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Republic of Montenegro

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SIGMA

Support for Improvement in Governance and Management

A joint initiative of the OECD and the European Union, principally financed by the EU

PUBLIC MANAGEMENT PROFILES OF WESTERN BALKAN COUNTRIES

SERBIA AND MONTENEGRO REPUBLIC OF MONTENEGRO

(as of November 2003)

For easier reference, separate Profiles have been established for the State Union level of Serbia and Montenegro, the Republic of Montenegro, and the Republic of Serbia. The province of Kosovo is governed, since June 1999, by the UN Interim Mission to Kosovo. A separate Profile of Kosovo follows the three Profiles of Serbia and Montenegro.

THE SIGMA PROGRAMME

The Sigma Programme — Support for Improvement in Governance and Management — is a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the European Union, principally financed by the EU.

Sigma supports partner countries in their efforts to improve governance and management by:

- Assessing reform progress and identifying priorities against baselines which reflect good European practice and existing EU legislation (the *acquis communautaire*);
- Assisting decision-makers and administrations in building institutions and setting up legal frameworks and procedures to meet European standards and good practice;
- Facilitating donor assistance from the EU and other donors inside and outside Europe by helping to design projects, ensuring preconditions and supporting implementation.

Sigma's working partners are governments in:

- Most EU candidate countries — Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Turkey.
- Western Balkan countries — Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro / Montenegro, Serbia and Kosovo.
- Russia (under OECD financing).

The Sigma Programme has set its priorities to support reform efforts of partner countries in the following areas:

- Design and Implementation of Reform Programmes
- Legal Framework, Civil Service and Justice
- External Audit and Financial Control
- Public Expenditure Management
- Policy-making and Co-ordination Capacities, including Regulatory Management
- Public Procurement

For further information on Sigma, consult our web site:

<http://www.sigmaweb.org>

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1. Political Background

Before the independence of the four other constituent Republics (Slovenia, Croatia, Bosnia and Herzegovina, and Macedonia), Montenegro was a constituent Republic of the Socialist Federal Republic of Yugoslavia. The first multiparty elections in Montenegro took place in 1990 following the period of the one-party system, which had been in force after the Second World War. There were three main principles in the legal system, in relation to the Federal State of Yugoslavia and constituent Republics, as well as in relation to Serbia and Montenegro within the new State. The first was a principle of "double track" in the implementation of laws: (federal authorities execute federal law, and Republican authorities execute the laws of the Republic). The second principle was a presumption of power in favour of the Republics (Serbia and Montenegro). The third principle was the possibility of delegating the power from constituent Republics to the Federal State. These were the main features of the period after dissolution of the former Yugoslavia, and means that the competence of the Federal Administration was limited only to the fields that were explicitly envisaged by the Federal Constitution.

The Public Administration of the Republics was competent for all other matters that were not determined by the Federal Constitution as a part of the federal competence. Similarly, this could describe the position of the local self-government, which has been guaranteed in accordance with the Republican Constitutions. The process of constituting the new state, the Federal Republic of Yugoslavia (FRY), has brought on the centralisation of competencies, thereby the autonomy of the local self-government has been limited to only a few areas of social life (public works, space planning, urbanism, etc.).

After the fall of Milosevic's regime in Serbia on 5 October 2000, the political tendency towards Montenegrin independence has been growing. Misunderstandings that have occurred between the political leaders in Serbia and Montenegro related to the referendum that was held on Montenegrin independence, as well as the influence of international political factors, have resulted in the adoption of the legal document "Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro", adopted on 14 March 2002, and signed by the President of the Federal Republic of Yugoslavia at the time, the Prime Minister of the Federal Republic of Yugoslavia, Presidents of the two Republics and Prime Ministers of the Republics of Serbia and Montenegro, in the presence of the EU High Representative for Foreign and Security Policy. This Agreement was the basis for the official representatives of Serbia and Montenegro to establish their new State Union of Serbia and Montenegro. This document was later formally adopted by the Parliaments of Serbia and Montenegro.

On the basis of this Agreement, the Parliaments of Serbia, Montenegro and the FRY adopted in February 2003 the "Constitutional Charter of the State Union of Serbia and Montenegro", as the highest legal act of the State Union.

Presidential elections for Montenegro had been scheduled for 22 December 2002, but even after two attempts a new President had not been appointed, due to the fact that the Montenegrin Constitution requires that more than 50 per cent of the electorate must take a part in presidential elections (in repeat elections held on 9 February 2003 only 47.5 per cent of the voters took part in elections). For that reason, the legislation concerning presidential elections has been changed. The new Law on the Election of the President (Official Gazette of the Republic of Montenegro, No. 11/03) annulled the requirement that at least 50 per cent of registered voters had to vote. This new law stipulates that the elected president is an individual who receives more than a half

the votes of the registered voters who voted in the elections, regardless of the number. With this new law in effect Filip Vujanović was elected the President of the Republic on 12 May 2003.

The last parliamentary elections took place on 20 October 2002. Many political parties presented candidates in the elections. Presently in Montenegro there are 63 officially registered parties, a large number of which exist only “on paper”. Following the elections, the Democratic Party of Socialists (DPS) and Social Democratic Party of Montenegro (SDP) entered into a pre-election coalition and won. The leader of the Democratic Party of Socialists, Milo Đukanović, former President of Montenegro, was elected Prime Minister by the Parliament of the Republic of Montenegro (*Skupština*). It is expected that the new Government will have a stable position since the winning coalition of the two parties obtained 39 out of 75 seats within the Parliament. The following table shows the composition of the Parliament after the last parliamentary elections:

Coalition (Political Parties)	Number of Seats in the Parliament
“Democratic List for European Montenegro Coalition- Milo Đukanović”: Democratic Party of Socialists (DPS) and Social Democratic Party of Montenegro (SDP)	39
“Together for Changes” Coalition: Socialist People's Party of Montenegro (SNP), People's Party of Montenegro (NS), and Serb's People's Party (SNS)	30
“Montenegro Can Do” – Liberal League of Montenegro (LS CG)	4
“Democratic Coalition - Albanians Together”	2

The next parliamentary elections are scheduled for 2006.

The last regular local elections were held in May 2002, but in the meantime extraordinary elections took place in some municipalities, such as Herceg Novi, Tivat and Podgorica. The next regular municipal elections are foreseen for 2006; in municipalities such as Herceg Novi and Tivat, which had extraordinary local elections in 2002, regular local elections are scheduled for 2004. In Podgorica the last extraordinary local elections were held in October 2002, so the next local elections are planned for the year 2006. However, given that in July 2003 a new Law on Local Self-government and a Law on Municipality President Election were adopted, the development and adoption of a new Law on Local Elections is expected. It is likely that regular local elections for members of municipality assemblies and mayors in all municipalities will be held during the year 2006, according to the newly-adopted laws.

During the last few years, Montenegro has taken important steps towards achieving its major political and economic goals, which include, in particular, membership in the European institutions, notably the European Union and the Council of Europe.

The relationship with the EU and some international institutions (NATO, UN, WTO) is the responsibility of the State Union of Serbia and Montenegro. State policy of Montenegro is directed towards integration processes and accession to the European Union, and other international organisations.

2. The Constitutional Framework

2.1 Constitutional Bases

The new Montenegrin Constitution was adopted on 12 October 1992. It created a constitutional order and established the basis for a parliamentary system of government. The Constitution states that Montenegro is a democratic State, which has original sovereignty in all subject matters that have not been transmitted to the competence of the Federal Republic. According to the Constitution the sovereignty belongs to the citizens, who implement power directly and through the elected representatives. The State is founded on the rule of law. The Constitution of the Republic of Montenegro guarantees personal, political, economic, social and cultural rights and freedoms to all Montenegrin citizens, as well as special rights to the members of the minority and ethnic groups. The following rights and freedoms granted by the Constitution are particularly important: freedom of speech, association, press, gathering, property; right to inherit; copyright; right to work, strike; right to social welfare, healthcare, education, legislative initiative; right to petition; as well as general, equal, free, secret and direct elections.

The Montenegrin Constitution has been published in the Official Gazette of the Republic of Montenegro, No. 48/92. It is also available on the web site of the Ministry of Justice of the Republic Montenegro, in the Serbian language, at: www.pravda.cg.yu/zakoni/ustav.htm.

The legal tradition of the Republic of Montenegro is founded on written law. Hierarchy of the legal acts comes from the constitutional principle which is implemented through the principle that laws have to be in accordance with the Constitution and other legislation, and general acts have to be in accordance with a law and the Constitution. All norms must conform to the generally-valid principles of international law. Ratified and promulgated international agreements have to be an integral part of the internal legal system of the Republic of Montenegro

The highest legal source is the Constitution.

Other legal norms include, in hierarchical order:

- laws passed by the Parliament;
- regulations (*uredba*) issued by the Government for the implementation of laws;
- rules (*pravilnik*), instructions (*uputstvo*) and orders (*naredba*) issued by ministries for the implementation of laws;
- statutes passed by local self-government bodies to determine affairs under their competence;
- decisions passed by local self-government bodies as general acts that regulate, in detail, the relations with the local government competences.

2.2 Nature of the State

Presently, according to the Constitutional Charter of the State Union of Serbia and Montenegro (Official Gazette of Serbia and Montenegro, No. 01/03, dated 04.02.2003), Montenegro is a member state of the State Union of Serbia and Montenegro. According to the Constitution of the Republic of Montenegro from 1992, Montenegro is an ecological, democratic and social state

with a republican form of rule and a parliamentary system of organisation of authority, based on the rule of law.

2.3 Division of Power

Under the Constitution, power belongs to the people, who exercise this power directly and through elections. The authority of the State follows the principle of the separation of powers into legislative, executive and judicial branches. Legislative power is performed by the Parliament, executive by the Government, judicial by courts. The President of the Republic represents the Republic of Montenegro.

The unicameral Parliament is known as the Parliament of the Republic of Montenegro. The Parliament has 75 members (MPs) who are elected for a four-year term under a proportional electoral system. The Parliament exercises legislative power. The right to initiate legislation is granted to the Government, a Member of Parliament, or a bloc of 6 000 voters.

The President of the Republic is the Head of the State. The President represents the Republic of Montenegro and is elected by citizens for a five-year term of office by direct and secret ballot of majority of votes of registered citizens. If the President acts contrary to the Constitution, the Parliament may call on the Constitutional Court to revoke his mandate (impeachment).

The President of the Republic proposes a candidate for the post of Prime Minister. The President may dissolve the Parliament by decree if it does not elect a Prime Minister within 60 days from the day when the candidate was proposed by the President (article 84 of the Constitution). The Government may also dissolve the Parliament in cases where the Parliament is not able to perform its functions as determined by the Constitution "for a longer period".

Following an official request of the Parliament, the President of the Republic must state his views on a given issue. If the President wishes to present his views to the Parliament, he may demand the right to speak. He may also demand that an extraordinary session of the Parliament be called for this purpose.

The Prime Minister (President of the Government) is elected by the Parliament upon a proposal by the President of the Republic. According to article 92 of the Constitution, the candidate for the post of the Prime Minister presents his programme to the Parliament and at the same time proposes the ministers. This means that ministers are appointed by the Parliament as well, upon proposal by the Prime Minister. If the Parliament rejects the proposed programme, the President of the Republic has the right to propose another candidate for within 10 days after the first candidate has been rejected. Both the Government and individual ministers are accountable to the Parliament for their actions. According to article 2 of the Regulation on the Government of Republic Montenegro (Official Gazette of the Republic of Montenegro, No. 15/94), the Government consists of the Prime Minister, one or more Deputy Prime Ministers, and ministers. According to article 3 of the same Regulation, they must all take an oath in front of the Members of Parliament before being appointed by the Parliament.

The mandate of the Government ends with the termination of the mandate of the Parliament, or when the Parliament has been dissolved, as well as in a case where the Government resigns or the Parliament accepts a vote of no-confidence in the Government. In the framework of its constitutional authorities, the Government may pass regulations for the purpose of execution the laws, and regulations based directly on the constitutional authority of the Government.

3. Head of the State

3.1 Electoral Rules

The Constitution of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No. 48/92) in articles 86-91 describes the process of election, duration and cessation of mandate, responsibilities and functions of the President of the Republic, while the Law on the Election of the President of the Republic (Official Gazette of the Republic of Montenegro, No. 11/03) regulates more closely the conditions and procedure of election of the President of the Republic.

According to the Constitution (article 86), the President of the Republic is elected in general elections directly by the citizens, through secret ballot, on the basis of general and equal right to vote, for a period of five years. During a state of war, the mandate of the President of the Republic is prolonged until peace is established. The same person may be re-elected President of the Republic for a maximum of two terms.

The Law on the Election of the President of the Republic regulates in addition that the right to be elected President of the Republic is granted to any citizen of Montenegro who is a citizen of the State Union of Serbia and Montenegro, over 18 years of age, and with residence in the territory of the Republic for a minimum of 24 months prior to the date of elections.

The law stipulates that elections for the President of the Republic are called for by the President of the Parliament of the Republic of Montenegro no later than 120 days prior to the expiry of the mandate of the President of the Republic, and the decision by which the elections are called for determines the date when the elections will be held. A minimum of 60 days and maximum of 90 days shall pass from the date when the elections have been called until the date when the elections are held.

The candidate for President of the Republic can be nominated by a political party or a group of citizens, on the basis of collected signatures of a minimum of one per cent of the total number of voters, according to the data on the number of voters from the elections preceding the decision to call for the elections.

According to the Constitution (article 87) the mandate of the President of the Republic ceases when the time for which he has been elected expires, or by discharge or resignation. The President of the Republic can be discharged by the Parliament only if the Constitutional Court determines that he has violated the Constitution. The procedure for the determination of violation of the Constitution is started by the Parliament. The above Constitutional provision means that the President of the Republic does not have political responsibility, but only legal (constitutional) responsibility.

The procedure of discharge of the President of the Republic is regulated by the Standing Orders of the Parliament of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No. 37/96, 16/97 and 24/97). According to these Standing Orders, a proposal to the Parliament to start the procedure for the determination of violation of the Constitution by the President can be filed by a minimum of one-fourth of the deputies. An explanation of this proposal is obligatory. A proposal to begin the procedure to determine whether the President of the Republic has violated the Constitution is included in the Agenda of the parliamentary session a minimum of 10 days from the day it was submitted. A discussion on the proposal is opened at the parliamentary session, and the Parliament may decide to accept or to refuse the proposal. The decision of the Constitutional Court by which it is confirmed that the President of the Republic has violated the

Constitution is submitted to the deputies and to the Committee for Constitutional Matters for their opinions, as well as to the President of the Republic. The Standing Orders define that the President of the Republic has the right, before the decision on discharge is made, to express his or her views in relation to the reasons stated in the decision of the Constitutional Court and in relation to the reasons presented at the session. Following the hearing, the Parliament decides on the discharge of the President of the Republic.

