amount by 10/2010
	b. Develop multi-year plans for upgrading information systems, increasing office space, providing MP housing, and other long-term investments	Secretary General in cooperation with Parliament leadership and other units from the Parliamentary Service; Administrative Committee	07/2007
4. Expert Support to MPs within Party Caucuses	a. Set aside budget funds for providing expert support to MPs and party caucuses (see recommendation A4)a. above)	Parliament in cooperation with Ministry of Finance	Start with the 2007 budget and gradually increase support to party caucuses in order to reach the target amount by 10/2010
5. Political Party Financing	a. Establish two separate line items for political parties and civil society organizations and separate both items from the parliamentary budget	Parliament and Ministry of Finance	Beginning with the 2007 budget

APPENDIX II. MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008)⁹⁷

AREA	MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008) AVAILABLE DATA Strategies (S), Plans (P), Reports (R), Assessments (A), Opinion Polls (OP)	SOURCE	TYPE ⁹⁸
Copenhagen Political Criteria	National Program on EU Integration 2008-2012, Strategic Framework for Democratic and Economic Reforms in MNE	GOV ⁹⁹	S
	Government Work Plan for 2008	GOV	P
	Secretariat for European Integration (SEI) Quarterly Reports on Fulfillment of Activities and Obligations regarding Stabilization and Association Program (SAP), 12 reports, Apr 2005-Jul 2008	GOV	R
	European Agency for Reconstruction (EAR) Quarterly Reports to the European Parliament - Section on Montenegro, last Apr - Jun 2008; Annual Report for 2007, published Jul 2008	EAR	R
	Montenegro Democracy Index - Center for Democracy and Human Rights (CEDEM), 2006 and 2007 reports	CEDEM	OP
	EU Partnership Action Plan, May 2007	GOV	P
	Action Plan for Administrative Capacity Building for Implementation of Stabilization and Association Agreement (SAA), Nov 2006; 1 st report on implementation (Nov 2006-May 2007), Jul 2007	GOV	S/R
	MNE Contribution to EC Progress Report 2007	GOV	R
	EC Montenegro Progress Reports, 2007 and 2008 (the latter to be published on 5 November 2008)	EC	R
	IPA Multi-Year Indicative Plan for Montenegro, 2007-2009	EU/GOV	S
	"Governance Matters VII: Governance Indicators for 1996-2007," Jun 2008 - Country Data Report for Montenegro 2006-2007	World Bank	A
	Public Opinion in Montenegro, Annual Compilation No. 2a (Jun - Aug 2006) & No. 3 (Feb 2007-Feb 2008), Political Public Opinion - Jun 2008, www.cedem.co.me	CEDEM	A
	Freedom House (FH) Nations in Transit 2007 & 2008, reports on Montenegro	FH	A
	World Economic Forum (WEF), Global Competitiveness Index 2007-2008, (Subindex A: Institutions, Infrastructure, Macroeconomic Stability, Health and Primary Education), MNE rated 4.47 out of 7	WEF	A
	Bertelsmann Transformation Index (BTI) 2008, Montenegro rated as defective democracy (erosion of the rule of law and lack of political/social integration)	BTI	A
	UNDP Montenegro Country Program Action Plan (CPAP) 2007 - 2011	UNDP	P
	Swedish International Development Cooperation Agency (Sida) Country Report 2007 Montenegro, published Apr 2008	Sida	R

⁹⁷ The data in the MATRIX is organized around the Copenhagen Political Criteria, starting with information referring to all (or most) of the criteria and continuing with specific data sources addressing each of them separately. Data collection starts from the year of Montenegrin independence to the present.

⁹⁸ The acronyms used for TYPE of document mean the following: S = Strategy, P = Plan, R = Report, A = Assessment, OP = Opinion Poll.

⁹⁹ GOV refers to official Montenegrin sources, including the executive branch and official independent organs.

AREA	MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008) AVAILABLE DATA Strategies (S), Plans (P), Reports (R), Assessments (A), Opinion Polls (OP)	SOURCE	TYPE
	Organization for Security and Cooperation in Europe (OSCE) Mission to Montenegro Report by the Head of Mission to the OSCE Permanent Council, Mar 2007	OSCE	R
	Foundation Open Society Institute (FOSI), Representative Office Montenegro Annual Reports and Strategy Documents, 2006/07	FOSI	S/R
	Global Integrity (GI), 2006 Montenegro Country Report (Civil Society, Public Information, Media; Elections; Government Accountability; Administration and Civil Service, Oversight, Anti-Corruption and Rule of Law)	GI	A
	ODIHR Annual Reports 2006 and 2007, published May 2007 & Apr 2008 (Elections, Democratization, Human Rights, Roma and Sinti, Legislative Reviews)	ODIHR	R/A
	World Bank, "Republic of Montenegro: Public Expenditure and Institutional Review," 2006; Country Policy and Institutional Assessments 2006 and 2007	WB	A
Democracy & Rule of Law			
Constitutional Issues	Opinion on the Constitution of Montenegro adopted by the Venice Commission at its 73 rd Plenary Session (Venice, 14-15 December 2007) - further attention by Council of Europe (CoE) to be given to matters of Supreme Court President, Constitutional Court and State Prosecution	CoE	A
	Interim Opinion on the Draft Constitution of Montenegro adopted by the Venice Commission at its 71st Plenary Session (Venice, 1-2 June 2007)	CoE	A
Parliament and Elections	Quarterly Reports of the Network for Affirmation of the NGO Sector (MANS) on Transparency and Performance of Parliament of Montenegro in 2007 (1st Mar - May, 2nd Mar-Jul), final report to be published soon	MANS	R/A
	2008 Presidential Election in Montenegro: Interim and Final Reports	ODIHR	R/A
	Institute for Democracy and Electoral Assistance (IDEA) Regional Report on Political Parties in Central and Eastern Europe - section on MNE, 2007	IDEA	R
	Report with Recommendations for the Role of the Parliamentary Committees for the International Affairs and European Integration and for Constitutional Affairs and Legislation in the Process of Legal Harmonisation within the Montenegrin Parliament Pre-Accession to EU, Nov 2007	UNDP	R/A
	Republic of Montenegro, Parliamentary Elections 10 Sep 2006, OSCE/ODIHR Election Observation Mission Final Report, published on 28 Dec 2006	ODIHR	R/A
	"New Challenges for a New Mandate," NDI Analysis and Recommendations for Development Strategy of Montenegrin Parliament, Oct 2006	NDI	A/S

AREA	MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008) AVAILABLE DATA Strategies (S), Plans (P), Reports (R), Assessments (A), Opinion Polls (OP)	SOURCE	TYPE
Government ¹⁰⁰ Public Administration	A supplementary review of Montenegro's National Council for Sustainable Development and Office for Sustainable Development, May 2008	UNDP	R
	"Newly Independent Montenegrins More Confident than Serbs in Government," 19 Jun 2007	GALLUP	OP
	Montenegro Policy-Making and Coordination Assessment, June 2006/2007, Support for Improvement in Governance and Management (SIGMA)	SIGMA	A
	Public Administration Reform (PAR) Strategy 2002-2009	GOV	S
	Training Strategy for Civil Servants 2008-2011	GOV	S
	Montenegro Public Service and Administrative Framework Assessment, June 2007	SIGMA	A
	Analysis of Public Administration Reform and Recommendations based on Monitoring and Evaluation Survey conducted in public administration bodies, May 2007	GOV	A
	Report on Creation of Conditions for Implementation of New Administrative Regulations of Montenegro, including review of the newly formed institutions, 2006	GOV	R/A
Judiciary	Judiciary Reform Strategy 2007-2012, adopted June 2007; Action Plan, Dec 2007	GOV	S/P
	Report on Strategy Implementation for Dec 2007 - Jul 2008	GOV	R
	Annual Report of the Supreme State Prosecutor, Jul 2007	GOV	R
	USAID MNE Rule of Law Assessment 2007	USAID	A
	US State Department Trafficking in People Report 2006 & 2007	US State	R
	GALLUP, "Many in the Balkans Lack Confidence in Judicial Systems," poll 2006-2007 (Montenegro, 50% do not trust judicial system and courts, less than 40% trust)	GALLUP	OP
	Report on Human and Minority Rights and Judiciary Reform in Montenegro (CEDEM and Center for Human and Minority Rights, 2006-07)	CEDEM	R
Anti-Corruption	Program for Fight against Corruption and Organized Crime, Aug 2005; Action Plan for Program Implementation (success indicators included) - 3-year period: 1 st report (Sep 2006-May 2007), 2 nd report (Sep 2006-Dec 2007), National Committee for Monitoring Execution of Action Plan - regular monthly reporting	GOV	S/P/R
	MANS Report on Monitoring of Government Report on Implementation according to Action Plan's defined indicators, 2008 (www.mans.cg.yu)	MANS	R/A
	"Corruption from Employer Perspective," Survey Apr-May 2008, Montenegrin Employers Federation (MEF), www.poslodavci.org	MEF	OP
	Gallup, "Trust Favors Incumbent in Montenegro Election," April 3, 2008; "Corruption in Balkans: A Real Issue for the People," Nov 16, 2007 (www.gallup.com)	GALLUP	OP
	"Captured by Private Interests" - adoption and enforcement of the Law on Conflict of Interest in Montenegro, 2004 - 2007, MANS	MANS	R/A

¹⁰⁰ Information on national security/defense/prison, as well as local government reform, is not included as it falls out of the agreed research focus.

AREA	MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008) AVAILABLE DATA Strategies (S), Plans (P), Reports (R), Assessments (A), Opinion Polls (OP)	SOURCE	TYPE
	Conflict of Interest Commission Activity Report to Parliament (1 st Report Jul 2006, 2nd Report Jun 2007)	GOV	R
	Report on Implementation of "Institutional Capacity Building Project of the Agency for Anti-Corruption Initiative to Deal with Cases of Reported Criminal Offences of Corruption," Jun 2007	GOV	R
	Report on Follow-up on GRECO 2006 Report and Recommendations, May 2008 - (not yet located)	GOV	R
	Transparency International (TI) Global Corruption Report 2008, Montenegro pg. 256-261, Corruption Perceptions Index (CPI) based on expert opinion - 2007 (3.3 rating), 2008 (3.4 rating)	TI	A
	Global Integrity (GI) Index - assesses national anti-corruption policies/practices, 2006 (rating: very weak) 2007 (www.globalintegrity.org)	GI	A
	CMI Report "Corruption in Montenegro 2007: Overview of Main Problems and Status of Reforms"	CMI	R/A
Human Rights and Protection of Minorities	Report by CoE Human Rights Commissioner Mr. Thomas Hammarberg on his visit to Montenegro (2 - 6 June 2008), Strasbourg, 8 October 2008	CoE	A
	Quarterly Reports regarding State of Human Rights in Montenegro, May 2007-Sep 2008, Youth Initiative for Human Rights (YIHR)	YIHR	R
	Montenegro Submission to the UN Universal Periodic Review (UPR), 3rd Session of UPR Working Group of Human Rights Council, Dec 2008, Amnesty International, published Jul 2008	Amnesty	R/A
	Europe and Central Asia, Summary of Amnesty International's Regional Concerns, Jan-Jun and Jul-Dec 2007 (Section on Montenegro - data could serve also as indicators for the rule of law)	Amnesty	R/A
	Report on Human and Minority Rights and Judicial Reform in Montenegro (CEDEM and Center for Human and Minority Rights, 2006-07)	CEDEM	R
	Ombudsman Office Annual Reports, 2004-2006 (www.ombudsman.cg.yu)	GOV	R
	Cingranelli Richards (CIRI) Human Rights Database, Montenegro 2006 (www.humanrightsdata.org)	CIRI	A
	US State Department Report on Human Rights Practices in Montenegro 2006	USState	R
Civil and Political Rights	Strategy for Cooperation between NGOs and Government to be adopted in 2008 and Action Plan	GOV	S/P
	Police Directorate conducts regular analyses on treatment and implementation of constraint mechanisms - reports are not available online	GOV	R/A
	Project on "Civil Society Inclusion in Public Policy Development on National Level," Center for the Development of NGOs (CRNVO), ongoing 2008	CRNVO	P/A
	Freedom House (FH), "Freedom in the World" Reports 2007 and 2008, Political Rights and Civil Liberties score for Montenegro the same in both years (3:3, status: partly free)	FH	A
	Reporters without Borders, Worldwide Press Freedom Index 2007 (MNE score 19, rank 58 out of 169 countries), www.rsf.org	RWB	A
	Promoting Inclusive Education in Serbia and Montenegro, Aug 2007, Association of Students with Disabilities	OSI	R

AREA	MONTENEGRO GOVERNANCE DATA MATRIX (2006-2008) AVAILABLE DATA Strategies (S), Plans (P), Reports (R), Assessments (A), Opinion Polls (OP)	SOURCE	TYPE
	CIVICUS Civil Society Index Report for Montenegro 2006: Weak traditions, uncertain future	CRNVO	A
	Free Access to Information and Secrecy of Data in Montenegro - legal commentary with recommendations (MANS, 2007)	MANS	R/A
	"Free Access to Privatisation Information in Montenegro: Behind Closed Doors, Case Study of the Aluminum Plant Podgorica" (MANS, 2007)	MANS	R
	"Right to Know in Montenegro: Experiences in the Application of the Law on Free Access to Information" (MANS, 2006)	MANS	R
	European Committee Report on Prevention of Torture and Inhuman or Degrading Treatment or Punishment, visit to Montenegro Sep 2008	EC	R
	"Special Report on Violation of Right to Trial within Reasonable Timeframe by Montenegrin Judiciary," Ombudsman Office, 2006	GOV	R
Economic and Social Rights	National Strategy of Employment and Development of Human Resources for 2008-2011 (to be adopted)	GOV	S
	National Action Plan (NAP) for Gender Equality 2008-2012	GOV	P
	Children's Rights, series of National Action Plans and Strategies - listed in the National Program for EU Integration (NIP)	GOV	S/P
	"Women and Men in Montenegro," MONSTAT 2008	GOV	R
	Analysis of the Labor Legislation in Montenegro with regard to equal opportunities for Women and Men, Gender Equality Office and UNIFEM, Feb 2008	GOV/ UNIFEM	A
	Strategy for Reducing Poverty and Social Exclusion (includes indicators), Jul 2007	GOV	S
	Watchdog 2007 Annual Report - Implementation of the Labor Law in the Private Sector, Foundation for Democratic Alternative in Society (FONDAS)	FONDAS	R/OP
	"Serbs and Montenegrins still United in Frustration with Lack of Jobs," Jun 20, 2007	GALLUP	OP
	Multiple Indicator Cluster Survey (MICS) of Children's Rights in 2006	UNICEF	A
	On the Road to the EU, Monitoring Equal Opportunities for Women and Men in Montenegro, OSI Network Women's Program, 2006	OSI	R/A
Cultural Rights & Minority Protection	Strategy for Minority Policy, 2008	GOV	S
	International Religious Freedom Report 2008	USState	R
	Watchdog "Bukovica", three Nansen Dialogue Center (NDC) Reports for the period 19 Feb - 23 Aug, 2008	NDC	R
	1 st Country Reports on Implementation of the CoE Framework Convention for the Protection of Minority Rights and EU Charter for Regional/Minority Languages, 2007	GOV	R
	Strategy for Improvement of Position of Roma (2008-2012), Nov 2007 - Commission to Monitor Implementation (Official Gazette of Montenegro, No. 02/08)	GOV	S
	EUMAP reports, Equal Access to Quality Education for Roma, 2007	EU	R/A
	"At Risk: Social Vulnerability of Roma, Refugees and Internally Displaced Persons in Montenegro," Nov 2006	UNDP	R
	Action Plan for Implementation of "Decade of Inclusion of the Roma 2005-2015" Project	GOV	P
	Strategy for Permanent Solution for Issues of Displaced and Refugees, 2005	GOV	S

APPENDIX III. LIST OF LAWS AND OTHER ACTS REVIEWED FOR ASSESSMENT OF GOVERNANCE SYSTEM IN MONTENEGRO

Constitution

Constitution of Montenegro
"Official Gazette of Montenegro," No. 01/07

Laws

Criminal Code
"Official Gazette of Republic of Montenegro," No. 70/03, 13/04, 47/06 and "Official Gazette of Montenegro," No. 40/08

Law on Administrative Dispute
"Official Gazette of Republic of Montenegro," No. 60/03

Law on Agency for National Security
"Official Gazette of Republic of Montenegro," No. 28/05

Law on Army of Montenegro
"Official Gazette of Republic of Montenegro," No. 47/07

Law on Budget
"Official Gazette of Republic of Montenegro," No. 40/01, 44/01, 71/05, and "Official Gazette of Montenegro," No. 12/07, 73/08

Law on Budget of Montenegro for 2008
"Official Gazette of Montenegro," No. 17/07, 46/08

Law on Central Bank
"Official Gazette of Republic of Montenegro," No. 52/00, 53/00, 47/01, 04/05

Law on Civil Servants and Public Employees
"Official Gazette of Montenegro," No. 50/08

Law on Conflict of Interest
"Official Gazette of Republic of Montenegro," No. 42/04, 07/05, 17/05

Law on Constitutional Court
"Official Gazette of Montenegro," No. 64/08

Law on Control of the State Support and Assistance
"Official Gazette of Republic of Montenegro," No. 26/07

Law on Courts

"Official Gazette of Republic of Montenegro," No. 05/02, 49/04 and "Official Gazette of Montenegro," No. 22/08

Law on Defense

"Official Gazette of Republic of Montenegro," No. 47/07

Law on Electronic Communication

"Official Gazette of Montenegro," No. 50/08

Law on Energy

"Official Gazette of Republic of Montenegro," No. 39/03

Law on Executive Procedure

"Official Gazette of Republic of Montenegro," No. 23/04

Law on Free Access to Information

"Official Gazette of Republic of Montenegro," No. 68/05

Law on General Administrative Procedure

"Official Gazette of Republic of Montenegro," No. 60/03

Law on Inspection Control

"Official Gazette of Republic of Montenegro," No. 39/03

Law on Insurance

"Official Gazette of Republic of Montenegro," No. 78/06, 19/07

Law on Judicial Council

"Official Gazette of Montenegro," No. 13/08

Law on Labor

"Official Gazette of Montenegro," No. 49/08

Law on Media

"Official Gazette of Republic of Montenegro," No. 51/02, 62/02

Law on Minority Rights and Freedom

"Official Gazette of Republic of Montenegro," No. 31/06, 51/06, 38/07

Law on Police

"Official Gazette of Republic of Montenegro," No. 28/05

Law on Prevention of Conflict of Interests

"Official Gazette of Montenegro," No. 01/09

Law on Prevention of Money Laundry and Financing Terrorism

"Official Gazette of Montenegro," No. 14/07, 04/08

Law on Protection of Personal Data

"Official Gazette of Montenegro," No. 79/08

Law on Protection of Unpublished Data

"Official Gazette of Montenegro," No. 16/07, 73/08

Law on Protector for Human Rights and Freedom

"Official Gazette of Republic of Montenegro," No. 41/03

Law on Public Procurements

"Official Gazette of Republic of Montenegro," No. 46/06

Law on Publication of Regulations and Other Acts

"Official Gazette of Montenegro," No. 05/08

Law on Salaries and Other Allowances of State and Public Officials

"Official Gazette of Montenegro," No. 33/08

Law on Secrecy of Data

"Official Gazette of Montenegro," No. 14/08

Law on Securities

"Official Gazette of Republic of Montenegro," No. 59/00, 10/01, 43/05, 28/06

Law on State Administration

"Official Gazette of Republic of Montenegro," No. 38/03 and "Official Gazette of Montenegro," No. 22/08

Law on State Audit Institution

"Official Gazette of Republic of Montenegro," No. 28/04, 27/06, 78/06 and "Official Gazette of Montenegro," No. 17/07

Law on State Prosecutor

"Official Gazette of Republic of Montenegro," No. 69/03 and "Official Gazette of Montenegro," No. 40/08

Law on Statistics and Statistics System of Montenegro

"Official Gazette of Republic of Montenegro," No. 69/05

Law on System of Internal Financial Control in the Public Sector

"Official Gazette of Montenegro," No. 73/08

Law on Use of Units of Army of Montenegro in International Forces and Participation of Representatives of Civil Protection, Police and Employees in Organs of State Administration in Peace-Keeping Missions and Other Activities Abroad

"Official Gazette of Montenegro," No. 61/08

Regulations

Regulation on Detailed Criteria, Purpose and Conditions for Distribution of State Support and Assistance

"Official Gazette of Montenegro," No. 13/08

Regulation on Government of Montenegro

"Official Gazette of Montenegro," No. 80/08

Regulation on Method and Submission Procedure and Content of Necessary Documentation for Previous and Future Control of State Support and Assistance

"Official Gazette of Montenegro," No. 13/08

Decisions

Decision on Adoption of Annual Report of the Regulatory Agency for Energy for 2007
"Official Gazette of Montenegro," No. 65/08

Decision on Establishment of Commission for Monitoring and Control of the Privatization Process
"Official Gazette of Montenegro," No. 16/07

Decision on Establishment of National Commission for Implementation of Action Plan for Implementation of Program for Fight against Corruption and Organized Crime
"Official Gazette of Republic of Montenegro," No. 15/07 and "Official Gazette of Montenegro," No. 15/08, 71/08

Rulebooks

Rulebook on Contents of Annual Report about Control of State Support and Assistance
"Official Gazette of Montenegro," No. 07/08

Rules of Procedure

Rules of Procedure of Commission for Determining Conflicts of Interest
"Official Gazette of Republic of Montenegro," No. 72/04

Rules of Procedure of Government
"Official Gazette of Republic of Montenegro," No. 45/01, 09/03, 71/04, 71/06 and "Official Gazette of Montenegro," No. 18/08

Rules of Procedure of Parliament
"Official Gazette of Republic of Montenegro," No. 51/06, 66/06

Rules of Procedure of State Audit Institution
"Official Gazette of Republic of Montenegro," No. 50/07

Conclusions

Conclusion (on 2007 Report on Control of State Support and Assistance)
SU-SK No. 01-564/4
"Official Gazette of Montenegro," No. 65/08

Conclusion (on 2007 Report on Work of Courts)
SU-SK No. 01-559/4
"Official Gazette of Montenegro," No. 65/08

Conclusions (on Final Balance Sheet for 2007)
SU-SK No. 01-814/10
"Official Gazette of Montenegro," No. 75/08

Conclusion (on Securities Commission)
SU-SK No. 01-632/4
"Official Gazette of Montenegro," No. 65/08

APPENDIX IV. ORIGINAL GOVERNANCE ASSESSMENT FRAMEWORK

Original Governance Assessment Framework		
Assessment category	Governance dimension	
	TRANSPARENCY	ACCOUNTABILITY
LEGAL ASPECTS	<ul style="list-style-type: none"> -- Existing legal instruments obliging Government and state institutions directly accountable to Parliament (hereinafter, state bodies) to provide information to Parliament -- Existing legal provisions defining Parliament's rights/instruments to request information from the state bodies -- Existing legal requirements for state bodies and Parliament to make information about their work and decision-making process available to the public -- Existing legal instruments granting public (including media, civil society, business community) the right to access information of the state bodies and Parliament 	<ul style="list-style-type: none"> -- Existing legal provisions defining state bodies and public officials directly accountable to Parliament¹⁰¹ -- Existing legal provisions obliging state bodies to respond to questions, provide information or explanations for actions taken -- Existing legal provisions securing the credibility of information provided to Parliament by state bodies and public officials¹⁰² -- Existing legal provisions defining Parliament's right and/or obligations to act if: <ul style="list-style-type: none"> a) the state bodies are not responding b) the answers given are considered unsatisfactory¹⁰³ c) the answers given are considered satisfactory -- Existing legal provisions defining state bodies and public officials directly accountable to the public -- Existing legal instruments citizens can use if the state bodies are not responding or if answers given are considered unsatisfactory¹⁰⁴

¹⁰¹ In addition to executive and judicial accountability to Parliament, the following state bodies should be examined: State Audit Institution, Protector of Human Rights and Freedoms, Central Bank of Montenegro, Securities Commission (KhOV), Agency for Combating Money Laundering and Terrorism, Agency for Telecommunications, Directorate and/or Commission for Public Procurement, Competition Authority, and Energy Regulatory Agency.

¹⁰² Legal guarantees for the independence of state institutions directly accountable to Parliament include, among other things, their budget, election/appointment procedures of the head of the body, and incompatibility of functions.

¹⁰³ For example: votes, dismissal, adoption of conclusions, rights of opposition to organize and initiate scrutiny, and right of any MP to request and receive information and check reliability of information provided by the responsible institutions.

¹⁰⁴ For example: vote in elections, file charges against a public official, appeal to the Administrative Court.

Original Governance Assessment Framework		
Assessment category	Governance dimension	
	TRANSPARENCY	ACCOUNTABILITY
LEGAL ASPECTS EVALUATED	-- Strength of legal provisions, instruments, and requirements identified in step one evaluated based on the following criteria: <ul style="list-style-type: none"> ▶ Legal/political consequences envisaged ▶ Range of possibilities given¹⁰⁵ ▶ Complexity in terms of understanding and implementation¹⁰⁶ ▶ Comparison to existing/aspiring EU countries¹⁰⁷ 	
IMPLEMENTATION	-- Current practice related to fulfilling legal requirements/obligations for providing information/making requests/acting in case of (non) responses in terms of: <ul style="list-style-type: none"> ▶ Frequency (How often?) ▶ Timeliness (Respecting deadlines?) ▶ Content and structure of information/requests/discussions/hearings or other deliberation in Parliament/action taken by citizens ▶ Clarity/relevance/sufficiency of information/requests/discussions/hearings ▶ Who is making requests/providing information/initiating discussions/hearings ▶ Circumstances under which information provided/request made/discussions initiated ▶ Statistics on appeals filed and verdicts rendered -- Current practice that goes beyond the legal requirements described in terms of the above-stated criteria ¹⁰⁸	
IMPLEMENTATION EVALUATED	-- Assessing the quality of fulfilling legal requirements/obligations for providing information/making requests/acting in case of (non) responses, taking into consideration all aspects of the current practice listed above and comparing them to legally set standards and EU best practice -- Assessing what works well, what does not work well, and how it can be improved	

¹⁰⁵ Range of possibilities related to providing information (through website, media, reports, etc.), requesting information (only formal written requests envisaged or other options, such as direct oral responses, etc.), and taking action (voting out of office, official warnings, parliamentary hearings, etc.).

¹⁰⁶ Legal obligations clearly described (no ambiguities) and easy to understand and follow (specified deadlines and methods).

¹⁰⁷ A comparison will be made to legal instruments in an aspiring (Croatia), new (Hungary), and old (Ireland) EU member, when appropriate.

¹⁰⁸ For example: Does Parliament ever ask for reporting outside the defined terms of legal provisions related to state bodies accountable to it (in terms of using its rights to request information, holding a hearing, filing an interpellation or MP Question, discussing in committee or plenary)? Are state bodies providing information in a ways that are different from those legally prescribed?

APPENDIX V. LIST OF MEETINGS CONDUCTED

PARLIAMENT OF MONTENEGRO	
Administrative Committee	Radivoje Nikčević Goranka Vučinić
Committee for Budget, Finance and Economy	Aleksandar Damjanović Slavka Zečević
Committee for Constitutional Affairs and Legislation	Miodrag Iličković
Committee for Defense and Security	Dragan Kujović Vlatko Šćepanović
Committee for International Relations and EU Integration	Miodrag Vuković Andrej Orlandić
Democratic Party of Socialists (DPS), Commission for Monitoring and Supervision of the Privatization Procedure	Predrag Sekulić
Movement for Changes (PzP)	Branka Bošnjak Zarija Pejović
Office of Secretary General	Milan Radović Slavka Burić Zoran Magdelenić Dražen Malović Vesna Radulović
Social Democratic Party (SDP)	Borislav Banović
Socialist People's Party (SNP)	Velizar Kaluđerović
GOVERNMENT	
Agency for National Security	Duško Marković
Deputy Prime Minister for EU Integration	Gordana Đurović Svetlana Rajković
Ministry of Defense	Boro Vučinić Darko Jovanović Rajko Novičević Marina Pavičević
Ministry of Finance	Damir Šehović
Ministry of Internal Affairs and Public Administration	Stana Pajević
Ministry of Justice	Miraš Radović
Office of Secretary General Office	Žarko Šturanović Boris Marić Ljiljana Radonjić
Police Administration	Veselin Veljović
Public Relations Bureau	Olivera Đukanović

JUDICIARY	
Administrative Court	Branislav Radulović
Supreme Court	Vesna Medenica Snježana Kalezić
INDEPENDENT INSTITUTIONS	
Agency for Electronic Communications	Zoran Sekulić
Agency for Insurance Supervision	Vladimir Kavarić
Central Bank of Montenegro	Nikola Fabris Zorica Kalezić
Commission for Determining Conflict of Interest	Slobodan Leković Maja Karas Bošković Gordana Novaković Vuksanović Zoran Terzić
Commission for Securities	Amir Nurković Azra Šehović Neda Ivović
Constitutional Court	Milan Marković Beba Dabović Ljilja Radović
Protector for Human Rights and Freedom	Šefko Crnovršanin
Regulatory Agency for Energy	Dragoljub Drašković
State Audit Institution	Branislav Radulović Gaga Gegaj
State Prosecutor	Tatjana Marković Rada Čuković
NONGOVERNMENTAL ORGANIZATIONS AND OTHER INSTITUTIONS	
Association of Young Journalists (AYJ)	Boris Darmanović
Center for Democracy and Human Rights (CEDEM)	Srđan Darmanović
Faculty of Administrative and European Studies	Đorđije Blažić
Network for Affirmation of NGO Sector (MANS)	Vanja Čalović

APPENDIX VI. IMPROVED GOVERNANCE ASSESSMENT FRAMEWORK

FINAL VERSION

LEGAL ASPECTS

1. What are the legal provisions that define to whom a state body and public officials within the state body are **accountable**?¹⁰⁹
 - a) Are these legal provisions clear and detailed?
 - b) Do these legal provisions define clearly how a state body or public official is to 'answer' and what are the consequences if the 'answer' is not satisfactory?
 - c) Are there legal provisions that clearly define what measures the assigned oversight body can take to hold public officials accountable – e.g., hold a hearing, approve or reject a report, issue an opinion?
 - d) Do the legally defined public institutions with oversight responsibilities have **sufficient capacity to exercise its oversight function** in terms of political and professional staff, access to research and legislative services, office and meeting space, and budget funds?
2. What are the legal provisions defining **decision-making processes** in state bodies, especially methods for establishment of policy priorities, monitoring progress, and evaluating efficiency and effectiveness of policy implementation?¹¹⁰
3. What are the legal provisions **requiring public institutions to make information** about a) their work, b) decision-making process, and c) decisions taken available to the public?
 - a) Are these legal provisions clear in terms of explaining what type of information is to be made public, in what form it is to be presented, when it is to be presented, and how it is to be presented?
 - b) Are these legal provisions sufficiently strong to enable the public to learn about financial and non-financial performance of a public institution and how they relate to the established policy objectives?
4. What are the legal instruments that **oblige** state bodies to respond to questions, provide information, or give explanations for actions taken to public organs assigned an oversight role and the public?

How well are these legal instruments described?

¹⁰⁹ This study has tried to define and demonstrate how accountability and transparency in a governance system can be measured, using Parliament of Montenegro as an example of a state body to which other public institutions account. The following questionnaire was designed to enable the methodology used in this study to be applied to all parts of the governance system. In order to apply the assessment framework to other parts of the system, this questionnaire begins by establishing the state body or public institution with responsibility for oversight according to the law and is referred to in this questionnaire as the 'assigned oversight body.'

¹¹⁰ This general question focuses on the legally required decision-making processes that enable the assigned oversight body and the public, first, to understand an institution's policy goals and second, to evaluate an institution's effectiveness. See Chapter 2, Section II - Montenegro's Governance System in Practice for more details.

- a) Is it clear which type of information must be provided to the oversight organ and within what timeframe?
- b) Is it clear which individual or position should respond to questions, should supply required information, or should give explanations for actions taken, under what circumstances, and in which way?

How strong are these legal instruments?

- a) What are the legal and political consequences for not providing information, or for providing information or responding in an unsatisfactory manner?
- b) How detailed are the procedures related to responding to questions, supplying information, and giving explanations for actions taken and do they leave ambiguities that allow for multiple interpretations of compliance?

5. What are the legal provisions that define the **rights of the assigned oversight body to request information** outside of the defined legal instruments (e.g., annual reports, public hearings, MP Questions, and interpellations)?

- a) Do these legal provisions enable the oversight organ to obtain sufficient information about financial and non-financial performance to exercise its external governance function as an equal member of the state power?
- b) What types of restrictions are there on types of information that members of the oversight organ can receive upon request and are these limited to reasonable national security and personal data protection issues?
- c) Is it clear which individual or position should respond to requests for information, under what circumstances, in which way, and within which timeframe?
- d) What are the legal and political consequences for not responding to MPs' requests for information or responding in an unsatisfactory manner?

6. What are the legal provisions securing the **credibility** of information provided by state bodies and public officials to the assigned oversight body and the public?

- a) What are the legal provisions that guarantee the independence of independent public institutions in terms of policy making?
- b) What are the legal provisions that guarantee the independence of independent public institutions in terms of management (e.g., staff recruitment and budget)?
- c) What are the legal provisions in terms of election and appointment procedures of management that allow the assigned oversight body and the public to understand the reasons for appointment of the individual?
- d) What are the legal provisions about previous employment or associations, incompatibility of functions during service, or employment or associations after service that give confidence to the assigned oversight body and the public of the ability to act independently?
- e) What are the legal provisions regarding accountability or dismissal and are they sufficiently detailed and unambiguous to permit their use?

- f) How detailed are legal provisions about reporting to the assigned oversight body and the public and do they provide enough information to allow insight into the operations of an independent public institution and instill public confidence in the independence of the body's decision-making?

IMPLEMENTATION

1. What measures are institutions with oversight functions undertaking to **exercise an external governance function**?¹¹¹
 - a) Are they asking questions through established legal mechanisms, including holding hearings, commissioning research, requesting information about policy objectives and financial and non-financial performance?
 - b) Does the use of legal mechanisms lead to responsible and timely debates that enlighten the public about the function of a public organ and its strengths and weaknesses?
 - c) What types of measures are taken when weaknesses (or strengths) are brought to light? Do these measures establish the external governance authority and credibility of the oversight body among the public and among the subject institutions?
 - d) Do institutions with oversight function have the necessary human, financial and material resources to exercise effectively their external governance function?
2. Are public institutions established in the Constitution and law fulfilling the legal obligations **to provide information about decision-making processes and decisions made and to respond to requests for information**?
 - a) Is obligatory information provided and are requests responded to in a timely manner?
 - b) In what form is the information provided to the assigned oversight body and the public and is the content and structure of information provided as an obligation and in response to requests made in accordance with legal requirements?
 - c) Does available information provide clear and relevant details about policy objectives of an institution or is it possible to receive this information when requested?
 - d) Does available information provide sufficient facts to enable an assessment of financial and non-financial performance or is it possible to receive this information when requested?
 - e) Is there any evidence of consequences assessed for not providing information or for providing incomplete or false information? What are these consequences, against who were they assessed, in what manner, and to what effect?
3. Is the **public using** prescribed legal **instruments to request information**?
 - a) How often are these instruments used?
 - b) What types of nongovernmental institutions or individuals most often use these instruments?

