

Government of Montenegro

Ministry of Economy

Questionnaire

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

03 Right of establishment and freedom to provide services

Minister: Branko Vujovic

Podgorica, December 2009

TABLE OF CONTENTS

CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP..	5
Chapter 3: Right of establishment and freedom to provide services	6
I&II RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE CROSS BORDER SERVICES	7
A. General	7
B. Horizontal regimes.....	11
III. POSTAL SERVICES	18
A. General legal framework.....	18
B. Universal Service Obligations (USO).....	20
C. Licensing and authorisations regime	22
D. Reserved area.....	23
E. Universal Service Provider (USP).....	23
F. Tariffs for Universal Service	24
G. Accounting	25
H. Quality of Service	25
I. Complaints procedures	26
J. National Regulatory Authority.....	26
IV. MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS.....	29
A. Training	29
B. Practice of the profession/professional activity.....	35
C. Administrative structures	39

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

Chapter 3: Right of establishment and freedom to provide services

I&II RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE CROSS BORDER SERVICES

A. General

1. Please analyse the differences between:

a) the treatment that you offer to third countries in terms of establishment of subsidiaries of companies and the rights of establishment within the Community?

Regarding establishment of the part of the international companies, they may be established under the same conditions as domestic companies, that is their parts.

Exemptions from this general rule are given in answer No. 2

b) the treatment you give to subsidiaries of foreign companies established in your territory and the treatment the Community gives to subsidiaries of foreign companies established on its territory?

Horizontal requirements applicable to all companies that want to perform their activities in Montenegro or with it are regulated by the Law on companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of the Republic of Montenegro 17/07 and 80/08). The Law on companies is given as an Annex ([Annex 18](#)) to the Questionnaire.

If the companies with head offices in the EU want to perform activities in the territory of Montenegro permanently, they need to be registered in the Central Registry of the Commercial Court (CRPS).

2. Does your legislation contain any discriminatory provisions – such as language, nationality or residence requirement – that may affect the right of EU operators to establish in your country? If so, please provide a list of such requirements.

Legislation of Montenegro does not contain any discriminatory provisions regarding language, nationality or residence requirements that may affect the right of EU operators to establish their company in Montenegro.

Exceptions to this general rule are the following:

- Pursuant to the Law on Advocacy (Official Gazette of the Republic of Montenegro 79/06), advocacy may be practiced by advocates that are enrolled in the directory of the Bar Association. The right on enrolment in the directory of the Bar Association has person that, inter alia, fulfils requirement that he/she is national of Montenegro. Foreign advocates may freely provide consultant services regarding international law and the rights of third countries, but representation before administrative and judicial tribunals is subject to the principle of reciprocity.
- Pursuant to the Law on Notaries (Official Gazette of the Republic of Montenegro 68/05), only person who is national of Montenegro may be appointed the notary.
- Law on Foreign Investments (Official Gazette of the Republic of Montenegro 36/07) equally treats domestic and foreign investors, with exception to the investments in the area of

production and sale of armament and military equipment, where foreign investor is not allowed to own more than 49% of total shares.

- Pursuant to the Law on Banks (Official Gazette of Montenegro 17/08), at least one member of the Board of Directors of the bank, as well as at least two executive directors of the bank need to know the language that is in the official use in Montenegro and to have place of residence in Montenegro during performance of their duties.

3. What comparisons has your country drawn between its laws governing the entry and employment of third country nationals as "key personnel" and the laws in force in the Community?

Employment and work of foreigners in Montenegro is regulated by the Law on Employment and Work of Foreigners (Official Gazette of Montenegro 22/08), applicable from 1 January 2009. For the purpose of this law, foreigner shall be considered person that is not national of Montenegro, regardless of the fact if this person is national of other country or stateless person.

Law provides three types of work permits based on which foreigner may be employed and work in Montenegro, and these are the following: personal work permit, permit for employment and license. Licenses, according to their purpose, may be: seasonal work of foreigners, work with versed foreigners (cross-border services, additional qualifications and training, movement of persons inside foreign company), qualification and training of foreigners and provision of contractual services.

Permit for movement of persons inside foreign company is permit issued at the request of the organizational unit of the foreign company, registered in Montenegro. Based on this permit, foreign company may temporarily transfer its employee to the work in this organizational unit, provided that the foreigner has been employed in the company for period of one year at least.

Foreigners that may be referred to on this basis are: directors, managers and experts (key personnel) in compliance with Stabilization and Association Agreement.

»Key personnel« in organizational units of the foreign company registered in Montenegro are those persons that manage establishment of organizational unit of the foreign company, perform monitoring and control of the work of other employees that perform supervision and professional jobs, that have special knowledge important for business activities of the company.

This license is issued for one year time period, and exceptionally, it may be extended up to two years at most.

Law on Foreigners (Official Gazette of Montenegro 82/08), in Article 1, regulates requirements for enter, pass through and stay of foreigners on the territory of Montenegro.