In a case where the mandate of the President of the Republic ceases, as well as in the case of temporary inability of the President to perform his or her functions, the function of the President of the Republic is performed by the President of the Parliament, or by the Prime Minister if the Parliament has been dismissed (article 90 of the Constitution), until the election of the new President.

3.2 Main Responsibilities

The President of the Republic is the representative of the Republic inside the country and abroad and performs the functions defined in the Constitution. President of the Republic:

- represents the Republic of Montenegro in the country and abroad;
- promulgates laws;
- calls for parliamentary elections;
- nominates candidate for the Prime Minister;
- nominates president and judges of the Constitutional Court;
- proposes to the Parliament to call for republican referendum;
- issues pardons;
- gives awards and medals; and
- dismisses the Parliament on the basis of a Decree.

In addition to these basic functions, the President of the Republic performs other functions determined in the Constitution: chairs the Council for National Minorities; dismisses the Parliament on the basis of a Decree (on the basis of a Government decision); begins procedures with the Constitutional Court; has the right to propose changes to the Constitution, the right to a "suspension veto" on the laws adopted by the Parliament, and the right to propose a shorter mandate of the Parliament; and is also a member of the Supreme Defence Council.

There are no legal provisions on the relationship between the President of the Republic and the judicial authorities, except for the relationship with the Constitutional Court. Official communication between the President of the Republic and the Constitutional Court, according to the Law on Constitutional Court, is performed in relation to a proposal by the Parliament for the Constitutional Court to determine whether the President of the Republic has violated the Constitution. The proposal to determine whether the President has violated the Constitution must be submitted to the President of the Republic within three days from the date when the Parliament submitted the proposal to the Constitutional Court. The President of the Republic has the right to respond to the allegations and reasons contained in the proposal and provide data and information to the Constitutional Court relevant for the procedure within 15 days.

3.3 Office of the Head of State

The General Secretariat is established, on the basis of the Decision on the General Secretariat of the President of the Republic (Official Gazette of the Republic of Montenegro, No. 5/98) to perform expert and other activities related to the execution of constitutional responsibilities of the President of the Republic, in the following fields:

- constitutional system;
- foreign policy and international relations;
- security and defence;
- protection of national, ethnic and religious rights;
- awards and recognition;
- pardons; and
- complaints and initiatives, and others.

The General Secretariat cooperates with the Parliament and the Government, Republican authorities, scientific, expert and other institutions and organisations. A Decree regulates more closely the organisation, composition, responsibilities and functioning of the General Secretariat. This Decree states that the work of the General Secretariat is managed by the Secretary General of the President of the Republic, with the rights and obligations of officials managing state administration authorities, and he may have an Assistant. It is also stated that a Chief of Cabinet and Head of Protocol of the President of the Republic are appointed within the General Secretariat, as well as advisors for specific areas of constitutional responsibility of the President of the Republic.

The General Secretariat executes activities related to the implementation of constitutional competences of the President of Republic in areas of: constitutional system; foreign policy and international relations; security and defence; protection of national, ethnic and religious rights; amnesty; awarding medals and recognitions, requests and incentives, etc. The Secretary General, Chief of the Cabinet, Chief of Protocol, and advisors to the President for the above-mentioned areas and Assistant General Secretaries are nominated by the President for a term of four years.

For the performance of activities within his or her scope, the President forms councils, commissions and working groups as permanent or temporary working bodies, whose composition, number and scope of activity is regulated by the act on their establishment. Working bodies are responsible to the President for their work, and submit reports on their activities to the President.

3.4 Head of State in Legislative Process

The participation of the President of the Republic in the legislative procedure is regulated by article 89 of the Constitution of the Republic of Montenegro and article 91 of the Standing Orders of the Parliament of the Republic of Montenegro. The legislative activity of the President of the Republic is directed primarily towards the promulgation of laws adopted by the Parliament. Each law adopted in the Parliament, before it is publicly announced and before it comes into force, must be promulgated by the President of the Republic. In accordance with article 89 of the Constitution, the President of the Republic promulgates laws by a decree within seven days from

the day when it was adopted by the Parliament. The President of the Republic may refuse to promulgate a law (i.e., the right to a suspension veto). Thus the law is returned to the Parliament for reconsideration within seven days from its adoption. There are no prescribed legal grounds on which the President may refuse to promulgate the law, but it is within his discretionary assessment to return a law to the Parliament for reconsideration. If the President of the Republic requests that the Parliament reconsiders the law, the President of the Parliament will schedule the discussion of that law for the next parliamentary session. If the law is again adopted, it is immediately submitted to the President of the Republic by the President of the Parliament for promulgation. The President of the Republic is obliged to promulgate a law that has been adopted twice.

The President only exceptionally uses the right to return a bill for a second voting.

4. The Parliament

4.1 Electoral Rules

The Law on Elections of the Representatives (MPs) and the Councillors has been published in the Official Gazette of the Republic of Montenegro, No. 16/00.

Elections to the Parliament are based on universal and equal suffrage and are direct, free and secret. All Montenegrin citizens who have reached the age of 18 years, who have legal capability and residence on Montenegrin territory for at least 24 months before elections have the active and passive right to vote (article 32, paragraph 1 of the Constitution of the Republic of Montenegro).

According to the Constitution, the Parliament consists of deputies elected by the citizens directly, on the basis of secret ballot, and on the basis of a general and equal right to vote. One deputy is elected for every 6 000 voters.

In accordance with article 12 of the Law on Election of MPs (Official Gazette of the Republic of Montenegro, No. 45/02), which amended the Law No.16/00, 75 members of the Parliament are elected for a four-year term. The members representing the Albanian ethnic minority are elected in special electoral constituencies that are solely composed of members of this minority. The members of the Albanian minority take part in the election of other MPs.

The political parties, individually or in coalition, put forward candidate lists. Lists may also be proposed directly by the voters. Signatures of at least one per cent of the entire electorate in a constituency concerned are required. Exceptions to this rule are candidates' lists of citizen groups representing the Albanian ethnic minority. In this case, only 1 000 signatures are required. Political parties do not have to collect signatures. The constituency is further divided into electoral districts where the citizens vote for a candidate list.

The distribution of seats is proportional. Seats are distributed only among those parties, i.e. lists, which have received at least three per cent of votes of the electorate body in a constituency. According to article 95 of the Law on Elections of the Representatives and Councillors, the number of seats which a candidate list obtains is determined in a way that the total number of obtained votes in the constituency is divided by 1, 2, 3 etc. This process is completed when the division of seats reaches a number that correspond to the total number of seats which have to be allocated. In the case that a candidate list obtains more seats than it has candidates, the remaining seats belong to the candidate list with the second biggest quotient.

4.2 Main Powers of Parliament

According to article 81 of the Constitution, the Parliament has the following functions:

- to pass the Constitution;
- to pass laws, other regulations and general legal acts;
- to pass development plans of the state, as well as the budget and annual balance sheet;
- to determine principles for organisation of the State Administration;
- to conclude international agreements within the competence of the state;
- to call for referenda;
- to announce a public loan, and to decide on state debts;
- to elect and dismiss the Prime Minister and ministers, the president and judges of the Constitutional Court, as well as all presidents and judges of all other Courts of Justice in Montenegro;
- to elect and dismiss the State prosecutor and other officials;
- to grant amnesty for crimes prescribed by law; and
- to execute the other functions which might be determined by the Constitution.

The President of the Republic and the Parliament communicate through official channels. The General Secretariat of the President of the Republic and the Secretariat of the Parliament are in charge of the communication. The Parliament informs the President of the Republic that the parliamentary session has been called, as well as of the agenda of the session. The President of the Republic may attend the parliamentary sessions, and may also request extraordinary sessions of the Parliament to be called. The President of the Republic promulgates laws adopted by the Parliament

The Parliament may call the President of the Republic to appear before the Constitutional Court to answer charges relating to violations of the Constitution.

The Parliament controls the work of the Government. The Government and individual ministers are responsible to the Parliament for their actions. The mandate of the Government ends with the termination of the mandate of the Parliament, or when the Parliament has been dissolved, as well as in a case where the Parliament accepts a vote of no-confidence in the Government. The Government and a member of the Government can submit a resignation. The resignation of the Prime Minister has to be considered as a resignation of the Government. The Prime Minister may suggest to the Government to dismiss an individual minister. The Prime Minister may demand that the Parliament holds a vote of confidence in the Government. If the Government does not obtain a vote of confidence, the Parliament must inform the President of the Republic.

The Parliament may start the procedure to hold a vote of no confidence in the Government on proposal of at least 10 members of the Parliament. The MPs have to vote within three days from the day when the proposal was submitted. If the Government receives a vote of confidence, a new proposal for a vote of no confidence cannot be submitted in period shorter than 90 days from the day of vote. The Parliament may pass a vote of no-confidence in the Government or in individual ministers. If such a vote is passed, the government or the minister is dismissed.

In accordance with article 8 of the Law on the Protector of Human Rights and Liberties (Ombudsperson), the Parliament, on the basis of the proposal of the responsible working body, elects the Protector of Human Rights and Liberties on the basis of majority vote of the total number of deputies. In the process of nomination of candidates, a working body of the Parliament consults scientific and expert institutions, authorities and representatives of the private sector dealing with issues of human rights and liberties. The public is informed that the process of nomination has started. The Parliament elects Deputy Protectors of Human Rights and Liberties on the basis of the proposal made by the Protector of Human Rights and Liberties. The Protector of Human Rights and Liberties and deputies are elected for a period of six years and can be re-elected for one more mandate after the expiry of the first mandate.

In relation to judicial power, the Parliament establishes courts (basic courts, higher courts, commercial courts, administrative and supreme court), and elects and discharges presidents and judges of these courts.

4.3 Internal Organisation

The Parliament meets in regular and extraordinary sessions. The Parliament has a President and one or more vice-presidents, elected from within its composition, for a four-year term. The President of the Parliament represents the Parliament, schedules presidential elections, convenes and chairs the sessions of the Parliament, and performs other activities in accordance with the Standing Rules of the Parliament.

Regular sessions are held twice a year. The first begins on the first working day in March, and lasts until the end of July; the second regular session begins on the first working day in October and lasts until the end of December. An extraordinary session can be held on demand of at least one-third of all members of the Parliament, the President of the Republic or the Prime Minister.

The agenda of parliamentary work is determined during the consultative meetings of the President of the Parliament and heads of the parliamentary groups.

The political parties represented in the Parliament are organised in parliamentary groups. They play an important role in organising the Parliament's work. A parliamentary group can be formed by at least two MPs, and an MP can be a member of only one parliamentary Group (article 42 of the Standing Orders of the Parliament, Official Gazette of the Republic of Montenegro, No. 37/96, 16/97, 24/97). The two members of the Albanian minority have the status of a parliamentary group. MPs who are not members of a parliamentary party may form an independent parliamentary group.

The permanent working bodies of the Parliament are committees and commissions. The Parliament, with special decision, may form other permanent or temporary working bodies for executing activities within the competence of the Parliament. Only MP's may be members of these working bodies. Presently, the following permanent committees exist:

- for constitutional issues;
- for legislation ;
- for political system, judiciary and administration;
- for economy, finance and environmental protection;
- for education, science, culture, health, labour and social welfare;

- for international relations;
- for human rights and freedoms;
- for supervision of the State Security Service; and
- for gender equality.

Permanent committees review and discuss the proposals for new laws and other regulations within their particular competences.

Permanent commissions are established for other fields of activities of the Parliament. At present, there are commissions for:

- elections and nominations; and
- mandate/immunity Affairs.

Temporary commissions are set up to execute parliamentary investigations. There are presently five such Temporary commissions.

The composition of committees and commissions reflects the relative strength of the parliamentary groups. The Presidents, Deputy Presidents and members of the committees and commissions are appointed by the Parliament on the proposal of the parliamentary Groups. An MP can be a member of one or more working bodies. Representatives of parliamentary groups belonging to the opposition lead the committees and commissions in overseeing the security and intelligence services and the national budget and public finances.

According to article 77 of the Law on Courts (Official Gazette of the Republic of Montenegro, No. 5/02), the Parliament appoints the Judicial Council, which is responsible for the public announcement of vacancies for judges and then for proposing candidates for election and nomination to the parliament.

Expert and technical support activities for the needs of the deputies are performed by the Secretariat of the Parliament. In particular, the Secretariat of the Parliament participates in the preparation and organisation of the Parliament sessions; performs support functions for the President Vice Presidents and presidents of working bodies of the Parliament; participates in the preparation of the meetings between the President, Vice Presidents, presidents of working bodies and presidents of parliamentary groups; provides texts of draft laws and submits them to the President of the Republic for promulgation; drafts the reports of working bodies; executes other support activities for MPs of the Assembly of Serbia and Montenegro; issues expert opinions on demand of an MP, working bodies and parliamentary groups, required for the execution of their duty; executes other activities in respect to the cooperation between the Assembly of Serbia and Montenegro, the Parliament of Serbia and representative bodies of foreign countries; organises cooperation with the press and provides materials to the latter to enable the press to execute its rights and duties to inform the public about the work of the Parliament; edits and publishes appropriate publications of an informative character as well as parliamentary minutes; prepares and archives initial versions of the laws and other acts adopted by the Parliament; performs office, accounting, and material-financial activities on demand of the Parliament and working bodies of the Parliament, President of the Parliament, Vice Presidents of the Parliament and the Secretary General of the Parliament etc.

There are no legal restrictions on business activities of MPs.

4.4 Legal Status of Members of Parliament

The legal status of the deputies in the Parliament is regulated by the Constitution of the Republic of Montenegro, in articles 77-80. The Constitution guarantees the deputies the right to independence, professionalism and immunity – that is, a deputy may express an opinion and vote according to personal beliefs and this cannot be revoked. The deputy has the right to perform this function professionally, to propose laws, other regulations and general acts. The deputy enjoys immunity and cannot be held responsible for his or her speech and vote in the Parliament, and no criminal procedure can be started against the deputy, nor detention called without the previous consent of the Parliament. However, the deputy may be detained without the consent of the Parliament if he or she was caught performing a criminal act for which an imprisonment sentence of more than five years is prescribed.