¹¹¹ Refer to Chapter 2, Section II - Montenegro's Governance System in Practice for a discussion of the meaning of this term.

- c) How effectively and how many times does a member of the public have to appeal against decisions not to respond or unsatisfactory answers?
- d) Against which public organs are these complaints most frequently filed?
- e) What are the results of these appeals in terms of verdicts made, within what timeframe, and information received?
4. Are legal provisions intended to bolster **credibility of information** coming from state bodies fulfilled?
- a) What processes were used to select the principal managers of the institution and what aspects of this process give confidence to the public that the managers have the competence and reputation to act in the public interest?
- b) What information is available on the management of the institution, including:
- ▶ the professional and educational background of the principals,
 - ▶ the current financial interests and assets of the principals and family members,
 - ▶ the sports, professional, and cultural associations of the principals
 - ▶ responsibilities and remuneration of the principals?
- c) Does the provided information on the management of the institution give confidence to the public of the ability of the management to make decisions in the public interest (and, in the case of independent organs, independently)?
- d) What information is available about the objectives, completed and planned activities, and past and future spending of the institution?
- e) Is the information about the institution related to objectives, completed and planned activities, and past and future spending sufficient to give confidence to the public that the institution is fulfilling its function effectively and in the public interest?
- f) In what manner is an institution funded and on what organ does an institution rely on for human resources, office space, and other material needs?
- ▶ Is the reliance reasonable given the function of the institution, its legal position or other factors?
 - ▶ Does the reliance have the potential to create the impression that the institution is dependent on another authority and influenced more by its interests than by the public interests which the institution was established to serve?

APPENDIX VII. TRANSPARENCY AND ACCOUNTABILITY IN LAW

1. LEGAL OBLIGATION OF GOVERNMENT AND OTHER STATE ORGANS TO PROVIDE INFORMATION TO PARLIAMENT

CONSTITUTION OF MONTENEGRO

"Official Gazette CG," No. 01/07

Interpellation Article 108

The interpellation to examine certain issues regarding the work of the Government may be submitted by minimum 27 Members of the Parliament.

The interpellation shall be submitted in written form and shall be justified.

The Government shall submit an answer within thirty days from the date of receipt of interpellation.

Parliamentary Investigation Article 109

The Parliament may, at the proposal of minimum 27 Members of the Parliament, establish a Fact-finding Commission in order to collect information and facts about the events related to the work of the state authorities.

State Audit Institution Article 144

The State Audit Institution of Montenegro shall be an independent and supreme authority of the national audit.

The State Audit Institution shall audit the legality of and success in the management of state assets and liabilities, budgets and all the financial affairs of the entities whose sources of finance are public or created through the use of state property.

The State Audit Institution shall submit an annual report to the Parliament.

The Senate shall manage the State Audit Institution.

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

Parliamentary Hearings and Investigations Article 72

In order to obtain information or expert opinions on proposed acts in parliament procedure, to clarify certain solutions from proposed and existing acts, and to clarify certain issues significant for preparing of proposed acts, as well as for more successful conduct of the oversight function of Parliament, parliamentary hearings and investigations may be organized in competent (assigned) committees.

1) Consultative Hearings Article 73

In order to accomplish its tasks (examining proposed acts, preparing proposed acts, or analyzing certain issues) and with the goal obtain necessary information and expert opinions, especially on proposed solutions and other issues of special interest to citizens and the public, a committee can, if needed or for a specific time period, engage scientists and experts for specific areas (hereinafter, sci-

entific and expert consultants), representatives of state organs and nongovernmental organizations, who do not have a right to decide (consultative hearing).

The committee makes the decision to engage scientific and expert consultants.

In order to accomplish its tasks, a committee may form special working groups in which scientific and expert consultants can be engaged.

In order to prepare MPs to decide on proposals for election of holders of certain functions, the competent committee in the area that conducts the election may invite the authorized proposer, as well as proposed candidates for a consultative hearing.

2) Control Hearings

Article 75

In order to obtain information and expert opinions on specific issues from its assigned area, as well as on specific issues regarding establishing and implementation of policies, laws, and other activities of Government and other state administrative organs, which raise ambiguities, dilemmas, or disputes in principle and with the goal of clarifying these issues, the competent committee may invite to the sitting responsible representatives of Government or other state administrative organs and ask them to clarify these issues (hereinafter, control hearing).

The decision on a control hearing is made by a majority of votes of the total number of committee members.

The committee chair notifies the Speaker and the Deputy Speaker of Parliament upon decision for a control hearing and invites, in writing, the person for the hearing, informs him about issues that are subject of the hearing, and may request from him to submit his opinions and stands in writing, as well. The invited authorized representatives of state organs are obliged to accept the invitation for a control hearing.

Article 76

During a control hearing, committee members may pose questions to the person invited to the hearing, only in connection with the subject of the hearing.

At the committee sitting, a discussion with persons providing information may take place if it is necessary to straighten out and clarify concrete issues and facts.

The committee decides on opening the discussion from paragraph 2 of this article, its duration and participation of each committee member, whereby one member of each MP club must be allowed to take part in the discussion if he/she so desires.

3) Parliamentary Investigation

Article 78

Parliamentary investigation may be opened in order to analyze the situation in a specific area and consider issues of public significance, obtain information and facts on certain occurrences and events related to establishment and implementation of policies and work of the competent bodies in these areas, which could be the basis for decision-making in Parliament on political responsibilities of public officers or taking other steps within their competences.

In order to accomplish the work from paragraph 1 of this article, Parliament may form an inquiry committee from among MPs.

Article 79

A committee or at least one fourth of the MPs in Parliament may submit a proposal for opening a parliamentary investigation and establishing an inquiry committee.

The proposal from paragraph 1 of this article is submitted in written, must be explained and include: title of the committee, topic, purpose and the aim of the parliamentary investigation, the task and composition of the inquiry committee, and the deadline for finishing the task.

The chair of an inquiry committee is from the ranks of the opposition MPs.

Article 81

In order to conduct the parliamentary investigation, an inquiry committee has the right to ask for data, documents and information from state organs and individual organizations, as well as take statements from individuals, if needed.

State organs and other organizations, as well as individuals, are obliged to give true documents, data, information, and statements sought from them by the inquiry committee.

Article 82

After completing the parliamentary investigation, the inquiry committee submits to Parliament a report that can include proposed measures or acts within Parliament's jurisdiction.

An inquiry committee ceases its work on the day Parliament decides on its report or when the deadline for which it was formed expires.

REGULATION ON GOVERNMENT

"Official Gazette CG," No. 80/08

Government's Accountability

Article 2

Government shall be held accountable to the Parliament of Montenegro (hereinafter: Parliament) for conducting internal and foreign affairs of Montenegro, for implementation of the laws and decrees, as well as of for the work of the administrative state bodies.

Relation with Parliament

Article 26

Government shall submit to Parliament its opinion on a bill, proposal of other decree and act that was submitted to Parliament by other authorized proponent.

Government shall submit its opinion on other issues initiated in the Parliament related to realization of Government's constitutional functions.

Participation in Parliament's Work

Article 27

At the sessions of Parliament or its working bodies, the Government shall be represented by the Prime Minister and Government's members.

During the preparation of proposal and opinions for the Parliament, the Government shall delegate its representatives out of the Government's members.

Government's representatives shall participate in person in the work of Parliament and its working bodies. Apart from Government's members, Government may decide to designate secretaries of ministries, deputy ministers and heads of administrative organs to participate at the sessions of Parliament or its working bodies in order to offer their professional explanations.

At the sessions of Parliament or its working bodies, Government's representatives shall represent Government's attitudes about the issues discussed by the Parliament and they cannot deviate from its attitude without prior consent given by the Government.

Government's representatives may ask for a delay of discussion about certain proposal of an act or other issue, in order the Government to take up the attitude on it.

MPs Questions

Article 28

The Prime Minister and Government's representatives shall be obliged to attend a special session of the Parliament at which MPs ask questions so to give answers.

Control Hearing

Article 29

A Government's member shall answer the call for a control hearing on the session of the competent committee of the Parliament in order to give explanations about the issue that is the subject of the hearing, as well as to offer required information in the procedure of conducting parliamentary investigation.

If files, documents or information pose a secret data in the sense of the law defining the issues of confidentiality of data, the insight into files and documents and announcing the information shall be done on a closed session of the Parliamentary committee, in accordance with the law.

RULES OF PROCEDURE OF GOVERNMENT

"Official Gazette RCG," No. 45/01, 09/03, 71/04, 71/06 and "Official Gazette CG," No. 18/08

Article 12

Representatives of the Government in the Parliament shall attend the sessions of the Parliament and its working bodies, advocate the Government's positions and when needed inform the Government.

Article 45

A bill, a decree or other act that is to be submitted to Parliament by the Government shall be prepared as according to the Parliaments Rules of Procedure and the Rules of Procedure of the Government.

Proposal of regulation, decree or other act that is passed by the Government shall have to be explained.

Along with the proposal as related to paragraphs 1 and 2 of this Article, the elaborator shall also submit the full text of provisions that are to be changed, i.e. amended if the proposal is to change i.e. amend a decree.

IX OPINIONS AND ATTITUDES OF THE GOVERNMENT

Article 81

Whenever the Parliament or another authority requires an opinion by the Government on a draft law or bill or another regulation or general enactment, the relevant ministry or another public administration authority shall prepare a proposed opinion for the Parliament or such authority in the form prescribed by the Government.

XI GOVERNMENT'S REPRESENTATIVES AND ANSWERING THE MPs QUESTIONS

Article 83

During the preparation of proposal and opinions for the Parliament, the Government shall delegate its representatives out of the Government's members.

Exceptionally from the paragraph 1 hereby, the Government or the Prime Minister may designate a secretary of the secretariat, a deputy minister or a secretary of the ministry to represent the Government.

The Government's representatives shall be obliged to participate in the Parliament's work and its working bodies during consideration of respective materials.

The Government's representatives shall be obliged to represent the Government's attitudes in the Parliament and its working bodies and to inform the Government on the Parliament's work.

Article 84

The Government's representatives shall be obliged to attend a special session of the Parliament at which MPs ask questions.

The chairperson of the Commission for political system, internal and foreign affairs shall coordinate the participation of the Government's members in the Parliament.

LAW ON STATE ADMINISTRATION

"Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08

4. Relations of Ministries with the Parliament**Article 73**

A ministry shall be obliged, on the occasion of considering an interpellation, to submit to the Parliament reports on specific issues as well as requested data from the administrative field.

A ministry shall be obliged to deliver to the Parliament acts respectively documents, only within the scope of a parliamentary investigation, if those acts, respectively documents do not represent a state, military or official secret according to a specific law.

Should the acts, respectively documents specified in paragraph 2 of this Article represent a state, military or official secret, the ministry shall enable the insight into and a transcript of the same.

A ministry shall submit the reports, acts and documents to the Parliament through the Government.

Article 74

A ministry shall be obliged to reply to questions of representatives raised in the Parliament.

5. Relations of State Administration Authorities with Courts**Article 75**

At the request of courts, state administration authorities shall be obliged to submit acts and data in the manner and in a time frame set forth by the laws regulating the procedure before court.

LAW ON CONFLICT OF INTEREST

"Official Gazette RCG," No. 42/04, 07/05, 17/05

Transparency of the Work of the Committee**Article 24**

The Committee decisions on the conflict of interests shall be delivered to the media.

The Committee shall submit the report on its work to the Parliament when necessary, at least once a year.

LAW ON BUDGET

"Official Gazette RCG," No. 40/01, 44/01, 71/05, and "Official Gazette CG," 12/07, 73/08

Article 5, paragraph 1

The State Budget Law for the fiscal year (hereinafter: the State Budget Law) shall be passed by the Parliament.

Article 24

The Government shall determine the proposal of the Law on the State Budget and submit it to the Parliament in November.

The competent body of the municipality shall determine the proposal decision on the municipal budget and submit it to the Municipal Assembly by the end of November.

The managing board of the state fund shall adopt the draft budget of the fund for the following fiscal year and submit it to the Ministry of Finance by the end of August.

Article 27

The following shall be enclosed to the Law on State Budget and the decision on municipal budgets that are submitted for review to the Parliament or local assemblies:

- 1) A review of planned inflows and outflows for the following three fiscal years, including the review of multiyear commitments, multiyear outflows and investment programs;

Article 51

The final account of the state budget and the final accounts of the municipal budgets shall be in accordance with the content and classifications of the budget, according to the Article 26 of this Law. The final account, referred to in paragraph 1 of this Article, shall also include:

- 1) The initial and final balance of the Treasury Consolidated Account;
- 2) A review of executed discrepancies in regard to planned amounts;
- 3) A report on borrowings taken;
- 4) A report on spending from the budget reserves;
- 5) A report on guarantees issued during fiscal year;
- 6) A report on capital projects;
- 7) A report on realization of the program budget;
- 8) A report on the State debt and issued guarantees;
- 9) A report on tax and non-tax claims written off during the fiscal year.

Enclosed to the final account of the state budget submitted shall be the report on the final account by the Supreme Audit Institution.

LAW ON MINORITY RIGHTS

"Official Gazette RCG," No. 31/06, 51/06, 38/07

Article 38

The ministry shall propose to the Government the policy for development and protection of the rights of minorities.

At least once a year, the Government shall submit to the Assembly a report on development and protection of the rights of minorities.

LAW ON JUDICIAL COUNCIL

"Official Gazette CG," No. 13/08

Action Plan

Article 22

- (1) The Judicial Council establishes an Action Plan that contains goals, measures and responsible individuals for certain activities, efforts to strengthen the efficiency and effectiveness of the work of the Judicial Council and the Courts.
- (2) The Action Plan must be in accordance with relevant strategies in the judicial area and financial possibilities.
- (3) The Action Plan is given to all courts, Parliament, and Government of Montenegro (hereinafter: Government).
- (4) The Secretariat of the Judicial Council (hereinafter: Secretariat), every three months creates a substantiated report on carrying out the Action Plan and gives it to the Judicial Council.

Annual Report

Article 26

- (1) The Judicial Council creates an annual report that contains data on the work of the Judicial Council, description and analysis of the situation in the Courts, detailed data about every court, which contains the number of received and solved cases for the reporting period, problems and shortcomings in their work, as well as measures that should be taken to remove the noticed shortcomings.
- (2) The Judicial Council gives a draft of the annual report to all Courts to give their opinion.
- (3) The Annual Report is given to Parliament, Government, and President of Montenegro no later than 31 March of the current year for the previous year.
- (4) The report is published on the webpage of the Judicial Council.
- (5) The President of the Judicial Council explains the Annual Report in Parliament.

LAW ON STATE PROSECUTOR

"Official Gazette RCG," No. 69/03 and "Official Gazette CG," 40/08

Annual Report of Work
Article 103

The Chief State Prosecutor shall submit to Parliament an annual report on the work of the State Prosecutor which shall contain description and analysis, detailed data for each prosecution office related to number of received and solved cases during the reporting year, as well as problems and shortcomings in their work.

Annual report on work shall contain also data on the work of the Prosecutorial Council and proposed measures for advancing the work of the State Prosecutor's Office and the Prosecutorial Council.

The annual work report shall be submitted to Parliament no later than March 31 of the current year for the previous year.

The report shall be published on the web page of the Prosecutorial Council.

The Chief State Prosecutor shall explain the annual report in Parliament.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Annual Report
Article 46

The Protector shall submit an annual report to the Assembly.

Upon request of the Assembly, the Government of the Republic of Montenegro (hereinafter: the Government) is obliged to give its opinion on the annual report submitted by the Protector.

The annual report shall contain, namely, a general statistical tabulation of all investigated cases, a general evaluation of the status of human rights and freedoms in the Republic of Montenegro, and the Protector's recommendations and suggested measures to remedy the observed failures.

The annual report for the previous year shall be submitted not later than 31 March of the current year.

The annual report shall be accessible to the public.

Special Report
Article 47

The Protector may submit a special report if he or she assesses that exceptionally important reasons require such action.

The special report from paragraph 1 of this Article shall be accessible to the public.

LAW ON CENTRAL BANK OF MONTENEGRO

"Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05

Article 8

The Central Bank shall submit, as needed, but at least annually, the report of its operations to the Parliament of the Republic of Montenegro (hereinafter: the Parliament).

Article 18

President of the Council shall preside at sessions of the Council, represent the Central Bank and take care of implementing decisions of the Council.

If the President of the Council considers that an act of the Council is contrary to the Law, By-laws of the Central Bank or other general act, he shall warn the Council thereof. If even after such warning the Council still keeps to its act, the President shall inform the Parliament of it.

The general manager shall replace the President of the Council if he is prevented from attending.

In case when the general manager is prevented from attending too, the deputy general manager for banking system supervision shall replace the President of the Council.

Article 25

Member of the Council may submit a written resignation to the Parliament, upon a prior announcement thereof, made at least one month in advance.

Article 29

The Secretary of the Council shall take minutes of the Council's sessions.

The Council shall appoint the Secretary upon nomination by the President of the Council.

The Secretary shall make the minutes available to the President of the Republic, to the Parliament and the Government for their review, after the minutes have been adopted by the Council on its first next session.

Article 59

Annual financial statement of the Central Bank for previous year shall be prepared in accordance with accepted international accounting standards.

The annual financial statement, with the report and the opinion of an independent external auditor, shall be considered and enacted by the Council by 31 May of a current year and shall be delivered to the Parliament for information purposes.

The financial plan of the Central Bank for the next year shall be enacted by the Council, by not later than 30 September of the current year.

LAW ON STATE AUDIT INSTITUTION

"Official Gazette RCG," No. 28/04, 27/06, 78/06, 17/07

Article 6

The audit shall provide essential information concerning audited entity's management of the budget, property and economic activities, the legality of the audited entity's action, the improvement of its ability for successful performance of tasks and the prevention of unlawful acts.

When adopting the Republic's budget and the Financial Statement of the Republic's budget, the Institution shall submit to the Parliament of the Republic of Montenegro (hereinafter referred to as: the Parliament) the overview of its findings on the budget and state of property, pointing out the causes and consequences of any major faults and irregularities and proposing measures for their elimination. Within its rights and responsibilities set out by this Law and other regulations, the Institution shall provide its expert assistance to the Parliament, the Government of the Republic of Montenegro (hereinafter referred to as: the Government) and other state bodies of the Republic of Montenegro in reaching decisions.

Opinion of the Audited Entity

Article 15

The audited entity has the right to express its opinion about the audit report, within the time frame set by the Institution.

The Institution shall report to the Parliament and the Government, as a rule, after the audited entity has expressed its opinion on the findings of the audit.

The Institution may report to the Parliament or the Government, prior to the audited entity having expressed its opinion, in cases where a delayed submission of the report would cause damage, or the findings are prematurely disclosed to the public, or if the audited entity has not expressed its opinion within due time. Damage, referred to in paragraph 3 of this Article, is defined as financial loss to state property or prevention of its increase.

Reporting to the Parliament and Government

Article 18

The Institution shall report to the Parliament and the Government:

- 1) by submitting the Annual Report;
- 2) by submitting special reports;
- 3) by giving advice based on the findings gained through the audit.

Annual Report Article 19

The annual report shall contain in particular:

- 1) an appraisal on whether the amounts in the financial statements of the budget correspond to the amounts quoted in the records, and whether the controlled revenues, expenditures and properties are correctly documented according to the regulations and general standards;
- 2) an appraisal regarding important cases where the rules and regulations on the budget and economic activities of the State are not complied with;
- 3) important comments regarding the found shortcomings of the audited entity;
- 4) recommended measures.

The Annual Report may present conclusions on previous findings and recommendations for the upcoming fiscal years.

The Annual Report shall be submitted to the Parliament and the Government by the end of October. The President of the Republic, the President of the Parliament and the Prime Minister shall be informed about circumstances of confidential nature, which have caused or may cause financial or other damage of larger extent.

Special Reports Article 20

The Institution shall inform the Parliament and the Government on particularly important issues through special reports.

Claiming Damages Article 22

The Institution shall, without delay, inform the audited entity if reasons for claiming damages have been found. If any activity of the audited entity has caused damage to state property, the Institution shall, without delay, inform the public prosecutor.

Should the claim for damages be withdrawn, the public prosecutor shall inform the Institution.

The Institution shall inform the Parliament and the Government the reasons for withdrawing the claim for damages.

Consideration of the Annual Report Article 26

During the procedure of adoption of the Financial Statement of the Republic's budget, the Institution shall report to the Parliament on the audit of the Financial Statement.

On the basis of essential facts and circumstances pointed out in the Annual Report of the Institution, the Parliament shall decide on proposed measures and time limit for their implementation.

The Parliament may request from the Institution additional clarification of specific facts and circumstances.

LAW ON SECURITIES

"Official Gazette RCG," No. 59/00, 10/01, 43/05, 28/06

Financial Year Article 20

The financial year of the Commission shall represent the period of twelve months ending on the 31st of December of the current year, provided that the first financial year shall commence by the day of application of this Law and shall terminate on the 31st of December of that year.

The Commission shall consider and adopt annual financial statements of the previous year no later than the 31st of March of the current year, and shall submit that and the auditor's report, together with the report referred to in Article 23 of this Law to the Parliament for their information.

The Commission shall, at the latest until the 30th of September of the current year, adopt a financial plan for the following financial year.

The Commission may use any revenues exceeding the expenditures exclusively for meeting the legal obligations regarding the performance of the function of regulatory and supervisory body in the area of securities.

Annual Report on Work **Article 23**

The Commission shall, no later than six months after the end of each financial year, prepare the report on operations and condition on the securities market, and submit it to the Parliament and the Government.

The Commission shall also submit financial statements for the previous year with the auditor's report, together with the report referred to in paragraph 1 of this Article.

LAW ON ENERGY

"Official Gazette RCG," No. 39/03

Selection Commission **Article 8, paragraphs 1, 9, and 10**

1. Members of the Board, and the Director and Deputy Director shall be selected by a Selection Commission ("the Commission") established by the Government pursuant to the terms of this Law.
9. The Government shall submit to Parliament of Montenegro ("Parliament") the proposal for election of members of the Board.
10. The Parliament's decision on the selection of the candidates shall be published in the Official Gazette of the Republic of Montenegro.

Annual Report **Article 16**

1. Not later than the end of the second quarter of each calendar year, the Agency shall submit to the Parliament and make publicly available an annual report for the previous calendar year that shall include:
 - a) an overview of the Energy Sector of Montenegro during the previous year; and
 - b) the Agency's financial report audited by an internationally recognized auditing firm selected by the Agency by way of open tender.
2. The financial report described in paragraph (1) shall include an accounting of:
 - a) all fees received by the Agency during the prior calendar year;
 - b) all Agency expenses during the prior calendar year; and
 - c) other funds made available to or used by the Agency.

LAW ON INSURANCE

"Official Gazette RCG," No. 78/06, 19/07

Statute of Agency **Article 178**

The Agency has a statute.

Statute of Agency include in particular:

- 1) location and activities of Agency;
- 2) internal organization of the Agency;
- 3) the way of work, decision-making, and duties of the organs of the Agency;
- 4) detailed procedures for deciding, especially connected with physical representatives and legal persons for the work of societies of insurance, advocates in insurance, mediators, affiliations of foreign societies and agencies for providing other services of insurance;
- 5) the method of announcing the annual financial data.

Agreement (approval) of the Statute of the Agency is given by Parliament.

Composition and Election of the Council of the Agency

Article 180

The Council of the Agency has a president and two members.
 The president and members of the Council of the Agency is appointed and dismissed by Parliament. The president and one member of the Council of the Agency is appointed at the proposal of the working body of Parliament responsible for appointments, and one member at the proposal of Government.
 The president and members of the Council of the Agency are appointed for a period of five years and can be re-elected.
 The president and members of the Council of the Agency for their work are responsible to Parliament.

Competence of Council of the Agency

Article 185

Council of the Agency shall:

- 1) decide on licenses, agreements, authorizations and others issues falling under competence of the Agency;
- 2) pass the regulations and other acts prescribed by the law;
- 3) pass the Statute of the Agency;
- 4) define the annual report on insurance market;
- 5) determine annual working plan and annual report on Agency's work;
- 6) determine financial plan and annual financial accounts;
- 7) elect and recall the auditor for the annual financial account of the Agency;
- 8) appoint the liquidation board and liquidation (bankruptcy) manager;
- 9) resolve upon objection given on minutes about the performed supervision as well as on appeals and applications submitted by policy holders;
- 10) perform other duties prescribed by the law and the statute.

Basic Content of the Report on Insurance Market

Article 191

The Report on Insurance Market shall include data about the business of insurance companies especially in relation to types of insurance, degree of up datedness in paying for the damages, amount and structure of the capital, achieved liquidity and solvency trends, the achieved efficiency in business (productivity, economy and profitability) and other issues important for estimating the insurance market.

Basic Content of the Report on the Agency's Work

Article 192

Annual report on the Agency's work shall include data about: measures taken by the Agency for the supervision, the issued licenses and agreements, the data on cooperation of the Agency with other supervisory bodies and other issues of significance for the Agency's work.

Reporting

Article 193

Reports and accounts referred to in items 4, 5 and 6 of the Article 185 hereof shall be submitted to the Parliament for adoption.

XVI. TRANSITIONAL AND FINAL PROVISIONS

Carrying Out Activities

Article 198

Agency shall be founded not later than six months of this law entering into force.
 Proposal for appointment of president and members of the Agency's Council shall be submitted to the Parliament not later than ninety days from this law entering into force by the working body in the Parliament in charge of election and appointment and the Government.

Activities of the regulatory authority foreseen in the law, until the establishment of the Agency, shall be performed by the Ministry of Finance.

Ministry of Finance shall submit to the Agency the documents about the insured property and persons, not later than 30 days from the Agency's establishment.

LAW ON ELECTRONIC COMMUNICATION

"Official Gazette CG," No. 50/08

Financial Sources, Financial Plan and Program of Activities of the Agency

Article 13

- (1) Financial sources of the Agency shall be the following:
 - 1) registration fees;
 - 2) fees for performing activities of regulation and supervision of the market;
 - 3) fees based on authorization for use of radio frequencies and numbering;
 - 4) fees defined in the Laws regulating the field subject to the jurisdiction of the Agency.
- (2) Annual financial plan of the Agency contains projection of total revenues and expenses, including reserves for unforeseen expenditures, separated into categories according to the fields of regulation and market supervision, usage of numbering resources and radio frequency spectrum, and postal services.
- (3) The Agency shall submit its financial plan along with the Activities Program, for the following year, to the Government the latest until November 1 of the current year. Financial Plan and Work Program of the Agency shall be submitted to the Parliament of Montenegro for adoption, until 1 December of the current year at the latest, as a separate part of the Budget of Montenegro.
- (4) Financial plan, with Work Program shall be published in the way provided by the Statute of the Agency.

LAW ON POLICE

"Official Gazette RCG," No. 28/05

Article 5

Work of police shall be managed by Head of Police.

Head of Police shall be appointed and dismissed by the Government of the Republic of Montenegro (hereinafter: the Government) on the proposal of the minister in charge of internal affairs (hereinafter: the minister).

The Government shall submit a proposal for appointment of the Head of Police to the Parliament of the Republic of Montenegro (hereinafter: the Parliament) for the purpose of obtaining its opinion.

After a debate held in the competent committee, the Parliament shall provide its opinion on the proposed candidate.

Head of Police cannot be a member of any political party nor may he be politically active.

Parliamentary Oversight

Article 89

Parliamentary oversight of the police work shall be performed by the Parliament of the Republic of Montenegro, through its working body (hereinafter: working body).

Article 90

At least once year, a head of police shall submit the report on police work to the working body.

The head of police may submit a report to the working body when necessary and upon request of the working body.

LAW ON AGENCY ON NATIONAL SECURITY

"Official Gazette RCG," No. 28/05

Article 25

The Agency shall be managed by director of the Agency.

Director of the Agency shall be appointed and dismissed by the Government, at the proposal of the Prime Minister.

The proposal for the appointment of the Agency director shall be submitted to Parliament (hereinafter: Parliament) by Government, in order to give its opinion.

After debate, the Parliament shall submit its opinion to the competent working body.

Director of the Agency shall be appointed for a five year mandate and can be reappointed.

For his/her work and the Agency's work, the director is accountable to the Government.

Director of the Agency shall not be the member of a political party nor shall he/she act politically.

VI PARLIAMENTARY OVERSIGHT**Article 43**

Parliamentary oversight of the Agency work shall be conducted by the Parliament through the competent working body.

The Agency shall submit the annual report on its work to the competent working body.

At the proposal of the working body referred to in the paragraph 1 hereby, the Agency shall submit special reports on certain performances falling under its competence.

At the proposal of the working body referred to in the paragraph 1 hereby, the Agency shall ensure the insight into surveillance procedure over the post mail and other communication channels referred to in Article 14 hereby, if that does not endanger the national security.

The Agency cannot reveal data about identity of the Agency's associates, Agency's officers with hidden identity and other persons who would be jeopardized by revealing the data, as well as about other security and intelligence sources and actions that are on-going.

Article 46

Competent working body shall submit the report on its work to Parliament at least once a year.

Parliament may decide to hold its session behind the closed door, depending on the report referred in the paragraph 1 hereby.

2. LEGAL OBLIGATION OF GOVERNMENT AND OTHER STATE ORGANS TO RESPOND TO REQUESTS FOR INFORMATION**CONSTITUTION OF MONTENEGRO**

"Official Gazette CG," No. 01/07

Interpellation**Article 108**

The interpellation to examine certain issues regarding the work of the Government may be submitted by minimum 27 Members of the Parliament.

The interpellation shall be submitted in written form and shall be justified.

The Government shall submit an answer within thirty days from the date of receipt of interpellation.

Parliamentary Investigation**Article 109**

The Parliament may, at the proposal of minimum 27 Members of the Parliament, establish a Fact-finding Commission in order to collect information and facts about the events related to the work of the state authorities.

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

IV. RIGHTS AND DUTIES of MPS**1. General Provisions****Official Materials, Explanations and Information****Article 50**

An MP has the right to access all official materials, documents and data that are prepared or gathered in committees or the Parliamentary Service, the Government, ministries and other organs of state administration and that are of importance for fulfillment of the MP function.

An MP is entitled to ask for information and explanations necessary for performing the function of an MP from the Speaker, chairs of working bodies, ministers, and other officials, connected with functions in the scope of rights and duties of these officials, or tasks from the jurisdiction of the bodies that they lead.

Request for information and explanations from paragraph 2 of this article are submitted in written form.

Participation at Committee Sittings**Article 67**

Representatives of the proposer of an act and submitters of amendments to the proposed act being discussed in the sitting participate in the work of a committee. If not, consideration of the proposal of the act is postponed.

Upon invitation, government representatives and representatives of scientific and professional organizations, other legal entities, and nongovernmental organizations, as well as other scientists and experts, may participate in the work of a committee without the right to decide.

Article 68

When performing tasks within its field, a committee may request data and information of importance to its work from a state body.

3. Parliamentary Hearings and Investigations**Article 72**

In order to obtain information or expert opinions on proposed acts in parliament procedure, to clarify certain solutions from proposed and existing acts, and to clarify certain issues significant for preparing of proposed acts, as well as for more successful conduct of the oversight function of Parliament, parliamentary hearings and investigations may be organized in competent (assigned) committees.

1) Consultative Hearings**Article 73**

In order to accomplish its tasks (examining proposed acts, preparing proposed acts, or analyzing certain issues) and with the goal obtain necessary information and expert opinions, especially on proposed solutions and other issues of special interest to citizens and the public, a committee can, if needed or for a specific time period, engage scientists and experts for specific areas (hereinafter, scientific and expert consultants), representatives of state organs and nongovernmental organizations, who do not have a right to decide (consultative hearing).

The committee makes the decision to engage scientific and expert consultants.

In order to accomplish its tasks, a committee may form special working groups in which scientific and expert consultants can be engaged.

In order to prepare MPs to decide on proposals for election of holders of certain functions, the competent committee in the area that conducts the election may invite the authorized proposer, as well as proposed candidates for a consultative hearing.

2) Control Hearings

Article 75

In order to obtain information and expert opinions on specific issues from its assigned area, as well as on specific issues regarding establishing and implementation of policies, laws, and other activities of Government and other state administrative organs, which raise ambiguities, dilemmas, or disputes in principle and with the goal of clarifying these issues, the competent committee may invite to the sitting responsible representatives of Government or other state administrative organs and ask them to clarify these issues (hereinafter, control hearing).

The decision on a control hearing is made by a majority of votes of the total number of committee members. The committee chair notifies the Speaker and the Deputy Speaker of Parliament upon decision for a control hearing and invites, in writing, the person for the hearing, informs him about issues that are subject of the hearing, and may request from him to submit his opinions and stands in writing, as well. The invited authorized representatives of state organs are obliged to accept the invitation for a control hearing.

Article 76

During a control hearing, committee members may pose questions to the person invited to the hearing, only in connection with the subject of the hearing.

At the committee sitting, a discussion with persons providing information may take place if it is necessary to straighten out and clarify concrete issues and facts.

The committee decides on opening the discussion from paragraph 2 of this article, its duration and participation of each committee member, whereby one member of each MP club must be allowed to take part in the discussion if he/she so desires.

3) Parliamentary Investigation

Article 78

Parliamentary investigation may be opened in order to analyze the situation in a specific area and consider issues of public significance, obtain information and facts on certain occurrences and events related to establishment and implementation of policies and work of the competent bodies in these areas, which could be the basis for decision-making in Parliament on political responsibilities of public officers or taking other steps within their competences.

In order to accomplish the work from paragraph 1 of this article, Parliament may form an inquiry committee from among MPs.

Article 81

In order to conduct the parliamentary investigation, an inquiry committee has the right to ask for data, documents and information from state organs and individual organizations, as well as take statements from individuals, if needed.

State organs and other organizations, as well as individuals, are obliged to give true documents, data, information, and statements sought from them by the inquiry committee.

X. RELATIONSHIP BETWEEN PARLIAMENT AND GOVERNMENT

1. MP Questions and Prime Minister Hour

Posing Questions

Article 187

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

MP questions are posed at a special sitting of Parliament that is held at least once every two months during a regular session.

The first part of the sitting from paragraph 2 of this article, for a period of one hour, is dedicated to posing questions to the Prime Minister and his answers to current issues from the work of Government (Prime Minister's Hour).

The president or authorized representative of an MP club may ask a question from paragraph 3 of this article, which can last no longer than five minutes, and the Prime Minister has the right to provide an answer lasting no longer than five minutes.

Following the provisions of Article 84 of these rules, the Speaker convenes Parliament in a sitting from paragraph 2 of this article in a period that can be shorter than that stipulated in Article 85 of these rules, and quorum is not necessary for the work of this sitting.