The Law does not make difference between foreigners who enter Montenegro, therefore there are no distinct provision regarding the requirements for enter and stay of "key personnel", that implies persons transferred within the company (Title V, Workers, Establishment, Supply of Services, Movement of Capital – Chapter II – Stabilization and Association Agreement. (Official Gazette of Montenegro 2/07).

4. Does your legislation distinguish between the requirements applicable to EU companies wishing to provide services from an establishment in your country and those who wish to provide cross-border services there from an establishment in a EU Member State? If it does, what is the distinction? Is it possible for a company established in an EU Member State to provide services on the territory of your country without establishing a subsidiary there?

In compliance with the provisions of the Law on Companies (Official Gazette of the Republic of Montenegro 06/02, and Official Gazette of Montenegro 17/07 and 80/08), forms of conducting business activities in Montenegro are the following:

- entrepreneurship,
- partnership,
- limited partnership company,
- stock company,
- limited liability company, and
- subsidiary of foreign company.

Every foreign company may register its subsidiary, that is branch, as stock company, limited liability company or subsidiary of foreign company.

Difference between foreign company with business activities in Montenegro and company registered outside of Montenegro but conducting its business activities on the territory of Montenegro is in the request for registration. Namely, foreign company that is registered in Montenegro represents situation where foreign company registers new company in Montenegro, in compliance with the Law on Companies, where it fulfils all proscribed requirements (form of organization, minimum capital). After the registration, the company, owned by foreigner, conducts its business activities as every other company registered in Montenegro.

Subsidiary (branch) in form of „subsidiary of foreign company“ is provided in such manner to enable foreign companies to conduct their business activities in Montenegro. According to this system, foreign company may perform business activities in Montenegro, without need to establish and register new company. However, each such subject needs to conduct business activities in compliance with the laws and regulations applicable in Montenegro. Regarding this type of registration, there are no remunerations or minimal amount of capital proscribed.

5. Which services are regulated and which are unregulated? How is this information made available? Is there a point of single contact (PSC), where the information on requirements applicable to companies who wish to provide services are available to companies electronically?

In accordance with the official classification of services of the UN, the following are legally regulated services in Montenegro:

- Legal services – Law on Advocacy
- Accounting, auditing and book keeping – Law on Accounting and Auditing
- Taxation services – Law on Tax Advisors
- Architectural, engineering and integrated engineering services – Law on Space Planning and Construction
- Urbanism planning and space planning services – Law on Space Planning and Construction
- Medical and dental services – Law on Health Care Protection
- Veterinary services – Veterinary Law
- Services provided by nurses, medical nurses, physiotherapists and other non-medical personnel - Law on Health Care Protection
- Research and development services – Law on Scientific-Research Activities
- Real estate services – Law on Legal Property Relations
- Advertising services – Media Law, Broadcasting Law

- Technical research and analyzing services – Law on Standardization
- Services related to agriculture, hunting and forestry – Law on wild animals and hunting, Law on Forests, Law on Agricultural Land
- Services related to fishery – Law on Marine Fishery, Law on River Fishery
- Services related to mining – Law on Mining and Law on Geological Research
- Services related to electric energy distribution – Law of Energetics
- Services of intermediation in employment – Law on Employment and Work of Foreigners
- Detective services and services of protection – Law on Detective Work
- Printing and publishing – Law on Publishing
- Postal and Courier services – Law on Postal Services
- Telecommunication services – Law on Electronic Communications
- Audio-visual services (movies and production of video tapes and their distribution; services of projection of movies) – Law on Cinematography
- Audio-visual services (radio and television services) – Media Law, Broadcasting Law
- Civil engineering and related engineering services – Law on Space Planning and Construction
- Distribution services – International Trade Law, Law on Internal Trade
- Educational services – Law on Primary Education and Upbringing, Law on Secondary Education, Law on High Schools, Law on Vocational Education, Law on Higher Education, Law on Adult Education, Law on Preschool Upbringing
- Services related to the environmental protection – Utilities Law, Waters Law, Environmental Law
- Insurance services – Insurance Law, Law on Compulsory Transport Insurance
- Banking and other financial services – Banking Law, Deposit Protection Law, Law on Securities, Law on Financial Leasing, Law on Investment Fund, Law on Voluntary Pension Funds
- Hospital and other medical services – Law on Health Care Protection
- Tourist services – Tourism Law, Law on Tourism Organizations
- Entertainment services (theatre) – Law on Theatre Activities
- News agencies services – Media Law
- Sport and other recreational services – Law on Sport
- Services of marine transport – Law on Maritime and Internal Sailing, Law on Ports
- Air transportation services – Law on Air Transport
- Services of railroad transportation – Law on Railways
- Services of road transportation – Law on Road Transportation
- Pipeline transportation services – Energy Law

The following are the services that are not regulated by the special law in Montenegro:

- Computer and similar services
- Rental services / leasing without operator
- Market research services and public opinion research services
- Management consulting services
- Production related services
- Scientific and expert consulting services
- Maintenance and repair of equipment services (excluding naval vessels, aircrafts and other transportation equipment)
- Services of cleaning of buildings
- Photograph services
- Packing services
- Convention services
- Services of mediation on the money market
- Additional services for all types of transportation (managing cargo services, services of keeping and storage, services of the agency for transportation).