A minimum of 25 deputies have the right to propose changes of the Constitution, and to propose a shorter mandate of the Parliament. A minimum of one-third of the deputies have the right to request an extraordinary session of the Parliament.

Rights and obligations of the deputies are regulated more closely in the Standing Orders of the Parliament of the Republic of Montenegro, in articles 152-162. According to the Standing Orders, a deputy has the right to ask questions, seek information and explanation from the President of the Parliament, president of a working body, minister or some other official, in relation to affairs within the scope of rights and responsibilities of these officials, that is, the affairs of the bodies they manage, and which are necessary in order to perform the function of a deputy. Deputies are obliged to attend the parliamentary sessions and sessions of other working bodies that they are members of. Deputies may also participate in the work of the bodies that they are not a member of, but without the right to make decisions.

4.5 Legislative Procedure

According to article 85 of the Constitution, a bill may be initiated by the Government, any MP, or by a bloc of at least 6 000 citizens. A minimum of 10 000 voters are required in order to submit a proposal for a change to the Constitution (known as “popular initiative”).

In accordance with article 83, paragraph 1 of the Constitution, the Parliament decides on laws if the session is attended by more than one-half of the total number of deputies (quorum). The Parliament, by rule, decides on the basis of majority vote of the deputies present at the session. In extraordinary situations, the laws that regulate the manner of exercise of rights and liberties, electoral system, material obligations of the citizens, and state symbols are decided upon by the Parliament on the basis of majority vote of the total number of deputies (article 83, paragraph 2 of the Constitution).

The Standing Orders of the Parliament (Official Gazette of the Republic of Montenegro, No. 37/96, 16/97, and 24/97) regulate all phases of the legislative procedure.

Legislative procedure can be on a regular or emergency basis. The regular legislative procedure is a one-level procedure consisting of three stages. In cases where the legislation originates with the Government, a bill is first sent to the Parliament. Thereafter, the President of the Parliament sends the bill to the MPs and to the competent parliamentary Committee. Consultations are performed within the parliamentary clubs (factions) and parliamentary committees. Representatives of the Government are obliged to take part in the meetings of the committees.

The Government is usually represented by ministers, but high civil servants may also represent the executive.

After the discussion of the draft law within the responsible committees, the draft law, together with any amendments submitted by the deputies, the committee or the law proposer, is submitted to the Parliament for adoption.

The law proposal is discussed first in general and then in detail at the session of the Parliament.

General discussion involves the discussion of the constitutional basis, reasons for the adoption of the law, consequences and the assessment of budgetary funds needed for the implementation of the law. During this phase it is not possible to propose amendments to the law proposal.

During the session on specific issues, the Assembly decides on specific articles and proposed amendments. During the session an amendment may be proposed only by the proposer of the law. At the end the Assembly votes on the proposed law as a unit. During this phase a discussion on specific articles is allowed only if the law proposer has submitted an amendment on a specific. The law is adopted by simple majority, when the Parliament has a quorum. In some cases the Constitution or the law requires a qualified majority for a law to be adopted. This is the case for changes to the Constitution, which requires a majority of two-thirds. Some other laws, which regulate the election system, the manner of the execution of freedoms and rights, material obligations of citizens, state symbols, etc., require an absolute majority of MPs, i.e. the majority of votes of the total number of MPs.

Exceptionally, a law can be passed in an emergency procedure. The Standing Orders of the Parliament (Official Gazette of the Republic of Montenegro, No. 37/96, 16/97, and 24/97), in articles 88-90, describe the conditions and manner of the emergency legislative procedure. This procedure should be applied only in cases when the Assembly has to pass a law, which regulates issues and relations arising from unpredictable circumstances, and if the absence of such a law could result in harmful consequences. There are no available statistics on how many laws were adopted by urgency procedure.

There are no specific provisions on the procedures of adoption of laws related to harmonisation with the laws of the EU.

The proposal of a law for which an emergency procedure for passing has been proposed can be considered only if it has been submitted at least 24 hours before the beginning of the plenary session, and the proposer of the bill is obliged to give reasons for proposing an emergency legislative procedure. If the Assembly accepts the proposal for passing the law through the emergency legislative procedure, it will determine the deadline for competent parliamentary bodies to consider the proposal and to submit their report and suggestions. After the first committee consideration, the Assembly can decide to start with the consideration of the bill immediately, even without a written report of the competent parliamentary bodies. Amendments on the bill may be proposed until the end of the consideration. The competent parliamentary body and the Government, if it is not the proposer of the bill, have to explain the amendments. It is very rare for laws to be adopted by emergency procedures.

During the last three years, the Parliament passed 34 laws:

- in 2000: 16 laws;
- in 2001: 13 laws;

- in 2002: 5 laws.

Most of the laws were adopted at the proposal of the Government, without significant changes. A smaller number of the laws were adopted on the basis of a consensus, at the proposal of the parliamentary parties (electoral laws, law on voter register). Only one law – the Law on Fair Restitution – was adopted on the basis of a proposal by the voters through “popular initiative”. In the legislation there are no limitations for the proposal of laws, in the sense that certain legal matters can only be proposed by the Government.

Promulgation of the laws is performed by the President of the Republic through decree.

The Decree on the Promulgation of the Law and the adopted law are published in the Official Gazette of the Republic of Montenegro before they come into effect. The law comes into effect on the eighth day after the day it is published (*vacatio legis*). In extraordinary situations, when there are reasons that are defined in the process of adoption, it can be prescribed that the law comes into effect on the day when it is published in the Official Gazette.

In the legal system of Montenegro there are no regulations related to lobbying.

Regulations governing the implementation of laws are the most common kind of secondary legislation passed by the Government. The Government possesses autonomous regulatory power, which enables it to issue regulations even if the law does not give prior authorisation. However, the regulations that affect the rights of physical and legal persons can only be adopted by the Government, if the regulatory power has been expressly delegated by law. There are two forms of regulation based directly on the constitutional authority of the Government: regulations with the force of law and regulations used for delegation (transmitting) the tasks from the state administration to the local self-government, institutions and legal entities. Regulations with the force of law are an exception and the Government may pass those only in the cases explicitly described by the Constitution (in event of war, a state of emergency or when there is imminent danger of war) and in conditions prescribed by the Constitution (if the Parliament cannot convene). The Government has to submit such acts to the Parliament as soon as possible.

5. Central Executive Power

5.1 Legal Bases of the Executive Authority and Administration

The performance of the executive power (functioning of the Government) is regulated by the Constitution, especially in articles 91-99; the Decree on the Government of Montenegro, regulating the organisation, manner of work and decision-making of the Government of Montenegro (Official Gazette of the Republic of Montenegro, Nos. 15/94 and 4/97); and the Standing Orders of the Government; so there is no law that regulates this issue. The Constitution defines the composition, election, prohibition of dual functions, responsibility, resignation, votes of confidence and of no confidence, and cessation of the mandate of the Government.

The Decree on the Government regulates more closely the composition, rights and obligations of Government members, commissions, Secretary General of the Government, procedure for calling for sessions of the Government, Government acts, relationship and cooperation with the Parliament, transparency of work, decision-making process, and monitoring of the ministers by the Government, general secretariat and other departments under the Government.

The Standing Orders regulate the management of the Government, cabinet of the Government, Deputy Prime Minister, members, Secretary General, working bodies of the government, programmes of work, preparation of acts and other materials, Government sessions and Government acts.

The responsibilities of the Government are explicitly defined in the Constitution, laws and other regulations. In the performance of its functions in practice, there are situations in which the Government adopts by-laws regulating certain rights and obligations of citizens, that is, some issues that belong to the legislative scope of responsibilities.

There is a large number of regulations prescribing the functioning of the state administration. The most important ones are:

- Constitution, article 99, related to the functioning of state administration;
- Law on State Administration regulating issues of organisation, manner of work and other issues related to the functioning of state administration (Official Gazette of the Republic of Montenegro, No. 38/2003);
- Law on Inspection Control, regulating the status, responsibilities and authority of inspections in the performance of control (Official Gazette of the Republic of Montenegro, No. 39/2003);
- Law on Administrative Proceedings, regulating judicial control over administrative decisions of the state administration authorities (Official Gazette of the Republic of Montenegro, No. 60/03);
- Law on General Administrative Procedure, regulating the relationship between the public administration on one hand and legal and physical entities on the other, in relation to the exercise of their rights and responsibilities in administrative matters (Official Gazette of the Republic of Montenegro, No. 60/03); and
- Law on Civil Servants, regulating the status, rights and obligations of staff within state administration and in other governmental agencies (Official Gazette of the Republic of Montenegro, Nos. 45/91 and 50/91).

These laws define most of the areas of state administration. However, some areas, such as the status of civil servants, including salaries of the civil servants, must be regulated in a more comprehensive manner. A new draft Law on Civil Servants and State Employees is being prepared, as well as a Law on Salaries of Civil Servants and State Employees.

The area of state administration is in addition regulated by a large number of by-laws of the Government.

Ministerial responsibility for public administration, including the responsibility for administrative reform, belongs to the Ministry of Justice. The continuous process of administrative reform is expected to lead to many legislative, organisational, and functional changes in Montenegrin public administration over the coming years.

5.2 Composition and Powers of the Government (Council of Ministers)

The Government is composed of the Prime Minister, one or more deputy prime ministers and 15 ministers heading ministerial departments (see point 5.5).

The Prime Minister is elected by the Parliament upon the proposal of the President of the Republic. Ministers and deputy prime ministers are appointed and dismissed by the Parliament upon the proposal of the Prime Minister.

The Prime Minister's term ceases when the Parliament's term ceases, or with the dissolution of the Parliament. His term of office can also be terminated if the Parliament passes a vote of no-confidence in the Government, or if the Prime Minister submits his resignation. The Prime Minister may demand a vote of confidence in the Government linked to the vote on a bill or some other decision by the Parliament.

Members of the Government and secretaries of the Republican Secretariats attend government sessions. Upon invitation, authorised persons from the ministries and other administrative authorities, the General Secretariat of the Government, and other invited persons may attend and participate in Government sessions (article 61 of the Standing Orders of the Government).

5.3 Division of Executive Power

Executive power in the Republic of Montenegro is so-called "bicefal executive power". This means that the Government is the real holder of the executive power and the President of the Republic is a protocol performer of the power. The administrative function is a part of the executive power realised through ministries and other public administrative authorities and organisations.

According to article 94 of the Constitution, the Government has the following functions:

- to determine and direct internal and foreign policy of the State;
- to propose and execute laws, other regulations and general legal acts;
- to approve its own regulations, decisions and other legal acts aimed at the implementation of laws;
- to conclude international agreements within the competence of the Republic;
- to propose the development plan, budget, and the annual balance sheet of the Republic;
- to determine the organisation and methods of work of the state administration;
- to execute the control over the work of the ministries and other administrative authorities within the framework of the state administration;
- to approve regulations with the legal force of laws during a state of emergency, imminent war danger or during a war (if the Parliament is not able to convene); and
- to execute other functions which might be determined by the Constitution or law.

The Government also appoints some government officials (secretaries of ministries, assistant ministers, directors of departments, secretaries of Republic secretariats, etc., as well as the deputy Public Prosecutor, presidents and judges of the regional misdemeanour courts, etc.), and performs other activities defined by law and other regulations.

The Government is the central policy-making body of the Republic of Montenegro. The Government proposes laws, other legal acts and policies to the Parliament, and directs and coordinates their implementation.

The Government usually meets once a week but the Prime Minister can convene meetings more frequently if necessary. The Prime Minister chairs government meetings. If the Prime Minister cannot attend a meeting, a deputy prime minister chairs the meeting. Government meetings are not open to the public, and are attended by the Prime Minister, deputy prime ministers, ministers, the Secretary General, representatives of the Republic Secretariats, and other invited persons.

Only members of the Government have the right to vote. Government decisions require that a majority of ministers are present in the meeting. A majority vote of all ministers is required for decisions concerning the submission of a collective resignation, as well as acts altering the Constitution and legislation on the tax system, developmental plans, the budget and final account. Government decisions that constitute legal norms have to be signed by the Prime Minister and published in the Official Gazette. The Secretary General of the Government may sign conclusions and other acts with the authority of the Prime Minister.

The Government directs the work of the State Administration through ministers and other top-level officials. The Government as a collegiate body oversees the work of ministers, issues political guidelines for implementing policies, laws, and other legal norms. The Government can stop the implementation of a regulation, instruction and an order if its implementation would violate the Constitution, law, or other legal norms adopted by the Parliament or the Government.

Bills prepared by individual ministries must be discussed and approved by the Government before being submitted to the Parliament. Ministries may not propose bills independently to the Parliament.

The Prime Minister leads and guides the work of the Government, ensures unity in the political and administrative operation of the Government, coordinates the work of the ministers, represents the Government, signs acts of the Government and convenes and chairs the Government meetings. The Prime Minister may give ministers obligatory directives.

The Regulation on the Government of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No. 15/94 and 4/97) in Article 2a stipulates that the Government has an inner cabinet which is headed by the Prime Minister. This Cabinet consists of the Prime Minister and Deputy Prime Ministers and it can make decisions which contribute to the improvement of the operational realisation of the government programme, as well as to the distribution and utilisation of the current and permanent budgetary reserve.

A Deputy Prime Minister acts on behalf of the Prime Minister in cases of his absence or inability to attend, harmonises the work of the ministries and administrative authorities under his responsibility, performs activities delegated by the Prime Minister, and chairs a permanent commission of the Government.

Each minister is responsible for implementing the decisions of the Government and for representing – defending – the Government's position. The minister heads and represents the ministry, issues directives for the work of the ministry and administrative authorities within its scope of responsibility. The minister is responsible for his decisions in directing the work of the ministry.

5.4 Office of the Government

The Prime Minister is not the head of any ministry. The institutional structure to support the Prime Minister in the exercise of his functions consists of the General Secretariat and governmental commissions.

The General Secretariat was established on the basis of a special legal regulation (Regulation on the General Secretariat of the Government of the Republic of Montenegro, Official Gazette of the Republic of Montenegro, No. 12/92).