Article 191

On the explicit request of an MP who posed the question or the official who answered it, a response to an MP question can be presented in written form if special circumstances demand so.

A written response from paragraph 1 of this article is delivered through the Speaker no later than by the time of holding the next sitting at which MP questions are posed, or if Parliament is not in regular sitting, no later than 20 days after the day the question was posed.

Comment on the Answer and Additional Question

Article 192

After receiving the answer to an MP question, the MP who posed the question has the right to offer a comment to the answer of no more than three minutes and can ask an additional question for up to one minute.

Instead of immediately after receiving the answer, the MP can use the right to make a comment on the answer or ask an additional question at the end of the same sitting.

Article 193

The Prime Minister, minister, or authorized representative of Government answers the additional question posed in accordance with the provisions regulating the answer to MP questions.

The procedure of MP question is concluded with the answer to the additional question.

2. Decision-Making Procedure on No-Confidence and Confidence in Government

Article 194

A proposal for a vote of no-confidence in Government must contain the reasons for proposing the vote of no-confidence.

The Speaker delivers the proposal for a vote of no-confidence to MPs and the Prime Minister.

Article 196

Government presents to Parliament the question of its confidence in a written form.

The Prime Minister presents the question of confidence and has the right to explain it.

A debate is held on the question of confidence.

Upon concluding the debate, MPs vote on confidence.

3. Procedure for Considering an Interpellation on the Work of Government

Article 198

At least one quarter of the total number of MPs may submit an interpellation for debate on certain political issues connected with the work of Government.

The interpellation is submitted to the Speaker in written form, and the issue to be discussed must be clearly formulated and explained.

The Speaker delivers the interpellation to MPs and Government immediately.

Article 199

Government may consider the interpellation and submit to Parliament a written report with its opinion and views on interpellation, no later than 30 days from the day of delivery of the interpellation.

The Speaker delivers Government's report on the interpellation to MPs.

REGULATION ON GOVERNMENT

"Official Gazette," No. 80/08

**Control Hearing
Article 29**

A Government's member shall answer the call for a control hearing on the session of the competent committee of the Parliament in order to give explanations about the issue that is the subject of the hearing, as well as to offer required information in the procedure of conducting parliamentary investigation.

If files, documents or information pose a secret data in the sense of the law defining the issues of confidentiality of data, the insight into files and documents and announcing the information shall be done on a closed session of the Parliamentary committee, in accordance with the law.

RULES OF PROCEDURE OF GOVERNMENT

"Official Gazette RCG," No. 45/01, 09/03, 71/04, 71/06 and "Official Gazette CG," No. 18/08

IX OPINIONS AND ATTITUDES OF THE GOVERNMENT**Article 81**

Whenever the Parliament or another authority requires an opinion by the Government on a draft law or bill or another regulation or general enactment, the relevant ministry or another public administration authority shall prepare a proposed opinion for the Parliament or such authority in the form prescribed by the Government.

XI GOVERNMENT'S REPRESENTATIVES AND ANSWERING THE MPs QUESTIONS**Article 84**

The Government's representatives shall be obliged to attend a special session of the Parliament at which MPs ask questions.

The chairperson of the Commission for political system, internal and foreign affairs shall coordinate the participation of the Government's members in the Parliament.

LAW ON STATE AUDIT INSTITUTION

"Official Gazette RCG," No. 28/04, 27/06, 78/06, 17/07

Consideration of the Annual Report**Article 26**

During the procedure of adoption of the Financial Statement of the Republic's budget, the Institution shall report to the Parliament on the audit of the Financial Statement.

On the basis of essential facts and circumstances pointed out in the Annual Report of the Institution, the Parliament shall decide on proposed measures and time limit for their implementation.

The Parliament may request from the Institution additional clarification of specific facts and circumstances.

LAW ON SECURITIES

"Official Gazette RCG," No. 59/00, 10/01, 43/05, 28/06

Cooperation of the Commission with other Supervisory Bodies**Article 18a**

At the request of a competent state body or foreign body competent for supervision of trade in securities, the Commission shall be obliged to submit necessary data and information.

The exchange of data and information referred to in paragraph 1 of this Article shall not be considered as disclosure of official secret.

LAW ON ARMY

"Official Gazette RCG," No. 47/07

XXII. DEMOCRATIC CONTROL

Article 188

Democratic control of the army is performed by Parliament through the responsible working body. In addition to an annual report on the entire state of the Army, the minister gives a separate reports requested by the working body.

Members of working body and people participating in its work are obliged to protect secret data that they get through the working body.

The obligation to protect secret data is an obligation also after the end of their mandate.

Members of the working body and people participating in its work sign a declaration of their obligation to protect secrets.

LAW ON AGENCY ON NATIONAL SECURITY

"Official Gazette RCG," No. 28/05

VI PARLIAMENTARY OVERSIGHT

Article 43

Parliamentary oversight of the Agency work shall be conducted by the Parliament through the competent working body.

The Agency shall submit the annual report on its work to the competent working body.

At the proposal of the working body referred to in the paragraph 1 hereby, the Agency shall submit special reports on certain performances falling under its competence.

At the proposal of the working body referred to in the paragraph 1 hereby, the Agency shall ensure the insight into surveillance procedure over the post mail and other communication channels referred to in Article 14 hereby, if that does not endanger the national security.

The Agency cannot reveal data about identity of the Agency's associates, Agency's officers with hidden identity and other persons who would be jeopardized by revealing the data, as well as about other security and intelligence sources and actions that are on-going.

3. LEGAL REQUIREMENTS FOR ALL STATE ORGANS TO MAKE INFORMATION ABOUT THEIR WORK AND DECISION-MAKING PROCESS AVAILABLE TO THE PUBLIC AUTOMATICALLY OR TO GRANT ACCESS TO INFORMATION

CONSTITUTION OF MONTENEGRO

"Official Gazette CG," No. 01/07

Access to Information

Article 51

Everyone shall have the right to access information held by the state authorities and organizations exercising public authority.

The right to access to information may be limited if this is in the interest of: the protection of life; public health; morality and privacy; carrying of criminal proceedings; security and defense of Montenegro; foreign, monetary and economic policy.

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

Article 135, paragraph 1

The Speaker sends to MPs and the competent committees a proposed law submitted to Parliament, and it is published on Parliament's website.

Article 211

The work of Parliament and its committees is public.

The sitting of Parliament and sittings of committees are closed to the public in the case that acts and materials labeled as "state secret" are considered.

Parliament may decide without debate to close a sitting or part of a sitting following an elaborated proposal from Government or 10 MPs.

Article 212

In order to provide complete information about work of Parliament to the public, Parliament has its website where data and information about the work of Parliament or its committees is published.

The presentation of Parliament and its committees on the website is defined by a special act of the Collegium of the Speaker.

Article 213

Parliament notifies the public of its work, issues it debates, and decisions it makes.

Proposals of acts debated in Parliament may be published in media or special publications.

Article 214

Television and other electronic media have the right to broadcast plenary sittings of Parliament and its committees directly.

Parliament provides conditions for television and other electronic media to broadcast sittings of the Parliament directly.

Article 215

Sittings of Parliament and committees are followed by journalists accredited by an authorized organ.

Article 216

Materials that are debated in sittings of Parliament and committee are made available to journalists unless it is stated otherwise in a general act referring to handling of the material in Parliament that is marked as a state secret or is confidential.

Parliament provides necessary conditions to journalists to follow the sittings of Parliament and committee.

The Secretary General of Parliament is responsible for implementing the provisions from paragraphs 1 and 2 of this article.

Article 217

In order to fully and accurately inform the public on the work of Parliament and its committees, Parliament may issue an official press release or a hold a conference for journalists (for media).

The text of the official press release for Parliament or a committee is put together by a competent unit in the Parliamentary Service, and approved by the Speaker, committee chair or an authorized person.

A club of MPs or a single MP may hold conferences for journalists (media) in Parliament.

REGULATION ON GOVERNMENT

"Official Gazette CG," No. 80/08

Publicity of Work Article 4

The Government's work shall be public.

The Government shall have its web page on which it shall publish the information and data on the Government's work.

The Government shall provide the public the insight into its work, as according to the law regulating free access to information of public significance and according to the Rules of Procedure.

Publishing Decrees Article 23

Regulations, decisions, Rules of Procedure, resolutions on appointments and dismissals, as well as other acts decided and passed by the Government shall be published in the Official Gazette of Montenegro.

RULES OF PROCEDURE OF GOVERNMENT

"Official Gazette RCG," No. 45/01, 09/03, 71/04, 71/06 and "Official Gazette CG," No. 18/08

Article 44

When the Government assesses that, in the course of adopting a law and other act, it is necessary to conduct a public debate, it develops a draft law or other draft act and a debate agenda, and it determines an organ that will conduct the debate, as well as the deadlines for holding of the debate, which cannot be shorter than 15 days.

X PUBLICITY OF WORK OF GOVERNMENT

Article 82

The Government shall inform the public of its work and on its resolutions, conclusions and attitudes, as well as of the important issues it has considered or shall consider, by giving the communications for the public, holding press conferences, interviews, discussions with the representatives from the media or in some other manner.

The relevant deputy prime ministers gives the communications for the public as regards the Government sessions and the line ministers delegated therefore by the Prime Minister, as well as the Secretariat General of the Government – the Public Relations Bureau.

The Government shall have its spokesperson to give statements on Government attitudes related to certain issues.

LAW ON STATE ADMINISTRATION

"Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08

VIII STATE ADMINISTRATION AND CITIZENS

Article 51

Citizens shall have free access to data, documents, reports and information of state administration authorities.

Access to documents specified in paragraph 1 of this Article relating to particular private and legal persons shall be granted only in when there exists a legal interest related to a judicial or other procedure in which a citizen is to realize his/her rights, obligations and legal interest.

Any deprivation, respectively denial of the request of a citizen in the sense of paragraphs 1 and 2 of this Article, shall be justified in writing, and the realization of the right to file a petition shall be provided. The petition shall be submitted to the authority supervising the work of the state administration authority.

Article 52

State administration authorities shall lawfully and timely act on citizens' requests filed with the view to realize their rights and execute their obligations.

State administration authorities shall furnish required data, information and explanations to citizens, and offer them professional assistance.

State administration authorities shall prepare, when it is possible, all necessary formulars needed for the realization of rights and obligations of citizens, and obligatorily post the standards of proceeding at a visible place.

Article 53

In a procedure for the realization of citizen's rights and obligations, state administration authorities shall in line of duty procure data on facts that are officially recorded by other state administration authorities.

Article 54

State administration authorities shall offer information on their work by way of technical means, publications, as well as by means of media.

Article 55

For the performance of specific administrative affairs within the competence of administrative authorities, particularly in the realization of citizen's rights, administrative authorities may organize their work in places outside their headquarters (administration days).

The affairs to be performed in the manner specified in paragraph 1 of this Article, the place and the time of the performance thereof shall be determined by the head of an administrative authority.

The citizens shall be publicly informed in an appropriate way on the affairs, the place and time specified in paragraph 2 of this Article.

Article 56

State administration authorities shall provide a book or a box for complaints, respectively other means to facilitate the clients to impart objections and complaints on the work of state administration authorities or an inappropriate attitude of civil servants.

A state administration authority shall reply in writing to the submitter within 15 days as of the submission of the complaint, should the citizen require so.

State administration authorities shall obligatorily carry out monthly analyses of complaints and solve the problems a citizen addressed in a complaint.

Article 57

The minister, respectively head of an administrative authority, shall determine the hours for the reception of clients. The working hours during the week, the daily distribution of working hours and other issues relative to the working hours in state administration authorities shall be defined by the Government.

Article 59

The provisions of this chapter shall be applied by local self-government authorities, public institutions and public enterprises when performing delegated or entrusted affairs of state administration.

8. Relations of Organs of State Administration toward Non-Governmental Organizations**Article 80**

Ministries and other administrative authorities shall be obliged to provide for the cooperation with non-governmental organizations, which shall specifically be implemented by:

1. consulting the non governmental sector about legal and other projects and regulations governing the realization of rights and freedoms of citizens,
2. enabling the participation in the work of working groups for the consideration of issues of common interest, or for the normative regulation of specific issues,

3. organizing joint public discussions, round tables, seminars and other forms of joint activities and in other appropriate forms;
4. informing about the content of the work program and of reports on activities of state administration authorities.

XII PUBLICITY AND TRANSPARENCY OF WORK OF ORGANS OF STATE ADMINISTRATION

Article 95

Ministries and administration authorities shall be obliged to acquaint the public with the performance of activities within their purview and inform it about their work through means of public information or in other appropriate ways.

The presentation of certain reports and data may be refused only if their disclosure would represent, in accordance with a specific law, a violation of keeping secrets (state, military, official) relating to the protection of security and privacy of citizens.

Article 96

The state administration authorities shall be obliged to assign a person to provide reports, information and data on the performance of affairs of the state administration authorities.

Civil servants who are authorized for the preparation of relevant reports, information and data shall be personally responsible for the accuracy and timeliness thereof.

Unauthorized giving of reports, information and data or giving inaccurate reports, information and data shall represent a violation of duty.

Article 97

In preparing laws that shall regulate rights, obligations and legal interests of citizens, a minister shall have the draft law published through media and invite all stakeholders to present their comments, proposals and suggestions.

A minister may as well decide to implement the procedure of public debate when preparing other laws.

Article 98

When organizing consultations or other forms of professional treatment of issues from their competence, ministries and administrative authorities shall announce it in public means of information and enable the media to follow the work, consultation or other form of professional treatment of an issue.

LAW ON FREE ACCESS TO INFORMATION

"Official Gazette RCG," No. 68/05

The entire law regulates the procedure necessary to access information.

LAW ON PUBLICATION OF REGULATIONS AND OTHER ACTS

"Official Gazette CG," No. 05/08

Electronic Issue

Article 21

Electronic version of the Official Gazette will be signed with advanced electronic signature and posted on Internet. The usage of electronic version will be free of charge.

Establishing the Legal-Information System

Article 41

Public interest determined by this law is secured by providing legal-information system of Montenegro (hereinafter: legal-information system).

Definition of the Legal-Information System

Article 42

Legal-information system is a collection of data in electronic form that contains a register of regulations and other acts published in the Official Gazette and other data about the legal system of Montenegro, as well as the connection with legal acts of European Union.

Adoption of Regulations and Financing

Article 43

Establishing, contents, management and administration of legal-information system, as well as obligations of state organs, organs of state administration and organs of local self-governance related to legal-information systems are regulated by a regulation of the Government.

Funds for legal-information system are secured in the Budget.

Electronic publication of the Official Gazette will start on July 1, 2009.

LAW ON CONFLICT OF INTEREST

"Official Gazette RCG," No. 42/04, 07/05, 17/05

Filling Out Disclosure Forms

Article 9

A public functionary shall fill out the disclosure form the content of which is set out by the Committee. A public functionary shall be responsible for accuracy of data in the disclosure forms.

An incomplete or wrongfully completed disclosure form shall be returned by the Committee to the relevant public functionary who must remove, within eight days of receipt, all errors and irregularities.

Register of Disclosure Forms

Article 10

The Committee shall keep the Register of disclosure forms on income and property of a public functionary, his spouse or extramarital partner and his children if living at the common household (hereinafter referred to as: Register of disclosure forms)

The Committee shall issue a notice of receipt upon entry in the Register of disclosure forms.

The Register of disclosure forms shall be published by the Committee in the media.

At the order of a state authority and local government authority, the Committee shall immediately present it with the data from the Register of disclosure forms.

Transparency of the Work of the Committee

Article 24

The Committee decisions on the conflict of interests shall be delivered to the media.

The Committee shall submit the report on its work to the Parliament when necessary, at least once a year.

LAW ON COURTS

"Official Gazette RCG," No. 05/02, 49/04 and "Official Gazette CG," No. 22/08

Publicity

Article 6

The work of the Courts is public, except in cases envisioned in the law.

Relations of Courts to the Public

Article 123

Information about the work of the Courts is given by the President of the Court or a person authorized by him/her.

Information that could influence the conduct of a judicial process cannot be given out as public information.

Giving out data from paragraph 2 of this Article is considered to be an offense to the reputation of the judicial function.

LAW ON JUDICIAL COUNCIL

"Official Gazette CG," No. 13/08

Publicity of Work

Article 5

The work of the Judicial Council insofar as this Law does not specify otherwise.

Rules of Procedure and Other Acts of the Judicial Council

Article 25

- (1) The Judicial Council establishes Rules of Procedure for the Judicial Council that regulates questions specified in this law and other issues of importance to the organization of the work of the Judicial Council, as well other acts of importance to the work of the Judicial Council.
- (2) The Rules of Procedure are published in the "Official Gazette of Montenegro."

Annual Report

Article 26

- (1) The Judicial Council creates an annual report that contains data on the work of the Judicial Council, description and analysis of the situation in the Courts, detailed data about every court, which contains the number of received and solved cases for the reporting period, problems and shortcomings in their work, as well as measures that should be taken to remove the noticed shortcomings.
- (2) The Judicial Council gives a draft of the annual report to all Courts to give their opinion.
- (3) The Annual Report is given to Parliament, Government, and President of Montenegro no later than 31 March of the current year for the previous year.
- (4) The report is published on the webpage of the Judicial Council.
- (5) The President of the Judicial Council explains the Annual Report in Parliament.

LAW ON CONSTITUTIONAL COURT OF MONTENEGRO

"Official Gazette CG," No. 64/08

Article 3

The work of the Constitutional Court shall be public.

Publicity shall be ensured through publication of decisions, issuing of media releases and otherwise, in accordance with this Law.

Article 5

The method of work and of decision-making of the Constitutional Court shall be regulated by this Law, and it shall be regulated in more details by the Rules of Procedure of the Constitutional Court of Montenegro (hereinafter referred to as the Rules of Procedure).

The Rules of Procedure shall be issues in the "Official Gazette of Montenegro" and at the web portal of the Constitutional Court.

3) Method of Work of Constitutional Court

Article 29

The Constitutional Court shall decide on the issues falling under its jurisdiction at the session.

The session of the Constitutional Court shall be convened and chaired by the President of the Constitutional Court.

The session of the Constitutional Court shall be public.

The Constitutional Court may exclude the public from a session or one part of it if it is necessary to

protect moral, public order or defense and national security, to protect the interests of a juvenile or private and family life of a participant in the procedure or if the Constitutional Court determines that the public would damage the interest of justice.

Exclusion of publish shall not be related to the participants in the procedure and their authorized representatives.

The Constitutional Court shall discuss decision and vote on non-public sessions, and the decision shall be publicly announced.

Article 30

The Constitutional Court shall hold a public session when it determines that carrying out a public hearing is necessary, especially in complex constitutional-legal matters.

Convening, holding and other issues related to public hearing shall be regulated in more detail by the Rules of Procedure.

LAW ON STATE PROSECUTOR

"Official Gazette RCG," No. 69/03 and "Official Gazette RCG," No. 40/08

Article 8

The work of the State Prosecutor is public unless otherwise provided by the law.

Method of Work and Decision-Making of the Prosecutors Council

Article 90

The Prosecutors Council establishes Rules of Procedure of the Prosecutors Council that regulated issues determined by this Law, the method of work and decision-making of the Prosecutors Council and other issues of importance to its work.

The Prosecutors Council also establishes other acts of importance to its work in accordance with this Law.

The Rules of Procedure of the Prosecutors Council is published in the "Official Gazette of Montenegro" and on the website of the Prosecutors Council.

Annual Report

Article 103

The Chief State Prosecutor shall submit to Parliament an annual report on the work of the State Prosecutor which shall contain description and analysis, detailed data for each prosecution office related to number of received and solved cases during the reporting year, as well as problems and shortcomings in their work.

Annual report on work shall contain also data on the work of the Prosecutorial Council and proposed measures for advancing the work of the State Prosecutor's Office and the Prosecutorial Council.

The annual work report shall be submitted to Parliament no later than March 31 of the current year for the previous year.

The report shall be published on the web page of the Prosecutorial Council.

The Chief State Prosecutor shall explain the annual report in Parliament.

Relations with the Public

Article 105

Information on the work of the State Prosecution shall be disclosed by the Chief State Prosecutor or a person authorized by him.

Information that could have impact on conducting the procedure cannot be accessed publicly.

Disclosure of information referred to in Paragraph 2 of this Article shall be considered as harming the reputation of the Prosecutor's function.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Article 5

The work of the Protector is public unless otherwise provided for in the present law. The publicity of the work of the Protector is ensured through submission and publication of annual and special reports and in any other manner determined by the Protector.

Article 46

The Protector shall submit an annual report to the Assembly. Upon request of the Assembly, the Government of the Republic of Montenegro (hereinafter: the Government) is obliged to give its opinion on the annual report submitted by the Protector. The annual report shall contain, namely, a general statistical tabulation of all investigated cases, a general evaluation of the status of human rights and freedoms in the Republic of Montenegro, and the Protector's recommendations and suggested measures to remedy the observed failures. The annual report for the previous year shall be submitted not later than 31 March of the current year. The annual report shall be accessible to the public.

Special Report

Article 47

The Protector may submit a special report if he or she assesses that exceptionally important reasons require such action. The special report from paragraph 1 of this Article shall be accessible to the public.

Rules of Procedure

Article 53

The Protector shall adopt the Rules of Procedure that regulate in detail his or her methods of work and procedure. The Rules of Procedure shall be published in "Official Gazette of the Republic of Montenegro."

LAW ON CENTRAL BANK OF MONTENEGRO

"Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05

Article 10

The Central Bank shall have its By-laws. The By-laws of the Central Bank shall be published in "The Official Gazette of the Republic of Montenegro."

Article 17

The Council has authorities to:

- 1) establish policies in accordance with provisions of Article 11 of this Law;
- 2) enact regulations, recommendations and orders that the Central Bank issues;
- 3) approve reports and recommendations that the Central Bank delivers to the Parliament or Government;
- 4) decide on presence of the Central Bank in international organizations;
- 5) enact the Central Bank's By-laws and determine general guidelines for operations of the Central Bank;
- 6) reach the financial plan and annual account of the Central Bank;
- 7) decide upon applications for granting and revoking licenses of banks, financial institutions and payment systems;

Other activities, manner of operation and other issues related to the operation of the Council shall be determined by Central Bank's By-laws and the Rules of Procedure of the Council.

Decisions of the Council that have the character of general acts shall be published in the "Official Gazette of the Republic of Montenegro."

LAW ON STATE AUDIT INSTITUTION

"Official Gazette RCG," No. 28/04, 27/06, 78/06, 17/07

**Acting upon Request
Article 24**

The Institution shall decide independently on requests for providing information or making documents available, according to the law of the Republic.

**IV INFORMING THE PUBLIC
Article 50**

The Institution has the obligation to make the Annual Report available to the public. The Rules of Procedure of the Institution shall describe in more details the manner of informing the public.

LAW ON SECURITIES

"Official Gazette," No. 59/00, 10/01, 43/05, 28/06

**Rules and Other Acts of the Commission
Article 9**

In addition to the rules that the Commission is specially authorized to adopt in accordance with other provisions of this Law, it can adopt the rules with respect to:

- 1) Submission of applications for obtaining the license, the issue of license and other related issues;
- 2) Registration of licenses and the issue of their duplicates;
- 3) Qualifications, experience and training required from physical persons who are issued the license, the examination that the applicant must pass, and circumstances under which these requirements do not have to be met;
- 4) Preparation of annual and other periodical reports for the Commission by persons who obtained the license;
- 5) Determination of securities that may be listed, as well as the circumstances under which trading in these securities can be suspended;
- 6) More detailed keeping of accounts that can be opened in accordance with this Law and determination of data that provide for preparation of balance sheets and income statements;
- 7) Information that must be contained in the auditor's report prepared in accordance with this Law;
- 8) Deleted;
- 9) Form and content of advertisements relating to transactions with securities, with the possibility to limit the entities that may be advertised;
- 10) Transactions with securities purchased in compliance with resale agreements and securities sold in compliance with repurchase agreements (REPOs);
- 11) Executing custody operations.

The Commission shall be obliged to publish draft rules on its website, at the latest 14 days before their adoption, soliciting comments, proposals or suggestions from interested parties.

The Commission may determine a shorter deadline than the deadline referred to in paragraph 2 of this Article, when the proposed rules prescribe activities requesting urgent action.

Rules of the Commission that have the character of general acts shall be published in the Official Gazette of the Republic of Montenegro.

The Commission may issue instructions, bulletins, opinions and other relevant statements considered necessary for implementation of this Law.

**Decision-Making of the Commission
Article 10**

The provisions of the law regulating general administrative procedure shall apply to the procedures before the Commission, unless otherwise determined by this Law.

The Commission shall decide in the form of a decision regarding the issues referred to in Article 8, paragraph 1, items 3, 4, 5, 6, 7, 11 and 16, of this Law.

The Commission shall be obliged to make a decision, at the request of the party, within 30 days from the day of submitting a properly made application, i.e. from the day when the Commission considers the submitted documents as complete.

The decision referred to in paragraph 1 of this Article shall be final.

A party may initiate an administrative dispute before the competent court against the decision of the Commission.

Decisions on approving and canceling public offering of securities, and on issuing, suspending and revoking licenses shall be published in the Official Gazette of the Republic of Montenegro.

Statute of the Commission **Article 14**

The Commission shall have the statute.

The statute of the Commission shall be published in the "Official Gazette of the Republic of Montenegro."

LAW ON ENERGY

"Official Gazette RCG," No. 39/03

Work of the Agency **Article 12, paragraph 2, items 14 and 15**

(2) The Agency [Regulatory Agency for Energy] conducts the following work:

...

14) pursuant to the terms of this Law and other acts, publishes:

- annual reports required by this Law; and
- other reports and findings;

15) ensure that information relating to the situation in the Energy Sector is made available to the public; the information on energy system is available to public, with the exception of confidential information, in accordance with this law.

Financing **Article 13, paragraph 2**

Not later than the thirtieth (30th) day of September in each year, the Agency shall approve its detailed budget for the subsequent year. The Agency shall deliver the financial plan, which is made available to the public, to Parliament for adoption and Government for insight in accordance with rules determined by the Agency.

Transparency **Article 14**

1. The work of the Agency shall be open to the public, except in extraordinary circumstances where confidential information or trade secrets are involved, in accordance with regulations of the Agency.
2. All decisions and orders of the Agency shall be in writing and shall have all required information, and provide all reasons for decisions made.
3. Documents, decisions, orders and licenses, as well as records of all proceedings shall be maintained in accordance with regulations of the Agency.
4. Documents, decisions, orders, licenses and records shall be made publicly available, except in circumstance where confidentiality has been established by this Law or regulations of the Agency.

Annual Report **Article 16**

1. Not later than the end of the second quarter of each calendar year, the Agency shall submit to the Parliament and make publicly available an annual report for the previous calendar year that shall include:

- a) an overview of the Energy Sector of Montenegro during the previous year; and
 - b) the Agency's financial report audited by an internationally recognized auditing firm selected by the Agency by way of open tender.
2. The financial report described in paragraph (1) shall include an accounting of:
- a) all fees received by the Agency during the prior calendar year;
 - b) all Agency expenses during the prior calendar year; and
 - c) other funds made available to or used by the Agency.

LAW ON INSURANCE

"Official Gazette RCG," No. 78/06, 19/07

Competence of Council of the Agency Article 185

Council of the Agency shall:

- 1) decide on licenses, agreements, authorizations and others issues falling under competence of the Agency;
- 2) pass the regulations and other acts prescribed by the law;
- 3) pass the Statute of the Agency;
- 4) define the annual report on insurance market;
- 5) determine annual working plan and annual report on Agency's work;
- 6) determine financial plan and annual financial accounts;
- 7) elect and recall the auditor for the annual financial account of the Agency;
- 8) appoint the liquidation board and liquidation (bankruptcy) manager;
- 9) resolve upon objection given on minutes about the performed supervision as well as on appeals and applications submitted by policy holders;
- 10) perform other duties prescribed by the law and the statute.

Decision Making in the Agency's Council Article 186

The Agency's Council shall work and decide on the session at which more than half of the members of the Council are present, unless certain issues are not regulated otherwise according to the law. The Agency's Council shall decide by majority of votes out of total number of members of the Council. In case of equal number of votes, the deciding vote shall be the one of the president of the Agency's Council. Regulations passed by the Agency shall be published in the "Official Gazette of the Republic of Montenegro".

Director of the Agency Article 187

Director of the Agency shall be appointed by the Agency's Council, based on public vacancy notice, for a period of four years.

Apart for the general conditions, candidate for the director of the Agency shall have to meet the conditions for appointment of members of the Agency referred to in Article 182 hereof.

Director of the Agency shall not be appointed unless he/she meets the conditions for the appointment for members of the Agency's Council as according to this law, nor if he/she doesn't have residence in the Republic.

Keeping Confidential Data Article 189

President and members of the Agency's Council, director and the employees in the Agency shall keep confidential data about persons that the Agency supervises as well as other data as according to the law and the Agency's Statute, except the data that based on the law shall be published and made available to interested persons.

Obligation referred to in paragraph 1 hereof shall last three years after the term of office expiry or the work in the Agency.

LAW ON ELECTRONIC COMMUNICATIONS

"Official Gazette CG," No. 50/08

Status of the Agency Article 7, paragraph 6

(6) Activities of the Agency are public.

Competence of the Agency Article 8, paragraph 17

The Agency in the area of electronic communications:

...

17) Organizes and regularly updates electronic data base on the electronic communications sector, providing access to all information not regulatorily restricted regarding confidentiality.

...

22) Performs market and public opinion analyses, carries out open consultative procedures allowing all stakeholders comment the initiatives, measures, decisions and the acts prepared, proposed or adopted.

Report of the Work of the Agency Article 16

- (1) The Agency shall prepare a report on activities and financial report for the previous year, the latest until the end of the second quarter of current year.
- (2) Reports referred to in the paragraph 1 of this article shall be adopted by the Council of the Agency provided consent of the Government.
- (3) Activities Report shall contain information on:
 1. dynamics of development of competition in the market of electronic communications and application of tariff policy principles,
 2. degree of universal service development, with an evaluation of user satisfaction with this service,
 3. assigned limited resources (radio frequencies and numbering), with an evaluation of efficiency of their utilization,
 4. degree of development of electronic communications in Montenegro for the subject year, with an overview of capacity, type and quality of services provided by operators and services providers to end users.
 5. planned and completed tasks of the Agency for the subject year.
- (4) Financial Report contains financial indicators of business operations of the Agency. Audit of this report shall be performed by independent auditors.
- (5) Activities Report of the Agency, finance report as well as report of the auditor shall be published on the website of the Agency.

Method of Decision-Making Article 19

- (1) The Council of the Agency shall make decisions on rights and obligations of the operators providing electronic communications services and/or electronic communications network.
- (2) Procedure before the Agency shall be conducted by application of provisions of the Law that regulates general administrative procedure, unless it is otherwise stipulated by this Law.
- (3) Agency shall reach a Decision the latest in 3 months, from the day of the request submission.
- (4) Decisions of the Agency shall be taken by the Council, by majority votes of total number of members.
- (5) Decision reached by the Agency, shall be made available to the public at the web site, with due regard to the conditions of protection of business secrets. Parties in the procedure shall be supplied with the full report on the reasons on which the aforementioned enactment is based.

- (6) A complaint may be lodged against the Decision of the Agency, before the Ministry within 15 days as of the day of Decision receipt.
- (7) Complaint lodged against the Agency's decision does not delay its execution.
- (8) A law suit against the Ministry's decision may be submitted to the competent court.

Construction in Road Area Article 30, paragraphs 1 and 2

- (1) The investor shall be obliged to submit a notification to the Agency, no later than 30 days prior to initiating construction of a road, which shall contain the beginning and end date of construction works and the route of the road.
- (2) The Agency shall be obliged to publish the information from paragraph 1 of this article on its web site.

LAW ON POLICE

"Official Gazette RCG," No. 28/05

Article 8

Police shall inform the public on its work activities falling under its scope of competence and report about its work through the media or in other adequate way.

Police shall inform the municipal assemblies about the events significant for security of that area. Information, as related to the paragraph 1 hereby, shall be given according to the law.

Civic Control Article 93

Civic control of the police work shall be performed by the Council for the Civic Control of Police Work (hereinafter: Council).

The Council is the body that shall estimate applying the police authorization in regards to human rights and freedoms.

The Council may be addressed by citizens and police officers.

The Council shall consist of five members appointed by: Chamber of Lawyers of Montenegro, Medical Association of Montenegro, Association Lawyers of Montenegro, University of Montenegro and NGOs dealing with human rights.

The Chairperson of the Council shall be elected by the majority of votes of all members.

Mandate of the Council shall last for five years.

The Speaker of the Parliament shall start the procedure of appointment of members by submitting the call to the subjects authorized to appoint those related to the paragraph 4 hereby.

The Parliament shall state the end of the appointment procedure for the Council's members.

The Council shall pass its Rules of Procedure.

Police shall be obliged, upon the request by the Council, to submit necessary information.

Professional tasks needed for the work of the Council shall be done by the Parliament's service.

Article 94

The Council shall submit its estimations and recommendations to the head of police.

The head of police shall be obliged to inform the Council on the measures undertaken.

LAW ON AGENCY ON NATIONAL SECURITY

"Official Gazette RCG," No. 28/05

Article 22

The Agency shall inform the public of its work through media or in other adequate manner.

Informing the public is conducted in a way that shall not jeopardize the rights of citizens, interest and security of the Republic.

4. LEGALLY DEFINED RELATIONSHIP OF ACCOUNTABILITY OF GOVERNMENT AND OTHER STATE ORGANS TO PARLIAMENT¹¹²

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

Article 29, paragraph 4

In their work, the Secretary General and Deputy Secretary General [of Parliament] are accountable to Parliament.

REGULATION ON GOVERNMENT

"Official Gazette CG," No. 80/08

Government's Accountability

Article 2

Government shall be held accountable to the Parliament of Montenegro (hereinafter: Parliament) for conducting internal and foreign affairs of Montenegro, for implementation of the laws and decrees, implementation as well as of for the work of the administrative state bodies.

LAW ON STATE ADMINISTRATION

"Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08

VI. MANAGEMENT AND LIABILITY IN STATE ADMINISTRATION AUTHORITIES

Article 41

The minister shall represent a ministry, manage and direct its affairs.

The minister shall be liable for his work, the operation of the ministry and for the condition in the respective administrative field to the Parliament of Montenegro (hereinafter: the Parliament) and to the Prime Minister.

In the case of cessation of his/her office or prolonged hindrance of the minister to exercise his function, the operation of the ministry shall be managed by a member of the Government assigned by the Prime Minister.

LAW ON CONSTITUTIONAL COURT OF MONTENEGRO

"Official Gazette CG," No. 64/08

II ORGANIZATION OF CONSTITUTIONAL COURT

1. President and Judges of the Constitutional Court

Article 6, paragraphs 1 and 2

The President and judges of the Constitutional Court shall be elected and dismissed in a manner and under conditions prescribed by the Constitution.