The General Secretariat's main tasks include:

- to study and process normative, informative and other materials submitted to the Government (from the point of their suitability and compatibility with determined policy);
- to prepare proposals related to governmental supervision over the work of ministries and other administration authorities;
- to prepare proposals and opinions of the Government following a request by the Parliament, the President of the Republic, or another authority;
- to prepare answers to parliamentary questions (put by the MPs);
- to prepare programmes and working plans of the Government and governmental working bodies, and to prepare regular and periodic reports concerning the work of the Government;
- to perform specialised and other tasks that allow the Prime Minister, deputy prime ministers and ministers, as well as the Secretary General, to fulfil their constitutional responsibilities;
- to perform other specialised tasks falling into the sphere of competence of the Government;
- to organise the work concerning preparation and processing of materials for Government meetings;
- to call and organise the meetings of the Government, to keep records, decisions and reports, as well as to monitor the implementation of the Government's decisions;
- to execute decisions and determined proposals approved by the Government as well as to publish them in time, or to deliver them to the Parliament;
- to process and keep data related to the work of the Government and its working bodies, as well as to provide for their utilisation;
- to perform certain specific tasks from the sphere of competence of the National Defence Service;
- to prepare and collect informative information, documentation and other materials and data needed for the work of the Government and its working bodies;
- to perform tasks concerning the preparation and organisation of meetings of the coordinative and other temporary working bodies (in cases when such activities are not delegated to a particular Ministry or an administrative body);
- to execute other tasks as requested by the Prime Minister or deputy prime ministers, the presidents of the Governmental working bodies, as well as on demand of the Secretary General; and

- to execute other functions which might be ordered by the Government.

The General Secretariat is headed by the Secretary General, who may be substituted by a Deputy Secretary General. The Government appoints and dismisses the Secretary General on the proposal of the Prime Minister, and he is responsible for his work to the Government. The main responsibility of the Secretary General is to prepare Government meetings, to implement the Government's decisions, and to execute any other task connected with organisation of the work of the Government and the governmental services. The Secretary General is the person responsible for the execution of the financial plan of the Government. As regards the latter, article 7 of the Regulation on the General Secretariat of the Government confers upon the Secretary General the same powers that ministers exercise over their departments.

The tasks of the Prime Minister's Office are performed by political appointees and permanent staff, in cooperation with the ministries, the Government services and research organisations and specialists in related fields.

Staff of the General Secretariat and Government Commissions are officials directly appointed by the Government and permanent employees. Appointed persons are the Secretary General, Assistant Secretary General, Chief of Cabinet of the Prime Minister, advisors to the Prime Minister, Deputy Prime Minister's advisors and secretaries of Government Commissions. Permanent employees perform administrative, technical and other activities.

5.5 Line Ministries

The structure of the Montenegrin Government covers three main areas: the area of sovereign state functions including foreign affairs, interior, justice, and finance (but excluding national defence); the area of economic functions including economic relations, transportation, environment protection, etc.; and the area of social functions, including science and technology, health, education, culture, labour, etc.

The provisions of articles 11-23 of the Law on State Administration (Official Gazette of the Republic of Montenegro, No. 38/2003) define the principal policy areas and tasks of state administration. The tasks of state administration are: proposing internal and foreign policy; conducting development policy; drafting of laws and other regulations; execution of laws and other regulations; conducting administrative supervision; deciding on rights and obligations of citizens and legal persons in administrative procedures; proceeding in misdemeanour procedures; providing services of public interest; as well as other tasks of state administration determined by law or other regulations.

Ministries are established for one or more interconnected policy areas, depending on the character, significance and scope of the tasks involved and of the need to provide a development strategy. Ministries perform the functions of proposing internal and foreign policy, conducting development policy, normative affairs and the conducting of administrative supervision. Ministries define development strategies and stimulate the economic, cultural, social, environmental and general social development.

Ministries are established by the Regulation on Organisation and Work Methods of the State Administration (Official Gazette of the Republic of Montenegro, No. 8/93, 33/01, 9/03). At this time, the following 15 ministries exist:

- Justice
- Internal Affairs
- Finance
- Foreign Affairs
- Education and Science
- Culture
- Economy
- Maritime Affairs and Transportation
- Agriculture, Forestry and Water Management
- Tourism
- Environmental Protection and Spatial Planning
- Health
- Labour and Social Welfare
- Protection of Rights of Minorities and Ethnic Groups
- Foreign Economic Relations and European Integration

Amendments to the Regulation on Organisation and Work Methods of the State Administration were adopted in 20 March 2003 and published in the Official Gazette of the Republic of Montenegro, No. 09/03. Following these amendments the Ministry for Foreign Economic Relations and European Integration and the Bureau for Education as a Republican administrative organisation were established. The former Ministry of Trade was merged with the Ministry of Economy. The amendment also abolished the Ministry for Religion and the Republican Secretariat for Information, whose functions have been transferred to the Ministry for Foreign Affairs and the Ministry for Culture.

The internal organisation of a ministry or administrative authority is determined respectively by the minister or head of an administrative authority, in compliance with the Governmental Decree on Designation of Groups of Affairs, and Principles for the Internal Organisation of State Administration, Official Titles, Vocations, and Promotion of Civil Servants (Official Gazette of the Republic of Montenegro, No. 9/92 and 26/96). There is no uniform approach regarding the number of hierarchical levels or the minimum organisational units within an individual authority, but there are common principles for internal organisation, official titles, promotion and groups of affairs. Ministers can also organize the structure of decentralized administration within their competence.

Legal acts passed by ministries and administrative bodies are rules, orders, instructions and decisions. The law defines rationality, lawfulness, and the respect of individual rights as standards of performance. Under the guidance of the Government, the State Administration manages the state-owned real estate and other property, as well as supervision of local authorities.

There are no political structures established for the support of work of ministries.

5.6 Central Non-Ministerial Bodies

To carry out technical tasks relating to the exercise of its powers and duties, the Government may establish certain administrative authorities and services on the basis of laws or regulations. Administrative authorities are established as: administrations, secretariats, directorates, bureaus and agencies (article 29 of the Law on State Administration). Administrations are established for affairs of direct execution of laws and other regulations and they decide on rights and obligations of private and legal persons. The following administrations currently exist in Montenegro:

- Directorate for Public Revenues;
- Directorate for Real Estate;
- Customs Bureau of Montenegro; and
- Agency for Anticorruption Initiative.

Secretariats are established for the performance of predominantly professional affairs, with the possibility of performing certain administrative and other affairs. Currently there are three Republican secretariats:

- Secretariat for Legislation;
- Secretariat for Development; and
- Secretariat for Sport.

Bureaus are authorities which perform professional and associated administrative affairs demanding the application of scientific methods and knowledge. There following Bureaus currently exist in Montenegro:

- Statistics Bureau;
- Bureau for Hydrometeorology;
- Bureau for Seismology;
- Bureau for International Scientific, Educational, Cultural and Technical Cooperation;
- Bureau for Education/School System; and
- Institution for Execution of Criminal Sanctions.

Directorates are authorities which perform predominantly professional and associated administrative affairs relating to the economic domain. Currently, there are following Directorates:

- Stock Reserves Directorate;
- Public Construction Directorate;
- Directorate for the Construction of Highways; and
- Directorate for Forestry;

Agencies are authorities which carry out professional and associated administrative affairs that are performed by the application of market-economy principles, respectively rendering of services, and ensuring the advancement of development. There are currently three agencies:

- Agency for Development of Small and Medium Enterprises;
- Agency for Telecommunications; and
- Agency for Electro-Energetic Activities.

The heads of these central non-ministerial bodies are nominated and dismissed by the Government upon proposal of the relevant minister, for a period of four years. They are directly accountable for their work to the Prime Minister and the relevant minister. These administrative bodies follow general administrative law when implementing their specific substantive legal framework (e.g. Customs Law, Law on Telecommunications, Law on Power Resources/Energy, Law on Tax Administration, Law on Forests, Law on Highways, Law on Education, etc.)

For specific and developmental tasks, other specific agencies and offices can be established by law. Generally they do not have administrative tasks and their legal status varies. The majority of these specific agencies has an independent legal status and is financed partly from the budget of the Republic and partly from own revenues acquired by rendering services, by investments and in other ways. Some examples of these are: the State Archive of Montenegro, the Central Library, the Bureau for Protection of Cultural Monuments, the Institute for Public Health, the Employment Bureau, Centres for Social Work, the Pension and Invalidity Insurance Fund, and the Health Fund.

The majority of such agencies carries out executive and advisory tasks. A smaller number of agencies, such as the Customs Bureau, performs control duties.

Amongst the central agencies, there are also independent regulatory bodies, established by specific laws. These bodies are: the Commission for Securities, Committee for Public Procurement, Commissions for Concessions and BOT agreements, Commission for Equitable Restitution (not yet operational), Agency for Radio-Diffusion, and Agency for Restructuring of Economy and Foreign Investments.

These bodies are independent and act by virtue of specific laws; they are not subject to control by the Government. The regulatory bodies principally execute laws, and to some extent also perform supervisory affairs.

5.7 Inter-ministerial Coordination

Inter-ministerial coordination is governed by the Law on State Administration (Official Gazette of the Republic of Montenegro, No. 38/03), the Regulation on the Organisation and Working Methods of the State Administration (Official Gazette of the Republic of Montenegro, No. 33/01) and by the Standing Orders of the Government of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No. 45/01).

According to article 8 of the Regulation on the Government, the Government may establish permanent commissions for executing functions from the sphere of competence of the Government, for preparing opinions and suggestions on those issues as well as for monitoring the implementation of Government decisions.

Presently, the following commissions have been established:

- Commission for Political System and Internal Policy;

- Commission for Economic Policy and Development;
- Commission for Financial System and Public Expenditures;
- Commission for Personnel and Administrative Issues;
- Commission for Budget; and
- Commission for Religion Issues.

According to the Law on State Administration (articles 65 and 66), ministries are obliged to cooperate and to inform each other on their work, particularly on issues that are of political significance. Ministers are also obliged to jointly perform tasks in accordance with a Government decision, or if it derives from their prescribed duties. A minister can demand that another ministry includes his ministry in the performance of tasks if he sees the policy issues covered as relevant to his ministry. When preparing and adopting regulations, ministries are obliged to mutually cooperate, i.e. obtain the opinion of other interested ministries.

According to article 36 of the Regulation on the Organisation and Working Methods of the State Administration, ministries are obliged to cooperate in matters that are of interest to more than one single ministry. To this end, ministries are expected to set up joint working bodies, such as commissions, councils or other working bodies. Article 35 states that ministries and administrative authorities are obligated to provide explanations, information, data and answers on requests obtained from the Parliament or upon written request from the MPs. This regulation also calls for cooperation among the ministries and other administrative authorities in the preparation of regulations and other legal acts.

The Standing Orders of the Government prescribe, *inter alia*, the procedures governing the work of the Government, the ministries and other administrative authorities. Matters to be submitted for consideration of the Government must first be discussed within the relevant permanent working bodies of the Government. After a discussion within a working body, proposals must be sent to the Government within one week. Proposals submitted to the Government have to contain the following information: the title of a document; the names of persons who have been responsible for its preparation; the working body responsible; explanation of the proposal; confirmation that the proposal falls within the responsibility of the minister submitting the proposal; a statement concerning unresolved issues; measures proposed and a schedule for their adoption. The proposal has to be signed by a responsible minister.

There are several inter-ministerial coordination committees, some of them permanent, some ad hoc bodies with the special mandate.

The following permanent governmental coordination committees currently exist:

- Committee for Inducing, Monitoring and Coordinating Activities concerning the Preparation and Building of New Electro-energetic Objects in Montenegro (set up on the basis of the Governmental decision published in Official Gazette of the Republic of Montenegro, No. 14/97, 5/98, 40/98);
- Committee for Inducing, Monitoring and Coordinating Activities concerning Building New Highways in the Territory of the Republic Montenegro (set up on the basis of the Governmental decision published in Official Gazette of the Republic of Montenegro, No. 9/99, 41/01);

- Committee for the Cooperation with Emigrants and the Montenegrin Diaspora (set up on the basis of the Governmental decision published in Official Gazette of the Republic of Montenegro, No. 49/01); and
- Committee for Operational Coordination of Administrative Reform (Official Gazette of the Republic of Montenegro, No. 46/03).

All committees have a President, a Deputy President, a Secretary and between 12 and 27 members, including ministers and assistant ministers. High-ranking civil servants also attend the meetings. The purpose of these bodies is to discuss proposals which have to be approved by the Government.

Inter-ministerial committees are established by Government ordinance. Their members are ministers, assistant ministers, and top civil servants. The committees operate in working meetings. The permanent committees meet every Tuesday, that is, two days before the regular Thursday Government meetings. There are also ad hoc committees and ad hoc sub-committees which hold occasional meetings.

5.8 Governmental Preparatory Legislative Process

The Standing Orders of the Government regulate the procedure of law drafting (articles 42-55). The laws and other regulations are prepared for the Government by given elaborators (ministries) in the form of drafts or proposals. The elaborator delivers to the Government a draft law, if the Government proposes a law to the Parliament. Along with the draft law, it is necessary to deliver a proposal for appointment of a representative of the Government, who shall participate in the work of the Parliament and its working bodies. The elaborator delivers to the Government a proposal of a regulation, if it is in the Government's competence to adopt the regulation.

Regulations submitted to the Government contain the text of the regulation or amendments and an explanation, as well as a proposal as to the assessments and conclusions, which the Government is to adopt. Along with the draft regulation, other materials may be submitted as well (analyses, reports, information etc.) that are of significance for a more complete understanding of solutions that are proposed by the regulations.

In preparing a draft regulation, it is essential to obtain the opinion of the Secretariat for Legislation on the compliance of that regulation with the Constitution and the legal system; of the Ministry of Justice on the compliance of that regulation with regulations governing the procedure before courts and other state authorities, the system of state and local self-government, as well as those governing sanctions and the specific administrative and misdemeanour procedure; and of the Ministry of Finance regarding the budgetary impact of the intended regulation.

Authorities, to whom a draft regulation has been submitted for opinion by the elaborator, are obliged to inform the elaborator of their opinion within three days of the receipt of the material.

The proposed solutions of the draft regulation, prior to delivery to the Government, are to be harmonised with the opinions of the Secretariat for Legislation. In the case that the elaborator and the Secretariat for Legislation cannot agree on certain solutions in the draft regulation, the harmonisation is to be carried out by the relevant Deputy Prime Minister.

The harmonised draft regulations are submitted for consideration to the competent governmental commission. While preparing a draft regulation, by which complex system issues are regulated, a preliminary discussion may be organised.