On assuming office, the President and judges of the Constitutional Court shall take an oath before the Parliament of Montenegro (hereinafter referred to as the Parliament).

¹¹² This section will not repeat the legal provisions already listed that relate to the need to provide information and respond to Parliament, but it will list legal provisions that state the accountability of state bodies to Parliament. A separate question below will deal with the ability of Parliament to take action that could result in political or legal accountability.

LAW ON STATE PROSECUTOR

"Official Gazette RCG," No. 69/03 and "Official Gazette CG," No. 40/08

Oath and Taking Office
Article 37

The State Prosecutor and the Deputy shall take office on the day he/she takes the oath. The Chief State Prosecutor shall take the oath before the Parliament on the day of the appointment. The High State Prosecutor and Basic State Prosecutor shall take an oath before the President of the Assembly or a person appointed by him/her, within 30 days from the day of the appointment. The Deputy State Prosecutor shall take the oath before the Prosecutorial Council no later than 15 days from their appointment.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Oath
Article 17

Before taking office, the Protector and the Deputy shall swear as follows:
"I swear to perform my duty in accordance with the Constitution and the laws, protect human rights and freedoms and abide by the principles of justice and equity in exercise of my duties".
The Protector shall swear before the Assembly, while the Deputy shall swear before the President of the Assembly.

LAW ON SECURITIES

"Official Gazette RCG," No. 59/00, 10/01, 43/05, 28/06

Establishment and Status of the Commission
Article 7

The Commission shall be an organization of the Republic of Montenegro, with the status of a legal entity, established for the purpose of regulating and supervising the issuance and trade in securities. The headquarters of the Commission shall be in Podgorica.
In performance of the activities determined by law, the Commission shall be independent and autonomous and shall be responsible for its work to the Parliament of the Republic of Montenegro (hereinafter: the Parliament).

LAW ON INSURANCE

"Official Gazette RCG," No. 78/06, 19/07

Composition and Election of the Council of the Agency
Article 180

The Council of the Agency has a president and two members.
The president and members of the Council of the Agency is appointed and dismissed by Parliament. The president and one member of the Council of the Agency is appointed at the proposal of the working body of Parliament responsible for appointments, and one member at the proposal of Government.
The president and members of the Council of the Agency are appointed for a period of five years and can be re-elected.
The president and members of the Council of the Agency for their work are responsible to Parliament.

5. LEGALLY DEFINED MEASURES TO BOLSTER CREDIBILITY OF INFORMATION PROVIDED TO PARLIAMENT BY GOVERNMENT AND OTHER STATE ORGANS

CONSTITUTION OF MONTENEGRO

"Official Gazette CG," No. 01/07

2. PRESIDENT OF MONTENEGRO

Responsibility

Article 95, items 5 and 6

The President of Montenegro:

...

- 5) Proposes to the Parliament: candidate for the Prime Minister, after consultations with the representatives of the political parties represented in the Parliament; President and judges of the Constitutional Court; Protector of human rights and liberties;
- 6) Appoints and revokes ambassadors and heads of other diplomatic missions of Montenegro abroad, at the proposal of the Government and after obtaining the opinion of the Parliamentary Committee responsible for international relations;

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

VIII. PROCEDURE FOR ELECTION, APPOINTMENTS AND RECALLS

1. Election of President and Members of Government

Article 174

A candidate for Prime Minister presents his program and proposed composition of the Government at a sitting of Parliament.

The program and the proposed composition of the Government is submitted to MPs, at the beginning of the sitting on which it will be decided, at the latest.

A debate is held about the candidate for the Prime Minister, his program and the proposed composition of the Government.

Upon conclusion of the debate, a decision on the program is made.

When the program is accepted, the Prime Minister is elected.

When Parliament has elected the Prime Minister, the election of members of Government is carried out.

The proposal for Government is decided upon by Parliament in its entirety.

The election of the Prime Minister and Government members is carried out in an open vote.

Article 175

If the Prime Minister is not elected, the Speaker informs the President of the Republic immediately.

If the proposed composition of Government is not accepted, the Prime Minister submits a new list for the Government composition within 10 days.

Article 176

During the mandate of Government, the Prime Minister submits to Parliament the proposal for changes in the composition of Government in written form.

2. Election of President and Judges of the Constitutional Court

Article 177

A debate is opened on the proposed candidates for the president and judge of the Constitutional Court.

A secret ballot is used for the election of the president and judges of the Constitutional Court in compliance with provisions of these rules regarding secret voting.

Should some of the proposed candidates not be elected in Parliament, the Speaker informs the President of the Republic.

3. Election of Judges, Appointment of the State Prosecutor, and Other Officials

Article 178

A debate is held on proposal for election of judges, appointment of the state prosecutor, and other officials.

At the end of debate, an open vote is used and candidates are decided upon separately.

4. Recall of Officials

Article 179

Provisions of these rules concerning the procedure of election, or appointment, are applied to the procedure of recall unless otherwise stipulated in these rules.

IX. RELATIONSHIP BETWEEN PARLIAMENT AND PRESIDENT OF THE REPUBLIC

2. Proposal of Candidates for Certain Functions

Article 183

The President of the Republic submits the proposal for candidate for Prime Minister and the proposal of candidates for president and judges of the Constitutional Court to the Speaker, in writing, with an explanation.

With a proposal from paragraph 1 of this article, consent of the candidate on accepting the candidacy is submitted, as well.

LAW ON CONFLICT OF INTEREST

"Official Gazette RCG," No. 42/04, 07/05, 17/05

VII Commission

Article 17

A special Committee referred to in Article 6 of this law shall be set up as an independent body for the establishment of conflict of interests.

The Committee shall be set up by the Parliament.

Committee Members

Article 18

The Committee shall have five members, of whom one shall perform the function of the president. Committee members and the president shall be elected by the Parliament at the proposal of the proper parliamentary board for the five year term of office, with the possibility of reappointment.

Committee members and the president shall be persons who have proved their impartiality and conscience through their professional and moral values. At least one Committee member must be a holder of law degree and bar examination certificate.

Committee members and the president are entitled a fee for their work, that shall be determined by the Parliament's working body.

Competence of the Committee

Article 19

The Committee shall:

1. establish facts and circumstances relevant for the decision;
2. take a decision, accompanied by an explanatory note, on whether there is a conflict of interests in a given case;
3. establish the value of a gift;
4. keep Register of disclosure forms;
5. adopt Rules of Procedure;
6. carry out other work, as envisaged by this law.

The Committee Rules of Procedure shall prescribe in greater detail the work procedure, and other issues relevant for the work of the Committee.

Procedure before the Committee

Article 20

The procedure before the Committee shall be initiated by a public functionary, state authority, local government authority, legal and physical entities, Committee members. The Committee shall examine every report on the potential conflict of interests. Before the decision is taken, the Committee shall inform in writing the public functionary of the report and require of him to declare himself.

Article 21

A public functionary shall have to declare himself in writing within 15 days of the day of receipt of such a request.

If a public functionary fails to declare himself within the time period referred to in Para. 1 of this Article, the Committee shall pass the decision without such declaration.

Article 22

The Committee shall propose to the proper authority to remove a public functionary from his office if it finds that there is a conflict of interests or if the public functionary fails to submit the report referred to in Article 8 of this law, or if he fails to remove errors and irregularities concerning Article 9 of this law. If the Committee finds that a public functionary has committed a crime, he shall immediately submit a report to the state prosecutor in charge.

Funds for the Work of the Committee

Article 23

Funds for the work of the Committee shall be provided by the Budget of the Republic of Montenegro at the proposal of the Committee.

LAW ON COURTS

"Official Gazette RCG," No. 05/02, 49/04, and "Official Gazette CG," No. 22/08

Independence and Autonomy

Article 3

Judges shall judge and decide independently and autonomously. The judicial office must not be performed under anybody's influence. Nobody shall influence the judge in performance of the judicial office.

Mandatory Character of the Judicial Power

Article 4

The Court shall be under a duty to issue legal decisions for which it has competence in a lawful, objective and timely manner.

Resources for the Functioning of the Courts

Article 10

Resources and the conditions for the functioning of the courts are provided by Montenegro.

1. Conditions for the Election of Judges and Disciplinary Responsibility

General Conditions

Article 31

A person may be elected a judge who:

- 1) is a citizen of Montenegro;
- 2) is in a generally healthy state and possesses capacity to transact business;
- 3) has a university degree in Law;
- 4) has passed the Bar exam.

Special Conditions

Article 32

To be elected a judge, a person, in addition to the general conditions, must possess the following work experience in the field of law:

- for a judge of the basic court – five years,
- for a judge of the commercial court – six years,
- for a judge of the higher court – eight years,
- for a judge of the Appellate and Administrative Courts – ten years,
- for a judge of the Supreme Court – fifteen years.

To be elected a judge, a person shall be distinguished by professional impartiality, outstanding moral qualities and proven professional competence.

On the occasion of election of judges to a higher judicial function, apart from the criteria set out in paragraph 2 of this Article, particular attention will be given to efficiency, responsibility and quality in performing the judicial office, if the candidate has been performing the judicial office.

2. Disciplinary responsibility of judges Negligent performance of the judicial office

Article 33a

A judge performs the judicial office negligently, if he/she unjustifiably:

- 1) fails to take cases in the order they are received;
- 2) fails to schedule hearings or sittings for the cases assigned to him/her;
- 3) is late for scheduled hearings or trials;
- 4) obstructs the supervision by the immediately superior court;
- 5) fails to attend sessions of judges and judicial departments;
- 6) is absent from work;
- 7) in other cases when it is provided by the law that certain actions or omission represents negligent performance of the judicial office.

Harming the Reputation of the Judicial Office

Article 33b

A judge shall be considered as harming the reputation of the judicial office in particular in the following:

- 1) he or she appears in the court or comes into contact with parties in a state that is not appropriate to the performance of the judicial office (e.g. under the influence of alcohol or intoxicating drugs and alike);
- 2) he or she disturbs public peace and order by his conduct in the public.

Liability of the President of the Court

Article 95

The President of the Court shall be held liable if he/she:

- 1) contrary to the law amends the annual disposition of the work in the court;
- 2) allocates the cases in contravention to the law;
- 3) does not take into procedure petitions and complaints, and if
- 4) does not initiate the proceedings for the removal of the judge although he or she knows or must have known of the existence of the reasons for the removal.

Financial Resources for the Work of Courts

Article 110

Financial resources for the work of courts shall be allocated in a special part of the budget of Montenegro.

The Judicial Council shall propose this part of the annual budget for the work of Courts.

The Judicial Council gives the proposal for the annual budget of the work of Courts to the Government.

The President of the Judicial Council has the right to participate in the work of the sitting of Parliament where the proposal of the budget for the courts is debated.

Officers **Article 113**

The court shall have the necessary number of expert associates, other officers, court trainees and employees. Entering and termination of employment of officers and employees, remuneration and other rights, obligations and responsibilities arising from work, the required qualification, duration and performance of the training period, conditions for taking the professional exam and other issues related therewith, shall be regulated by regulations applying to civil servants and state employees if not otherwise provided herein.

LAW ON JUDICIAL COUNCIL

"Official Gazette CG," No. 13/08

Independence and Autonomy **Article 2**

The Judicial Council secures the independence, autonomy, responsibility and professionalism of the courts and judges in accordance with the Constitution and law.

Members of the Judicial Council **Article 3**

- (1) Members of the Judicial Council must be persons of high moral and professional quality.
- (2) In performing their duties, members of the Judicial Council behave independently and impartially.
- (3) Before proposing and electing members of the Judicial Council, attention is paid to the gender balance of its composition.

Preventing Political Activities **Article 4**

The Judicial Council protects the court and judges from political influence.

Resources for Work **Article 5**

Resources and conditions for the work of the Judicial Council are secured by the state.

II. METHOD OF ELECTION AND CONCLUSION OF MANDATE OF MEMBERS OF THE JUDICIAL COUNCIL

Conference of Judges **Article 8**

- (1) The members of the Judicial Council from among judges are elected and dismissed by the Conference of Judges by secret ballot.
- (2) The Conference of Judges is made up of all judges and presidents of courts.

Decision-Making in the Conference of Judges **Article 9**

- (1) The Conference of Judges works and decides in sittings.
- (2) The President of the Supreme Court of Montenegro calls the sitting of the Conference of Judges and leads its work.
- (3) The sitting may take place if at least two-thirds of the members of the Conference of Judges are present.
- (4) Decisions are made with a majority of votes of present members of the Conference of Judges.

- (5) The method of work and decision-making of the Conference of Judges is regulated in more detail in the Rules of Procedure of its work.

Composition of Judicial Council from among Judges

Article 10

Members of the Judicial Council from among judges are:

- 1) two member from among judges of the Supreme Court, Appellate Court of Montenegro, Administrative Court of Montenegro, and High courts;
- 2) two members from among judges of all courts.

Proposal for Election of Members of the Judicial Council from among Judges

Article 11

- (1) Proposal of candidates for election as members of the Judicial Council from Article 10, paragraph 1, item 1 of this law are determined:
 - 1) at a separate sitting of judges of the Supreme Court, Appellate Court of Montenegro, and Administrative Court of Montenegro where one candidate from three courts is proposed, and
 - 2) at a joint sitting of the high courts where one candidate from these courts is proposed.
- (2) The president of the Supreme Court creates a list of the four candidates from paragraph 1 of this Article and gives it to the Conference of Judges.
- (3) Determination of the proposed candidates for election as members of the Judicial Council from Article 10, paragraph 1, item 2 of this law is done by the president of the Supreme Court obtaining from each judge and the president of the courts an initial proposal in a way that protects the secrecy of the initial proposal. The initial proposal must contain a proposal of two candidates.
- (4) The President of the Supreme Court creates a list of eight candidates for which the highest number of initial proposals from paragraph 3 of this Article were given and gives it to the Conference of Judges.
- (5) On the list of candidates from paragraph 4 of this Article there cannot be candidates from paragraph 2 of this Article regardless of the number of initial proposals received.

Re-Election from among Judges

Article 13

Members of the Judicial Council from among judges can be election again as members of the Judicial Council after the end of a four-year period from when the previous mandate on the Judicial Council ceased.

Cessation of Mandate

Article 14

- (1) A member of the Judicial Council ceases its mandate before the expiration of the term of office for which s/he was elected, if:
 - 1) the function on the basis of which s/he was elected to the Judicial Council ends;
 - 2) is elected as a judge to a higher court or as president of a court, when referring to members of the Judicial Council from among the ranks of judges;
 - 3) is elected to a judicial function (for judge or president of court), when referring to members of the Judicial Council who are not from among the ranks of judges;
 - 4) resigns;
 - 5) is sentenced to an unconditional prison sentence.
- (2) In case from paragraph 1, item 1 of this Article, a member of the Judicial Council ceases the mandate on the day of ceasing the function on the basis of which s/he was elected to the Judicial Council;
- (3) In cases from paragraph 1, items 2, 3, and 4 of this Article, the member of the Judicial Council ceases the mandate on the day of delivering the decision on the election for judge to a higher court or as president of a court, or when the Judicial Council receives a written resignation.
- (4) In cases from paragraph 1, item 5 of this Article, the member of the Judicial Council ceases the mandate on the day that the sentence enters into force.

- (5) The Judicial Council confirms the cessation of the mandate of a member of the Judicial Council and about that informs the organ that elected him/her.

Dismissal Article 15

- (1) A member of the Judicial Council is dismissed if:
- 1) performs his/her duties in an unconscionable or unprofessional manner;
 - 2) is sentenced for a crime that renders him or her unfit for exercise of duties on the Judicial Council.
- (2) In cases from paragraph 1 of this Article, the Judicial Council gives the proposal for dismissal of a member of the Judicial Council to the organ that elected him or her.
- (3) The mandate of a member of the Judicial Council cease on the day when the organ that elected him or her dismisses him or her.

Temporary Suspension Article 17

- (1) A member of the Judicial Council will be temporarily suspended from duty if:
- 1) incarcerated, for the length of the incarceration;
 - 2) temporary suspension from execution of duties, or work on the basis of which s/he was elected to the Judicial Council.
- (2) Regarding temporary suspension from duties, the Judicial Council brings a decision that is given to the member of the Judicial Council who is temporarily suspended and the organ that elected him/her.

III. Organization and Method of Work Sittings and Voting Article 19

- (1) The Judicial Council works and decides in sittings.
- (2) The sittings can take place if a majority of the total number of members of the Judicial Council are present.
- (3) Decisions of the Judicial Council are brought by a majority of the votes of all members of the Judicial Council.

IV. ELECTION OF JUDGES Public Announcement of Vacancies Article 28

- (1) A judge and president of a court are elected on the basis of a public announcement.
- (2) About vacancies for judge and president of a court, the Judicial Council informs: for judge, the president of the court, and for president of a court, the president of the next highest court.
- (3) The Judicial Council announces the vacancy for a judge or president of a court in the "Official Gazette of Montenegro" and one printed media.
- (4) In the procedure of electing the president of the court are applied the provisions of this law that deal with the procedure of electing a judge, with the exception of electing the president of the Supreme Court.

Application Procedure Article 29

- (1) The candidates' applications are submitted to the Judicial Council within 15 days of the day of announcement.
- (2) The Judicial Council eliminates applications that were not received within the deadline or are incomplete.
- (3) Against the decision for elimination of a late or incomplete application, the submitter of the application has the right to file a complaint to the Judicial Council, within three days from the day of receiving the decision of the Judicial Council.

- (4) The decision of the Judicial Council on the complaint is final and against it an administrative dispute can be launched.

Opinion on Professional and Work Qualities

Article 31

The Judicial Council obtains the opinion about the professional and work qualities for performing the judicial function for each candidate from:

- 1) organs, commercial companies, and other legal persons where candidates work or worked;
- 2) sitting of judges of the court to which the candidate will be elected;
- 3) sitting of judges of the next highest court.

Criteria

Article 32

- (1) Criteria for election of a judge are:
 - 1) professional knowledge, work experience, and work results;
 - 2) published expert works and other activities in the profession;
 - 3) professional training;
 - 4) capability to perform functions for which s/he has applied impartially, conscientiously, diligently, decisively, and responsibly;
 - 5) ability to communicate;
 - 6) relationship with colleague, behavior outside of work, professionalism, impartiality, and reputation.
- (2) In addition to the criteria from paragraph 1 of this Article, the organizational abilities of the candidates are also taken into consideration in electing judges.
- (3) More detailed criteria for election of a judge are determined by the Rules of Procedure of the Judicial Council.

Interview with Candidates

Article 33

- (1) A commission of the Judicial Council made up of at least three members of the Judicial Council conducts an interview with applicants who met the conditions for election.
- (2) The interview does not have to be conducted with the candidate if:
 - 1) there is a negative evaluation from a conducted interview for the position of judge in the same or a higher level court in the last 12 months;
 - 2) there have been several negative evaluations from interviews for the position of judge in the same or higher court, regardless of when the last interview took place.
- (3) On the basis of the conducted interview and documentation submitted, the Commission from paragraph 1 of this Article evaluates each candidate taking into consideration the criteria from Article 32 of this Law.
- (4) Regarding the evaluation of candidates, the Commission decides by majority vote.
- (5) The Commission from paragraph 1 of this Article immediately after conducting the interview completes a standard form for evaluating a candidate that contains a grade for each candidate and its explanation.
- (6) The method of evaluation and contents of the forms for evaluating candidates is regulated by the Rules of Procedure of the Judicial Council.

Written Test

Article 34

- (1) The Judicial Council can conduct a written test of the candidates before conducting the interview.
- (2) In the case of paragraph 1 of this Article, the Commission from Article 33 of this Law, on the basis of results achieved on the written test, create a rank listing of applicants that can be changed on the basis of success candidates achieve in the interviews.

- (3) More detailed conditions and the method of carrying out the test and determining the results of the testing are regulated in the Rules of Procedure of the Judicial Council.

Proposal for Election

Article 35

- (1) On the basis of conducted interviews and submitted documentation, the Commission from Article 33, paragraph 1 of this Law creates a list of candidates who achieved satisfactory results.
- (2) The list of candidates contains an evaluation of all candidates with whom an interview was conducted, or who was tested, as well as a brief summary of the results of the evaluation.
- (3) The list for election of candidates is given to the Judicial Council.
- (4) At a closed session, the Judicial Council decides on the election.
- (5) The decision about the election must contain a written explanation.

VI. DISCIPLINARY RESPONSIBILITY OF JUDGES AND DISMISSAL

1. Disciplinary Procedure

Disciplinary Responsibility

Article 50

A judge is held to account through disciplinary measures if s/he performs the judicial function incorrectly or if s/he offends the reputation of the judicial function in cases in provisions of law.

VII. FINANCIAL RESOURCES

Financial Resources for the Work of the Judicial Council

Article 73

- (1) Financial resources for the work of the Judicial Council is secured through a separate division in the budget of Montenegro.
- (2) The Judicial Council proposes is section of the annual budget for work of the Judicial Council.
- (3) The Judicial Council gives the proposal for its annual budget to Government.
- (4) The President of the Judicial Council has the right to participate in the work of the sitting of the Parliament at which the proposal of the budget of the Judicial Council is debated.

LAW ON CONSTITUTIONAL COURT OF MONTENEGRO

"Official Gazette CG," No. 64/08

1. President and Judge of the Constitutional Court

Article 6, paragraph 1

The President and judge of the Constitutional Court shall be elected and dismissed in a manner and under conditions prescribed by the Constitution.

IV FUNDS

Article 90

Funds for the work of the Constitutional Court shall be provided in the special allocation of budget of Montenegro.

The Constitutional Court shall propose to the Government of Montenegro the share of the annual budget for the work of the Constitutional Court.

Article 91

President of the Constitutional Court shall have the right to participate at the Parliament's session at which the proposal of the Constitutional Court budget is being discussed.

LAW ON STATE PROSECUTOR

"Official Gazette RCG," No. 69/03 and "Official Gazette CG," No. 40/08

Autonomy and Independence**Article 3**

The office of State Prosecutor must not be exercised under anybody's influence and nobody shall influence the State Prosecutor in the exercise of his/her office, except in cases provided for by the present Law.

III. CONDITIONS AND PROCEDURES FOR APPOINTING STATE PROSECUTORS AND DEPUTIES**General Conditions****Article 24**

A person may be appointed as the State Prosecutor or the Deputy if he/she:

- 1) is a citizen of the Republic of Montenegro;
- 2) is in a generally healthy state and possesses capacity to perform the work;
- 3) has the University Degree in Law and has passed the Bar exam;

Special Conditions**Article 25**

A person may be appointed the State Prosecutor or the Deputy if he/she, in addition to the general conditions, possesses the following work experience in the field of law:

- for the Chief State Prosecutor and his/her Deputy – 15 years;
- for the High State Prosecutor and his/her Deputy – 10 years;
- for the basic state prosecutor – six years and his/her Deputy – three years.

Appointment**Article 26**

The Parliament of Montenegro (hereinafter: Parliament) shall appoint and remove the State Prosecutor at the proposal of Prosecutorial Council.

The Deputies shall be appointed and removed by the Prosecutorial Council.

2. Process of Nomination**Public Announcement****Article 31**

The State Prosecutor and the Deputy shall be appointed on the basis of public announcement.

The Prosecutors Council shall announce vacancies for positions of the State Prosecutor and Deputy.

The announcement of vacancies shall be published in the "Official Gazette of the Republic of Montenegro" and in a daily newspaper issued in the Republic of Montenegro.

Application Procedure**Article 32**

The candidates' applications shall be submitted to the Prosecutors Council within 15 days of the date of announcement.

The Prosecutors Council shall reject applications that are belated or incomplete.

The applicant shall have the right to file a complaint with the Prosecutors Council against its decision to dismiss the application that is belated or incomplete within three days of receipt of the decision.

The decision of the Prosecutorial Council on the complaint shall be final and can be challenged by launching an administrative lawsuit.

Opinion on Candidates' Professional and Working Qualities**Article 33**

The Prosecutors Council shall request an opinion on professional and working qualities of all candidates from:

- bodies, commercial companies and other legal persons where candidates had exercised their legal profession;
- the State Prosecutor the candidate is to be appointed with;
- the State Prosecutor who is immediately superior.

Criteria Article 33a

Criteria for appointment of the State Prosecutors and the deputies shall be:

- 1) professional knowledge, work experience and work results;
- 2) published works and other activities regarding the occupation;
- 3) professional training;
- 4) capability to perform respective tasks impartially, conscientiously, diligently, decisively and responsibly;
- 5) communicability;
- 6) relationship with colleagues, behavior outdoors, professionalism and reputation.

For appointment of the State Prosecutor, organizational skills shall be especially estimates besides the criteria as related to the paragraph 1.

More specific criteria for appointment of the State Prosecutor and the Deputy shall be determined in the Rules of Procedure by the Prosecutorial Council.

Interview with Candidates Article 35

The Prosecutorial Council shall organize interviews with the candidates who met the conditions for the appointment.

The interview shall not have to be organized with a candidate if:

- 1) he/she was interviewed in the last 12 months based on which he/she has been rated;
- 2) he/she was negatively rated several times on interviews for the State Prosecutor or the Deputy, regardless of when the last interview happened.

Based on the interview and the documentation submitted, the Prosecutorial Council shall evaluate each candidate, taking into account the criteria as related to Article 33a hereby.

In evaluating candidates, the Prosecutorial Council decides by a majority of the total number of members. Immediately after the interview, the Prosecutorial Council shall fill out a standard template for rating the candidates, with the evaluation for each candidate and its explanation.

Test for Candidates Article 35a

Before the interview the Prosecutorial Council may conduct written test for candidates.

In the case of paragraph 1 of this Article, the Prosecutorial Council may create a rank listing of applied candidates, based on results from the written test, which may be changed based on success the candidates achieve in the interviews.

A manner of evaluating candidates, content of the template for evaluation, as well as more detailed conditions for the written tests for candidates shall be in the Rules of Procedure by the Prosecutorial Council.

List of Candidates Article 35b

Based on the interviews conducted, the candidate evaluations and submitted documentation from Article 35 of this Law, the Prosecutorial Council shall create a list of candidates who achieved satisfactory results.

The list of candidates shall contain opinions about all candidates who were interviewed, or tested, as well as a short summary of the evaluation results.

Determining the Proposal for Appointment **Article 36**

The Prosecutors Council shall determine the proposal for appointing State Prosecutors at a closed sitting. The Prosecutors Council shall submit to Parliament an explained proposal for appointing State Prosecutors that contains the list of candidates from Article 35b of this Law. The method of determining the proposal of candidates for appointment as State Prosecutors shall be regulated further by the Rules of Procedure of the Prosecutors Council.

V CESSATION OF OFFICE AND DISMISSAL **Cessation of the Office** **Article 50**

The office of the State Prosecutor or Deputy shall cease:

- at the expiry of the term of office,
- on resignation,
- on meeting the requirements for retirement,
- on cessation of citizenship,
- if he/she becomes a member of political party bodies,
- if he/she exercises a representative and other public office or a professional activity incompatible with the prosecutorial office,
- if an unsuspended prison sentence has been imposed against him.

Decision on the Cessation of the Office **Article 51, paragraphs 1-4**

When a reason for the cessation of the office emerges, the Prosecutors Council shall be informed immediately thereon by: the Chief State Prosecutor for the cessation of his/her Deputy and the High State Prosecutor office, the High State Prosecutor for the cessation of his/her Deputy and the Basic State Prosecutor office, and the Basic State Prosecutor for the cessation of his/her Deputy office. The Minister of Justice shall inform the Prosecutors Council on the reasons for the cessation of office of the Chief State Prosecutor.

The Prosecutorial Council shall immediately notify the Parliament of the fulfillment of reasons for the cessation of the prosecutorial office.

Should the Assembly not reach a decision on the cessation of the office of the State Prosecutor or Deputy within 30 days as of the receipt of the notification, it shall be deemed that the office of the State Prosecutor or Deputy has ceased upon the expiry of such time period.

The office of the State Prosecutor or Deputy shall cease on the day the Assembly reaches the decision on the cessation of the office or upon the expiry of the time period specified in paragraph 3 of this Article.

Removal **Article 52**

The State Prosecutor or Deputy State Prosecutor shall be removed from office if:

- 1) he/she be sentenced of a criminal offence which renders him or her unfit for exercise of the prosecutorial office,
- 2) he/she exercises the prosecutorial office unprofessionally or in an unconscionable manner,
- 3) he/she has permanently lost the ability to exercise the office.

The State Prosecutor shall also be removed from office if:

- 1) he/she fails to achieve satisfactory results when directing activities through which the State Prosecutor office is being exercised,
- 2) he/she fails to initiate procedure for the removal or disciplinary proceedings of the State Prosecutor or Deputy although he/she is so authorised and that he/she was aware of, or must have known the reasons for removal.
- 3) He/she was imposed a disciplinary measure twice in the course of his/her term of office.

Submitting the Proposal to the Assembly

Article 63

The Prosecutors Council shall submit a substantiated proposal for the removal of a State Prosecutor to the Assembly within 60 days as of the day of the receipt of the initiative [on removal].

The decision on removal of the deputy shall have to be taken within three months from the date of submitting the initiative.

The State Prosecutor or Deputy State Prosecutor shall be removed from office on the day the decision on his removal is made.

VII PROSECUTORS COUNCIL

Jurisdiction

Article 83

The Prosecutors Council shall:

1. define the proposal for appointment and removal of State Prosecutors, appoint, remove and affirm the cessation of the Deputy's term of office,
2. determine the number of Deputy State Prosecutors,
3. conduct the proceedings for establishing the disciplinary responsibility of State Prosecutors and their Deputies,
4. take care about the education of prosecutors in cooperation with the Judiciary Council;
5. determine the proposal of the budget share for financing the State Prosecutor's Office and the Prosecutorial Council;
6. propose opinions on bills and draft bylaws in the field of judiciary and initiate passing the relevant laws and decrees from the same field;
7. ensure the application, sustainability and uniformity of the Judiciary Informational System especially regarding the prosecution;
8. maintain the records of data on State prosecutors and Deputies;
9. propose the orientations measures on the needed number of State Prosecutors, Deputies and other civil servants and employees in the State Prosecutor's offices;
10. determine methodology for development of report on the work of the State Prosecutor's Office and annual work schedule;
11. establish the Code of Ethics,
12. adopt Rules of Procedure on its work,
13. perform other duties provided by the law.

Composition of the Prosecutors Council

Article 84

The Prosecutors Council shall have a chairman and ten members.

The Chief State Prosecutor shall be the Chairman of the Prosecutors Council by virtue of his/her office.

Members of the Prosecutors Council shall be elected as follows:

- six from amongst the State Prosecutors and their Deputies,
- one from amongst the professors of the Law Faculty in Podgorica,
- two from amongst distinguished lawyers in Montenegro, one with rich experience in the filed of human rights` protection, at the proposal of the President of Montenegro, with the opinion submitted by the Ombudsman
- one representative of the Ministry of Justice.

Term of Office of the Prosecutors Council

Article 85

Members of the Prosecutors Council shall be elected by Parliament for a four-year term of office. Members of the Prosecutors Council shall be eligible for re-elected.

The term of office of a member of the Prosecutors Council who has been subsequently appointed to a vacant post in the Prosecutors Council shall expire upon the expiry of the term of office of the Prosecutors Council.

Proposing a Member of the Prosecutors Council

Article 86

Parliament elects members of the Prosecutors Council from amongst the State Prosecutors and their Deputies at a proposal of the Extended Sitting of the Chief State Prosecutor; from amongst the professors of Podgorica Law Faculty at a proposal of Podgorica Law Faculty; from amongst renowned legal experts at a proposal of the President of Montenegro, and the representative of the Ministry of Justice at a proposal of the Minister of Justice.

Proposing Candidate for Membership in the Prosecutors Council

Article 87

The proposal of a candidate for membership in the Prosecutors Council from amongst State Prosecutors and their Deputies shall be established by the Extended Sitting of the Chief State Prosecutor by secret ballot.

The Extended Sitting of the Chief State Prosecutor, in addition to the Chief State Prosecutor and his/her Deputies, shall also comprise the High State Prosecutors.

Prior to the establishment of the proposal for membership in the Prosecutors Council from amongst State Prosecutors and their Deputies, the Extended Sitting of the Chief State Prosecutor shall obtain an initial proposal for each State Prosecutor and Deputy State Prosecutor in such manner as to ensure secrecy of the initiative.

Decision on Election of a Candidate to the Prosecutors Council

Article 88

The proposal for election of candidate to the Prosecutors Council from amongst State Prosecutors and Deputies shall be adopted by a majority vote at the Extended Sitting of the Chief State Prosecutor.

Should there be more candidates proposed than the number of vacancies to be filled by way of election, and insufficient numbers have been elected, there shall be a repeated vote on the candidates who have won the closest number to the number necessary for election. Should a third round fail, the procedure shall be repeated with new candidates.

Cessation of the Function in the Prosecutors Council

Article 89

Membership in the Prosecutors Council shall cease before the expiry of the term of office, if the member himself has requested so or if his/her office or employment that made him/her eligible for the election has ceased.

Cessation of membership in the Prosecutors Council shall be confirmed by Parliament, on the basis of a notification by the Chairman of the Prosecutors Council.

Allocation of Cases

Article 109

The cases shall be allocated in such a manner as to ensure impartiality, independence and efficiency in the performance of the tasks.

5. Internal Organization and Systematization

Officers and Civil Servants

Article 119

The State Prosecutor's Office shall have a necessary number of advisors, other officers, civil servants and interns.

Unless decided otherwise hereby, the start and cessation of the work of officers, civil servants as well as their job positions, salaries, other rights, obligations and responsibilities, duration and performing of the internship, professional exam and other issues shall be regulated by the decree on officers and civil servants.

Principles of Internal Organization and Nomenclature of Positions

Article 124

A person who fulfills the conditions foreseen for performing certain tasks may be employed on administrative and other positions in the State Prosecutor's Office, in accordance with the Law and the regulation on internal organization and job classification.

The regulation on internal organization and job classification shall be passed by the State Prosecutor along with the consent from Government, with previously obtained opinion from the relevant institutions and the Prosecutorial Council.

X FINANCING THE WORK OF THE STATE PROSECUTOR

Funds for Work

Article 128

Funds for work of the State Prosecutor's Office and the Prosecutorial Council shall be ensured by a special share from the budget of Montenegro, within which special funds are allocated for the Prosecutorial Council. Special budget share as related to the paragraph 1 hereby shall be determined by the Prosecutorial Council and it shall submit it to the Government.

President of the Prosecutorial Council shall have the right to participate at the Parliament's session at which the budget is being discussed.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Autonomy and Independence

Article 2

The Protector is autonomous and independent in the exercise of his or her duties.

Constitutionality and Legality

Article 3

The Protector shall exercise his or her duties on the basis of the Constitution and laws and shall abide by the principles of justice and equity in his or her work.

Terms of Office

Article 11

The Protector and the Deputy shall be elected for a period of six years and may be re-elected for a second term after the expiration of the terms of office.