The government commissions deliberate on the draft regulations and submit a report to the Government containing statements and assessments on the considered issues and the proposals for conclusions that the Government is to adopt. In cases where the positions and conclusions of individual commissions considering a draft regulation differ prior to the session of the Government, the positions are harmonised at joint sessions or in another appropriate manner, and the Government is informed thereof. The report with assessments, positions and conclusions is submitted to the Secretary General of the Government for submission to the Government.

The Government considers the submitted materials and determines and adopts the final version of the draft law to be submitted to the Parliament.

Amendments to proposals of laws submitted by the Government are prepared by ministries and other authorities in the form in which they are to be adopted in the Parliament.

When the Government decides that in the procedure of preparing legislation it is necessary to conduct a public discussion, it determines the agenda of the public discussion and the body to conduct the public discussion as well as the timing for the public discussion, which may not be less than 15 days after the announcement

There is no particular body responsible for the quality of the proposed legal regulations, except for the Secretariat for Legislation and Governmental commissions. In some ministries there are advisory working bodies of the minister, which evaluate the quality of a regulation whose elaborator is the respective ministry.

There is no obligation to carry out an evaluation of all possible impacts of new regulations; however, when resources must be allocated from the budget for the application of a law, an assessment is required. The opinions on draft regulations given by the ministries cover only whether or not the draft regulation is in line with the constitutional system and systemic laws on organisation of the state and its authorities, sanctions, administrative procedures and misdemeanour.

There is no specific procedure related to the drafting of regulations to harmonise the legal framework with EU regulations.

The procedure for drafting secondary legislation is the same as the procedure for drafting laws; the only difference is the form in which the elaborator submits the draft regulation to the Government.

5.9 Executive Budgeting Process

The execution of the budget is regulated by the Law on the Budget (Official Gazette of the Republic of Montenegro, No. 40/2001 and 44/2001). The main phases are: planning and drafting, adoption, and execution of the budget.

The preparation and planning of the budget are carried out on the basis of projection of economic development, macro-economic stability and economic policy. The Minister of Finance prepares

and submits in July a report to the Government on the implementation of macro-economic and fiscal policy for the current year and proposes objectives and directives of fiscal policy, on the basis of which he plans the major categories of revenues and expenditures for the following fiscal year. Based on the decision of the Government, which determines the objectives and directives of fiscal policy, the Minister of Finance issues in August an instruction to guide the budgetary units when drafting the budget. This instruction includes the objectives and directives of fiscal policy, important economic parameters, procedures and deadlines for the elaboration of the budget, as well as tentative amounts for each budgetary unit.

The Ministry of Finance prepares the draft State Budget (the Annual Budget Law) based on demands from ministries and other budgetary units (i.e. state agencies and public institutions authorised by law).

The Minister of Finance submits the draft Law on the State Budget to the Government in October. The State Budget consists of a general part, which contains a balance sheet of revenues and expenditure and financial accounts; and a part which shows expenditure according to individual budgeted institutions and specific purposes. The budget year is the calendar year.

The Government must approve and submit the draft State Budget to the Parliament in November before the beginning of the budget year. At this time, the Government must also submit:

- an overview of the planned expenditures for the next three years, including an overview of the long-term agreed commitments, expenditures and investment programmes;
- an overview of the expenditures for the previous year, execution of the budget for the nine months of the current fiscal year, as well as an estimate of budget execution for the remaining three months of the current fiscal year.

The State Budget for the following year is passed by the Parliament by the end of the current calendar year.

If the State Budget has not been adopted by the beginning of the budget year, the Minister of Finance approves monthly funds up to 1/12 of real expenditures in previous financial year. The State Budget is implemented according to monthly plans determined by the Ministry of Finance on the basis of monthly financial plans proposed by the budgeted institutions. Budget funds may only be used for the purposes determined in the State Budget. During the year, the Government may propose changes to the national budget. If those changes are over five per cent of determined funds, this must be approved by the Parliament.

No later than the end of July in a new budget year, the Government must submit to the Parliament a draft final account of the previous year.

According to the Law on the Budget of the Republic of Montenegro, the Ministry of Finance has an important supervisory role over payments from the State Budget. There is also secondary legislation regulating procedures for the execution of the State Budget, for example the Instructions for the Work of the State Treasury (Official Gazette of the Republic of Montenegro, No. 64/01). These instructions determine procedures for the execution of the State Budget, controls of the financial transactions, security of the liquidity of the consolidated State Treasury account, management of domestic and foreign debt of the state, as well as form and content of the forms for the Main Treasury Book.

5.10 Advisory and Consultative Arrangements

Advisory and consultative bodies can be formed by the Government and by individual ministers. Their composition depends on the task that the authority in question performs. The Government of the Republic of Montenegro has established a few temporary working bodies, as follows:

- Committee for Quality Programme (Official Gazette of the Republic of Montenegro, No. 46/2003);
- Council for Privatisation (established by the Governmental Decision published in the Official Gazette of the Republic of Montenegro, No. 33/98, 24/99 and 38/01);
- Forum for Political Coordination of Public Administration Reform (Official Gazette of the Republic of Montenegro, No. 46/2003);
- Committee for Operative Coordination of Public Administration Reform (Official Gazette of the Republic of Montenegro, No. 46/2003);
- Council for Curricula of the Republic of Montenegro (established by the Governmental Decision published in the Official Gazette of the Republic of Montenegro, No. 9/02);
- Council for Sustainable Development (established by the Governmental Decision published in the Official Gazette of the Republic of Montenegro, No. 53/02); and
- Council for an Information Society (Official Gazette of the Republic of Montenegro, No. 34/03).

The Government, with its Decision of 1 February 2002, established the Economic and Social Council as a tripartite, consultative body for the discussion of issues and measures connected with economic and social policies. The members of this Council are as follows:

- seven representatives of the Association of Independent Trade Unions;
- seven representatives of the Economic Council of the Republic of Montenegro;
- seven prominent experts and public persons, nominated by the Government;
- three representatives of the branch of Agriculture and Tourism;
- four representatives of Republican Funds;
- one representative of banks, nominated by the Bank Association;
- five representatives from the fields of labour, education and health;
- three representatives of NGOs; and
- one representative of the Montenegrin Diaspora.

Within the structure of the Council, there are seven special sections for discussing issues related to its sphere of competence. Those sections are:

- Production, Research and Development;
- Labour and Social Affairs;
- Civil Transition;
- Agriculture and Feeding;

- Economy and Finance;
- Environment; and
- External Relations.

The Council sends a report on its activities to the Government semi-annually.

Other consultative bodies formulate positions and make recommendations to ministers. However, ministers and the Government are not obliged to follow these proposals. An example of a consultative body within a ministry is the Council for State Administration Reform in Montenegro which was founded by the Ministry of Justice in March 2002. The Council participates in the preparation of legislation and provides opinions on legal acts within the sphere of state administration. Members of this Council are eminent representatives of the Government, the Lawyer Association of the Republic of Montenegro, the Law Faculty and other scientific institutions.

6. Executive Linkages

6.1 The Executive and the Presidency

The President of the Republic represents the Republic in the country and abroad and executes functions determined by the Constitution.

The President of the Republic and the Government communicate through official channels. The General Secretariat of the President of the Republic and the General Secretariat of the Government are responsible for securing this cooperation. Article 13 of the Decree on the Government prescribes that the Government, in accordance with its constitutional responsibility, takes stands on various issues within its responsibility, and informs the President of the Republic about it. Representatives of the President of the Republic may be invited to attend Government sessions.

6.2 The Executive and Parliament

The Government communicates with the Parliament through formal channels. The coordination remit of the Secretary General of the Government includes relations with the Parliament. The Government has the right to propose to the Parliament the inclusion of items on its agenda that are deemed important by the Government and to state its opinion before the Parliament. The Government has the right to state its opinion concerning a law and other legal norms that have not been proposed by the Government.

The Government influences the agenda of the Parliament through consultations. The intention of these consultations is to coordinate the governmental and parliamentary agendas. Since the Government proposes more than 90 per cent of all legislative acts, it has a decisive influence on the parliamentary timetable. Representatives of the Government are obliged to attend the first meeting of each session of the Parliament in order to provide explanations and answers to parliamentary questions. There are also some informal channels of communication between the Government and Parliament, such as visits of MPs to the Government and ministries, and attendance at seminars and professional conferences.

The Government and ministers are obliged to answer questions raised by the MPs. The answers of individual ministers are transferred to the Parliament via the General Secretariat of the Government within 30 days from the day of delivery. If the Parliament decides to call for specific information concerning the actions of the Government or a particular ministry through an interpellation, the Government may submit its statement, within 15 days before the start of the debate. It also has the right to participate in the debate on the issue in the Parliament.

Responding to an interpellation a ministry is obliged to submit to the Parliament reports on the issue in question as well as requested data. A ministry is obliged to submit original documents to the Parliament only within a parliamentary investigation, but it shall enable insight into and transcription of the same, unless these documents represent a state, military or official secret. A ministry is obliged to submit a response to a representative's question.

Ministries submit reports and documents through the Government.

6.3 The Executive and Political Parties

The Coalition Agreement is a document concluded among the main coalition partners (in 2003 those are the Democratic Party of Socialists (DPS) and Social Democratic Party of Montenegro (SDP)). There is no formal constitutional or statutory basis for such an agreement. The document contains the main economic and political priorities of the coalition partners. Coalition meetings in which the governing parties reconcile their views on the most important tasks of the Government are the formal means used to synchronise decision-making between the coalition parties.

The Law on Financing Political Parties (Official Gazette of the Republic of Montenegro, No. 44/97) determines conditions and ways of providing financial means for the work of political parties, as well as ways of providing some of the means for electoral campaigns. This law regulates that political parties can obtain financial means for their needs from the following resources: membership fees, donations, income from their own property and business activity, credits, gifts, legates, budget and other resources according to this law. There are no restrictions on their business activity. According to article 3 of this law, the State as well as municipalities provide funds for:

- operations of political parties, whose candidates have been elected as MPs, (or as municipality councillors respectively); and
- covering expenses for electoral campaigns of political parties, whose candidate lists for election of MPs (municipal councillors) have been confirmed.

Budget support for the operations of political parties, for a particular year, cannot be less than 0.3 per cent of total budget in any budget year. Up to 30 per cent of the amount is distributed equally to all political parties that have MPs in the Parliament. The rest of the budget support is divided in proportion to the total number of seats of each political party. Financial activities of political parties can be the subject of financial supervision. It is carried out by the service competent for the supervision of the financial operations of legal persons.

6.4 The Executive and Civil Society

In 1999, the Parliament of the Republic of Montenegro passed the Law on Non-Governmental Organisations (Official Gazette of the Republic of Montenegro, No. 27/99, 09/02, and 30/02). This law determines conditions for founding NGOs, their registration as well as the scope of their

activities. Over the last few years, informal consultations with different interests groups have taken place during the preparation of major pieces of legislation. Examples are the preparation of the Law on the Ombudsperson, the Law on Local Self-government and the Law on Financing Local Self-government. The main national and international NGOs were involved in the process of drafting new legislation through consultation and providing their suggestions and comments before the formal Government procedure has been initiated.

According to the new Law on State Administration (article 80), ministries and administrative authorities are obliged to cooperate with non-governmental organisations. The cooperation with NGOs is carried out, in particular:

- by consulting the NGO sector on legislative and other projects that regulate the manner of protecting the rights and freedoms of citizens;
- by facilitating the participation in the work of working groups for the consideration of issues of common interest or for the normative regulation of relevant issues;
- by organising joint public discussions, round tables, seminars and other forms of common activities and in other appropriate forms;
- by providing information on the content of the work programmes and reports on the work of State administration authorities.

6.5 The Executive and the Media

According to article 82 of the Standing Orders of the Government of the Republic of Montenegro, the work of the Government is public. Publicity is ensured through press conferences and official statements of the Government in the form of press releases through the Bureau for Public Relations. As a rule, journalists do not attend Government meetings.

After each Government meeting, the Government holds a press conference during which the most important decisions of the Government are presented to the press. The Prime Minister, deputy prime ministers and ministers present the official statements of the Government. The Government web site is www.vlada.cg.yu. Several ministries and other governmental institutions maintain their own web sites.

7. Deconcentration and Decentralisation

7.1 Deconcentrated State Administration

In Montenegro the State administration has been deconcentrated in different ways, e.g., ministries and other state administrative bodies have regional/municipal offices (e.g. the Directorate for Public Revenues, Customs, Directorate for Real Estate, inspection services etc.). The deconcentration of public administration bodies is based on ministerial or governmental acts.

Generally, ministries establish deconcentrated regional organisational units through their own acts on internal organisation and systematisation. Only in exceptional cases does the Government or the law establish deconcentrated organisational units of administrative bodies, as is the case with the Customs Bureau. The Law on the Customs sets forth that the regional authorities of the Customs Bureau are the customs stations. The organisational units of customs stations are: customs branch, customs referate, customs department and customs laboratory.

The customs stations and organisational units are established and abolished by the Government upon proposal of the Director of the Customs Bureau.

Concerning the execution of tasks delegated from the State level to the local self-governing bodies, the supervision over the work of the local administrative bodies is performed by the delegating central body (a ministry or other administrative body). In performing supervision, ministries or Republican administrative bodies, have the following rights and duties:

- to perform supervision according to the inspection supervision procedure;
- to decide on appeals against administrative acts issued by the first level administrative bodies;
- to perform supervision over the execution of administrative acts;
- to start the inspection procedure for determining the responsibilities of officials in local administrative bodies;
- to issue an order to remedy irregularities;
- to issue obligatory instructions for performing delegated tasks; and
- to provide instructions and explanations for the application of laws, other regulations and general acts.

7.2 Regional Self - Government

There is no regional self-government in Montenegro, because of its small territory and number of citizens.

7.3 Local Self-government

There are several laws and other regulations in effect that regulate local self-government in Montenegro: the new Law on Local Self-government, the Law on Financing of Local Self-government, the Law on the Election of the Mayor (Official Gazette of the Republic of Montenegro, No.35/2003), the Law on the Division of Montenegro into Municipalities (Official Gazette of the Republic of Montenegro, No. 10/60, 6/65, 6/70 and 45/90), the Law on the Royal City (Official Gazette of the Republic of Montenegro, No. 56/93), and the Law on the Election of Councillors and Representatives (Official Gazette of the Republic of Montenegro, No. 16/00). The Law on the Capital City and the new Law on the Royal City are in the drafting phase.