Eligibility

Article 12

Any citizen of the Republic of Montenegro who obtained a University degree and who has extensive experience in the field of human rights and freedoms and is of high personal and professional stature, may be elected as a Protector and a Deputy.

Immunity

Article 14

The Protector and the Deputy shall enjoy the same immunity as accorded to the representatives. The Protector and the Deputy may not be liable for opinion expressed or for recommendation given in the exercise of his or her duties.

Incompatibility of Office

Article 16

The Protector and the Deputy may not hold any representative and other public office, nor may they perform other professional activity.

The Protector and the Deputy may not be members or partners of the bodies of political parties. Limitations from paragraph 1 of this Article shall not apply to scientific, educational or artistic activities, or activities falling under the protection of the copyright.

Termination of Office

Article 19

Protector's and Deputy's office shall terminate for any of the reasons below:

- 1) death,
- 2) expiration of the terms of office,
- 3) resignation,
- 4) age retirement conditions have been met
- 5) permanent loss of the ability to hold his or her office,
- 6) membership or partnership in bodies of political parties,
- 7) loss of citizenship, and
- 8) holding a representative and any other public office, or exercise of any professional activity incompatible with the office.

When a reason for the termination of office occurs, the competent working body of the Assembly shall inform the Assembly about it.

The Assembly shall pass a decision verifying the termination of Protector's and Deputy's office.

V. RIGHTS OF THE PROTECTOR

Remuneration

Article 48

The Protector shall be entitled to the same remuneration as that accorded to the president of the Constitutional Court of the Republic of Montenegro.

The Deputy shall be entitled to the same remuneration as that accorded to a judge of the Constitutional Court of the Republic of Montenegro.

Other Rights

Article 49

The Protector and the Deputy shall also enjoy other rights related to their work and provided for in their labour status, in accordance with the legislation that regulates the status of Republic officials.

VI FINANCING OF THE PROTECTOR

Financial Resources for the Work of the Protector

Article 50

Resources for the work of the Protector shall be determined in a separate item of the Budget of the Republic of Montenegro.

The Protector shall draft a budget proposal and submit it to the Government.

VII TECHNICAL SERVICE

Setting up a Technical Service

Article 51

The Protector shall set up his or her Technical Service to perform expert and administrative tasks.

The Technical Service shall be under the management of a Secretary.

The Protector shall have the authority to appoint and dismiss the Secretary.

Following the preliminary opinion of the competent working body of the Assembly, the Protector shall adopt the enactment on internal organisation and systematisation of posts in the Technical Service.

Employees in the Technical Service

Article 52

Legislation on Civil Service shall apply to the employees in the Technical Service.

LAW ON CENTRAL BANK OF MONTENEGRO

"Official Gazette RCG," No. 52/00, 53/00, 47/01, 04/05

I GENERAL PROVISIONS

Article 1

This Law establishes the Central Bank of Montenegro (hereinafter: the Central Bank).

The Central Bank is an independent institution of the Republic of Montenegro (hereinafter: the Republic) and it is solely responsible for monetary policy, establishing and maintaining a sound banking system and efficient payment system in the Republic.

Monetary policy of the Central Bank is based on Deutsche Mark (DEM) as a monetary unit, payment instrument as well as a reserves currency, until the introduction of Euro.

Article 2

The Central Bank acts independently within the limits of its authorities determined by this Law.

II MANAGEMENT OF THE CENTRAL BANK

Article 13

The Council of the Central Bank (hereinafter: the Council) manages the Central Bank.

Article 14

The Council has seven members.

Members of the Council are: president of the Council, general manager and two deputies of the general manager, who are executive officers of the Central Bank and are nominated by a working body of the Parliament competent for appointments and elections, and three members nominated by the Government.

The members of the Council shall be appointed by the Parliament.

Article 15

Member of the Council must have special professional knowledge in the area of monetary, credit and foreign exchange systems.

An officer or an employee of a bank that operates in the Republic or a person that owes more than 5% of shares of any bank may not be a member of the Council.

Member of the Council must have moral qualities and cannot be elected if he/she was convicted for criminal offences, that is, if there are legal proceedings against him/her for criminal offences that would make him/her not a proper person to perform function of a member of the Council.

Member of the Council must be a person with recognized integrity who shall perform his/her duty in the Central Bank in such manner he/she that shall not put his/her personal interests or interests of related parties in front of interests of the Central Bank and its clients.

Member of the Council shall be obliged, at least once annually, to submit the report to the Council on realizing his/her direct and indirect financial interests, as well as interests of his/her related parties, in a manner prescribed by the Central Bank.

Article 16

Member of the Council is appointed for the time period of six years and may be appointed twice at most.

Article 17

The Council has authorities to:

- 1) establish policies in accordance with provisions of Article 11 of this Law;
- 2) enact regulations, recommendations and orders that the Central Bank issues;
- 3) approve reports and recommendations that the Central Bank delivers to the Parliament or Government;
- 4) decide on presence of the Central Bank in international organizations;

- 5) enact the Central Bank's By-laws and determine general guidelines for operations of the Central Bank;
- 6) reach the financial plan and annual account of the Central Bank;
- 7) decide upon applications for granting and revoking licenses of banks, financial institutions and payment systems;

Other activities, manner of operation and other issues related to the operation of the Council shall be determined by Central Bank's By-laws and the Rules of Procedure of the Council.

Decisions of the Council that have the character of general acts shall be published in the "Official Gazette of the Republic of Montenegro".

Article 18

President of the Council shall preside at sessions of the Council, represent the Central Bank and take care of implementing decisions of the Council.

If the President of the Council considers that an act of the Council is contrary to the Law, By-laws of the Central Bank or other general act, he shall warn the Council thereof. If even after such warning the Council still keeps to its act, the President shall inform the Parliament of it.

The general manager shall replace the President of the Council if he is prevented from attending.

In case when the general manager is prevented from attending too, the deputy general manager for banking system supervision shall replace the President of the Council.

Article 19

General manager is an executive officer of the Central Bank in charge of daily business operation of the Central Bank.

General manager shall report to the Council, at least once a month, on business operation and activities of the Central Bank, on managing monetary policy, on soundness of the financial system, on money supply, capital and foreign exchange market, including all movements that have or shall have significant influence on management or business operation of the Central Bank, on enforcement of its policies, on the financial system or on the mentioned markets.

In the case that the general manager is absent or prevented from attending, he shall be replaced by deputy general manager for banking system supervision, or if he is prevented too, then by deputy general manager for payment system operation.

Article 20

One deputy general manager shall be appointed for banking system supervision and shall be responsible for granting licenses, regulating and supervision of banks and financial institutions.

In performing his function, the deputy general manager mentioned in paragraph 1 above shall have powers to undertake all necessary measures against a bank and financial institution, including appointment of interim administrator, as well as implementation of the procedure of closing a bank or financial institution.

Article 21

Another deputy general manager shall be appointed for payments system operation and shall be responsible for management, regulation and supervision of payment systems, including functioning of the real time gross settlement of large payments (RTGS).

Article 22

The Central Bank shall have a Chief Economist, as an executive officer who shall manage the statistic and research department, and who shall be responsible for macroeconomic analysis, including monetary, fiscal, financial and balance of payment's analysis of the economy of the Republic.

The Council shall appoint the Chief Economist upon the nomination by President of the Council.

The Chief Economist shall give advice to the President of the Council, Council and executive officers of the Central Bank on macroeconomic and monetary issues that are under competence of

the Central Bank and shall submit monthly reports to the Council on the condition of the economy of the Republic.

Article 23

Member of the Council shall be relieved of duty if:

- 1) he is not fit and proper to be a member of the Council in the sense of Article 15 of this Law;
- 2) he was debtor in a bankruptcy procedure;
- 3) he has been convicted to an unconditional prison term or convicted for an offence which makes him unworthy of position of the Council's member;
- 4) he performs his function of the Council member unprofessionally and unconscientiously;
- 5) he permanently loses his abilities for performing the function of the Council member.

Article 24

The Council may decide that a member of the Council, against whom charges have been brought, cannot perform his function during the course of the proceedings.

Article 25

Member of the Council may submit a written resignation to the Parliament, upon a prior announcement thereof, made at least one month in advance.

Article 26

A vacancy in the Council shall be filled by appointment of a new member of the Council in accordance with provisions of Article 14 of this Law.

Article 27

Member of the Council may not be an officer or an employee in a bank operating in the Republic a year after his term in the Council has ended.

Article 28

The Council shall decide upon the activities from its scope at sessions that shall be held at least once monthly.

The Council may take decisions if there are at least five members of the Council present at the session.

The Council shall make decisions by majority vote of the Council members.

Article 29

The Secretary of the Council shall take minutes of the Council's sessions.

The Council shall appoint the Secretary upon nomination by the President of the Council.

The Secretary shall make the minutes available to the President of the Republic, to the Parliament and the Government for their review, after the minutes have been adopted by the Council on its first next session.

VI PROPERTY, INCOME AND EXPENSES OF THE CENTRAL BANK

Article 51

The Central Bank shall use the property for performing its activities determined by this Law.

The property in the sense of the paragraph 1 of this article consists of ownership rights related to: immovable and movable items, founding capital and other financial funds, precious metals and other titles.

The Council shall enact more detailed regulations for the acquisition, use and disposal of property.

Article 52

The founding capital of the Central Bank shall be five million DEM.

In a period within six months as of the payment of this amount of capital, capital and amounts at the accounts of general reserves of the Central Bank must be equal to at least five percent of the total

amount of credit balances of all accounts, that are presented as liabilities in the balance sheet at the end of the financial year. The level of this aggregate minimal amount of funds must be at least five percent (5%) of the total amount of such credit balances. The capital may be increased for an amount determined by the Central Bank and approved by the Government. The capital of the Central Bank may not be pledged, or burdened in any other way.

Article 53

The Government shall allocate from available funds, within a month as of the day of publishing the balance sheet of the Central Bank, amounts necessary to cover the shown deficits, whenever:

- 1) a monthly interim balance sheet of the Central Bank shows that the value of its property has fallen below the total amount of its liabilities and unimpaired founding capital, or
- 2) the amount of net income for any financial year is not sufficient to increase amount of founding capital and general reserves of the Central Bank that is equivalent to five percent (5%) of the total amount of credit balance of all accounts kept by the Central Bank, presented in the balance sheet of the Central Bank as liabilities at the end of a specific financial year.

Article 54

Net income or net loss of the Central Bank shall be calculated for each financial year in accordance with accepted international accounting standards.

Net income shall be allocated each year to the account of general reserves, until amounts of founding capital and general reserves get even with the amount specified in Article 52, paragraph 2, above. The rest of net income represents the income of the budget of the Republic and it shall be transferred to the account of the Ministry of Finance that has been established with the Central Bank.

Net loss shall be covered from general reserves or at the expense of the founding capital, in that order.

Article 55

Beside income that the Central Bank earns on the basis of Article 51 above, it shall also earn income from:

- 1) fees for bank licenses;
- 2) fees that banks pay for examination of their business operations; and
- 3) other fees for performing activities from the Central Bank's scope.

The decision on the amount of fees specified in paragraph 1 above shall be made by the Council.

Article 56

Material expenses of the Central Bank shall be determined by annual financial plan adopted by the Council and furnished to the Government only for information only.

Article 57

The funds for "Fixed Assets Fund", "Special Reserves Fund", "Non-Operating Assets Fund" and "Employee's Salaries Fund" in the Central Bank shall be anticipated by the financial plan and finally determined in annual financial statement.

The Council shall decide, upon the proposal of president of the Council, on the use of special reserve funds during the year.

Article 58

The financial year of the Central Bank starts on the first day of January and ends on the last day of December.

Article 59

Annual financial statement of the Central Bank for previous year shall be prepared in accordance with accepted international accounting standards.

VII CONTROL OVER THE CENTRAL BANK'S BUSINESS OPERATIONS

Article 61

The Central Bank shall have a General Inspector, who shall be appointed by the Council upon the proposal of the General Manager, for a six-year period, with a possibility for another term.

The General Inspector shall report to the Council.

The General Inspector may resign, but under at least 2-month written notice to the Council.

The General Manager shall be relieved of duty under the conditions prescribed by Article 23 above relating to relieving of duty members of the Council.

Article 62

Duties of the General Inspector are:

- 1) assessment of the quality of existing and proposed management systems and systems of financial control and testing the functioning of those systems, as well as the reliability and protection of information and transactions;
- 2) establishment and maintenance of adequate procedures and instruments for risk control in the Central Bank;
- 3) performing periodical control of administration and business operations of the Central Bank, in the manner that should ensure strict implementation of the Law and regulations related to the Central Bank;
- 4) performing control and submitting reports and recommendations to the Council about accounts and reports as well as budgetary and accounting procedures and controls of the Central Bank, and
- 5) reviewing periodical financial records and adequate documents of the Central Bank.

VIII ORGANIZATION OF WORK AND STATUS OF EMPLOYEES IN THE CENTRAL BANK

Article 63

The fundamentals of organization of work and business operations, as well as the rights, obligations and responsibilities of employees in the Central Bank shall be regulated in more details in the Bylaws.

Article 64

The General Manager shall perform hiring for the Central Bank in accordance with the general regulations.

Employees of the Central Bank may, exceptionally, subject to the approval of the General Manager, work in another legal entity beyond the working hours, if it is not contrary to interests of the Central Bank.

Article 64a

While holding office, members of the Council and Inspector General shall not occupy any other office or employment, duty or function, except upon special approval of the Council.

While holding office, no member of the Council nor any employee of the Central Bank shall accept any gift or credit or other kinds of benefits from any persons with whom he has business or financial interests, if the acceptance thereof would result in diminishment of his impartial devotion to his duties.

Article 65

Employees of the Central Bank may not be guided by their political affiliations in the performance of their duties.

Article 66

Members of the Council and employees of the Central Bank are obliged not to disclose business and official secret regardless of the manner it has come to their knowledge.

The confidentiality obligation stipulated in paragraph 1 above shall last for five years after the function, i.e., the employment with the Central Bank has been ended.

LAW ON STATE AUDIT INSTITUTION

"Official Gazette RCG," No. 28/04, 27/06, 78/06, 17/07

**Status
Article 2**

The Institution is an autonomous and independent state authority.
No one shall influence a Member of the Senate of the Institution in performing his/her duties as provided by this Law.

**Senate
Article 31**

The Senate shall have three members.
A Member of the Senate shall be the Head of one sector.

**Requirements for Appointment of a Member of the Senate
Article 32**

Only a, lawyer or an economist of Montenegrin citizenship may be appointed as a Member of the Senate, who, in addition to the general requirements determined by the law of the Republic, meets one of the following requirements:

- 1) has passed the bar exam and has at least 10 years of work experience in the legal profession;
- 2) has passed the professional exam for auditors or accountants and has at least 10 years of work experience.

Two Members of the Senate shall be lawyers and one Member of the Senate shall be an economist.

**Appointment of the Members of Senate and the President
Article 33**

Members of the Senate shall be appointed and relieved from duty by the Parliament on recommendations of the Parliament's competent working body.

The Parliament shall appoint the President of the Senate from among the Members of the Senate for a period of nine years. The same person cannot be reappointed as President.

**Permanency of Office
Article 34**

The office of Member of the Senate shall be permanent.

The office of Member of the Senate shall be terminated upon his/her request or when he/she meets the legal requirements for retirement or if he/she is sentenced to imprisonment.

The Member of the Senate shall be relieved from office if he/she is sentenced for an offence which makes him/her unworthy of holding office, or if he/she exercises the office in an unprofessional or unscrupulous manner or if he/she permanently loses the ability to exercise office.

The Senate shall inform the Parliament of circumstances described in paragraph 2 and 3 of this Article.

**Incompatibility of Office
Article 35**

A Member of the Senate may not be a Member of the Parliament or hold any other public office, or be engaged in any other professional activity.

Article 36

A Member of the Senate may not be a member of any body of a political party.

**Decision-Making in the Senate
Article 37**

The Senate shall decide by majority of votes of the total number of all Members of the Senate.

The Competencies of the Senate

Article 38

The Senate shall:

- 1) adopt the Annual Report and special reports;
- 2) adopt the annual audit plan;
- 3) make decisions in cases where no decision can be made in accordance with Article 44, paragraph 3 of this Law;
- 4) adopt instructions on the method of work (audit standards);
- 5) review, upon request of an Auditing Board, the Senate's previously adopted decisions and decisions adopted by the Auditing Board;
- 6) adopt the Rules of Procedure of the Institution;
- 7) adopt the Act on Internal Organization and Systematisation;
- 8) adopt the financial statement of the Institution;
- 9) carry out other activities determined by this Law and by general acts of the Institution.

The Rules of Procedure referred to in paragraph 1, item 6 of this Article shall regulate in detail the work method, carrying out of activities and decision-making.

Acts from paragraph 1 item 4 and 6 of this Article shall be published in the "Official Gazette of the Republic of Montenegro".

President of the Senate

Article 39

The President of the Senate shall chair the Senate and represent and act for the Institution. In the event of his/her absence or impediment, the eldest member of the Senate shall take his/her place.

Schedule of Duties

Article 40

The schedule of duties within the Institution shall be determined by the President in agreement with the Members of the Senate.

Prohibition of Membership in Management Boards and Other Exclusionary Matters

Article 41

A Member of the Senate may not be a member of the management board of a company or any other legal entity.

A Member of the Senate may not participate in decision making or activities provided in this Law in cases where he/she has any family member directly involved in this matter.

Should there be reasons which lead or may lead to questioning the objectivity or impartiality of a Member of the Senate, the Member's exclusion from the decision-making shall be determined by the Senate.

A Member of the Senate shall inform the President of the Senate of circumstances described in paragraph 2 and 3 of this Article.

Obligation to Keep Secrets

Article 42

Members of the Senate and employees of the Institution have the obligation to keep business and other secrets regardless of the manner in which they learnt about them.

Secretary of the Institution

Article 43

The Institution shall have a Secretary who is in charge of providing services for administration and support.

The Secretary shall be appointed and dismissed by the Senate. The Secretary shall be appointed for an indefinite period by the Senate, based on a public announcement.

The Secretary shall be a lawyer or an economist, who has passed the official exam for public administration and has at least five years of work experience.

The Secretary shall be accountable for his/her work to the Senate.

State Auditors

Article 45

The audit is performed by State Auditors (hereinafter referred to as: the Auditors).

The Auditor is employed on the basis of public announcement.

An Auditor may be a person, who in addition to the general conditions provided by the law of the Republic, meets the following requirements: university degree, minimum of five years of expert work experience and passing of the State Auditors Exam.

The exam for state auditors shall be passed on the basis of a program which shall be adopted by the ministry in charge of public administration, following the proposition of the Senate.

The provisions of Article 41 of this Law relating to Members of the Senate shall be applied accordingly to the Auditors. The decision on exemption from the audit procedure shall be made by the Auditing Board.

Officers and Employees

Article 47

Administrative and expert work as well as other tasks of the Institution shall be carried out by officers and other employees.

Article 48

More detailed requirements for employment shall be provided in the Act on Internal Organization and Systematisation.

Rights, Duties and Disciplinary Responsibilities of the Employees

Article 49

The provisions of the law regulating the position of state officers and employees shall be accordingly applied to the rights, duties and disciplinary responsibilities of the employees.

V FINANCING

Article 51

The funds for the activities of the Institution shall be provided in the budget of the Republic.

The request for allocation of budget funds to the Institution shall be submitted by the working body of the Parliament in charge of financial activities, upon request of the Institution.

LAW ON SECURITIES

"Official Gazette RCG," No. 59/00, 10/01, 43/05, 28/06

Establishment and Status of the Commission

Article 7

The Commission shall be an organization of the Republic of Montenegro, with the status of a legal entity, established for the purpose of regulating and supervising the issuance and trade in securities.

The headquarters of the Commission shall be in Podgorica.

In performance of the activities determined by law, the Commission shall be independent and autonomous and shall be responsible for its work to the Parliament of the Republic of Montenegro (hereinafter: the Parliament).

Decision-Making of the Commission

Article 10

The provisions of the law regulating general administrative procedure shall apply to the procedures before the Commission, unless otherwise determined by this Law.

The Commission shall decide in the form of a decision regarding the issues referred to in Article 8, paragraph 1, items 3, 4, 5, 6, 7, 11 and 16, of this Law.

The Commission shall be obliged to make a decision, at the request of the party, within 30 days from the day of submitting a properly made application, i.e. from the day when the Commission considers the submitted documents as complete.

The decision referred to in paragraph 1 of this Article shall be final.

A party may initiate an administrative dispute before the competent court against the decision of the Commission.

Decisions on approving and canceling public offering of securities, and on issuing, suspending and revoking licenses shall be published in the Official Gazette of the Republic of Montenegro.

Composition and Appointment of Members of the Commission

Article 11

The Commission shall consist of 5 members, as follows: president, deputy president, and three members. The Commission shall be appointed by the Parliament, at the proposal of the Government of the Republic of Montenegro (hereinafter: the Government).

A member of the Commission may be a person having a university degree, work experience of at least 5 years in the activities in the area of law, monetary, economic or financial system and worthy to be a member of the Commission.

The following persons cannot be members of the Commission:

- 1) Persons elected, appointed or employed in state bodies;
- 2) Members of guiding and managing boards, executive bodies and secretaries of the securities issuers;
- 3) Shareholders and employees of the Securities Exchange, authorized participant on the securities market, and the Central Depository Agency;
- 4) Persons in matrimony or kinship either in an ascendant or collateral line, up to the third degree.

President, deputy president, and at least one member of the Commission shall be fulltime paid members, and cannot be engaged in another business, except for the activities in the area of science, research and lecturing.

The president of the Commission shall manage the work of the Commission and present and represent the Commission.

When the position of president is vacant, or when the president is prevented from performing his function due to illness or other circumstances, the deputy president shall perform the activities of the president.

Members of the Commission must behave so as not to discredit their reputation or reputation of the Commission, and so as not to jeopardize their autonomy and independence in decision-making, and the independence of the Commission.

Members of the Commission must not use their work in the Commission and reputation of the Commission in pursuing their own interests.

Term of Office of Members of the Commission

Article 12

Members of the Commission shall be appointed for the term of five years and may be re-appointed.

A member of the Commission shall be dismissed, if:

- 1) he is performing the function of a member of the Commission in an unconscientious and inefficient manner;
- 2) he permanently loses the capacity to perform the function of a member of the Commission;
- 3) he is convicted with an unconditional imprisonment sentence or of an act that makes him unworthy to perform the function of a member of the Commission;
- 4) he is absent from three consecutive meetings of the Commission without its approval.

A member of the Commission may submit a written resignation to the Parliament.

Conflict of Interest Article 15

Members of the Commission and employees of the expert body of the Commission shall be obliged to comply with the highest professional standards and act in accordance with the Code of Ethics to be established by the Commission, in order to avoid a possible conflict of interest.

If the president, deputy president or member of the Commission is connected in any way with the matter subject to decision-making, or is directly or indirectly interested in such a matter, he shall be obliged to state his interest at the commencement of the meeting of the Commission, and shall not, unless the Commission decides otherwise, take part in consideration, discussion, or voting on any issue regarding this matter.

The Commission shall separately record acting in accordance with paragraph 2 of this Article and acting contrary to the Code of Ethics, and such records shall be available to the interested persons for inspection.

Expert Body Article 16

The Commission shall establish an expert body for the performance of professional, administrative and material-financial activities.

The Commission shall appoint a secretary who will manage the expert body.

General regulations on labour relations shall apply to employees in the expert body of the Commission.

The Commission shall separately record actions of employees of the expert body of the Commission contrary to the Code of Ethics, and those records shall be made available to the interested parties for inspection.

Obligation to Keep a Secret Article 18

Members or former members, and employees or former employees of the Commission, shall be obliged to keep information obtained during operations of the Commission, or otherwise, that are considered, in accordance with regulations, to be official secret.

Prohibition referred to in paragraph 1 of this Article shall cease to be valid once this information ceases to be official secret, in accordance with the criteria established by an act of the Commission.

The persons referred to in paragraph 1 of this Article must not give advice related to investment in securities or give opinion on favourable and unfavorable purchase or sale of securities.

Prohibitions referred to in paragraph 3 of this Article shall cease to be valid after termination of the performance of function or activities in the Commission.

The persons referred to in paragraph 1 of this Article shall be obliged to keep insider information until the information loses its insider status.

Financing Article 19

Funds for the work of the Commission shall be provided from:

- 1) fees paid along with submission of applications to the Commission;
- 2) fees paid for registration and transfer of securities with the entity authorized for registration of securities.

The Commission shall determine the amount of fees referred to in paragraph 1 of this Article.

The Commission may also be funded from other sources.

Audit Article 22

An internationally recognized independent auditor appointed by the Commission shall audit accounts, records and financial statements of the Commission.

The auditor shall prepare, in accordance with the International Standards of Auditing, an audit report and submit it to the Commission.

In his report, the auditor shall do the following:

- 1) Evaluate whether the income statement of the Commission for a certain year gives a true and objective view of the annual revenues and expenditures of the Commission, and give his opinion;
- 2) Evaluate whether the balance sheet of the Commission for a certain year gives a true and objective view of the financial condition of operations of the Commission at the end of the year, and give his opinion.

The auditor shall have the right to access all registries, accounts, and other records of the Commission, and shall be entitled to request from persons in the Commission the information or explanation he considers as necessary for the performance of his auditing activities.

LAW ON ENERGY

"Official Gazette RCG," No. 39/03

CHAPTER IV. THE ENERGY REGULATORY AGENCY

Establishment and Objectives

Article 6

1. The Energy Regulatory Agency is hereby established as an independent, functionally independent and non-profit organization that shall carry out its public authorizations in accordance with this Law. The Agency is a legal entity and it shall be registered in a relevant register of a competent body.
2. The Agency shall conduct its business under the name of the "Energy Regulatory Agency" ("Agency"). The head office of the Agency is in Podgorica.
3. The objectives of the Agency are to ensure:
 - a) that the principles, policies and programs established and promulgated by the Government under this Law are implemented and enforced based upon principles of objectivity, transparency, and non-discrimination;
 - b) a reliable, safe and environmentally sound Supply of Energy to the Tariff Customers of the Republic of Montenegro at fair prices;
 - c) that Energy Undertakings may recover their costs, including a reasonable rate of return on their investment;
 - d) the balancing of the interests of Tariff Customers and Energy Undertakings;
 - e) promotion of safety, competency and efficiency on the part of Energy Undertakings;
 - f) carry out other work in accordance with this law.
4. The bodies of the Agency are:
 - a) the Board of the Agency ("the Board");
 - b) the Agency's Director;
5. The Agency shall deliver a charter to the Government for its approval.

Composition

Article 7

1. The Board shall consist of three (3) members that shall, by majority vote, make all decisions necessary to carry out the duties and responsibilities of the Agency pursuant to this Law and Secondary Legislation.
2. The Charter of the Agency shall define:
 - a) the rights and duties of the Board;
 - b) the internal organization of the Agency; and
 - c) the process to be employed to select a Board and a Director.
3. The initial Director and the initial Deputy Director shall be appointed not later than ninety (90) days after the entry into force of this Law.
4. The Director shall represent the Agency in accordance with the Law and the charter, and Secondary Legislation.

5. Each position of Member, Director and Deputy Director shall be advertised, and for the position of employees shall be by way of an announcement by way of the public communication systems for a period of not less than thirty (30) days and eight (8) days respectively. The Ministry authorized to conduct Energy Sector activities shall issue a public advertisement for the initial appointments.
6. The Members of the Board, Director and Deputy Director and employees of the Agency shall exercise their employment rights and obligations in accordance with applicable labor regulations.

Selection Commission

Article 8

1. Members of the Board, and the Director and Deputy Director shall be selected by a Selection Commission ("the Commission") established by the Government pursuant to the terms of this Law.
2. The Commission shall be comprised of nominees that shall be nominated by:
 - the Government – one representative;
 - the Montenegrin Academy for Science and Arts – one representative;
 - two (2) nominees from the University of Montenegro, one of whom shall be nominated by the Electro-Technical Faculty; and
 - the Chamber of Commerce of Montenegro – one representative.
3. Nominees to the Commission shall not be:
 - state officials or Government appointees, with the exception of subparagraphs (1) and (3); or
 - employees of or contracting parties with any Energy Undertaking in Montenegro.
4. Not later than thirty (30) days after the entry into force of this Law, the members of the Commission shall be appointed pursuant to the terms of this Law. The Government shall publish the names of the members of the Commission in the Official Gazette of Montenegro.
5. The Commission's decisions shall be taken by a majority vote.
6. Not later than fifteen (15) days after the conclusion of the advertisement described in Article 7 (5), the Commission shall submit a list of nominations for members of the Board to the Government for its approval:
 - (a) three (3) primary candidates; and
 - (b) other candidates fulfilling the conditions described in the public advertisement, in rank order, as determined by the Commission.
7. The Government shall select three (3) candidates for the members of the Board from the Commission's list of primary candidates.
8. In the event that the Government does not select three (3) members of the Board from the list of primary candidates described in sub-paragraph (6)(a), the Government shall select the remaining candidates for the members of the Board from the list of candidates described in paragraph (6)(b), considering them in the rank order in which they were proposed.
9. The Government shall submit to the Parliament of Montenegro ("Parliament") for its final approval its recommended list of members for the members of the Board.
10. The Parliament's decision on the selection of the candidates shall be published in the Official Gazette of Montenegro.
11. The Commission shall submit a list of potential candidates for the position of initial Director and initial Deputy Director of the Agency to the Government for its approval:
 - a) one (1) candidate each for the positions described in this paragraph; and
 - b) other candidates fulfilling the conditions of the public advertisement for the positions of Director and Deputy Director in rank order as determined by the Commission.
12. The Government shall appoint one (1) person to be initial Director and one (1) person to be initial Deputy Director from the nominations submitted pursuant to the terms of paragraph (11).
13. In the event that the Government fails to appoint one (1) person to be Director and one (1) person to be Deputy Director from the list of primary candidates described in sub-paragraph (11)(a), the Government shall appoint the initial Director and the initial Deputy Director from the list of candidates described in paragraph (11)(b), considering them in the rank order in which they were proposed.

14. The Government's decision on appointments to the positions of initial Director and initial Deputy Director of the Agency shall be published in the Official Gazette of Montenegro.
15. Upon the prior consent of the Government, and pursuant to procedures that are in accordance with this Law and the charter of the Agency, the Board shall make each subsequent appointment to the position of Director and Deputy Director. The decision on the appointment shall be published in the Official Gazette of Montenegro.

Terms **Article 9**

1. Terms for the Board Members shall be for four (4) years, and upon expiration of such term all members of the Board shall have the right to be reappointed for one additional term of four (4) years.
2. Notwithstanding with the paragraph (1), the terms for initial members of the Board shall be:
 - a) the term for one (1) member shall be for four (4) years;
 - b) the term for one (1) member shall be for three (3) years; and
 - c) the term for one (1) member shall be for two (2) years.
3. The term of the initial members of the Board shall be determined by drawing lots in presence of the President of the Parliament or his or her appointee.
4. The term of initial Director and initial Deputy Director shall be four (4) years.
5. Each subsequent Director and Deputy Director shall not be appointed for more than two (2) four (4) year terms.

Conditions for the Conduct of Business **Article 10**

1. Candidates for the positions of Member, Director and Deputy Director shall fulfill the following conditions:
 - a) for a Member:
 - (i) be a citizen and permanent resident of Montenegro;
 - (ii) hold an advanced university degree engineering, law or economics;
 - (iii) have a minimum of ten (10) years experience in his or her chosen field;
 - (iv) be free from any of the burdens to the carrying out of his or her work, as described in Article 15 of this Law.
 - b) for the Director:
 - (i) be a citizen and permanent resident of Montenegro;
 - (v) hold an advanced university degree engineering, law or economics;
 - (ii) have a minimum of seven (7) years experience in his or her chosen field
 - (iii) be free from any of the burdens to the carrying out of his or her work, as described in Article 15 of this Law.
 - c) for the Deputy Director:
 - (i) be a citizen and permanent resident of Montenegro;
 - (ii) hold a university degree in engineering, law or economics;
 - (iii) have a minimum of five (5) years experience in his or her chosen field;
 - (iv) be free from any of the burdens to the carrying out of his or her work, as described in Article 15 of this Law.
2. The Members of the Board, Director and Deputy Director can not be at the same time:
 - a) members of Parliament;
 - b) members of any city council;
 - c) appointed and assigned persons in the Government.
3. No person shall be selected to be a member of the Board of the Agency, or serve as Director or Deputy Director if such person:
 - a) has been convicted of a crime that is punishable by imprisonment of a minimum six (6) months or more;

- b) has been declared bankrupt or insolvent;
- c) holds personal, spousal or direct family interest up to the third (3d) order of heirs in a License awarded under the provisions of this Law;
- d) is a major stakeholder or shareholder, current member of a managing body, current employee or person under contract that has a legal interest in any Energy Undertaking in Montenegro.

Discharge Article 11

1. A member of the Board, the Director and the Deputy Director may be removed prior to the expiration of his or her office by the body that appointed such member of the Board, Director or Deputy Director if such person:
 - a) is incapable of performing his or her duties for a continuous period of more than three (3) months;
 - b) ceases to be a resident of Montenegro;
 - c) has misrepresented his or her qualifications;
 - d) has been convicted of a crime punishable by imprisonment;
 - e) has submitted a written resignation;
 - f) is found to have a conflict of interest;
 - g) has been absent and unexcused from three (3) consecutive official and ordinary meetings of the Agency;
 - h) has been excluded or suspended from the exercise of his profession on the basis of the Agency's Code of Conduct;
 - i) has provided false financial statements described in Article 15 (1).
2. In the event that a member of the Board resigns or wishes to vacate the position of chair, a new nominee for the position of chair shall be appointed in accordance with the charter of the Agency.