The new Law on Local Self-government, as well as the new legal solutions, due to constitutional limitations, rest on the model of the so-called “omnibus system” of local self-government. Here, the local communities operate as self-governing units with general competencies. This means that all units of local self-government perform the same activities, (i.e., they have similar functions), and have a uniform organisational model. Only the organisation of the Royal City is somewhat different, bearing in mind its specific functions, which are different from the other units of the local self-government. In addition, there is also another important point to be noted: the organisation of local self-government has only one single level, which means that there are no local units of a higher level, i.e. of the second degree. This is due to the relatively small territory of the Republic of Montenegro.

Competencies of the local self-government are divided into two main categories: their own (original) competencies and the so-called delegated competencies. The Law on Local Self-government determines which competencies are original and which are delegated. The law states the local self-governing competencies and thereby combines the system of the positive enumeration with the general clause.

The new concept of the Law on Local Self-government introduces a combined model of determination of local self-government affairs (the enumeration system and the system of general clauses) with the establishment of presumption (assumption of competence) in favour of the local self-government regarding affairs which are not prescribed as the competence of state authorities or other authorities and organisations exercising public authority.

The new Law on Local Self-government provides a wide space for local communities to perform all affairs which are of interest to citizens but which are not foreseen as falling within the competency of state authorities.

The new law will state the principle that local self-government units perform all affairs which are of direct and general interest for the local population, along with an outline of the wide and very flexible range of tasks which are under local self-government authority and which should be performed independently by local self-government and based on its own responsibility.

The “own affairs” represent a group of tasks from different spheres of social life of the local population. As a rule, these are an irreplaceable condition for life and work of the local population. The group of “own affairs” includes:

Obligatory “own affairs”

Activities which relate to the adoption of:

- development plans and programmes;
- construction land improvement programmes;
- spatial and urban plans;
- budget and budget balance sheet;
- capital improvement plan and investment policy;
- plans and programmes in respective public administration fields, in accordance with special law; and
- environmental development and protection programmes.

In accordance with the law, a municipality regulates and provides:

- conditions for performance and development of communal affairs;
- conditions for development of entrepreneurship;
- performance of activities regarding organisation, utilisation and protection of construction land;
- use of business premises;
- conditions for perseverance and protection of natural resources;

- social welfare regarding home care and help at home for old and disabled persons; resolving housing issues for persons in social need and other forms of social welfare;
- child welfare regarding the recess and recreation of children, accommodation, nutrition and other additional forms of child welfare;
- conditions for preservation, use, management and improvement of areas with natural medicinal qualities;
- public transportation of passengers in the local traffic area;
- determination, collection and control of local public revenues;
- housing; create conditions for maintenance and protection of apartment buildings, and protection of condominium ownership rights;
- conditions for constructing and using facilities;
- public information conditions;
- conditions for protection from natural disasters, fires, explosions, damage and other accidental and extraordinary events, and creates conditions for their elimination;
- conditions for improvement of sport and physical culture by creating an environment for recreation of children, youth and adult, construction and maintenance of sports facilities and development of inter-municipal cooperation in the field of sport;
- construction and installation of temporary and other facilities;
- conditions for protection of monuments and commemorative traits of local importance;
- supervision and protection from noise;
- conditions for development of library and archive activities of a local importance;
- conditions for development of publishing;
- conditions for deep sea navigation on its own territory;
- working hours and preconditions for work of institutions that provide services to citizens;
- conditions for exercising taxi transportation; and
- conditions for organisation of public fairs of local importance.

Non-obligatory “own affairs”,

- observing the protection of erosive areas;
- determining public interest for property expropriation for local needs;
- managing, disposing of and protecting local property;
- performing inspection control;
- defining offences relating to the violation of its own regulations and conducting the offence procedure;
- organising the provision of legal aid to citizens;
- keeping population records and voter registration lists/election rolls;

- issuing water management conditions, water management agreements and water management permits; keeping records on communal and sewage water, beneficiaries and polluters of water management facilities, and other affairs;
- determining public acknowledgements and awards;
- deciding on rights and obligations of citizens in the sphere of its “own affairs”;
- taking care of the satisfaction of citizens’ needs and their immediate interests in other spheres as well; and
- performing other affairs in accordance with the citizens’ needs and interests.

For the purpose of executing affairs of immediate interest for the local population, a municipality:

- establishes local self-government authorities; and
- establishes public services in the field of tourism, education, culture, physical culture and sport, technical culture, social and child welfare, employment, primary health care etc.

The second group of local self-government affairs are so-called delegated affairs. Devolution of affairs is regulated by law and delegating of affairs is regulated by a Governmental Decree.

The legislator has used a general clause to set forth devolved competences of local self-government in the new Law on Local Self-government. Thereby the legislator has defined only the areas in which the devolution of affairs can be carried out, such as: education, primary health protection, social and child care, employment, as well as other areas of local interests.

A municipality is created by law after local elections. Currently, there are 21 municipalities in Montenegro. More precisely, there are 19 “classical” municipalities, one municipality with the status of the Royal City (Cetinje), and one with the status of Capital City (Podgorica).

The financing of municipalities and relations among municipalities and central Government authorities are regulated by the new Law on Financing of Local Self-government.

The main functions of local self-government relate to the autonomy in regulation, control, collection and independence in the disposal of own revenues. The new Law on Local Self-government determines only principles of financing, while this issue is more precisely regulated by the new Law on Financing of Local Self-government, and some of the tax laws. In this sense the Law on Local Self-government determines basic principles of financing that reflect the rights and obligations of local communities to:

- collect public revenues for the performance of “own affairs”;
- prescribe the amount of taxes, administrative fees and compensations for the purpose of performing of “own affairs” that are of direct and common interest of local populations;
- state revenues and expenditures of local communities in the local government budget;
- have the resources necessary for the work of local self-government authorities as stated in the local government budget;
- independently dispose of their own resources; and
- provide the funds for the performance of devolved and delegated affairs in accordance with the regulation on devolved or delegate affairs.

The local self-government acquires revenues on four bases:

1. own revenues (local tax, administrative fees, compensations, property tax, etc.);
2. common revenues (state tax – income tax for private persons, real estate tax, concessions on utilization of natural resources);
3. the State Budget in the form of so-called “conditional subventions” for financing of a capital investment projects; and
4. the equalisation fund, through equalisation and inciting subventions.

The Procedure of the election of councillors is regulated by the Law on Elections of the Representatives and Councillors. Thirty councillors are elected as members of the Municipality Council, plus one more councillor per 5 000 voters from that municipality. Councillors are elected directly for four-year terms, on the basis of universal and equal suffrage, in free and secret ballots. The right to vote is the same as for the national elections, with the additional requirement that voters must be permanent residents in a municipality.

The current organisation of local self-government (council, president (mayor), local administration) will function in accordance with the old Law on Local Self-government until the first regular local elections under the new law.

In accordance with the existing regulations, the Mayor of a municipality holds executive power in the municipality. The Municipality Council elects a president of the municipality for a period of four years. The Mayor represents a municipality; executes laws and decisions of the Municipality Council; proposes to the Municipality Council the passing of legal acts and the budget; executes the budget; determines an organisation and working method for the local government; nominates chiefs of local government bodies; and performs other functions in accordance with the laws and statutes. The Mayor can have one or more deputies, who are nominated by the Municipal Council upon proposal of the Mayor.

According to article 46 of the old Law on Local Self-government (Official Gazette of the Republic of Montenegro, No. 45/91, 33/96), the Municipal Council has been established at the local level. Its main responsibilities are:

- to provide for the execution of municipality regulations;
- to provide for the application of laws, other regulations and general acts, as well as to provide for the execution of delegated functions;
- to prepare drafts of decisions, other regulations and legal acts, which have to be passed by the Municipal Council, or a Mayor;
- to perform expert and other tasks entrusted by the Municipal Council, or Mayor;
- to decide in administrative matters;
- to perform administrative supervision; and
- to decide in tort procedures in accordance with a law.

Local administrative bodies are Secretariats with departments, sectors, offices, etc. However, a municipality can delegate the execution of some tasks to local communities, settlements, regions and similar. The law provides for the possibility to call for a local referendum, which can be obligatory or optional.

The new Law on Local Self-government (see section 5) and the Law on the Election of the Mayor, which will be in force after the first regular local elections, foresee changes in the organisation of local authorities and election of the Mayor (directly by the local population).

In order to ensure democratic influence of the local citizens, as well as to supervise the work of the local self-governing bodies, a Council for the Protection of Local Self-government can be formed in a municipality. Members of such a council are representatives of the local citizenry. Direct forms of citizen participation in municipal decision-making include initiatives, petitions, proposals and questions.

The independence of municipalities vis-à-vis the State is protected by the Constitutional Court, which decides on compliance of laws with the constitutional rights of local authorities, as well as on compliance of local legal acts with the constitution and the law and on disputes between the State and the municipalities concerning their respective areas of competence.

While performing “own affairs”, local governments may freely cooperate and jointly invest their funds to carry out tasks of common interests with the aim to satisfy the needs of local population.

The Montenegrin municipalities have created an “Association of Municipalities of Montenegro” in which all Montenegrin municipalities are members. Municipalities and the Association of Municipalities may freely cooperate with local communities and associations of other countries, within their competencies and for the purpose of pursuing common interests, and they may join regional and international organisations of local government.

Rules and procedures of employment and human resource management are the same as at the State administration authority level.

8. Personnel Management

8.1 Legal Bases and Principles of Public Employment

The employment of personnel in state authorities is governed by the Law on State Civil Servants of 1991. In addition to requiring general conditions such as physical working capacity, this law requires that the staff of state bodies have to be Montenegrin citizens and at least 18 years old. The Law on State Civil Servants defines the rights and duties of employees in state authorities. It also contains provisions on promotion, annual leave and other periods of absence. In addition, some of their rights (for example, the right to information and the right to professional education), and conditions for the operations of the trade unions, are defined in the relevant Collective Agreement.

Directors, administrative civil servants, and technical and expert staff in the public administration are not allowed to be in management positions of a political party. Staff in state bodies have the right to join trade unions, but do not have the right to strike.

The salaries of staff in the State authorities, as well as of staff in local authorities, are determined by the Law on Salaries within the Non-economic Sector, adopted in 1991. The salaries of MPs and state functionaries are determined by the Law on Salaries and Other Incomes of MPs and Republic Functionaries, which was adopted in 1993.

In the present personnel structure of the Central Government, two major groups of staff can be distinguished: executives and civil servants. The first group is smaller and comprises the heads

of different central administrative authorities (for example, ministers, Republic secretaries and the Directors of Government agencies). The group of civil servants can also be divided into different levels according to the hierarchical positions, such as top civil servants (e.g., secretaries of the ministries, assistants to the ministers and directors, councillors to the Government), administrative staff (such as advisors and collaborators) and clerical staff (such as controllers and operators).

8.2 Personnel Management in Public Administration

The ministries and the Government are responsible for the human resources management policy.

Each ministry is responsible for the human resources management of its civil servants, with the exception of the higher civil servants, i.e., those who are appointed by the Government or whose nomination is subject to its approval. In this case the government is carrying out the human resources management centrally.

Recruitment in a state authority is usually carried out on the basis of a public announcement. The decision on employment, (and nominations), is taken by the principal of the state authority, or by the Government for certain higher civil servants of a ministry.

The Government has created a special Commission for Personnel and Administrative Matters. This Commission is responsible for specific tasks, such as implementation of personnel policy, training of civil servants, preparation of proposals for the appointment and dismissal of functionaries and other persons nominated by the Government, as well as for the promotion of civil servants (upon proposal of a minister). The Commission also operates as an appeal body in personnel matters. The members of the Commission are top civil servants.

On-the-job training of civil servants is executed during their training period. Every civil servant is obliged to participate in all forms of advanced training that can be organised within public authorities.

The Regulation on Trainees' Training, Professional Exam and on Professional Advanced Training of Civil Servants (Official Gazette of the Republic of Montenegro, No.18/93, 31/95 and 53/01) regulates trainees training; the professional examination aimed at working in public authorities; the contents and the forms of professional advanced training; as well as the manner of testing acquired knowledge.

In addition, the Regulation on the Manner and the Procedure for Probation Work Evaluation in Public Authorities (Official Gazette of the Republic of Montenegro, No. 18/96), has regulated the procedure of performing and evaluating probation work of civil servants in public authorities. Within the framework of the budget resources of ministries, some funds are allocated – though sometimes very few - for advanced training of civil servants, managed by the minister.

The rights and obligations of civil servants are regulated by the Law on Civil Servants.

Civil servants are obliged to perform their respective tasks scrupulously, regularly and decently, in line with the Constitution, laws and other rules and regulations; to respect the reputation of the public authority they are employed by while performing their jobs and tasks; to behave decently; to keep service secrets; to have official name and profession tags visibly attached; to carry out the orders of their direct superiors and to act accordingly, if the orders are within the limits of law,

and to warn their supervisors of the potential illegality of orders given; to perform those related official duties that are not within the framework of their regular competences, at the request of their supervisors.

In case of *vis major*, and danger to life, health and public authority property, civil servants are obliged to perform jobs that do not correspond to their professional qualifications until the end of those situations, for a maximum of three months.

Civil servants must not receive gifts and express and advocate their political affiliations while performing their jobs and tasks. They may not work after working hours in another public authority without permission of their heads.

Civil servants are entitled: to salary, daily breaks, weekends and annual leave, leave benefits and temporary work disability benefits; to participate in professional advanced training; career development; to have limited working hours; to protect their rights by applying to administrative inspection and court authorities; and to reject illegal orders of their supervisors, except if the orders are of an urgent nature.

Performance appraisal and career development of civil servants have been regulated by the Regulation on Groups of Affairs and on the Principles for Internal Organisation of Public Administration Authorities, Official Titles, Vocations and Promotion of Civil Servants (Official Gazette of the Republic of Montenegro, No. 9/92 and 26/96).

The records on all circumstances relating to the work of civil servants are kept (work sheets). Performance appraisals for each civil servant are entered separately in work sheets. On the occasion of transferring a civil servant from one public authority into another one, the work sheet is forwarded to the authority to which the civil servant is transferred.

The content of the work sheets is regulated by the ministry in charge of public administration.

According to the law, the ministries and other administrative authorities are competent to issue rules that regulate their internal organisation and systematisation.

It is not known if there are positions within the regular work positions that are directly paid by foreign donors.

9. Administrative Control

9.1 Internal Oversight and Control

There are several forms of internal control, including control by the higher administrative authority; the power of the head of an administrative authority to issue decisions; the (strictly limited) supervisory powers of state authorities over administrative decisions of local self-government authorities; as well as inspection-related supervision.

By its very nature, the control carried out by a higher administrative authority represents a formal, internal control mechanism. The higher administrative authority directly supervises an administrative authority of the first instance. In doing so, it has very broad powers. It may abolish, invalidate or even change the administrative act of a first instance body. It may verify not only the legality and professional nature of the action, but also the appropriateness of the administrative

decision of a body of the first instance. This competence also concerns the use of discretionary powers.

The power of the head of an administrative authority to issue instructions and to change decisions of lower administrative authorities represents direct, internal supervision.

Local self-government bodies must act according to the General Administrative Procedure Act when they take decisions concerning the rights, obligations and legal benefits of individual parties in the sphere of "transferred" (delegated) tasks. Insofar as they perform delegated tasks, local self-government authorities act as state authorities and are subject to the supervisory authority of central administrative authorities.

Inspection-related supervision is a mechanism for direct supervision over the legality of the functioning of state authorities, other public organs and institutions, and private organisations and individuals that perform certain activities in the financial domain. Inspectorates are set up to supervise the execution of laws and other legal norms in a ministry's area of competence.

The following controls are performed by the Administrative Inspection of the Ministry of Justice: internal inspection control of the application of laws and other regulations by public administration authorities, with regard to areas such as civil servants' status, transparency of work, equality of language and script, efficiency and efficacy in solving administrative matters, professional qualifications of employees executing public administration affairs, proceedings in line with the procedural rules, delivering legal assistance and the costs of administrative procedure.

9.2 External Audit and Control

There is no independent supreme audit institution for external control in Montenegro. However, it is envisaged to create such an institution in the course of 2004. For the time being the control of the work of the ministries and other public administration authorities is only performed by the Government. Administrative and court control is performed by the Supreme Court.

There is also no particular institution dealing with the external control of the work of local self-government.

9.3 Public Redress

Citizens have the right to have an administrative decision reviewed by the administration itself and by the courts.

The Constitutional Court decides on the compatibility of laws with the Constitution; laws and other legal norms with ratified international agreements and with the general principles of international law; and non-statutory legal norms with the Constitution and the law. The Constitutional Court may invalidate unconstitutional laws (effect *ex tunc*) and invalidate or set aside (effect *ex nunc*) unconstitutional or illegal norms. The Constitutional Court also decides on disputes between the Parliament, the President, the Government and other state bodies and local self-government bodies. In addition, the Constitutional Court decides on individual complaints arising from violations of human rights and basic freedoms. However, citizens may only appeal to the Constitutional Court after having exhausted all other available legal remedies. More detailed rules concerning this question are laid down in article 113 of the Constitution and the Law on the Constitutional Court (Official Gazette of the Republic of Montenegro, No. 21/93).

The Constitution enshrines the right to appeal against the actions taken by the public administration. The Law on Administrative Disputes (Official Gazette of the Federal Republic of Yugoslavia, No. 46/96) regulates the procedure for the judicial review over administrative decisions. If a citizen is not satisfied with an administrative decision, he may appeal before a higher administrative authority. If the authority of the second instance confirms the decision of the lower-level authority, the citizen may initiate a judicial review. Judicial review of an administrative decision means that a court, upon the demand of an individual party, examines the decision's legality. This type of review is performed by the Supreme Court of the Republic of Montenegro. Illegal administrative acts may be annulled or substituted by the material decision of the Court. The Court checks the legality, but not the facts and the appropriateness of an administrative decision.

The new Law on Courts passed in 2002 provides that the Administrative Court will be in operation after January 2004. After this date, administrative disputes will be in the competence of the Administrative Court.

The ordinary courts of first instance decide on labour disputes.

The Ombudsperson is a new institute in the Montenegrin legal system, established by the Law on the Protector of Human Rights and Freedoms adopted on 8 July 2003 (Official Gazette of the Republic of Montenegro, No. 41/03).

The Law stipulates that the Protector is autonomous and independent in the exercise of his duties. The Protector exercises his/her duties on the basis of the Constitution and laws, and abides by the principles of justice and equity in his work. Anyone who believes that his rights or freedoms have been violated by an act, action or failure to act of the authorities can refer to the Protector. The Protector can also act on his own initiative. The procedures before the Protector are free of charge.

The work of the Protector is public unless otherwise provided for by law. The publicity of the work of the Protector is ensured through the submission and publication of annual and special reports and in any other manner determined by the Protector.

The Protector shall submit an annual report on his work to the Parliament. Upon request of the Parliament, the Government is obliged to give its opinion on the annual report of the Protector. The annual report consists of, 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 recommendations and measures proposed for the elimination of observed irregularities. The annual report for the previous year shall be submitted no later than March 31st of the current year. The annual report shall be accessible to the public. The Protector may submit a special report to the Parliament, if he assesses that exceptionally important reasons require such action. The special report shall be made accessible for the public.

Citizens can submit complaints and questions to all state institutions. The Law on Proceeding with Petitions and Proposals (Official Gazette of the Republic of Montenegro, No. 22/78, 29/89, 39/89, 48/91, 17/92 and 27/94) regulates the proceedings with petitions and proposals of citizens, enterprises, other organisations and communities, state authorities, social organisations, citizen associations or other organisations/submitters. Appeals and petitions can be sent or directly submitted to the Parliament of the Republic of Montenegro, the President of the Republic of Montenegro, the Government, as well as to the other Republican authorities and

organisations, municipal assemblies, their executive authorities, and other authorities and organisations.

In the sense of this law, petitions are: requests, complaints, proposals and other documents that citizens submit to the authorities and organisations for the purpose of effective realization and protection of their rights, legal interests and obligations, or in order to initiate a political or other initiative of general interest.

10. Specific Topics

10.1 Public Procurement

The Law on Public Procurement (published in the Official Gazette, No 40/2001) regulates, in detail, procurement procedures of public institutions (authorities and organisations financed from the Republican budget). According to the law, the basic procedure for public procurement is an open public tender.

All public institutions have to undertake all necessary measures to: 1) provide for, as broadly as possible, equal participation in invitations for delivering the offers; 2) provide regular publishing of the invitation to deliver the offers, when this is possible; 3) eliminate discriminatory practices or technical specifications related to discriminatory practices; 4) provide that all criteria for election and methodology of elections should be determined in the invitation for delivering the offers; and 5) provide that selected offers should be in accordance with the requests in the invitation and meet the election criteria.

The public procurement system is centralised through the Commission for Public Procurement. The Commission is responsible for providing that the Public Procurement System allows the procurement activities to be conducted according to the principles of the most transparency and impartiality.

The Commission for Public Procurement coordinates the public procurement system in the Republic of Montenegro. The Commission has the following duties: 1) to observe the interests of the Republic of Montenegro, concerning public procurement issues, in relation to regional and international obligations; 2) to deliver the periodic reports on public procurement to the Parliament; 3) to examine the appeals of suppliers and public institutions, related to the public procurement issues; 4) to examine noticed and determined irregularities; 5) to act as an arbiter in the implementation of this law in cases of disputes among public institutions; 6) to approve and distribute regulations on public procurement and standard forms; and 7) to recommend eventual changes and amendments of this law to the Government.

In performing its functions, the Commission for Public Procurement is authorised to: 1) supervise the work of the public procurement units, project management units, the Directorate responsible for procurement and the Directorate responsible for public works; 2) examine appeals of suppliers and public institutions and to propose measures for correction; 3) examine reported cases of irregularities and maladministration and propose correction measures; 4) to pass a decision in the case of disputes between public institutions in relation to the interpretation of provisions of this law; and 5) to determine the procedure for public procurement in accordance with this law.

The Commission for Public Procurement is composed of three members: the Chairperson who represents the Ministry of Justice and two other members who represent the Ministry of Finance and the local self-governments.

The members of the Commission for Public Procurement who are nominated by the Government are selected in consultation with the President of the Republic and the leaders of opposition parties, according to the requirements defined by the Prime Minister. Each member of the Commission has a mandate that does not exceed the term of three years and may be nominated only one more time.

In accordance with the Law on Public Procurement, the Directorate for Procurement (within the Ministry of Finance) is responsible for the procurement of items of broad consumption and for rendering advisory services to public institutions, if required.

The officer in charge of public procurement is directly responsible for the public procurements made by the shopping method and direct agreement.

The principles of publicity and equality in public tenders are safeguarded by an invitation to tender formulated in such a way that it enables and encourages an open competition and equality of all suppliers. Accordingly, the documentation includes a detailed description of the needs, place of delivery, minimum requirements of performance, guarantee, and requirements regarding the maintenance, as well as other appropriate deadlines and services.

According to the law, there are the following public procurement methods: 1) shopping; 2) bidding (restricted or open, local or international); 3) direct agreement (single source procurement); 4) request for proposal for consulting services. Direct agreement is allowed for public procurements whose value is below the prescribed threshold.

10.2. Combating Fraud and Corruption

The Decree on the Establishment of the Agency for Anti-corruption Initiative (Official Gazette of the Republic of Montenegro, No. 02/01) has tasked the specialised agency with the preparation of laws and by-laws in this area; awareness raising, and other activities to combat corruption; proposing the adoption and enforcement of European and international standards and instruments, related to anti-corruption initiatives; improving transparent business operations; and carrying out other activities that stem from membership in the Stability Pact for South-eastern Europe and in other international organisations and institutions.

The Director of the Agency for Anti-corruption Initiative is at the same time the representative for Montenegro of the Anti-corruption Initiative of the Stability Pact for South-eastern Europe.

The new Law on Preventing of Money Laundering was recently adopted (Official Gazette of the Republic of Montenegro, No. 55/03).

The government is working on a new law on public procurement. Already the existing Law on Public Procurement prescribes that all civil servants and providers of goods and services must fight against corruption, misuse of official positions, agreements affecting third parties, conspiracies, associating for performing illicit activities, frauds in bids, conflict of interests, and lack of impartiality. They must also advocate transparency in public procurements. In the future they shall have the obligation to improve and maintain high standards of open and fair competition, along with professionalism, ethical behaviour and efficiency.

Supplements to the Criminal Code from 2002 have introduced new criminal offences in the education, health care and judiciary sectors, in the privatisation process, public procurement and general public administration. Since those are new criminal offences, there is no information on whether any person has been sentenced for corruption.

Article 93 of the Constitution regulates that a Government member may not perform an MP's function and other public functions, or professionally be in charge of other activities. Article 67 of the Law on Public Procurement regulates the issue of conflict of interests for individuals in charge for public procurements.

There is no legal procedure for the control of the financial status of MPs, ministers, politically-elected persons and the employees in public administration, except for the persons dealing with public procurements. The Law on Public Procurement stipulates that chairpersons and the members of the Commission for Public Procurement, officers for public procurement, members of the selection commissions, directors and heads of departments within the Directorate for Procurement, and the leaders of project management units must submit to the Public Prosecutor statements on their respective possessions both assets and liabilities. They must fill in a form prescribed for the procedure of public procurements within 30 days as of the day of nomination or selection, and after cessation of service. The same applies to all elected persons.

For the control of the financial status of representatives, ministers and other politically elected persons, there is only the Recommendation of the Parliament, published in the Official Gazette of the Republic of Montenegro, No. 24/97) and particularly relating to: the President of the Republic, the Prime Minister and the Government members, the President of the Parliament and representatives, mayors and councillors, to publicise in the media their possessions as well as the possessions of their close family members (spouse, children, parents, brothers and sisters). The Parliament has recommended that data be published with regard to their:

- real estate;
- movable property having a value that exceeds a certain amount;
- local currency and foreign currency accounts, and other financial incomes according to type and amount; and
- securities, whether the property is located in their home country or abroad.

The Parliament has recommended that the statements shall include the status of possession both 30 days prior to their appointment and 30 days after the cessation of their functions, as well as any change in the assets that occurs during the execution of the function. The Parliament has recommended the possession statements to be published in the media at least once a year.

10.3 Access to Public Information

The Constitution of the Republic of Montenegro (articles 35-37) guarantees the freedom of press and other forms of public information, as well as citizen's rights to express and publish their opinions in the media. The Constitution also stipulates that the publishing of newspapers and other forms of public information are accessible to everyone, without special permission, with prior registration at the relevant authority. The Constitution also stipulates the guarantee to the right of reply and the right to correction of published incorrect data or information, as well as the right to compensation for damage caused by publishing incorrect data or information. In addition, censorship of the press or other forms of public information is prohibited by the Constitution.

Nobody can thwart the distribution of the press and spreading of other information, unless a court, by its decision, decides that such information and press encourage the violent destruction of the constitutional order, territorial integrity, violation of guaranteed rights and freedoms, or if they can provoke national, racial and religious hatred and intolerance.

The Law on Media (Official Gazette of the Republic of Montenegro, No. 51/02 and 62/02) stipulates that the Republic of Montenegro guarantees the right to free establishment and undisturbed work of the media based on: freedom to express an opinion; freedom to research, collect, disseminate, publish and receive information; free access to all information resources, protection of human personality and dignity; as well as on the free flow of information. In addition, this law also prescribes that the Republic of Montenegro provides and guarantees the freedom to information at the level of standards defined in the international documents on human rights and freedoms. This law should be interpreted and implemented in accordance with principles of the European Convention on the Protection of Human Rights and Fundamental Freedoms, and by referring to the judgements of the European Court for Human Rights.

In accordance with this law and the Law on Radiodiffusion, the Republic of Montenegro guarantees equal participation in information dissemination to domestic and foreign private and legal persons.

The Constitution of the Republic of Montenegro, by its article 31, guarantees the protection of personal data, prohibits the use of personal data beyond the purpose for which they are collected, and guarantees the right to everyone to be acquainted with collected personal data. The right to court protection in case of abuse of the data is guaranteed. At present, the Republic of Montenegro has not passed a law on the protection of personal data.

10.4 Rights of Minorities

Minority rights are guaranteed by the Constitution of the Republic of Montenegro (article 34 and in more detail in articles 67 -76). These basic rights and freedoms of national and ethnic groups are the following:

- protection of national, ethnic, cultural, linguistic and religious identity;
- protection of rights in accordance with the international protection of human and civil rights;
- right to free use of their language and script, education and information in their language;
- right to use and express the national symbols, which is regulated by a special law;
- right to establish educational, cultural and religious associations, with the material support of the State;
- right to curricula of educational institutions, including the history and culture of national and ethnic groups;
- right to use their language in procedures before state authorities;
- right to proportional participation in employment within the public services, state authorities and local self-government authorities;
- right to establish and maintain undisturbed contacts with citizens outside the Republic of Montenegro, with the same national and ethnic descent, cultural and historical heritage, religious belief, but only if those contacts are not to the detriment to the Republic of Montenegro;

- right to participate in regional and international non-governmental organisations; and
- right to address international institutions for the protection of their constitutionally-guaranteed rights and freedoms.