Work of the Agency Article 12

1. The Agency shall supervise all Energy Undertakings and shall be entitled to request information or to inform itself on matters it deems relevant for the purpose of ensuring that Energy Undertakings comply with their obligations under this Law.
2. The Agency shall have the following powers, functions and responsibilities:
 - a) to make and issue all rules and regulations required to:
 - (i) carry out its obligations under this Law; and
 - (ii) to carry out and enforce the energy policies;
 - (iii) revision and approval of market rules; technical codes, terms and conditions for connection and access to networks;
 - b) to issue Licenses to conduct activities and to interconnect Energy Sector facilities, networks and equipment for the Generation, Transmission, Distribution, Supply and sale of Energy;
 - c) to issue Authorizations for the construction of new or the modification of existing energy facilities;
 - d) to set Tariffs and prices pursuant to the terms of this Law and Secondary Legislation;
 - e) to issue orders to Energy Undertakings pursuant to this Law and Secondary Legislation;
 - f) to modify, suspend, revoke, monitor, control and enforce compliance with Licenses issued pursuant to this Law and Secondary Legislation issued pursuant thereto.
 - g) to establish, or amend rules and regulations:
 - (i) that define the Energy market structure;
 - (ii) for market operation;
 - (iii) for the unbundling of Energy Undertakings;
 - (iv) for the rights and obligations of all Energy Undertakings;
 - h) to establish rules and regulations related to:
 - (i) public hearings and findings conducted by the Agency in accordance with the terms of this Law and Secondary Legislation;

- (ii) monitoring of Energy Undertakings;
 - (iii) safety of Energy facilities, personnel and the public, generally, and (iv) compliance of Energy Undertakings with environmental regulations;
 - i) to ensure consumer protection that provides for:
 - (i) fair and non-discriminatory treatment of Tariff Customers and Contract Customers by Energy Undertakings;
 - (ii) the delivery of high quality service by Energy Undertakings; and
 - (iii) the establishment of mechanisms that will encourage public participation in the development of rules and policies that affect Tariff Customers;
 - j) to promote competitive conduct in the Energy Sector, including:
 - (i) fair and non-discriminatory transit of Energy; and
 - (ii) additional sources of Energy for Generation, improvement of the possibilities for the Transmission, Distribution and Supply;
 - k) to establish Secondary Legislation related to:
 - (i) requirements pursuant to which all books, accounts, papers and records shall be kept by Energy Undertakings;
 - (ii) in accordance with applicable laws, Secondary Legislation, treaties and other internationally recognized norms, to resolve disputes and/or hear complaints among or involving:
 - (A) Tariff Customers and Energy Undertakings; or
 - (B) Energy Undertakings;
 - l) pursuant to its powers under this Law and Secondary Legislation, to ensure that tendering procedures related to the construction of new generating capacity comply with applicable Law.
 - m) establish rules and regulations related to the transportation, storage, distribution, sale and delivery of Petroleum Products;
 - n) pursuant to the terms of this Law and Secondary Legislation, publish:
 - (i) annual reports required by this Law; and
 - (ii) other reports and findings;
 - o) subject to the requirements of this Law related to the publication of confidential information, to ensure that information relating to the Energy Sector is made publicly available;
 - p) to hire consultants and experts to assist the Agency in its activities; and
 - q) to join international associations related to the Energy Sector.
3. The Agency has the right, at any time, to examine, inquire into, and determine, the extent, condition and value of the whole or any portion of the property and assets, of any Energy undertaking that is providing services at prices that are regulated by the Agency pursuant to Article 18. In determining the value of such property and assets, the Agency shall ensure that the valuation methods used, and the determination of base annual and accrued depreciation, comply with generally accepted international valuation and accounting standards.
4. The Agency shall be entitled to conduct its own inspections of Energy Undertakings, pursuant to this Law and Secondary Legislation established pursuant thereto.

Funding Article 13

1. The Government shall provide the initial funding required to establish the Agency. Thereafter the Agency shall be funded through fees it shall establish pursuant to this law and other Secondary Legislation.
2. Not later than the thirtieth (30th) day of September in each year, the Agency shall approve its detailed budget for the subsequent year. The Agency shall deliver the budget described in this paragraph to the Government and make it available to the public pursuant to Secondary Legislation.
3. Pursuant to Secondary Legislation, each year the Agency shall publish a schedule of fees that shall be due from each Energy Undertaking. The fees described in this paragraph shall be designed to cover the estimated expenses of the Agency during the year.

4. The fees described in paragraph (3) shall be paid by the Energy Undertakings from which such funds are due into an account established by the Agency for its exclusive use. In the event that funds in the account described in this paragraph are not fully expended during the fiscal year in which they are collected, the Agency shall carry such funds forward to the subsequent year, and the schedule of fees published for such subsequent year shall be reduced accordingly.

Conflict of Interest Article 15

1. Not later than at the time of appointment, and on an annual basis during their terms, members of the Board, the Director and Deputy Director shall file personal income and asset disclosure statements that shall reflect all interests that are held in any Energy Undertakings.
2. Neither members of the Board, the Director, Deputy Director the employees of the Agency, nor members of the household of such persons shall have the following relationship to any Energy Undertaking:
 - a) presidents;
 - b) managers;
 - c) members of boards of directors;
 - d) owners of a material interest, financial or otherwise;
 - e) majority shareholders;
 - f) major holder of any funds;
 - g) major creditors;
 - h) employees; or
 - i) contractors.
3. Nothing in this article shall be construed to prevent any member of the Board, the Director, Deputy Director or any employee of the Agency from being a Tariff Customer of any Energy Undertaking, provided, however, that such persons shall not accept free or discounted service from any such Energy Undertaking at other than the rates and conditions applicable to any other Tariff Customer or Contract Customer group pursuant to this Law or Secondary Legislation.
4. No member of the Board, Director, Deputy Director or any employee of the Agency shall accept paid employment, nor shall such person be compensated in any way by any Energy Undertaking during such person's term and for a period of not less than one (1) year after the expiration of such person's term, or dismissal from such person's position.
5. No member of the board of directors of an Energy Undertaking shall be a member of the board of directors of any Contract Customer or Tariff Customer of such Energy Undertaking. If its determined that the person is a member of the Board is either a Tariff Customer or Contract Customer, such person shall be required to resign from such position.

LAW ON INSURANCE

"Official Gazette RCG," No. 78/06, 19/07

I. BASIC PROVISIONS Scope of the Law Article 1

This Law shall regulate the conditions and manners of doing insurance activities as well as supervision over insurance activities.

Insurance Business Article 3

Insurance business shall cover the activities of insurance, mutual insurance and reinsurance and activities directly related to insurance business.

Insurance business shall stand for concluding and executing contracts on insurance and providing measures for prevention and control of risks that may jeopardize the insured property and persons.

Mutual insurance business shall stand for concluding and executing contracts on insurance between few insurance companies that agreed about mutual cover and risk's allocations.

Reinsurance business shall stand for concluding and executing contracts on reinsurance of the insured surplus of risk above the reinsurance limit of the insurance company at the reinsurance company.

Activities directly related to insurance business are mediation and representation in the insurance business, defining and estimation of risks and damages, mediation in order to sell, sale of insured damaged things and offering other intellectual or technical services related to insurance business.

Supervising Insurance Business

Article 7

Insurance business's supervision shall be performed by the regulatory authority.

Statute of Agencies

Article 178

The Agency has a statute.

Statute of agencies include in particular:

- 1) location and activities of Agency;
- 2) internal organization of the Agency;
- 3) the way of work, decision-making, and duties of the organs of the Agency;
- 4) detailed procedures for deciding, especially connected with physical representatives and legal persons for the work of societies of insurance, advocates in insurance, mediators, affiliations of foreign societies and agencies for providing other services of insurance;
- 5) the method of announcing the annual financial data.

Agreement (approval) of the Statute of the Agency is given by Parliament.

Composition and Election of the Council of the Agency

Article 180

The Council of the Agency has a president and two members.

The president and members of the Council of the Agency is appointed and dismissed by Parliament.

The president and one member of the Council of the Agency is appointed at the proposal of the working body of Parliament responsible for appointments, and one member at the proposal of Government.

The president and members of the Council of the Agency are appointed for a period of five years and can be re-elected.

The president and members of the Council of the Agency for their work are responsible to Parliament.

Conditions for Appointment of President and Members of the Agency's Council

Article 181

President or members of the Council of the Agency shall fulfill the following conditions:

- 1) to be the citizen of the Republic of Montenegro;
- 2) to possess BA;
- 3) to have professional experience for at least three years in the areas of insurance, law or economy;
- 4) for a period of last three years to not have been a member of the management board in a legal entity that was under the process of liquidation.

Conflict of Interests

Article 182

The following persons shall not be appointed for members of the Agency's Council:

- 1) members of Parliament and councilors;
- 2) elected, appointed and set for posts in the Government;
- 3) officials of political parties (presidents of political parties, members of the presidency, their deputies, members of executive and main committees, as well as other parties' officials);

- 4) a share holder, member of management board, employee or the employed on contractual basis, a person having interest in legal entities in insurance business, in a way that the membership of such a person could lead to the conflict of interest in the Agency's Council;
- 5) a person legally sentenced to prison for a criminal offence against official duties, corruption, fraud or thievery more than six months, in the period of legal consequences that still last;
- 6) spouse of a person referred to items 1 to 4 hereof or a kin in a direct (first) line regardless of a degree kinship to the second line of kinship.

Candidate for the membership in the Council of the Agency shall submit a written statement to the proposer that there are no obstacles, predicted by the law, for the appointment.

Fees **Article 183**

President and members of the Agency's Council shall work on a honorary basis and shall be entitled to money remuneration that shall be determined in the Agency's Statute.

Dismissal of President and Members of the Agency's Council **Article 184**

President or member of the Agency's Council may be dismissed before the expiry of his/her mandate:

- 1) at personal request;
- 2) due to permanent loss of working skills needed for exercising the function;
- 3) in case of circumstances referred to in Article 192 hereof;
- 4) if he/she violates the rule of keeping confidential data.

Competence of Council of the Agency **Article 185**

Council of the Agency shall:

- 1) decide on licenses, agreements, authorizations and others issues falling under competence of the Agency;
- 2) pass the regulations and other acts prescribed by the law;
- 3) pass the Statute of the Agency;
- 4) define the annual report on insurance market;
- 5) determine annual working plan and annual report on Agency's work;
- 6) determine financial plan and annual financial accounts;
- 7) elect and recall the auditor for the annual financial account of the Agency;
- 8) appoint the liquidation board and liquidation (bankruptcy) manager;
- 9) resolve upon objection given on minutes about the performed supervision as well as on appeals and applications submitted by policy holders;
- 10) perform other duties prescribed by the law and the statute.

Decision-Making in the Agency's Council **Article 186**

The Agency's Council shall work and decide on the session at which more than half of the members of the Council are present, unless certain issues are not regulated otherwise according to the law. The Agency's Council shall decide by majority of votes out of total number of members of the Council. In case of equal number of votes, the deciding vote shall be the one of the president of the Agency's Council. Regulations passed by the Agency shall be published in the "Official Gazette of the Republic of Montenegro".

Director of the Agency **Article 187**

Director of the Agency shall be appointed by the Agency's Council, based on public vacancy notice, for a period of four years.

Apart for the general conditions, candidate for the director of the Agency shall have to meet the conditions for appointment of members of the Agency referred to in Article 182 hereof.

Director of the Agency shall not be appointed unless he/she meets the conditions for the appointment for members of the Agency's Council as according to this law, nor if he/she doesn't have residence in the Republic.

Director's Responsibilities **Article 188**

Director of the Agency shall:

- 1) represent and act on behalf of the Agency;
- 2) organize and manage the work of the Agency;
- 3) execute decisions made by the Agency's Council;
- 4) propose work plans, report on work and business, periodical and annual accounts of the Agency to the Agency's Council;
- 5) perform other duties prescribed by the law and the Agency's Statute.

Keeping Confidential Data **Article 189**

President and members of the Agency's Council, director and the employees in the Agency shall keep confidential data about persons that the Agency supervises as well as other data as according to the law and the Agency's Statute, except the data that based on the law shall be published and made available to interested persons.

Obligation referred to in paragraph 1 hereof shall last three years after the term of office expiry or the work in the Agency.

Resources for the Work of the Agency **Article 190**

Resources for the Agency's work shall be provided from:

- 1) funds prescribed by the law;
- 2) from the resources allocate from the companies referred to in paragraphs 1 and 2 of the Article 4 hereof in amount to 1% of the gross insurance premium;
- 3) from other income sources generated by the Agency in compliance with the law.

Basic Content of the Report on the Agency's Work **Article 192**

Annual report on the Agency's work shall include data about: measures taken by the Agency for the supervision, the issued licenses and agreements, the data on cooperation of the Agency with other supervisory bodies and other issues of significance for the Agency's work.

LAW ON ELECTRONIC COMMUNICATIONS

"Official Gazette CG," No. 50/08

CHAPTER II **AGENCY FOR ELECTRONIC COMMUNICATIONS AND POSTAL SERVICES** **Agency's Work Scope** **Article 6**

Conditions for efficient implementation and improvement of the policy defined in the field of electronic communications shall be provided by the Agency.

Status of the Agency **Article 7**

- (1) The Agency shall have the status of a legal entity, with public competences, in accordance with the Law.
- (2) The Agency operates under the name of The Agency for Electronic Communications and Postal Services.

- (3) The seat of the Agency is in Podgorica
- (4) The Agency is entered in the Central Register of the Commercial Court.
- (5) The Agency is functionally independent of the legal and physical entities that provide electronic communications networks, equipment or services.
- (6) Activities of the Agency are public.
- (7) Statute of the Agency shall more closely define internal organization, competences and scope of activities of bodies and expert services of the Agency, adoption of enactments and other issues of importance to the activities of the Agency, defined in this Law and other laws that regulate the field of postal affairs.
- (8) Statute of the Agency shall be approved by the Government.

Responsibility of the Agency Article 8

In the field of electronic communication the Agency:

- 1) Prepares expert foundation for drafting regulatory acts adopted by the Ministry according to this Law
- 2) Adopts procedures and norms for application of the Law and sub-laws
- 3) Prepares expert foundation for drafting regulations adopted by the Ministry according to this Law
- 4) Prepares expert foundation for preparation of the Plan of Frequency Allocation adopted by the Government, and is in charge of monitoring its implementation;
- 5) Adopts Plans on Numeration and Plans on Addressing and is in charge of monitoring its implementation
- 6) Adopts Plan of Frequency Assignment and is in charge of monitoring its implementation
- 7) Performs continuous monitoring of the radio-frequency band
- 8) Coordinates usage of radio-frequencies with the neighbouring countries' administrations
- 9) Stimulates efficient use of electronic communications infrastructure
- 10) Resolves questions and remarks and considers the initiatives and adopts procedures and norms from the field of protection of interests and rights of services users
- 11) Carries out public tender procedures and allocates usage of limited resources on undisriminatory basis (radio-frequencies, numeration i addresses) to electronic communications networks operators and electronic communications services providers
- 12) Issues approvals for frequencies, numeration and addresses
- 13) Keeps registers according to this Law
- 14) Defines, upon the Government's consent, the amount of fees paid to the Agency by the operators of electronic communications networks and services providers, based on the Agency's actual costs and established criteria regulated by the Ministry
- 15) Resolves disputes arising among the participants at the electronic communications market, in cooperation with institutions in charge for protection of competition and users
- 16) Carries out legally regulated procedure for establishment of the Universal Service operator, tracks Universal Service development, administers and operates collection of fees paid by the other operators on that ground
- 17) Organizes and regularly updates electronic data base on the electronic communications sector, providing access to all information not regulatorily restricted regarding confidentiality.
- 18) Performs market surveillance, appoints operators with significant market power and takes protective measures on prevention of the negative effects of the operators' significant market power
- 19) Supervises work of the operators in the electronic communications sector regarding harmonization with the Law, sub-laws and valid technical regulations and standards.
- 20) Performs monitoring over fulfillment of commitments imposed to the operators of electronic communications networks and/or electronic communications services' providers in emergency cases,
- 21) Develops cooperation with regulatory authorities of the other countries within its competence or, given the consent of the Ministry, performs other types of activities in international organizations from the field of electronic communications.

- 22) Performs market and public opinion analyses, carries out open consultative procedures allowing all stakeholders comment the initiatives, measures, decisions and the acts prepared, proposed or adopted.
- 23) Organizes professional conferences regarding certain issues from the field of electronic communications.
- 24) Prepares and submits to the Government for consent work program and financial plan for the next calendar year
- 25) Prepares and submits to the Government Annual Report including basic indicators of the dynamics of the electronic communications market development for the previous year including financial report.
- 26) Conducts other operations according to the Law.

Bodies of the Agency

Article 9

- (1) Bodies of the Agency shall be the Council of the Agency and the Executive Director of the Agency.
- (2) The Council of the Agency shall have the President, who shall be engaged as professional full-time employee of the Agency, and 4 members of the Council, who perform their function on part-time basis and may be engaged as professionals in the Agency. President of the Council shall organize the sessions and preside in the activities of the Council. In his absence, he shall be replaced by a member of the Council authorized by the Council at its first session. Regular sessions shall be held at least once a month, and others as per need. Council shall be responsible to the Government.
- (3) Primary duties of the Council shall be the following: to adopt the Statute of the Agency, adopts procedures, norms and decisions based on regulatory rules, in conformity with this Law (on market power, tariffs, co-location, interconnection, provider of universal service and fees on the basis thereof, public tenders procedure, disputes among entities in the market and similar) adopt Activity Program and Financial Plan of the Agency; adopt Radio Frequency Assignment Plan, adopts Numbering Plans and Addressing Plans; submit the Annual Report to the Government including the financial report.
- (4) The Executive Director shall be engaged as professional full-time employee of the Agency. He shall represent the Agency, and be responsible for lawful performance of activities by the Agency, and manage business operations of professional services of the Agency. Executive Director shall be responsible to the Council of the Agency

Appointments to the Agency's Bodies

Article 10

- (1) After public announcement and upon the Minister's proposal, the President and members of the Council shall be appointed by the Government.
- (2) President of the Council and members of the Council shall be appointed to a term of office of 5 years. The first term of office of two members of the Council, shall be 5 years and of the other two members shall be 3 years. Candidates with better qualifications (length and type of work experience, special education, foreign language skills, etc) shall be appointed to term of office of 5 years.
- (3) The Executive Director shall be appointed by the Council, for a term of office of 4 years. The public recruitment procedure for selection of the Executive Director shall be conducted by the Committee appointed by the President of the Council
- (4) President of the Council, members of the Council and the Executive Director, shall not hold office for more than two consecutive terms.

Criteria for Selection of Agency Bodies

Article 11

- (1) President of the Council, members of the Council and the Executive Director shall hold Montenegrin citizenship and have permanent residence in Montenegro, and they shall, beside the general, fulfill also the following special criteria:

- (1) higher education in the field of telecommunications, electronics, economy and law
- (2) at least 5 years of experience, covering positions in the field of electronic communications.
- (2) President of the Council, members of the Council, Executive Director and members of their families may not hold equity or have other interests in any organization exploiting networks of electronic communications, provide services or equipment.
- (3) Persons from paragraph 1 of this Article may not be Members of Parliament or Deputies, officials or members of political parties' bodies.
- (4) The evidence of fulfillment of terms from paragraphs 2 of this Article shall be the statement by the candidate.

Dismissal of Agency Bodies **Article 12**

- (1) Government shall dismiss the President or a member of the Council before the expiration of their term of office if they:
 - (1) request so in writing,
 - (2) are convicted of a crime, or an act making them discreditable for performing duties,
 - (3) violate provisions of the Law, incompetently or negligently perform duties,
 - (4) by their conduct damage the reputation and independence of the Agency,
 - (5) permanently lose ability to perform duties,
 - (6) act in violation of Article 11, paragraphs 2 and 3, of this Law.
- (2) Council shall dismiss the Executive Director before the expiration of his term of office, if any of the conditions from the paragraph 1 of this Article are met.

Financial Sources, Financial Plan and Program of Activities of the Agency **Article 13**

- (1) Financial sources of the Agency shall be the following:
 - 1) registration fees;
 - 2) fees for performing activities of regulation and supervision of the market
 - 3) fees based on authorization for use of radio frequencies and numbering
 - 4) fees defined in the Laws regulating the field subject to the jurisdiction of the Agency.
- (2) Annual financial plan of the Agency contains projection of total revenues and expenses, including reserves for unforeseen expenditures, separated into categories according to the fields of regulation and market supervision, usage of numbering resources and radio frequency spectrum, and postal services
- (3) The Agency shall submit its financial plan along with the Activities Program, for the following year, to the Government the latest until November 1 of the current year. Financial Plan and Work Program of the Agency shall be submitted to the Parliament of Montenegro for adoption, until 1 of December of the current year at the latest, as a separate part of the Budget of Montenegro.
- (4) Financial plan, with Work Program shall be published in the way provided by the Statute of the Agency.

Accounting in the Agency **Article 14**

- (1) The Agency shall keep separate accounting, per fields of jurisdiction, in accordance with the special Law.
- (2) All settlements of the Agency's revenues and expenses shall be subject to annual audit by an independent authorized auditor, appointed by the Government.
- (3) Expenses of the audit shall be covered by the Agency.

Surplus and Lack of Funding **Article 15**

If the annual calculation of the Agency's revenues and expenditures indicates that total revenues generated by the Agency are higher than total expenditures, the surplus shall be set aside on a separate account and may be used exclusively for fulfillment of legal obligations related to the Agency's function in the next calendar year.

Decisions by the Agency Article 19

- (1) The Council of the Agency shall make decisions on rights and obligations of the operators providing electronic communications services and/or electronic communications network.
- (2) Procedure before the Agency shall be conducted by application of provisions of the Law that regulates general administrative procedure, unless it is otherwise stipulated by this Law.
- (3) Agency shall reach a Decision the latest in 3 months, from the day of the request submission.
- (4) Decisions of the Agency shall be taken by the Council, by majority votes of total number of members.
- (5) Decision reached by the Agency, shall be made available to the public at the web site, with due regard to the conditions of protection of business secrets. Parties in the procedure shall be supplied with the full report on the reasons on which the aforementioned enactment is based.
- (6) A complaint may be lodged against the Decision of the Agency, before the Ministry within 15 days as of the day of Decision receipt.
- (7) Complaint lodged against the Agency's decision does not delay its execution.
- (8) A law suit against the Ministry's decision may be submitted to the competent court.

Supervision of Agency's Activities Article 130

- (1) Supervision of legality and purposefulness of the Agency's activities shall be conducted by the Ministry according to this Law.
- (2) Supervision referred to in paragraph 1 of this Article, shall not be applied to such activities by the Agency that concern its regulatory function and regulatory rules.

LAW ON POLICE

"Official Gazette RCG," No. 28/05

Article 5

Work of police shall be managed by Head of Police.

Head of Police shall be appointed and dismissed by the Government of the Republic of Montenegro (hereinafter: the Government) on the proposal of the minister in charge of internal affairs (hereinafter: the minister).

The Government shall submit a proposal for appointment of the Head of Police to the Parliament of the Republic of Montenegro (hereinafter: the Parliament) for the purpose of obtaining its opinion. After a debate held in the competent committee, the Parliament shall provide its opinion on the proposed candidate.

Head of Police cannot be a member of any political party nor may he be politically active.

LAW ON AGENCY ON NATIONAL SECURITY

"Official Gazette RCG," No. 28/05

Article 25

The Agency shall be managed by director of the Agency.

Director of the Agency shall be appointed and dismissed by the Government, at the proposal of the Prime Minister.

The proposal for the appointment of the Agency director shall be submitted to Parliament (hereinafter: Parliament) by Government, in order to give its opinion.

After debate, the Parliament shall submit its opinion to the competent working body.

Director of the Agency shall be appointed for a five year mandate and can be reappointed.

For his/her work and the Agency's work, the director is accountable to the Government.

Director of the Agency shall not be the member of a political party nor shall he/she act politically.

6. LEGALLY DEFINED MEASURES FOR PARLIAMENT TO REACT TO INFORMATION RECEIVED AND, THEREFORE, HOLD INSTITUTIONS AND INDIVIDUALS TO ACCOUNT¹¹³

CONSTITUTION OF MONTENEGRO

"Official Gazette CG," No. 01/07

Article 82, items 12-14

The Parliament shall:

...

- 12) Elect and dismiss from duty the Prime Minister and members of the Government
- 13) Elect and dismiss from duty the President of the Supreme Court, the President and the judges of the Constitutional Court;
- 14) Appoint and dismiss from duty: the Supreme State Prosecutor and State Prosecutors, the Protector of human rights and liberties (Ombudsman), the Governor of the Central Bank and members of the Council of the Central Bank of Montenegro, the President and members of the Senate of the State Audit Institution, and other officials stipulated by the law;

Decision-Making

Article 91, paragraphs 1 and 2

The Parliament shall decide by majority vote of the present Members of the Parliament in the session attended by over one half of the total number of Members, unless otherwise regulated by the Constitution.

With the majority vote of the total number of Members the Parliament shall adopt the laws that regulate: manner of exercise of liberties and rights of the citizens, Montenegrin citizenship, electoral system, referendum, material responsibilities of the citizens, state symbols and use of state symbols, defense and security, the army, establishment, merger and abolition of municipalities; proclaim the state of war and state of emergency; adopt the spatial plan; adopt the Rules of Procedure of the Parliament; decide on calling for the state referendum; decide on the reduction of the mandate; decide on the removal of the President of the Republic from office; elect and dismiss the Prime Minister and members of the Government and decide on the trust in the Government; elect and dismiss the President of the Supreme Court, presidents and judges of the Constitutional Court; appoint and dismiss the Protector of Human rights and Liberties.

Supreme Court

Article 124

The Supreme Court shall be the highest court in Montenegro.

The Supreme Court shall secure unified enforcement of laws by the courts.

The President of the Supreme Court shall be elected and dismissed from duty by the Parliament at the joint proposal of the President of Montenegro, the Speaker of the Parliament and the Prime Minister.

Appointment and Mandate

Article 135

The affairs of the State Prosecution shall be preformed by the State Prosecutor.

The State Prosecutor shall have one or more deputies.

The Supreme State Prosecutor and state prosecutors shall be appointed and dismissed from duty by the Parliament.

The Supreme State Prosecutor and state prosecutors shall be appointed for the period of five years.

¹¹³ This section deals with the ability of Parliament to take action that could result in political or legal accountability.

Prosecutorial Council Article 136

The Prosecutorial Council shall ensure the independence of state prosecutorial service and state prosecutors.

The Prosecutorial Council shall be elected and dismissed by the Parliament.

The election, mandate, competencies, organisation and methods of work of the Prosecutorial Council shall be regulated by law.

RULES OF PROCEDURE OF PARLIAMENT

"Official Gazette RCG," No. 51/06, 66/06

IV. RIGHTS AND DUTIES of MPS

1. General Provisions

Official Materials, Explanations and Information

Article 50

An MP has the right to access all official materials, documents and data that are prepared or gathered in committees or the Parliamentary Service, the Government, ministries and other organs of state administration and that are of importance for fulfillment of the MP function.

An MP is entitled to ask for information and explanations necessary for performing the function of an MP from the Speaker, chairs of working bodies, ministers, and other officials, connected with functions in the scope of rights and duties of these officials, or tasks from the jurisdiction of the bodies that they lead.

Request for information and explanations from paragraph 2 of this article is submitted in written form.

Article 68

When performing tasks within its field, a committee may request data and information of importance to its work from a state body.

3. Parliamentary Hearings and Investigations

Article 72

In order to obtain information or expert opinions on proposed acts in parliament procedure, to clarify certain solutions from proposed and existing acts, and to clarify certain issues significant for preparing of proposed acts, as well as for more successful conduct of the oversight function of Parliament, parliamentary hearings and investigations may be organized in competent (assigned) committees.

1) Consultative Hearings

Article 73

In order to accomplish its tasks (examining proposed acts, preparing proposed acts, or analyzing certain issues) and with the goal obtain necessary information and expert opinions, especially on proposed solutions and other issues of special interest to citizens and the public, a committee can, if needed or for a specific time period, engage scientists and experts for specific areas (hereinafter, scientific and expert consultants), representatives of state organs and nongovernmental organizations, who do not have a right to decide (consultative hearing).

The committee makes the decision to engage scientific and expert consultants.

In order to accomplish its tasks, a committee may form special working groups in which scientific and expert consultants can be engaged.

In order to prepare MPs to decide on proposals for election of holders of certain functions, the competent committee in the area that conducts the election may invite the authorized proposer, as well as proposed candidates for a consultative hearing.

2) Control Hearings

Article 75

In order to obtain information and expert opinions on specific issues from its assigned area, as well as on specific issues regarding establishing and implementation of policies, laws, and other activities of Government and other state administrative organs, which raise ambiguities, dilemmas, or disputes in principle and with the goal of clarifying these issues, the competent committee may invite to the sitting responsible representatives of Government or other state administrative organs and ask them to clarify these issues (hereinafter, control hearing).

The decision on a control hearing is made by a majority of votes of the total number of committee members. The committee chair notifies the Speaker and the Deputy Speaker of Parliament upon decision for a control hearing and invites, in writing, the person for the hearing, informs him about issues that are subject of the hearing, and may request from him to submit his opinions and stands in writing, as well. The invited authorized representatives of state organs are obliged to accept the invitation for a control hearing.

Article 76

During a control hearing, committee members may pose questions to the person invited to the hearing, only in connection with the subject of the hearing.

At the committee sitting, a discussion with persons providing information may take place if it is necessary to straighten out and clarify concrete issues and facts.

The committee decides on opening the discussion from paragraph 2 of this article, its duration and participation of each committee member, whereby one member of each MP club must be allowed to take part in the discussion if he/she so desires.

Article 77

As a rule, a control hearing is recorded phonographically and transcribed into verbatim notes. All technical and other corrections may be done only with the consent and agreement of the person whose statement is in question.

The committee composes and submits to Parliament a report on the control hearing, which will contain the essence of the presentations and can propose appropriate conclusion or another act.

3) Parliamentary Investigation

Article 78

Parliamentary investigation may be opened in order to analyze the situation in a specific area and consider issues of public significance, obtain information and facts on certain occurrences and events related to establishment and implementation of policies and work of the competent bodies in these areas, which could be the basis for decision-making in Parliament on political responsibilities of public officers or taking other steps within their competences.

In order to accomplish the work from paragraph 1 of this article, Parliament may form an inquiry committee from among MPs.

Article 79

A committee or at least one fourth of the MPs in Parliament may submit a proposal for opening a parliamentary investigation and establishing an inquiry committee.

The proposal from paragraph 1 of this article is submitted in written, must be explained and include: title of the committee, topic, purpose and the aim of the parliamentary investigation, the task and composition of the inquiry committee, and the deadline for finishing the task.

The chair of an inquiry committee is from the ranks of the opposition MPs.

Article 80

The proposal for parliamentary investigation and establishment of an inquiry committee will be proposed for the agenda at the following parliamentary sitting convened according to these rules.

After additional explanation from the proposal's representatives and a representative of the competent committee, Parliament decides without debate on the proposal from paragraph 1 of this article in its entirety.

The Speaker immediately informs the Minister of Justice on the proposal from paragraph 1 of this article in order to obtain information if there is a court trial in process based on the same facts.

If the Minister of Justice confirms that there is a judicial process, the Speaker will not act in the manner and within the deadline from paragraph 1 of this article, and voting on the proposal is postponed until termination of the judicial process.

If the judicial process begins after establishing the inquiry committee, the inquiry committee ceases its work until the judicial process is legally terminated.

Article 81

In order to conduct the parliamentary investigation, an inquiry committee has the right to ask for data, documents and information from state organs and individual organizations, as well as take statements from individuals, if needed.

State organs and other organizations, as well as individuals, are obliged to give true documents, data, information, and statements sought from them by the inquiry committee.

Article 82

After completing the parliamentary investigation, the inquiry committee submits to Parliament a report that can include proposed measures or acts within Parliament's jurisdiction.

An inquiry committee ceases its work on the day Parliament decides on its report or when the deadline for which it was formed expires.

4. Recall of Officials

Article 179

Provisions of these rules concerning the procedure of election, or appointment, are applied to the procedure of recall unless otherwise stipulated in these rules.

X. RELATIONSHIP BETWEEN PARLIAMENT AND GOVERNMENT

1. MP Questions and Prime Minister Hour

Posing Questions

Article 187

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

MP questions are posed at a special sitting of Parliament that is held at least once every two months during a regular session.

The first part of the sitting from paragraph 2 of this article, for a period of one hour, is dedicated to posing questions to the Prime Minister and his answers to current issues from the work of Government (Prime Minister's Hour).

The president or authorized representative of an MP club may ask a question from paragraph 3 of this article, which can last no longer than five minutes, and the Prime Minister has the right to provide an answer lasting no longer than five minutes.

Following the provisions of Article 84 of these rules, the Speaker convenes Parliament in a sitting from paragraph 2 of this article in a period that can be shorter than that stipulated in Article 85 of these rules, and quorum is not necessary for the work of this sitting.

Article 188

An MP is entitled to pose two questions at most per sitting.

An MP who wishes to pose a question is obliged to submit the question to the Speaker in written form, at least 48 hours prior to the sitting, and it may be explained.

An MP question is posed orally at the sitting, should be clearly formulated, and may not have the character of a debate.

The time for posing an MP question is three minutes at most.

MPs may not take the floor on the occasion of a posed MP question, give an answer to an MP question, or comment on the answer of another MP.

Article 189

If the Speaker thinks that a posed MP question is not in accordance with provisions of these rules or is posed to a person who is not a member of Government, the Speaker will warn the MP who posed the question of this and ask that the question be harmonized with these provisions.

Answer to MP Question

Article 190

The Prime Minister, minister, or other authorized representative of Government answers the MP question orally right after the question is posed or at the end of the same sitting for up to five minutes per question.

Article 191

On the explicit request of an MP who posed the question or the official who answered it, a response to an MP question can be presented in written form if special circumstances demand so.

A written response from paragraph 1 of this article is delivered through the Speaker no later than by the time of holding the next sitting at which MP questions are posed, or if Parliament is not in regular sitting, no later than 20 days after the day the question was posed.

Comment on the Answer and Additional Question

Article 192

After receiving the answer to an MP question, the MP who posed the question has the right to offer a comment to the answer of no more than three minutes and can ask an additional question for up to one minute.

Instead of immediately after receiving the answer, the MP can use the right to make a comment on the answer or ask an additional question at the end of the same sitting.

Article 193

The Prime Minister, minister, or authorized representative of Government answers the additional question posed in accordance with the provisions regulating the answer to MP questions.

The procedure of MP question is concluded with the answer to the additional question.

2. Decision-Making Procedure on No-Confidence and Confidence in Government

Article 194

A proposal for a vote of no-confidence in Government must contain the reasons for proposing the vote of no-confidence.

The Speaker delivers the proposal for a vote of no-confidence to MPs and the Prime Minister.

Article 195

A debate on the proposal of a vote of no-confidence in Government is held at the parliamentary sitting. At the beginning of the debate, a representative of the proposer has the right to explain the proposal, and the Prime Minister to give a response.

Upon concluding the debate, MPs vote on no-confidence in Government.

Article 196

Government presents to Parliament the question of its confidence in a written form.

The Prime Minister presents the question of confidence and has the right to explain it.

A debate is held on the question of confidence.
Upon concluding the debate, MPs vote on confidence.

Article 197

An open vote is used for a vote of no-confidence and confidence in Government.
Voting on no-confidence is carried out by MPs deciding "for" or "against" no-confidence.
Voting on confidence is carried out by MPs deciding "for" or "against" confidence.
If Government loses confidence, the Speaker informs the President of the Republic immediately.

3. Procedure for Considering an Interpellation on the Work of Government

Article 198

At least one quarter of the total number of MPs may submit an interpellation for debate on certain political issues connected with the work of Government.
The interpellation is submitted to the Speaker in written form, and the issue to be discussed must be clearly formulated and explained.
The Speaker delivers the interpellation to MPs and Government immediately.

Article 199

Government may consider the interpellation and submit to Parliament a written report with its opinion and views on interpellation, no later than 30 days from the day of delivery of the interpellation.
The Speaker delivers Government's report on the interpellation to MPs.

Article 200

The interpellation is placed on the agenda of the first sitting of Parliament held after Government has submitted the report.
If Government does not submit a report, the interpellation is placed on the agenda of the first sitting of Parliament after the expiration of the deadline for submission of Government's report.

Article 201

One of the MPs submitting the interpellation is entitled to explain it at the parliamentary sitting.
In the sitting of Parliament, the Prime Minister or an authorized representative of the Prime Minister may explain the Government's report on the interpellation, or, if a report has not been submitted, may orally answer the interpellation.

Article 202

The debate on an interpellation may be closed by making a decision on issues in the interpellation, but may also be closed without making a decision.
At the end of the debate on an interpellation, a proposal for voting no-confidence in the Government may be submitted in accordance with these rules.

Article 203

MPs who have submitted the interpellation may withdraw it before the end of debate.
If some MPs decide to give up on an interpellation so that the number of submitters falls below one quarter of MPs, the interpellation is considered withdrawn.

LAW ON STATE PROSECUTOR

"Official Gazette RCG," No. 69/03 and "Official Gazette CG," No. 40/08

Appointment Article 26

The State Prosecutor and the Deputy shall be appointed and removed by the Assembly of the Republic of Montenegro (hereinafter referred to as: the Assembly).

The Prosecutors Council shall make the proposal for appointment, removal and termination of office of the State Prosecutor and the Deputy, in accordance with the procedure prescribed by the present Law.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Dismissal of the Protector

Article 20

The Protector shall be dismissed from office if he or she:

- 1) has been convicted of a criminal offence, which makes him or her unsuitable for holding the office,
- 2) exercises his or her duties unprofessionally and carelessly.

The procedure for the dismissal of the Protector shall be launched upon initiative of one third of the members of the Assembly, whereas the decision for dismissal shall be passed by a majority vote of all members of the Assembly.

The competent working body of the Assembly shall conduct the preliminary procedure to determine unprofessional and careless exercise of the Protector's duties, authorising the Protector to explain him/herself.

Upon the completion of the preliminary procedure, the competent working body of the Assembly shall submit to the Assembly a substantiated proposal for passing the decision on the motion, which shall be accompanied with the statement of the Protector.

The Protector shall be authorised to explain him/herself regarding the proposal from paragraph 4 of this Article.

LAW ON STATE AUDIT INSTITUTION

"Official Gazette RCG," No. 28/04, 27/06, 78/06, 17/07

Financial Statement of the Institution

Article 28

The Parliament may, through a special act, entrust an appropriate professional organization with the audit of the financial statement of the Institution.

Appointment of the Members of Senate and the President

Article 33

Members of the Senate shall be appointed and relieved from duty by the Parliament on recommendations of the Parliament's competent working body.

The Parliament shall appoint the President of the Senate from among the Members of the Senate for a period of nine years. The same person cannot be reappointed as President.

Permanency of Office

Article 34

The office of Member of the Senate shall be permanent.

The office of Member of the Senate shall be terminated upon his/her request or when he/she meets the legal requirements for retirement or if he/she is sentenced to imprisonment.

The Member of the Senate shall be relieved from office if he/she is sentenced for an offence which makes him/her unworthy of holding office, or if he/she exercises the office in an unprofessional or unscrupulous manner or if he/she permanently loses the ability to exercise office.

The Senate shall inform the Parliament of circumstances described in paragraph 2 and 3 of this.

LAW ON ENERGY

"Official Gazette RCG," No. 39/03

Selection Commission

Article 8, paragraphs 1, 9, 10¹¹⁴

1. Members of the Board, and the Director and Deputy Director shall be selected by a Selection Commission ("the Commission") established by the Government pursuant to the terms of this Law.
9. The Government shall submit to the Parliament of Montenegro ("Parliament") for its final approval its recommended list of members for the members of the Board.
10. The Parliament's decision on the selection of the candidates shall be published in the Official Gazette of Montenegro.

Discharge

Article 11, paragraph 1

1. A member of the Board, the Director and the Deputy Director may be removed prior to the expiration of his or her office by the body that appointed such member of the Board, Director or Deputy Director if such person:
 - a) is incapable of performing his or her duties for a continuous period of more than three (3) months;
 - b) ceases to be a resident of Montenegro;
 - c) has misrepresented his or her qualifications;
 - d) has been convicted of a crime punishable by imprisonment;
 - e) has submitted a written resignation;
 - f) is found to have a conflict of interest;
 - g) has been absent and unexcused from three (3) consecutive official and ordinary meetings of the Agency;
 - h) has been excluded or suspended from the exercise of his profession on the basis of the Agency's Code of Conduct;
 - i) has provided false financial statements described in Article 15 (1).

LAW ON INSURANCE

"Official Gazette," No. 78/06, 19/07

Composition and Election of the Council of the Agency

Article 180

The Council of the Agency has a president and two members.
The president and members of the Council of the Agency is appointed and dismissed by Parliament. The president and one member of the Council of the Agency is appointed at the proposal of the working body of Parliament responsible for appointments, and one member at the proposal of Government. The president and members of the Council of the Agency are appointed for a period of five years and can be re-elected.
The president and members of the Council of the Agency for their work are responsible to Parliament.

Competence of Council of the Agency

Dismissal of President and Members of the Agency's Council

Article 184

President or member of the Agency's Council may be dismissed before the expiry of his/her mandate:

- 1) at personal request;
- 2) due to permanent loss of working skills needed for exercising the function;

¹¹⁴ Additional details on the appointments process are contained in the section above on legal provisions securing the credibility of information provided.

- 3) in case of circumstances referred to in Article 192 hereof;
- 4) if he/she violates the rule of keeping confidential data.

Article 185

Council of the Agency shall:

- 1) decide on licenses, agreements, authorizations and others issues falling under competence of the Agency;
- 2) pass the regulations and other acts prescribed by the law;
- 3) pass the Statute of the Agency;
- 4) define the annual report on insurance market;
- 5) determine annual working plan and annual report on Agency's work;
- 6) determine financial plan and annual financial accounts;
- 7) elect and recall the auditor for the annual financial account of the Agency;
- 8) appoint the liquidation board and liquidation (bankruptcy) manager;
- 9) resolve upon objection given on minutes about the performed supervision as well as on appeals and applications submitted by policy holders;
- 10) perform other duties prescribed by the law and the statute.

Reporting Article 193

Reports and accounts referred to in items 4, 5 and 6 of the Article 185 hereof shall be submitted to the Parliament for adoption.

LAW ON ELECTRONIC COMMUNICATIONS

"Official Gazette CG," No. 50/08

Financial Sources, Financial Plan and Program of Activities of the Agency Article 13, paragraph 3

- (3) The Agency shall submit its financial plan along with the Activities Program, for the following year, to the Government the latest until November 1 of the current year. Financial Plan and Work Program of the Agency shall be submitted to the Parliament of Montenegro for adoption, until 1 of December of the current year at the latest, as a separate part of the Budget of Montenegro.

7. LEGALLY DEFINED MEASURES FOR THE PUBLIC TO HOLD INSTITUTIONS AND INDIVIDUALS TO ACCOUNT

CONSTITUTION OF MONTENEGRO

"Official Gazette CG," No. 01/07

Sovereignty Article 2

Bearer of sovereignty is the citizen with Montenegrin citizenship.
The citizen shall exercise power directly and through the freely elected representatives.
The power not stemming from the freely expressed will of the citizens in democratic election in accordance with the law, can neither be established nor recognised.

3. POLITICAL RIGHTS AND FREEDOM

Electoral right Article 45

The right to elect and stand for elections shall be granted to every citizen of Montenegro of 18 years of age and above with at least a two-year residence in Montenegro.

The electoral right shall be exercised in elections.
 The electoral right shall be general and equal.
 Elections shall be free and direct, by secret ballot.

Composition of Parliament

Article 83

The Parliament shall consist of the Members of the Parliament elected directly on the basis of the general and equal electoral right and by secret ballot.
 The Parliament shall have 81 Members.

Election of President

Article 96, paragraph 1

The President of Montenegro shall be elected on the basis of a general and equal electoral right, through direct and secret ballot.

Laws on Election of Councilors and Deputies ("Official Gazette RCG," No. 04/98, 05/98, 17/98, 14/00, 18/00, 09/01, 41/02, 46/02, 45/04, 48/06, 56/06), on Election of the President ("Official Gazette CG," No. 17/07), on Citizenship ("Official Gazette CG," No. 13/08), on Voters' List ("Official Gazette CG," No. 40/08), and other laws regulate the rights of citizens to express their opinion in an election and hold elected officials accountable.

LAW ON STATE ADMINISTRATION

"Official Gazette RCG," No. 38/03 and "Official Gazette CG," No. 22/08

VIII State Administration and Citizens

Article 51

Citizens shall have free access to data, documents, reports and information of state administration authorities.

Access to documents specified in paragraph 1 of this Article relating to particular natural and legal persons shall be granted only in when there exists a legal interest related to a judicial or other procedure in which a citizen is to realize his/her rights, obligations and legal interest.

Any deprivation, respectively denial of the request of a citizen in the sense of paragraphs 1 and 2 of this Article, shall be justified in writing, and the realization of the right to file a petition shall be provided. The petition shall be submitted to the authority supervising the work of the state administration authority.

Article 53

In a procedure for the realization of citizen's rights and obligations, state administration authorities shall in line of duty procure data on facts that are officially recorded by other state administration authorities.

Article 56

State administration authorities shall provide a book or a box for complaints, respectively other means to facilitate the clients to impart objections and complaints on the work of state administration authorities or an inappropriate attitude of civil servants.

A state administration authority shall reply in writing to the submitter within 15 days as of the submission of the complaint, should the citizen require so.

State administration authorities shall obligatorily carry out monthly analyses of complaints and solve the problems a citizen addressed in a complaint.

Article 59

The provisions of this chapter shall be applied by local self-government authorities, public institutions and public enterprises when performing delegated or entrusted affairs of state administration.

Additional laws related to administrative law regulate the procedure that citizens can use if state bodies do not respond to their requests for information or if response is considered unsatisfactory, and these laws include the following list. Due to the length of the legal provisions related to the process for seeking redress, only the basic provisions are reproduced here. Access to the full laws are available at: <http://www.uzk.cg.yu/eng/publications/doc/new-administrative-legislation.doc>.

LAW ON INSPECTION CONTROL

"Official Gazette RCG," No. 39/03

Basic Provisions

The Concept of Inspection Control

Article 3

Inspection control shall be performed through direct insight at an institution, legal person, state authority, municipal authority, the Capital City, Royal Capital, local self-government authority, other administrative authority and organization, economic enterprise and other forms of performing of economic activity, as well as citizens and other entities (hereinafter: controlled entity).

Inspection control shall be performed with regard to the observance of the law, other regulations and general acts, as well as to the taking of administrative and other measures and actions in order to harmonize established irregularities with regulations.

LAW ON GENERAL ADMINISTRATIVE PROCEDURE

"Official Gazette RCG," No. 60/03

CHAPTER 1 BASIC PROVISIONS

Application of the Law

Article 1

State authorities and local self-government authorities shall be obliged to proceed according to this law when, directly applying legal regulations, they decide in administrative matters on rights, obligations or legal interests of a natural person, legal person or other party, as well as when they perform other affairs determined by this law.

The Principle of Protection of Citizens' Rights and of Protection of the Public Interest

Article 5

In conducting procedures and deciding in administrative matters, authorities shall enable the parties to the procedure to as easily as possible protect and realize their rights and legal interests, taking into account that the realization of their rights and legal interests shall not be to the prejudice of rights and legal interests of other persons, or opposite to the legally established public interests.

When an authorized official, with regard to the existing state of affairs, discovers or rates that a party or other participant in the procedure has grounds for the realization of some right or legal interest, the official shall notify them of it.

If obligations are imposed on parties and other participants in the procedure by virtue of the law, those measures determined by regulations, which are more favorable for them shall be applied, if such measures suffice for the achievement of the objective of the law.

Principle of Efficiency

Article 6

Authorities that conduct procedure and decide in administrative matters shall provide for efficient and appropriate realization and protection of rights and legal interests of natural persons, legal persons or other parties.

The Principle of Two Instances (Right to Appeal)

Article 12

The party to the procedure shall be entitled to appeal against a decision made in the first instance. It may only statutorily be prescribed that in certain administrative matters appeal is not permitted, but only if the protection of rights and legal interests of the party, i.e. the protection of legality, is provided in a different way.

Appeal against a decision made in the second instance shall not be permitted.

LAW ON ADMINISTRATIVE DISPUTE

"Official Gazette RCG," No. 60/03

I. GENERAL PROVISIONS

Article 1

In an administrative dispute, the court decides on the legality of an administrative act and on the legality of other individual administrative acts, when stipulated by the law.

Article 2

An administrative act, as defined by this law, is an act by which a state authority or a local self-government authority, institution or other legal person, in exercising public authority, decides in administrative matters on rights, obligations or legal interests of a natural or legal person.

An other individual administrative act, as defined by this law, is an act by which an authority or institution and legal person from paragraph 1 of this Article, decides on rights, obligations or legal interests of a natural or a legal person in other legal matters (hereinafter: other act).

Article 3

The right to institute an administrative dispute shall have any natural or legal person, who believes that some of his/her rights or legally based interests have been violated by an administrative or other act. A state authority, organization, a settlement, group of persons or others who do not have the attribute of a legal person, may institute an administrative dispute, if they are entitled to be holders of rights and obligations decided on in an administrative or other procedure.

If by an administrative or other act the law has been violated to the advantage of a natural person, legal person or other party, an administrative dispute may be instituted by the state prosecutor or other competent authority.

An administrative dispute may be instituted by the state prosecutor or other competent authority when by an administrative or other act the law has been violated to the prejudice of the state, a local self-government unit, institution or other legal person.

Article 8

An administrative dispute may not be conducted against acts:

- 1) that have been passed in matters, in which judicial protection is provided beyond the administrative dispute;
- 2) that have been passed in matters decided on directly by the Parliament of the Republic of Montenegro and the President of the Republic by virtue of constitutional authority.

Article 9

An administrative or other act may be disputed:

- 1) in the case of violation of the rules of procedure;
- 2) in the case of inaccurate and incomplete establishment of facts;
- 3) in the case of inaccurate application of the material law.

There is no case of inaccurate application of regulations, if the competent authority had decided by free estimation on the basis of and in the framework of the authority conferred on it by legal regulations and in accordance with the objective, for which the authority has been conferred.

Article 10

The defendant in an administrative dispute is the authority, whose act is disputed.

PROCEDURE UPON COMPLAINT**Article 15**

An administrative dispute shall be initiated by a complaint.

Complaints shall be resolved by the Administrative Court in a panel of three judges.

Article 16

The complaint shall be submitted within 30 days as of the delivery of the administrative act to the party submitting the complaint.

The deadline from paragraph 1 of this Article shall apply as well to an authority or person authorized for submission of a complaint, if the administrative act has been delivered to them. If the administrative act has not been delivered to them, they may submit the complaint within 60 days after the delivery of the administrative act to the party, in whose favor the act was passed.

Article 33

If the Administrative Court shall decide on a dispute by an oral hearing, it shall decide on the basis of facts established during the oral hearing and on the basis of facts established during the preliminary procedure, if they are not in contradiction to the facts established during the oral hearing.

If during an oral hearing the Administrative Court should establish that the factual state differs from the facts established during an administrative or other procedure, or if it should find that the rules of procedure have been violated during that procedure, which affected the determination of the matter, it shall nullify the disputed act by a judgment.

In the case set out in paragraph 2 of this Article, the competent authority, whose act has been nullified, shall be liable to proceed in compliance with the judgment of the Administrative Court and pass a new act, unless the court itself decided on the merits according to Article 35 of this law.

If the Administrative Court should establish that the rules of procedure have been seriously violated, it shall nullify the disputed act even in the case that these violations have no impact on the accurate deciding on the matter.

When deciding in a closed session, the Administrative Court shall pass a decision based on the facts established in the documents of the case.

If during a closed session, the Administrative Court should find that the dispute can not be tried on the basis of the facts established in the procedure, because there are contradictions in the documents with regard to the established facts, or they have been incompletely established in important issues, or a wrong conclusion with regard to the factual state has been drawn from the established facts, or if it finds that during the procedure the rules of procedure have been violated, which affected the deciding on the matter, it shall nullify the disputed act by a judgment. In that case, the competent authority shall be liable to proceed according to the judgment of the court and pass a new act.

Article 35

If the Administrative Court nullifies a disputed act, and the state of affairs allows so, it may decide on the matter on the merits, if:

- 1) it had itself established the factual state in an oral hearing or
- 2) the annulment of the disputed act and the repeated procedure before the competent authority would cause a damage to the plaintiff that could hardly be restituted or
- 3) based on public documents or other evidence in the documentation of the case it would prove evident that the facts are different from those established in the administrative procedure or
- 4) the act has already been nullified in the same dispute, and the competent authority has not entirely acted on the judgment or
- 5) the act has already been nullified in the same dispute, and the competent authority fails to pass a new act within 30 days from the day of annulment or in another deadline determined by the court or

6) the competent second instance authority failed to pass an administrative act within the deadline upon filed appeal, i.e. the first instance authority, when appeal is statutorily excluded. In the case set out in paragraph 1, items 4, 5 and 6, of this Article, the Administrative Court may itself establish the facts and pass a judgment according to the facts thus established. The decision set out in paragraph 1 of this Article shall substitute the nullified act in all.

IV EXTRAORDINARY LEGAL REMEDIES

Article 40

The following extraordinary legal remedies may be filed against a legally binding decision of the Administrative Court:

- 1) a request for extraordinary reconsideration of a court decision;
- 2) a request for retrial of the procedure.

As a rule, the court shall decide on extraordinary legal remedies in a closed session.

1. Request for Extraordinary Reconsideration of a Court Decision

Article 41

A party that was involved in an administrative dispute and the state prosecutor, or other competent authority, may submit a request for extraordinary reconsideration of a court decision issued by the Administrative Court.

The request for extraordinary reconsideration of a court decision shall be decided on by the Supreme Court in a panel of three judges.

Article 42

The request for extraordinary reconsideration of a court decision may be filed in the following cases:

- 1) violation of the material law;
- 2) violation of the rules of procedure in the administrative dispute, which might have affected the deciding in the matter;

The request for extraordinary reconsideration of a court decision shall be filed to the Supreme Court, within 30 days as of the day of delivery of the Administrative Court decision.

2. Request for Retrial of the Procedure

Article 47

A procedure concluded by a judgment or a decision shall be retried upon request of a party:

- 1) if the party discovers new facts, or finds or gets the possibility to use new evidence, on which grounds the dispute might have been settled more favorably for him/her, had these facts i.e. evidence been put forward or used in the previous court procedure;
- 2) if the court decision was reached due to a criminal act of the judge or an employee of the court, or the decision was reached through deceit by the legal representative or attorney of the party, the opposing party or his/her legal representative or attorney, and such an act represents a criminal act;
- 3) if the decision was based on a judgment passed in a criminal or civil matter, and this judgment was later nullified by another legally binding court decision;
- 4) if a document, on which the decision is based, is false or forged, or if a witness, assessor or party has given a false statement during the examination before court, and the court decision is based on that statement;
- 5) if a party finds or gets the possibility to make use of an earlier decision passed in the same administrative dispute;
- 6) if an interested party had not been given the possibility to participate in the administrative dispute;

Retrial due to the circumstances set out in items 1 and 5, paragraph 1 of this Article shall only be allowed if the party, without his/her fault, had not been able to present these circumstances in the earlier procedure.

LAW ON CIVIL SERVANTS AND PUBLIC EMPLOYEES

"Official Gazette CG," 50/08

V. LIABILITY OF CIVIL SERVANTS AND STATE EMPLOYEES
1. Disciplinary Accountability of Civil Servants and State Employees
Grounds for Disciplinary Accountability

Article 57

A civil servant or a state employee bears disciplinary accountability for violations of duties stemming from labor relations that may constitute a minor or serious disciplinary offence.

Issues of disciplinary accountability for certain civil servants and state employees may be regulated differently by law.

Minor Disciplinary Offences**Article 58**

Minor disciplinary offences are the following:

- 1) Disregard for working hours;
- 2) Lack of diligence in keeping official files or data;
- 3) Unexcused absence from work for one working day;
- 4) Failure to wear official attire or nametag;
- 5) Failure to inform a superior of omissions related to protection at work;
- 6) Violation of rules and standards envisaged by the Code of Ethics for Civil Servants and State Employees as minor disciplinary offences;
- 7) Other violations stipulated by law or other regulations as minor disciplinary offences.

Serious Disciplinary Offences**Article 59**

Serious disciplinary offences are the following:

- 1) Nonperformance or, unconscientiously, untimely or negligent performance of official duties;
- 2) Refusal to execute an order or work task;
- 3) Improper management of allotted resources;
- 4) Abuse of position or surpassing official authorities;
- 5) Any omission or act that prevents a citizen or a legal entity in exercise of their legal rights;
- 6) Unexcused absence from work from two to four consecutive days;
- 7) Revealing business, official or other secrets stipulated by law or other regulation;
- 8) Expression of political opinions in performing work;
- 9) Violent, improper or insulting conduct toward clients or expression of any form of intolerance;
- 10) Appearance at work intoxicated, drinking alcohol while working, or using narcotics;
- 11) Providing false data that impacts decision-making;
- 12) Repeated minor disciplinary offences;
- 13) Violation of duties that has serious consequences for clients or state organ;
- 14) Performance of duties in contravention to this law, acts or omissions that constitute conflict of interest situations in terms with this law;
- 15) Abusing, limiting or depriving of rights any civil servant and state employee who report a criminal offence with element of corruption or give an official deposition thereupon as stipulated in this law;
- 16) Other violations stipulated by this law or other regulation as serious disciplinary offences.

Disciplinary Measures**Article 60**

The disciplinary measure for a minor disciplinary offence is a fine of up to 15% of the monthly salary paid when the offence was committed.

Disciplinary measures for serious disciplinary offences are the following:

- a fine of 20-30% of a monthly salary paid when the offence was committed;
- termination of employment.

Initiation of a Disciplinary Procedure **Article 61**

At the proposal of a superior, the head of a state organ initiates a disciplinary procedure. A disciplinary procedure is initiated by a conclusion, which is handed to the civil servant or state employee whose disciplinary accountability is to be established. Appeal against such a conclusion is not permitted.

A civil servant or a state employee has the right to file an initiative to start a disciplinary procedure and to justify it, i.e., prove the assertions plausible.

Disciplinary Commission **Article 62**

A disciplinary procedure against civil servants or state employees is conducted and decisions recommended by a disciplinary commission.

The composition of the disciplinary commission is determined by a decision of the head of a state organ and consists of a chair and two members.

The disciplinary commission is obliged to submit a proposed decision to the head of the state organ concerning the responsibility and disciplinary measure promptly and no later than 60 days from the day the disciplinary procedure was instigated.

Pronouncement of Disciplinary Measures **Article 63**

Disciplinary measures against a civil servant or a state employee are pronounced by the head of a state organ at the proposal of the disciplinary commission.

Disciplinary Procedure against Managers **Article 64**

A disciplinary procedure against a manager is conducted and disciplinary measures pronounced by a commission formed by the organ in charge of his/her appointment or nomination.

A head of a state authority is obliged to institute disciplinary procedure before the Commission referred to in paragraph 1 of this Article against any manager on the account of a grave breach of duty pertaining to employment if s/he acts contrary to Article 54, paragraph 2 of this Law.

Disciplinary Procedure **Article 65**

During a disciplinary procedure, it is required to hold a hearing where a civil servant or a state employee has the right to defense. The civil servant or state employee may defend himself/herself or use an attorney, proxy, or representative of a trade union.

The provisions of the law regulating general administrative procedure are applied for all issues in the disciplinary procedure that are not regulated by this law.

Choice of Disciplinary Measures **Article 66**

In selecting the disciplinary measure, regard should be given to facts concerning earlier disciplinary accountability of the civil servant or state employee.

Expiry **Article 67**

The introduction of a disciplinary procedure for a minor disciplinary offence expires within one month from the day the offence was discovered or within two months from the day the offence was committed.

The introduction of a disciplinary procedure for a serious disciplinary offence expires within 3 months from the day the offence was discovered or within six months from the day the offence was committed. In the case stipulated in Article 59, paragraph 1 item 12 of this law, the introduction of a disciplinary procedure expires within six months from the day when the disciplinary decision became final.

The execution of a disciplinary measure expires within two months from the day when the disciplinary conclusion became final.

The expiry period does not run during the period when it is not possible to initiate or conduct a disciplinary procedure.

The conduct of a disciplinary procedure expires when three times as much time has passed as is required by law for the expiration of initiation of a disciplinary procedure, and, in any case, expiration sets in after one year from the day the disciplinary offence was discovered.

If the disciplinary offence has the character of a criminal act, the provisions of the law governing criminal liability are applied for absolute terms of expiry.

Entry and Deletion of Disciplinary Measure

Article 68

A disciplinary measure is entered into the Central Personnel Record.

If a civil servant or a state employee, within a year from the day of entering into effect of the pronounced disciplinary measure for a minor disciplinary offence or within two years from the day of entering into effect of the pronounced disciplinary measure for a serious disciplinary offence, does not commit another disciplinary offence, the entered disciplinary offence is deleted from the Central Personnel Record and it is considered that the civil servant or state employee has not been given a disciplinary penalty.

2. Temporary Removal from the Position (Suspension)

Grounds for Temporary Removal

Article 69

A civil servant or a state employee against whom a disciplinary procedure for a serious disciplinary offence has been introduced may be removed from his/her position pending the conclusion of the disciplinary procedure if his/her presence might harm the interest of the state organ or if it might impede the course of the disciplinary procedure.

Temporary removal from the position is carried out in a manner that the civil servant or state employee is:

- limited in or deprived of given authority,
- temporarily transferred to another post,
- prohibited to perform duties within the state organs.

From among the manners of temporary removal described in paragraph 2 of this Article, the manner that most efficiently protects the interest of state organs is selected.

Decision on Temporary Removal

Article 70

The head of a state organ decides on temporary removal from the position.

Rights in Case of Temporary Removal

Article 71

During the prohibition to perform work from Article 69, paragraph 2, item 3 of this law, a civil servant or a state employee is paid 60% of the salary paid in the previous month.

A civil servant or a state employee is returned the unpaid part of the salary together with compound interest, if by a final conclusion:

- the disciplinary procedure is suspended,
- the procedure has expired or
- it was established during the disciplinary procedure that the civil servant or state employee has not committed the disciplinary offence which caused his/her the temporary removal from the position.

3. Material Liability of Civil Servants and State Employees

Material Liability

Article 72

A civil servant or a state employee is materially liable to a state organ for damage caused at work or in relation to work performed unlawfully, deliberately or out of utter neglect.

The State of Montenegro is liable for damage a civil servant or a state employee causes at work or in relation with work to a third person. A third person may claim damages also from the one who caused the damage if the damage was caused deliberately.

Procedure for Determination of Material Liability

Article 73

During a decision-making procedure on material liability of a civil servant or a state employee for damage, the provisions of this law governing disciplinary procedure are applied.

The compensation of damage may also be decided on in a disciplinary procedure if the damage was caused due to a disciplinary offence.

Compensation of Damage in Court

Article 74

In the event it is confirmed that a civil servant or a state employee is materially liable for damage and he/she does not compensate the damage, the state organ may pursue its rights at the competent basic court.

Written Agreement and Flat-Rate Compensation of Damage

Article 75

A written agreement on the amount and method of compensation of damage may be concluded between the head of a state organ and the civil servant or state employee.

A written agreement from paragraph 1 of this Article represents an executive document.

If the determination of the extent of damage results in disproportionate expenses, the compensation may be assessed at a flat rate if regulations define the cases of adverse acts and levels of flat rate compensation.

Acquittal of Damage Compensation

Article 76

If a civil servant or a state employee is acquitted of liability for damage in accordance with Article 47, paragraph 3 of this law, the liability for damage is borne by the superior who issued the order or instruction.

Damage Caused to Third Persons

Article 77

For payment of compensation for damage that a civil servant or state employee caused at work or in connection with work to a third person deliberately, Montenegro has a right to file a retroactive claim against the civil servant or state employee for the total payment.

For payment of compensation for damage that a civil servant or state employee caused at work or in connection with work to a third person out of utter negligence, Montenegro has a right to file a retroactive claim against the civil servant or state employee for the total or for partial payment.

To file a retroactive claim, the provisions of Articles 73 through 76 of this law are applied.

Liability of Montenegro

Article 78

Montenegro is liable for damage caused to a civil servant or state employee at work or in connection with work according to the general rules of civil rights.

The liability for damage is also related to damage that Montenegro causes to a civil servant or state employee by violating his/her rights arising from employment.

The amount and manner of damage compensation may be arranged by a written agreement between the head of a state organ and the civil servant or state employee to whom the damage was caused. A written agreement represents an executive document.

LAW ON PROTECTOR FOR HUMAN RIGHTS AND FREEDOM

"Official Gazette RCG," No. 41/03

Article 1

Establishing the Protector of Human Rights and Freedoms

The Protector of Human Rights and Freedoms is established by the present Law.

The Protector of Human Rights and Freedoms (hereinafter: the Protector) shall protect human rights and freedoms of persons, as guaranteed by the Constitution, laws, ratified international treaties on human rights, and generally recognised rules of international law, when these are violated by means of enactment, action or failure to act of state authorities, authorities of local self-government and public services and other holders of public power (hereinafter: authorities).

The Protector has no powers concerning the work of courts except in cases defined by the present law.

Autonomy and Independence

Article 2

The Protector is autonomous and independent in the exercise of his or her duties.

Constitutionality and Legality

Article 3

The Protector shall exercise his or her duties on the basis of the Constitution and laws and shall abide by the principles of justice and equity in his or her work.

Accessibility

Article 4

Any person who believes that his or her rights or freedoms have been violated by means of enactment, action or failure to act of the authorities may refer to the Protector.

The Protector may also act ex officio.

The proceedings before the Protector shall be free of charge.

III JURISDICTION AND AUTHORITY

Jurisdiction

Article 23

The Protector shall consider cases involving violations of human rights and freedoms committed by the authorities by means of enactment, action or failure to act and shall undertake activities to remedy such violations in accordance with the present law.

The Protector shall also deal with general issues that are important for the protection and promotion of human rights and freedoms and shall co-operate with appropriate organisations and institutions dealing with human rights and freedoms.

Special Powers in Judicial Proceedings

Article 24

The Protector shall act upon complaints referring to the ongoing judicial proceedings only in case of delay, if an obvious abuse of procedural powers occurred or if court decisions have not been executed.

Participation in Law Making Process

Article 25

The Protector may launch an initiative for amending certain legislation, especially for the purpose of harmonisation with internationally recognised standards in the field of human rights and freedoms.

The Protector shall provide an opinion on the draft laws, other regulations or general enactments if he finds it necessary for the purpose of protecting and promoting human rights and freedoms.

Initiating the Constitutional Court Proceedings

Article 26

The Protector may propose the initiation of proceedings before the Constitutional Court of the Republic of Montenegro for the purpose of assessing the constitutionality and legality of the legislation and general enactment relating to human rights and freedoms.

Opinion during the Proceeding

Article 27

The Protector may provide his or her opinion on the protection and promotion of human rights and freedoms, upon the request of the authorities deciding on such rights, notwithstanding the nature or degree of the procedure that is on going before these authorities.

Powers for the Protection of Individuals Deprived of Their Liberty

Article 28

The Protector may, without prior notification, undertake a checkout of all spaces in the prisons and in other premises in which individuals deprived of their liberty are held.

The Protector shall be entitled to communicate with individuals deprived of their liberty without being monitored by officials.

Individuals deprived of their liberty shall be entitled to file their complaint in a sealed envelope.

Correspondence addressed from places where persons deprived of their liberty are held shall be forwarded immediately to the Protector, unopened and unread, whereas any response of the Protector shall follow the same procedure.

Duty to Meet the Protector

Article 29

The President of the Republic of Montenegro, the President of the Assembly, the Prime Minister and other members of the Government of the Republic of Montenegro (hereinafter the Government), Municipal Mayors, Capital City Mayor, Old Historical Capital Mayor shall be in obligation to meet the Protector without any delay upon his or her request.

IV. PROCEDURE

Confidentiality

Article 30

The proceedings before the Protector are confidential.

Any person who files a complaint or takes part in any way in the investigation undertaken by the Protector may not be held liable or put into a less favourable position based on such grounds.

Filing a Complaint

Article 31

Any person who believes that his or her human rights and freedoms have been violated by means of enactment, action or failure to act of the authorities may file a complaint with the Protector.

A person from paragraph 1 of this Article may also file a complaint to the Protector through relevant associations or organisations as well as through the elected representatives.

The complaint may also be submitted orally in the record room of the Protector's office.

Complaint

Article 32

The complaint shall contain the title of the authority whose action it refers to, description of the violation of human rights and freedoms, facts and evidence substantiating the complaint, information

on legal actions that have been undertaken, name and address of the complainant as well as the statement indicating whether or not the complainant agrees that his or her name can be disclosed in the procedure.

Supplementing the Complaint

Article 33

Should the complaint not contain all the necessary information, the Protector may request for the complaint to be supplemented within the deadline he or she determines.

Procedure Ex Officio

Article 34

The Protector shall also act ex officio when he or she comes into possession of reliable information that human rights and freedoms have been violated by means of enactment, action or failure to act of the authorities.

If the Protector acts ex officio, the consent of the injured person shall be obtained.

Exhaustion of Legal Actions

Article 35

The Protector may request that, prior to his or her consideration of the complaint, other legal actions be exhausted in order to remedy the violation which the complainant refers to, if he or she finds such procedure more efficient.

Deadline for Filing a Complaint

Article 36

The complaint shall be filed within one year from the date the violation of human rights and freedoms was committed, or from the date the violation became known.

Exceptionally, the Protector shall act after the expiration of the deadline set forth in paragraph 1 of this Article if he or she assesses that the case is important.

Decision Not to Act upon a Complaint

Article 37

The Protector shall not act upon the complaint if:

- 1) the complaint is anonymous,
- 2) it is submitted after the expiration of the prescribed deadline, except for cases referred to in Article 36 paragraph 2 of the present Law;
- 3) it does not contain the necessary information, and if the complainant fails to supplement it within the prescribed deadline;
- 4) other legal actions to remedy the violation have not been exhausted, when the complainant has been directed to do so by the Protector;
- 5) the complaint is re-filed, but does not contain new evidence; and
- 6) if there is an obvious abuse of the right to file the complaint.

Notification

Article 38

The Protector shall notify the complainant as to the reasons for not taking action upon the complaint and shall direct him or her on how to secure the protection of his or her rights with other institutions.

Delivery of the Complaint

Article 39

When the Protector assesses that the complaint is in accordance with the required conditions, he or she shall notify the complainant and the head of the authority which enactment, action or failure to act the complaint refers to.

In the notification to the head of the authority, the Protector shall state the content of the complaint and determine the deadline of at least eight days within which the head of the authority shall have to respond.

If the Protector assesses that the statement of the head of the authority does not contain all the necessary information, he or she may request additional elements of information to be provided within the deadline he determines.