In order to maintain and protect national, ethnic, cultural and religious identity and to protect the minority rights guaranteed by the Constitution, the Council for the Protection of Rights of Members of National and Ethnic groups has been established. This Council is headed by the President of the Republic.

The Council was established by a Decision of Parliament, published in the Official Gazette of the Republic of Montenegro, No. 32/93. The Council is an independent organ of the Republic of Montenegro which takes measures and performs activities to protect the national, ethnic, cultural, language and religious identity of national and ethnic groups and to enable them to exercise their rights stipulated by the Constitution. The Council also monitors inter-ethnic relations and events of importance regarding their conformity with the rights of national and ethnic minorities. In particular, the Council has the following tasks:

- to require the submission of reports, acts and data of importance for the protection of national and ethnic groups from organs and organisations;
- to initiate procedures to annul or to revoke regulation of organs or organisations by which the rights of national and ethnic group members are violated;
- to propose to organs or organisations suspension of execution of regulations or single acts, if their execution could cause the violation of rights of national or ethnic groups members;
- to initiate a procedure before the Constitutional Court to evaluate constitutionality and legality of regulations in cases when it assesses that the rights of national and ethnic groups are violated; and
- to adopt recommendations and declarations for organs and organisations and monitors their implementation.

The members of the Council are elected by the Assembly (parliament) on the proposal of the President of the Republic, ensuring that the members represent all religions, national and ethnic groups, as well as include prominent public and political individuals.

10.5 e-Government

The Republican Secretariat for Development is in charge of the development of the information system of the Republic of Montenegro. Several projects, such as the judicial information system, the information system for voter registration lists, the real estate cadastre, the customs and tax system, have already been implemented.

Different kinds of information about the Government, its activities, as well as laws regulating different areas of public life are available in electronic form.

It is however still not possible to deal with the public administration electronically (for example: submission of documents needed for the issuance of a driving licence, registration of an enterprise or submission of tax returns etc.), but the new law will provide the conditions therefore. The new Law on Electronic Signature (Official Gazette of the Republic of Montenegro, No. 55/03) regulates the use of the electronic signature in legal circulation, in administrative, judicial and

other procedures, as well as rights, obligations and responsibilities of private and legal persons related to electronic certificates, if not otherwise stipulated by a special law. In addition, the new General Administrative Procedure Act regulates the possibility of electronic communication among the authorities and between authorities and citizens as well as the electronic issuance of administrative decisions.

The Government has its own web site: www.vlada.cg.yu.

11. Managing European Integration

11.1 The Institutional Framework of EU-Related Policy-Making

European Union integration processes are within the competence of the State Union of Serbia and Montenegro, but the Republic of Montenegro, through a special commission and ministry, is also actively involved in these processes.

At present, in the Republic of Montenegro there is a Commission for Harmonisation of the Montenegrin Legal System with the European Union Legal System, which is established by a Governmental decision (published in the Official Gazette of the Republic of Montenegro, No. 5/99). The main task of this Commission is to analyse social relations and the legal system in Montenegro, as well as to perform activities for harmonisation of the Montenegrin legal system with the legal system of the EU. After the last parliamentary election the Government of Montenegro established a new ministry – the Ministry for International Economic Relations and European Integration – which is responsible for European integration processes.

11.2 Managing the Approximation of Laws

The Republican Secretariat for Legislation and the Ministry for International Economic Relations and European Integrations are responsible for harmonisation and compatibility of new or amended laws with the EU rules and standards.

11.3 Implementation of the *acquis communautaire*

The Republican Secretariat for Legislation and the Ministry for International Economic Relations and European Integrations are responsible for preparations for meeting the requirements of the SAA/SAp. Currently, only some preparatory activities for the future implementation of the European legal order are being undertaken.

11.4 Managing Technical Assistance

Currently, technical support provided by the EU and some other international organisations to the Republic of Montenegro, is not coordinated by a central entity. However, it is partially coordinated by the Government of the Republic of Montenegro. The communication between the state authorities and the donor organisations is left to direct negotiations between the state authorities and the international donor organisations.

12. Plans for Reform and Modernisation

The Ministry of Justice is responsible for public administration reform.

The Government, by its decision of 12 August 2003, established the Forum for Political Coordination of Public Administration Reform in Montenegro, which consists of the Prime Minister, ministers, the Secretary General of the Government and the Republican Secretary for Legislation. The main task of this Forum is to provide for permanent political support to the Public Administration Reform processes, directing that process, monitoring implementation and achievement of objectives determined in the "Public Administration Reform Strategy in Montenegro 2002- 2009".

The Government, by the same decision, established the Inter-Sectoral Committee for Operational Coordination of Public Administration Reform, consisting of assistant ministers, permanent secretaries of the ministries and the Assistant Secretary General of the Government. The main task of the Council is to provide for operational coordination of the entire reform activities, monitoring over the realisation of obligations of all participants in the process, appropriate decision-making and preparation of projects.

The Minister of Justice has established the Council for Public Administration Reform, which consists of the assistant ministers, eminent lawyers, professors of the Faculty of Law, as well as representatives of the Association of Jurists of the Republic of Montenegro.

In February 2003, the Ministry of Justice, in cooperation with the European Agency for Reconstruction, prepared a special Strategic Plan for Administrative Reform in Montenegro, and in the beginning of March, the Government adopted this Strategy. With reference to public sector reform processes in OECD member countries, the following principal targets for administrative reform have been defined:

- decentralisation of decision-making processes and devolution of authority to lower administrative levels, resulting in a more flexible operation of the administrative system;
- better task performance and appropriate control mechanisms, resulting in improved accountability of civil servants;
- introduction of competitive elements and of possibilities for choice between different administrative service providers;
- providing appropriate public services, focused on the end-users;
- improving the status of civil servants through the development of a modern human resource management;
- optimal utilisation of information technology in public sector; and
- improving the quality of legal norms.

Reform activities encompass the state administration, local self-government, public services, the protection of citizens' rights, administrative methods and techniques and the statute of civil servants and state employees, including training.

The main goal of these activities is to harmonise the Montenegrin legal system with EU standards. In 2003 the Government of the Republic of Montenegro has prepared, and the Parliament has adopted, a set of reform laws to improve Public Administration: the Law on State Administration (June 2003), the Law on Inspection Control (June 2003), the Law on the Protector of Human Rights and Freedoms (July 2003), the General Administrative Procedure Act (October 2003), as well as the Law on Administrative Disputes (October 2003). Two more laws are in the

final drafting phase– the Law on Civil Servants and State Employees and the Law on Salaries of Civil Servants and State Employees.

13. Key statistic data

13.1 Budgetary Data

CENTRAL INSTITUTIONS	ANNUAL BUDGET IN DM Data for 2002
I. MINISTRIES	
Justice	2 664 566.51
Internal affairs	75 564 993.19
Finance	5 533 903.69
Foreign Affairs	7 083 867.43
Education and Science	175 576 823.7
Culture	13 491 462.51
Economy	13 309 941.59
Maritime and Traffic	31 323 834.28
Agriculture, Forestry and Waterpower	15 598 039.94
Tourism	2 456 677.25
Trade	1 865 186.77
Environmental Protection and Urbanism	4 564 534.99
Health	7 217 105.61
Labour and Social Welfare	73 875 543.57
Protection of Rights of Minority and Ethnic Groups	454 737.78
Religion	653 225.29
TOTAL	431 234 444.13
II. GOVERNMENTAL AGENCIES	
a) Directorates	
Republic Directorate for Public Revenues	10 059 289.94
Directorate for Real Estate	6 317 166.23
Customs Bureau of Montenegro	4 475 877.86
Agency for Anticorruption Initiative	177 742.82
TOTAL	21 030 076.85
b) Secretariats	
Republic Secretariat for Legislature	312 212.19
Republic Secretariat for Information	17 191 679.18
Republic Secretariat for Development	4 386 395.79
Republic Secretariat for Sport	2 801 199.94
TOTAL	24 691 487.1
c) Administrative organizations	
Republic Statistics Bureau	4 302 146.87
Republic Hydrometeorology Bureau	1 526 508.18
Republic Bureau for Seismology	279 481.39
Republic Stock Reserves Directorate	2 422 797.87
Public Construction Directorate	9 423 764.97
Republic Bureau for International Scientific, Educational, Cultural and Technical Co-operation	1 173 831.92
State Archive of Montenegro	1 996 748.52
Agency for Development of Small and Medium Enterprises	5 010 077.38
Institution for Execution of Criminal Sanctions	5 807 250.67
TOTAL	31 942 607.77
TOTAL OVERALL	508 898 615.85

13.2 Personnel Data

The Law on State Civil Servants and the Regulation on Names of Groups of Tasks and Principles for Internal Organisation of the State Authorities, Official Titles, Profession and Advancing of Civil Servants (Official Gazette of the Republic of Montenegro, No. 9/92 and 26/96) determines the vertical structure of the civil service. According to the Law on Civil Servants, civil servants are persons employed in ministries, other administrative bodies, administrative organisations, regular courts, public prosecutor offices, public defender offices, misdemeanour courts, penal-corrective institutions, and other state bodies and services of the state. From the aspect of realisation of some specific rights, according to this law, civil servants are also persons nominated by the Parliament, the President of the Republic, as well as by the Government. Depending on specification, complexity, nature and causality of tasks performed by the state administration bodies, presently there are six different categories groups of tasks:

- administrative and legal-normative;
- executive;
- supervisory;
- scientific and expert-technical;
- clerical; and
- stenography/typing.

Members of the first category are “higher advisor” and “independent advisor”.

Members of the second category are officer, administrative officer and adviser.

In the category of supervisory work there are following titles: authorised official, inspector and main inspector.

In the category of office work there are following titles: typist, executor, archivist, cashier, bookkeeper and accountant.

This classification applies also to the local self-governing authorities.

According to Article 38k of the Regulation on Organisation and Working Methods of the State Administration (Official Gazette of the Republic of Montenegro, No. 33/01), the heads of administrative authorities can be appointed in ministries and other administrative authorities. Those heads are appointed and dismissed by the Government, upon a proposal of a minister or a director of an administrative authority. In addition, there are also the following top level civil servants:

- Permanent Secretary of the Ministry,
- Assistant Minister; and
- Assistant Director of an Administrative Authority.

The Government may also nominate civil servants in a position of: “Republican Secretary” and “Director of an Administrative Agency”, for a period of four years.

The total number of civil servants in the ministries and administrative authorities in Montenegro is as follows.

STRUCTURE OF CIVIL SERVANTS IN STATE AUTHORITIES IN 2002

CENTRAL INSTITUTIONS	NUMBER OF EMPLOYEES – SEPTEMBER 2002			
I. MINISTRIES	Total	Permanent	Fixed-Term	Trainees
Justice	53	41	1	11
Internal affairs	app. 7 500	5 200	1 175	125
Finance	51	40	5	6
Foreign Affairs	71	62	0	9
Education and Science	150	/	/	/
Culture	12	/	/	/
Economy	34	30	2	2
Maritime and Traffic	73	67	2	4
Agriculture, Forestry and Waterpower	115	94	14	7
Tourism	42	/	/	/
Trade	109	100	5	4
Environmental Protection and Urbanism	126	113	8	5
Health	211	190	6	15
Labour and Social Welfare	125	118	7	0
Protection of Rights of Minority and Ethnic Groups	7	7	0	0
Religion	7	7	0	0
TOTAL	8 686	6 069	1 225	188
II. GOVERNMENTAL AGENCIES				
a) Directorates				
Republic Directorate for Public revenues				
Directorate for Real Estate	465	316	140	9
Customs Bureau of Montenegro	366	340	12	14
Agency for Anticorruption Initiative	3	3	0	0
<i>TOTAL</i>	834	659	152	25
Republic Secretariat for Legislature	19	17	0	2
Republic Secretariat for Information	28	/	/	/
Republic Secretariat for Development	111	40	55	16
Republic Secretariat for Sport	16	12	4	0
TOTAL	174	69	59	18
Republic Statistics Bureau	103	93	10	0
Republic Hydrometeorology Bureau	140	104	24	12
Republic Bureau for Seismology	11	11	0	0
Republic Stock Reserves Directorate	53	51	2	0
Public Construction Directorate	30	26	3	1
Republic Bureau for International Scientific, Educational, Cultural and Technical Co-operation	18	15	1	2
State Archive of Montenegro	182	169	11	2
Agency for Development of Small and Medium Enterprises	18	/	/	/
Institution for Execution of Criminal Sanctions	279	270	9	0
<i>TOTAL</i>	834	739	60	17
TOTAL ALL STATE BODIES	10 582	7 536	1 546	248

More detailed data can be found in yearly Statistical Yearbook of the Republic of Montenegro, which is regularly issued by the Statistical Office of the Republic of Montenegro.

14. Useful links

President: www.predsjednik.cg.yu

Parliament:www.skupstina.cg.yu

Government:www.vlada.cg.yu

Government Secretariat of Information:www.rsi.cg.yu

The Ministry of Economics:www.vlada.cg.yu/eng/minekon

The Ministry of Finance: www.vlada.cg.yu/eng/minfin

The Ministry of Foreign Affairs:www.vlada.cg.yu/eng/mininos

The Ministry of Culture:www.vlada.cg.yu/eng/minkult

The Ministry of Agriculture, Forestry and Water Management: www.vlada.cg.yu/eng/minpolj

The Ministry of Maritime Affairs and Transportation: www.vlada.cg.yu/eng/minsaob

The Ministry of Justice <http://www.vlada.cg.yu/eng/minprav>

The Ministry of Education and Science:www.vlada.cg.yu/eng/minprosv

The Ministry of Labour and Social Welfare:www.vlada.cg.yu/eng/minrada

The Ministry of Tourism:www.vlada.cg.yu/eng/mintur

The Ministry of Interior Affairs:www.vlada.cg.yu/eng/minunutr

The Ministry for International Economic Relations and European Integrations:www.vlada.cg.yu/eng/minevrint

The Ministry of Minority Protection:www.vlada.cg.yu/eng/minmanj

The Ministry of Environmental Protection and Physical Planning:
www.vlada.cg.yu/eng/minzastsred

The Ministry of Health: www.vlada.cg.yu/eng/minzdr