Duties of the Authorities **Article 40**

The authorities are obliged to provide the Protector, upon his or her request, with access to all requisite information and notifications they are responsible for, regardless of the level of secrecy, as well as with free access to all premises.

Should the authorities fail to proceed upon the request of the Protector within the determined deadline, they shall, without delay, inform the Protector of the reasons they have not proceeded.

The authorities shall have the duty to provide the Protector, upon his or her request, with direct insight into the official files, documents, information, as well as to deliver him or her the copies of requested files and documents, in compliance with the rules on handling official files and documents.

Failure to act upon the request of the Protector shall be considered an obstruction of his or her work, of which the Protector may inform the immediate superior of the authorities, the Assembly or the public.

Mandatory Co-Operation **Article 41**

All the authorities are obliged to provide the Protector with adequate assistance, upon his or her request.

Suspension of the Consideration of a Complaint **Article 42**

The Protector shall not continue with the consideration of a complaint if he or she has determined that:

- 1) court proceedings were initiated after the complaint had been filed with the Protector;
- 2) the complainant does not co-operate in the procedure undertaken by the Protector;
- 3) the complainant withdrew the complaint;
- 4) the authorities have remedied the committed violation in the meantime.

Experts and Witnesses **Article 43**

For the purpose of investigation, the Protector may call any person possessing appropriate knowledge or information about allegations of the complaint to appear as an expert or witness.

Persons from paragraph 1 of this Article are obliged to respond to a request from the Protector.

Final Opinion **Article 44**

After the completion of his or her consideration of a complaint, the Protector shall give the final opinion.

The final opinion shall contain the judgment of whether, how and to what extent the violation of human rights and freedoms of a complainant occurred, recommendations as to what needs to be done in order to remedy the said violation, as well as the deadline for authorities to take action.

The respondent authorities are obliged to submit to the Protector, within the deadline he or she determines, a report stating the action taken in order to enforce the recommendations contained in the final opinion.

Should the authority fail to comply with the recommendation, the Protector may address the public, refer to the immediate superior authorities or submit the special report thereon.

**Initiative
Article 45**

The Protector may submit complaint to the competent authorities for launching disciplinary proceedings or dismissal procedures against persons whose action provoked the violation of human rights and freedoms.

**IX PENAL PROVISIONS
Article 54
Procedural Contravention**

A fine amounting from ten and up to twenty times of the minimum monthly wage in the Republic shall be imposed on persons who contravened the procedure as follows:

- 1) if a competent person who is employed with authorities fails to proceed timely upon the request of the Protector (Article 40);
- 2) if a person fails to respond to the call from the Protector (Article 43).

APPENDIX VIII. EXCERPT FROM PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR: PRINCIPLES, MECHANISMS AND PRACTICES¹¹⁵

Parliament Communicating with the Public on Security Issues

Democratic oversight can only be effective, as a principle of good governance, if the public is aware of major issues open to debate at parliamentary level.

The effectiveness of public communication on security issues is dependent upon the wealth and accuracy of the information released to the public by both government and parliament. The parliament should take a special interest in the public having the necessary level and quality of information so as to be able to understand both the current state of affairs and the outcome of the decision-making process in parliament.

Making documentation accessible to the public

One effective way for parliament to secure public information is, in cooperation with the government or alone, to make available to the public, in the form of documents and/or through its website, a variety of information and documents on security-related issues.

Examples of information on security sector issues that could be released to the public, preferably in public friendly versions:

- ▶ Documents of strategic importance, such as the national security policy;
- ▶ The defence budget (not including secret funds);
- ▶ Press releases concerning all major debates, decisions, motions, laws, etc. in parliament concerning the security sector;
- ▶ Minutes of all parliamentary (committee) meetings and debates on security issues (except meetings held behind closed doors); these should include reports on the scope and terms of reference of such closed hearings
- ▶ Publications related to parliamentary inquiries into security issues;
- ▶ Annual parliamentary reports or reviews on functioning of all security services;
- ▶ Reports by the ombudsman or the auditor general concerning the security sector; the ombudsman may not be allowed to table reports of some special of some special investigations but would be asked to submit them to select committees; the government should table any action taken upon the ombudsman or auditor's reports to the parliament;
- ▶ Information on multilateral and bilateral agreements;
- ▶ Information on how individual parliamentarians or political factions in parliament voted on security issues (such as the budget, joining international alliances, conscription issues, procurement);
- ▶ Freedom of information legislation.

¹¹⁵ Born, Hans, Philipp Fluri, and Anders B. Johnsson, *Parliamentary Oversight of the Security Sector* (Geneva: Inter-Parliamentary Union and the Geneva Center for the Democratic Control of the Armed Forces, 2003), 40-42.

Facilitating public involvement in parliamentary work

One-way information (from parliament or government to the public) is not sufficient. Parliament should give the public the possibility of communicating with it on security issues. A two-way communication or dialogue is important because:

- ▶ It ensures participation and permanent oversight from the citizen's side;
- ▶ It increases the public's confidence in the functioning of the parliament;
- ▶ It offers a potential check on maladministration (for example through the parliamentary ombudsman);
- ▶ It secures public support and legitimacy for legislation and government policies, and hence democratic stability.

Two-way communication could be enhanced by parliamentary information, hearings and monitoring news services, television panel discussions and tailor-made news mailers to committee members, provided by the parliamentary research service etc.

APPENDIX IX. HUNGARIAN LAW ON FREEDOM OF ELECTRONIC INFORMATION¹¹⁶

Act XC of 2005 on the Freedom of Electronic Information¹¹⁷

In order to ensure the operation of the rule of law enshrined in Article 2 (1) of the Constitution and to enable the exercising of the basic right concerning access to information of public interest and the right to disseminate such information as provided for by Article 61 (1) of the Constitution, in concert with the provisions laid out in Article 19 of Act LXIII of 1992 on the protection of personal data and the disclosure of information of public interest (hereinafter: Avtv) Parliament is adopting the following Act:

PART I GENERAL PROVISIONS The Purpose of Act Article 1

The purpose of this Act is to ensure that the range of data of public interest specified herein is published electronically for anyone, without personal identification and a procedure of requesting data, on a permanent basis, and free of charge in order to ensure that the public is accurately and quickly informed.

Interpreting Provisions Article 2

- (1) For the purposes hereof:
- a) data owner: the public sector agency that has generated the data of public interest that has to be electronically disclosed on a mandatory basis, and the agency in the course of whose operations such data have been generated;
 - b) data publisher: the public sector agency that – if the data are not published by the data owner itself – discloses the data received from the data owner, on its homepage;
 - c) publication: making the data specified herein accessible to anybody, in a digital form on an Internet homepage, without restrictions and free from charges.
- (2) The provisions hereof concerning data of public interest shall also apply to data that are public in the interest of the public.

PART II ELECTRONIC DISCLOSURE OF DATA OF PUBLIC INTEREST Obligation to Make Electronic Disclosure Article 3

- (1) The following organisations shall – unless otherwise provided by law – disclose the data specified in the disclosure lists referred to in Article 6 hereof on their own homepages:

¹¹⁶ The English text of the law was taken from http://www.lexadin.nl/wlg/legis/nofr/eur/arch/hun/act_xc_of_2005_on_the_freedom_of_information_by_electronic_means.pdf, accessed 16 February 2009.

¹¹⁷ The Act was adopted by Parliament on 4 July 2005.

- a) the Office of the President of the Republic of Hungary, the Office of Parliament, the office of the Constitutional Court, the Office of Government Commissioners, the Hungarian State Audit Office, the Office of the National Council of Justice, the Supreme Court, the Competition Council, the Public Procurement Council, the Hungarian Academy of Sciences, the National Radio and Television Board,
 - b) public administration agencies of nationwide competency, including, in particular, ministries, the Prime Minister's Office, agencies with national jurisdiction, central agencies, ministries' offices, national chambers, and
 - c) county (Budapest) public administration offices.
- (2) Other agencies, not listed in paragraph (1), in charge of public duties specified by law may, subject to their own choice, fulfil their disclosure obligations as defined in Article 6 by disclosing data on homepages of their own or on home pages operated jointly by their associations or on homepages maintained by the agencies in charge of their supervision, technical/professional control or the coordination of their operations, or on the central homepage set up for this purpose.
 - (3) If a public education institution is not performing nationwide or regional tasks, it shall fulfil its obligation concerning disclosure of data as specified herein by supplying data for the information system identified in the relevant sectoral legislation.
 - (4) A data owner disclosing data on other than its own homepage shall – by applying the provisions in Article 4 as appropriate – transmit data to be disclosed to the data publisher, which will provide for the disclosure of the data on the homepage and for identifying the agencies from which the data originate as well as those to which the data pertain.
 - (5) The data publisher shall provide for structuring the homepage in a way that will be suitable for the disclosure of data, for the continuous operation of the homepage, for the elimination of any disruption in its operation and for the updating of the data.
 - (6) Information on the rules governing individual requests for data of public interest shall be provided on the homepage in an easy-to-understand form. Such information shall also describe the available legal remedies.
 - (7) In addition to the data of public interest specified in the disclosure lists other data of public interest and data that are public in the interest of the public may also be disclosed electronically.

Article 4

- (1) The head of the data owner agency that is under obligation to disclose data shall provide for the precise, timely and ongoing disclosure – transmission to the data publisher – of the data specified in the disclosure lists referred to in Article 6.
- (2) The data publisher shall be responsible for the publication, ongoing accessibility, authenticity and regular updating of the data received from the data owner.
- (3) The data owner and the data publisher shall establish the detailed rules governing the fulfilment of the obligation specified in paragraphs (1) and (2), in their own internal regulations.
- (4) The data so disclosed shall – unless otherwise provided by law or other legislation – not be removed from the homepage for a period of one year after publication. If the agency is disestablished, its legal successor shall bear the obligation to disclose data.
- (5) Breaching the obligations laid out herein shall entail criminal and disciplinary liability regulated in specific other legislation.

Article 5

The publication of the data specified in the disclosure lists presented in Article 6 shall not prejudice the obligations of the given agency specified in Article 20 of the Avtv or its obligations specified in any other piece of legislation relating to the disclosure of data of public interest or data that are public in the interest of the public.

Disclosure Lists

Article 6

- (1) The agencies specified in Article 3 (1)-(3) (hereinafter collectively: public sector bodies) shall – in relation to their operations – publish the data specified in the Annex to this act (general disclosure list).
- (2) Other data to be published may be specified by relevant legislation with respect to certain sectors and/or types of public sector bodies (specific disclosure list).
- (3) The head of a public sector body – after asking for the opinion of the commissioner for data protection – as well as relevant legislation may specify additional categories of data to be published, for public service organisations, for agencies controlled or supervised by them or to specific parts of such agencies (individual disclosure list).
- (4) The range of data to be disclosed by the civil national defence services may be regulated by the Minister in charge of the civil national defence services – having asked for the opinion of the commissioner for data protection – in a way departing from the provisions laid out herein.
- (5) In the case of a public sector body operating as in the form of a board the individual disclosure list shall – having asked for the opinion of the commissioner for data protection – be established and modified by the board itself.
- (6) Based on data derived from requests for data of public interest that are not included in the disclosure list, the head of a public sector body shall review the disclosure list it has issued as specified in paragraph (3) and shall supplement the list on the basis of requests for data encountered in a significant proportion of the requests or in a significant number of cases.
- (7) The commissioner for data protection may also make proposals for the compilation and/or supplementation of specific and individual disclosure lists.
- (8) The publication obligation specified in Act XXIV of 2003 on the amendments to certain acts relating to the utilisation of public moneys and on disclosure, transparency and increased control in regard to the use of public property, shall be fulfilled together with the disclosure obligation specified herein, in accordance with the conditions concerning the mode of publication as specified herein.

Central Electronic List of Data of Public Interest and Uniform Public Data Search System

Article 7

- (1) In order to enable easy and quick access to electronically disclosed data the descriptive data concerning the homepages of the public service bodies covered by this act as well as to the databases and registries maintained by them, shall be contained in an aggregated form in a central electronic list set up and operated by the Minister of Informatics and Communications. The list shall be published by the operator on the home page reserved for this purpose.
- (2) Electronic access based on harmonised criteria to the data of public interest of agencies covered by this act and the possibility to search on data shall be enabled by the uniform public data search system operated by the Minister of Informatics and Communications.

Article 8

- (1) The data owner shall provide for the transmission of the descriptive data concerning homepages, databases and registries containing data of public interest, that are managed by the data owner, to the operator of the central electronic list and for the regular updating of such descriptive data. Also, the data owner shall be responsible for the contents of the data of public interest transmitted to the uniform public data search system and for the regular updating of data so transmitted.
- (2) Maintenance of the databases containing data of public interest and of the list of registries as well as connection to the single data search system shall not exempt the data owner from the responsibility to publish data on its homepage.

PART III
PUBLISHING LEGISLATION
Making the Process of Preparing Legislation Public
Article 9

- (1) The following shall be published on the homepage of the ministry or agency with national jurisdiction in charge of preparing specific legislation, while also specifying the status of coordination:
 - a) the concepts and drafts concerning the drafting of legislation, submitted to the ministry or agency concerned pursuant to the Legislation Act and the Government's procedural regime,
 - b) the drafts of ministerial decrees, and
 - c) proposals or technical/professional explanations attached to the drafts referred to in points a) and b).
- (2) If the draft published in accordance with paragraph (1) aims to amend at least a fifth of the volume of another act, the act to be amended shall be published on the homepage with the proposed amendments, in a consolidated structure, with the proposed amendments specifically marked.
- (3) Drafts of legislation
 - a) with contents that cannot be put to a nationwide referendum pursuant to Article 28/C (5) of the Constitution,
 - b) on payment obligations,
 - c) price setting,
 - d) state subsidies and
 - e) establishment of organisations
 do not need to be published.
- (4) A draft does not need to be published if publication would undermine protection of the interests of the Republic of Hungary in terms of defence or national security, financial affairs, foreign affairs, nature conservation or the protection of the national heritage, or if quick adoption of the legislation concerned is crucial from the aspect of the interests of the society as a whole.
- (5) Arrangements for publication shall be made by the minister or head of the agency with national jurisdiction in charge of preparing the legislation concerned.
- (6) Draft legislation and other related documents published in accordance with paragraph (1) shall not be removed from the homepage of the ministry that prepared the legislation concerned. Upon disestablishment of the agency concerned, the publication obligation shall be borne by the legal successor of the agency.
- (7) The joint database containing data on the accessibility of published draft legislation shall operate on the governmental portal.

Article 10

- (1) In the course of the preparation of legislation – in order to ensure that legal regulation relies on sound complex foundations and, in relation to this, to facilitate voluntary compliance – the organisation preparing legislation shall ensure as specified in paragraph (2) that anybody can comment on and make proposals concerning the drafts of legal regulations.
- (2) Receipt of comments and proposals shall be enabled and the deadline for commenting shall be specified on the homepage of the ministry preparing legislation.

Making the Legislative Process Public
Article 11

- (1) The following shall be published by Parliament on its homepage:
 - a) drafts of legislation (bills),
 - b) documents related to draft legislation, contained in Parliament's register of documents, including in particular the proposed amendments, the related proposals for amendments, the recommendations produced by committees with respect to draft legislation and the harmonized proposal,

- c) the minutes of the general debate, detailed debate and closing debate of the proposal at the plenary session of Parliament and of the closing vote on the bill,
 - d) the minutes of the committee meetings addressing the draft.
- (2) The documents published as described in paragraph (1) shall not be removed from the homepage of the Parliament.
 - (3) The provision laid out in paragraph (1) c) and d) shall not apply to minutes of closed meetings.

Publicity of pieces of legislation Article 12

- (1) A page-by-page digital copy of the printed version of the Official Journal of the Republic of Hungary [Magyar Közlöny] shall be published on the day of the publication of the Journal.
- (2) A copy disclosed as specified in paragraph (1) shall not be removed from the homepage.
- (3) Where there is any difference between the text of promulgated legal regulations, decisions and statements involving statistics as appears in the printed form of the Official Journal of the Republic of Hungary and the version published as specified in paragraph (1) the printed text shall be regarded as authentic.
- (4) The page-by-page digital copy of the printed version of the Official Journal of the Republic of Hungary shall be disclosed electronically in a downloadable form guaranteeing protection against unauthorised modification even in reproduction.

Article 13

- (1) Ministries and agencies of nationwide authority shall publish their respective official journals by publication on their own homepages. Page-by-page copy of the official journal may also be distributed in a printed version.
- (2) The journal published as specified in paragraph (1) shall not be removed from the homepage of its publisher. If the agency is disestablished, its legal successor shall bear the obligation to disclose data.

Article 14

- (1) In the Electronic Collection of Effective Laws (Hatályos Jogszabályok Elektronikus Gyűjteménye) (hereinafter: collection of laws) the Minister heading the Prime Minister's Office and the Minister of Justice shall provide for the publication
 - a) of the effective texts of all legal regulations – with the exception of local governmental decrees – in effect on the given calendar day, each in a harmonised structure with any amendment, and
 - b) of the effective texts of other legal instruments of state governance as published in the Official Journal of the Republic of Hungary, each in a harmonised structure with any amendment.
- (2) The collection of laws shall enable searching for pieces of legislation and other legal instruments of state governance according to number and title, along with searches in their texts.

Article 15

- (1) The town clerk shall electronically forward the decrees adopted by the local government concerned, along with the minutes of the meeting of the council, to the Minister of the Interior through the head of the Budapest or county public administration office.
- (2) The Minister of the Interior shall provide for the publication of the local governmental decrees on a homepage reserved for this purpose.

PART IV
PUBLICITY OF COURT DECISIONS
Collection of Court Decisions
Article 16

- (1) The court decisions specified herein shall be accessible in the Collection of Court Decisions (Bírósági Határozatok Gyűjteménye), (hereinafter: collection) shall be accessible for anybody, in a digital form on an Internet homepage, free from restrictions and free from charges.
- (2) The collection shall be published by the Office of the National Council of Justice.

Article 17

- (1) Decisions taken by the Supreme Court and the courts of appeal concerning the merits of the case shall be published in the collection.
- (2) Decisions taken based on the application of the provisions laid out in Chapter XX of Act III of 1952 on the Code of Civil Procedure (hereinafter: Pp.) on the merits of the case shall be disclosed in the collection, if the reviewed decision has been made in a single instance procedure and no regular appeal may be lodged against the court decision.
- (3) Digital copies, with data enabling personal identification removed, of decisions taken by the court, other authorities and/or other agencies, that had been overridden or reviewed by a given court decision, shall be attached to and published simultaneously with the disclosed court decision.
- (4) Decisions made for the purpose of harmonising the body of law, conceptual court decisions, college comments, conceptual decisions made by colleges and standpoints expressed by colleges shall also be published in the collection.
- (5) Court decisions made in procedures involving payment orders, enforcement, procedures of the Court of Registration, bankruptcy and liquidation procedures and those relating to the registry of names kept by the court shall not be disclosed in the collection.
- (6) The chair of the court may, by applying the provisions of this section as appropriate, order the publication of other decisions of the court as well.
- (7) Decisions made in procedures specified in chapters XV-XVIII of the Pp. (in marriage related actions, actions concerning establishment of fatherhood or of origin, termination of parental supervision, placement in guardianship) shall not be disclosed if either party has asked for nondisclosure.
- (8) A decision made on the basis of Article 195/A of Act IV of 1978 on the Criminal Code (infringement involving prohibited pornographic recordings) and decisions made on the basis of Title II of Chapter XIV of the above Act may be disclosed only if the injured party has consented to it on request by the acting court.

Article 18

- (1) Data enabling personal identification of individuals involved in a disclosed decision shall be cancelled in a way as will not prejudice the established facts of the case. Otherwise the persons involved in the disclosed decision shall be referred to according to their roles in the procedure.
- (2) Unless otherwise provided by law, the following shall not be deleted from a disclosed decision:
 - a) the name of the agency performing state or local governmental duty or other public duty specified by law and – unless an exemption is made by law – the first name(s) and surname(s) of the person proceeding in such capacity (hereinafter: name) and his/her position if the person concerned has participated in the procedure in relation to the performance of his/her public duties,
 - b) the name of the attorney who proceeded as authorised agent or counsel for the defence, c) the name of the natural person who lost the action as defendant, the name and head office of the organisation with or without legal personality if the decision was made on a case in which claim in the interest of the public may be enforced according to the relevant legal regulations,

- d) name, head office and name of representative of social organisation or foundation,
 - e) data that are in the public interest.
- (3) If the public has been excluded from the whole or some part of the hearings and the protection of the interests laid down by law, underlying the exclusion of the public, cannot be assured otherwise, part or the whole of the decision shall not be disclosed in the collection or if it has been published, certain parts or the whole of the decision shall be deleted from the collection.
 - (4) Deletion of a decision made in a procedure partly or entirely closed to the public, from the collection, or non-disclosure of such decision may be requested in a civil procedure by the client, in a criminal procedure by the injured party. Such request may be submitted by the person concerned to the head of the Office of the National Council of Justice within one year of the publication of the decision, who shall promptly – within a maximum of five working days of receipt of the request – provide for the fulfilment of the request.
 - (5) In disclosing court decisions the protection of state and service secrets shall be provided for.
 - (6) The text of the decision shall not be edited in any way other than as specified in this Article.

Article 19

- (1) A decision shall be disclosed in the collection by the chair of the court that has made the decision, within 30 days of its laying down in writing.
- (2) If a decision already published is corrected or its content is altered by supplementation, the correction or supplementation shall be entered in the disclosed decision within five working days of its laying down in writing.

Article 20

- (1) In the description of disclosed decisions, the name of the court and college concerned shall be specified along with the year and serial number of the decision.
- (2) The court making a decision shall – simultaneously with its disclosure – note the legal regulations on the basis of which the decision has been made by the court.
- (3) The operator shall enable searching on the texts of the decisions and the legal regulations referred to, in the collection.

PART V FINAL PROVISIONS Entry into Force Article 21

- (1) With the exceptions laid out in paragraphs (2) and (3), this Act shall enter into force on 1 January 2006.
- (2) Part IV of this Act shall enter into force on 1 July 2007.
- (3) In respect of county governments and of towns with populations over 50,000 this Act shall enter into force from 1 January 2007; in respect of other local governments and other agencies performing public duties the effective date is 1 July 2008.

Authorising Provisions Article 22

- (1) The Government is hereby authorised to establish the following, in decrees:
 - a) detailed rules on the electronic disclosure of data of public interest,
 - b) the data contents of the uniform public data search system and of the central list as well as the rules on data integration,

- c) the technical regulations guaranteeing the protection of the text of the Official Journal of the Republic of Hungary published as prescribed herein, against unauthorised modification,
- (2) Authorisation is granted to
- a) the line minister to issue the specific disclosure list referred to in Article 6 (2),
 - b) the Minister of Informatics and Communications to establish the disclosure forms required for the publication of the data contained in the disclosure lists,
 - c) the Minister controlling the civil national security services to establish, in a decree, the range of data to be disclosed by the civil national security services,
 - d) the Minister of Justice to specify in a decree – in agreement with the Office of the National Council of Justice – the rules on the identification of the court decisions in the collection as published on the basis of this Act,
 - e) the Minister heading the Prime Minister’s Office to establish, in a decree – in agreement with the Minister of Justice – the detailed conditions for the exercising of consent to copying the database referred to in Article 12 and Article 14 hereof – in accordance with Act LXXVI of 1999 on copyrights.

Conformity to EU Legislation Article 23

Article 7 hereof and the Annex hereto are aimed at ensuring conformity to the provisions laid out in Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information.

Ferenc Mádln
President of the Republic of Hungary

Dr. Katalin Sziln
Speaker of the Parliament

Annex to Act XC of 2005

GENERAL DISCLOSURE LIST

I. Organisational and Personal Data

	Data	Update	Preserve
1	Official name, head office, postal address, telephone and telefax number, e-mail address, homepage, customer service contact data of public sector body.	Immediately following any changes	Preceding status to be deleted
2	Organisation structure of public sector body, specifying the organisation units and the duties of the various organisation units.	Immediately following any changes	Preceding status to be deleted
3	Names of the heads of the public sector body and the names, positions and contact data (telephone and fax number, e-mail address) of the heads of the various organisation units.	Immediately following any changes	Preceding status to be deleted
4	Name of the competent customer relationship manager within the organisation and the timetable hours during which customers can call at the organisation.	Immediately following any changes	Preceding status to be deleted
5	In the case of a body functioning in the form of a board, the number of the members of the board, the composition of the membership, names, positions and contact data of the members.	Immediately following any changes	Preceding status to be deleted
6	Names and data as per point 1 of other bodies performing public duties under control of or subordinated to the public sector body.	Immediately following any changes	Previous status to be archived for one year
7	Name, head office, contact data, scope of operations, name of representative of business enterprise [Civil Code, Article 685 c] owned by or operating with participation of the public sector body, percentage of the participation of the public sector body.	Immediately following any changes	Previous status to be archived for one year
8	Name, head offices, deeds of foundation, members of managing agencies of public foundations established by the public sector body.	Immediately following any changes	Previous status to be archived for one year
9	Titles of papers, editorial boards and names and addresses of publishers and names of editors-in-chief of papers founded by the public sector body.	Immediately following any changes	Previous status to be archived for one year
10	Data of the parent agency of an agency performing public duties or the regulatory agency that supervises such agency or, in the absence of these, the data of the agency that oversees the legality of the agency performing public duties.	Immediately following any changes	Previous status to be archived for one year

II. Data on Activities and Operations

	Data	Update	Preserve
1	The fundamental legal regulations, other legal instruments of state governance, determining the duties, scope of competence and core operations of the public sector body, along with the effective and complete text of the Organisational and Operational Rules or the procedural regime.	Immediately following any changes	Previous status to be archived for one year
2	In the case of agencies of nationwide competence and the county (Budapest) public administration offices, a description of the duties and operations of the public sector body in Hungarian and English.	Quarterly	Preceding status to be deleted
3	Voluntary tasks of the local government.	Quarterly	Previous status to be archived for one year
4	Name of agency having competence in respect of state administration, local governmental and other official cases by group of case (by type of case) and by type of procedure, in the case of delegation of the competence the name and area of competence of the agency actually proceeding, specification of the documents, procedural duties (administrative service provision fees), basic procedural rules, mode (place, time) of submission of the documents initiating the procedure, regime of reception of customers, guides facilitating the completion of administrative transactions, information concerning the procedure and downloadable forms to be use in the transactions.	Immediately following any changes	Preceding status to be deleted
5	Name and contents of the public services provided by the public sector body or those financed from the central budget, the regime of the use of public services, the rates/amounts payable for the public services, any discounts.	Immediately following any changes	Previous status to be archived for one year
6	List of databases and registers maintained by the public sector body, the identification data as per Article 28 of Avtv. of the registries to be reported to the register operated with the aim of protecting personal data; the types of data collected and processed by the public sector body – as part of its core operations – the mode of access and the costs of reproduction.	Immediately following any changes	Previous status to be archived for one year
7	Title and subject of, access to the publications of the public sector body, whether the publication is free of charge, or the price of the publication.	Quarterly	Previous status to be archived for one year
8	Regime of the preparation of the decisions of the board, mode and procedural rules of citizens' participation (commenting), place and time of the meetings of the board, whether the meetings are open to the public, decisions made, records/minutes taken at meetings, summaries off meetings, voting data if that is not restricted by law.	Immediately following any changes	Previous status to be archived for one year

	Data	Update	Preserve
9	Draft legislation and related documents to be published on the basis of this act; proposals submitted to the public meetings of councils of local governments from the time of submission.	Unless otherwise provided herein, promptly after submission	Previous status to be archived for one year
10	Technical/professional description of tenders put out by the public sector body, their outcomes and the explanation of the results.	Ongoing	Previous status to be archived for one year
11	Public findings of audits and inspections carried out at the public sector body in relation to their core operations.	Promptly after learning the report on the audit	Previous status to be archived for one year
12	Indicators used for describing the output and capacity of the task performance of the public sector body, those used for measuring its efficiency and effectiveness, values and changes in time of the values of such indicators.	Quarterly	Previous status to be archived for one year
13	Regime of dealing with requests concerning access to data of public interest, name and contact data of the competent organisation unit and where such has been appointed, name of the person in charge of data protection or the one dealing with information rights.	Quarterly	Previous status to be deleted
14	Results and changes in time of collection of statistics based on statutory provisions, concerning the operations of the public sector body.	Quarterly	Previous status to be archived for one year
15	Data of provision of statistics concerning data of public interest, in respect of the agency concerned.	Quarterly	Previous status to be archived for one year
16	List of contacts for the utilisation of data of public interest where the public sector body is one of the contracting parties.	Quarterly	Previous status to be archived for one year
17	General contractual terms and conditions concerning the use and utilisation of data of public interest managed by the public sector body.	Immediately following any changes	Previous status to be archived for one year
18	Specific and individual disclosure list applying to the public sector body.	Immediately following any changes	Previous status to be deleted

III. Data on Financial Management

	Data	Update	Preserve
1	Annual (elementary) budget of the public sector body, its report according to the Accounting Act, reports produced on the implementation of the budget – in the way and at the frequency specified by law.	Immediately following any changes	Archiving for the duration prescribed in the specific other legislation but at least for 5 years
2	Aggregate data on the headcount employed by the public sector body, their compensations and benefits, remunerations, wages, regular allowances, cost reimbursements of managers and senior officers, types and amounts of allowances for other employees, in aggregate.	Quarterly	Archiving for the duration prescribed in the specific other legislation but at least for 1 year
3	Data on the names of the beneficiaries of the non-normative, targeted development supports provided from the budget of the public sector body, targets of supports, their amounts, the places of the implementation of the supported programmes.	Quarterly	Archiving for the duration prescribed in the specific other legislation but at least for 1 year
4	Names (types) subjects of contracts concerning procurements of goods and construction projects, orders of services, sales of assets, utilisation of property, transfer of assets or rights and titles, and transfer of such in concession in relation to the utilisation of the funds of the general government system and the management of assets belonging to the general government system – of values prescribed in specific other legislation – and names of contracting parties, values of contracts, durations in the case of contracts for definite periods of time.	Quarterly	Archiving for the duration prescribed in the specific other legislation but at least for 1 year
5	Public data specified in act on concessions (tenders put out, data of bidders, memos of evaluation, results of tenders).	Quarterly	Archiving for the duration prescribed in the specific other legislation but at least for 1 year
6	Payments of amounts over HUF 5 million for other than basic tasks of the public sector body (including supports to social organisations, for professional and employee interest representing organisations of employees, supports to organisations facilitating education, cultural, social and sports activities of its employees and those of its beneficiaries, payments relating to tasks performed by foundations).	Quarterly	Archiving for the duration prescribed in the specific other legislation but at least for 1 year

APPENDIX X. RECOMMENDATIONS FROM MARCH 2008 ROUNDTABLE ON ROLE OF PARLIAMENT IN IMPLEMENTATION OF STABILIZATION AND ASSOCIATION AGREEMENT



**Committee of the Parliament of Montenegro for International Relations
and European Integration
Committee of the Parliament of Montenegro for Constitutional Issues and Legislation
Capacity Development Program**

In the period July 2007 - July 2008, the Capacity Development Program has been implementing the project for the improvement of work of the Committee for International Relations and European Integration and the Committee for Constitutional Issues and Legislation of the Parliament of Montenegro in the process of European integration.

Within the project, an international consultant has been hired, with the task to analyze the situation, capacities and organization of the Secretariat of the Parliament of Montenegro, and especially the situation in these two Committees, and in accordance with that, to prepare adequate recommendations, with the aim to build the capacities of the two Parliamentary Committees and the Secretariat of the Parliament of Montenegro to fulfill the tasks awaiting them in the upcoming stage of the European Integration process.

In late 2007, the international consultant, hired by CDP, prepared the Report, with recommendations, on how to improve the role of the Parliament of Montenegro in the implementation of the Stabilization and Association Agreement, and a round table was organized at that occasion, where the members of the Committee for International Relations and European Integration and the Committee for Constitutional Issues and Legislation of the Parliament of Montenegro were invited, as well as the Chairs of other Committees, the General Secretary of the Parliament, and a number of employees of the Secretariat of the Parliament.

The round table took place on March 1-2, 2008 in Hotel Splendid in Becici, and at the end of the two-day work, the participants adopted the conclusions and they will inform the Collegium of the Speaker of the Parliament of Montenegro about them.

CONCLUSIONS

The round table participants concluded that the key task of the Parliament of Montenegro in the pre-accession period is to execute political control over the process of accession of Montenegro to the European Union, whereas special attention should be given to the harmonization of the Montenegrin legislation with *Acquis communautaire*. In that sense, it is necessary to further adapt the organizational model of work and to build the administrative capacities of the Parliament. The round table participants proposed the activities aimed at the following:

- ▶ To implement in a consistent manner the Resolution of the Parliament of Montenegro on the European Integration Process;
- ▶ To initiate changes and amendments of the Rules of Procedure of the Parliament, in order to increase the efficiency of work of the Parliament and its working bodies. Changes of the Rules of Procedure should enable the introduction of a shorter procedure for minor changes of law proposals, definition of the model for the adoption of priority laws in the process of EU integration, and to redefine the number, structure and responsibilities of the Parliamentary committees;
- ▶ After the adoption of the annual work plan, to define monthly and weekly work plans of the Parliament;
- ▶ To strengthen the role of the parliamentary committees in the legislative process in the upcoming period;
- ▶ To establish regular communication with the Secretariat for European Integration in the Government of Montenegro, by raising the level of cooperation between the specific persons responsible for communication, in order to secure the best possible information flow. Besides, it is desirable that the representatives of the Secretariat for European Integration attend regularly the sessions of the Committee for International Relations and European Integration of the Parliament of Montenegro;
- ▶ The Montenegrin side in the Joint parliamentary committee for stabilization and association with the European Parliament should consist of the members of the Committee for International Relations and European Integration and not the members of the special delegation of the Montenegrin MP's, because this could involve the duplication of work in resolving the EU integration issues;
- ▶ To improve technical working conditions in the Parliament;
- ▶ To plan holding a special Plenary session of the Parliament every year (the European day, which could be organized on the Day of Europe, on May 9), dedicated to the Montenegrin policy regarding the EU accession process, in order to raise the awareness of the public and to bring the EU issues closer to all the MPs and the public in general;
- ▶ To establish a Legal Department in the Secretariat of the Parliament, which should take over the duties of the Committee for Constitutional Issues and Legislation, after the transitional period that would depend on the pace of quality staffing of this Department;
- ▶ To establish the Sector for European Affairs in the Parliament, with gradual increase in the number of staff, which would consist of the collaborators in the Committee for International Relations and European Integration and the staff working in other Committees that deal with these issues, and which would be coordinated by the Secretary of the Committee for International Relations and European Integration;

- ▶ To develop a model of scholarship provision for expert staff in the Parliament, in order to develop further their expertise in the field of European Integration;
- ▶ To establish a Research sector, as a support to the work of MPs;
- ▶ To define an Action plan for implementation of the adopted conclusions.



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