Within two years from the accession to the World Trade Organization (WTO), Montenegro will establish information centre (enquire point) that will respond to the requests and provide specific information to other members of the WTO as well as individuals and companies from these members states. This information centre will be placed and under the competence of the Ministry of economy. Besides, two years from the accession to the World Trade Organization, Montenegro will establish or determine one official gazette or web page, that would be published or updated regularly and easy to acquire to member states of the WTO, as well as to their individuals and companies, that will publish, prior to their adoption, regulations and other measures related to the trade of goods, services or TRIPS or influencing them.

Also, after accession to the WTO, Montenegro will publish the list of all the organizations that are competent for accreditation, approval and regulation of service activities for each sector of services, and it will publish in the official gazett all its procedures and requirements for issuance of licenses.

6. Does this information make a difference between requirements applicable to service providers established in Montenegro and those providing cross-border services from an establishment in a different State? (see question 4)

Please refer to the answer to question 4.

B. Horizontal regimes

7. Do you have any horizontal legislative or administrative requirements which apply to all businesses wishing to trade in, or with, your country? If yes:

Horizontal requirements applicable to all companies that want to conduct their business activities in Montenegro or with it are regulated by the Law on Companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of Montenegro 17/07 and 80/08). ([Annex 18](#))

a) Do these apply equally to businesses wanting to establish in your market and to businesses established in the EU supplying cross-border services? If not, what are the differences between the regime applying to establishment and the regime applying to service provision?

Horizontal requirements applicable to all companies that want to conduct their business activities in Montenegro or with it are regulated by the Law on Companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of Montenegro 17/07 and 80/08).

Companies with their seats in the EU wanting to permanently conduct their business activities on the territory of Montenegro need to be registered in the CRCC.

b) What are the procedures for obtaining a licence (or other form of authorisation)?

For the procedure of registration of companies at the Central register of the Commercial Court (CRCC), for acquiring ruling on registration in the CRCC, it is required for authorized person to submit fulfilled form proscribed by the Instruction on Work of the Central register and Forms for Registration (Official Gazette of Montenegro 43/08) as well as the documents proscribed in the

Law on Companies (Official Gazette of the Republic of Montenegro 6/02, and Official Gazette of Montenegro 17/07 and 80/08), that is in some other law if it is related to other forms of organization (not provided for in the mentioned law), for example, postal services are conducted based on the special license, that is decision ruling on fulfilment of requirements for conduct of postal services. Licenses or decisions are issued by the regulatory body. In the procedure for issuance of licenses or decisions in accordance with the Article 49 of the Law on Postal Services (Official Gazette of the Republic of Montenegro, 46/05) provisions of the Law on General Administrative Procedures shall be applied, if this law does not proscribe otherwise.

The Law on Companies (Article 80) regulates the procedure for establishment of the part of the foreign company. The foreign company must submit to the Central Register of the Commercial Court the following documents:

- address of the seat of the part of the foreign company,
- business activity,
- name and legal form of the foreign company and the name of the part of the foreign company, if different from the name of the foreign company,
- certified copy of the statute of association and translation of the statute of association certified by court interpreter,
- copy of the registration certificate of the foreign company,
- names and addresses of one or more persons with place of residence in Montenegro authorized to represent the company in relation to the third persons,
- names and addresses of one or more persons with place of residence in Montenegro authorized to represent the company in legal procedures,
- last balance sheet and income sheet statement or similar documents proscribed by the law of the country in which the company is registered.

Part of the foreign company must harmonize its business activities with the provisions of the Law on Companies and other laws. If special law regulates conduct of certain business activity, then the part of the foreign company must fulfil requirements proscribed for conduct of such business activity before it starts to conduct such business activity. Law on Trade proscribes that trader informs trade inspection within eight days before he/she starts to conduct his/her business activity, and the trade inspection then examines if the trader fulfils the proscribed requirements.

c) What are the requirements which have to be met to obtain a licence or authorisation? (For example, are there nationality or residence requirements, or does documentation have to be provided from the country of origin of the service provider?)

Requirements which must to be fulfilled in order to acquire a license or approval for conduct of business activity depend on the type of business activity they refer to. General requirements for provision of specific services are related to the number of qualified experts, appropriate facilities and relevant experience.

Pursuant to the Law on Companies (Official Gazette of the Republic of Montenegro 6/02, and Official Gazette of Montenegro 17/07 and 80/08) foreign company conducting business activity through its subsidiary on the territory of Montenegro is obliged to, within 30 days from its establishment, submit necessary documents to the Central Register of the Commercial Court (CRCC).

The Law on Companies (Article 80) proscribes the procedure for establishment of the part of the foreign company. The foreign company must submit to the Central Register of the Commercial Court the following documents:

- address of the seat of the part of the foreign company,
- business activity,
- name and legal form of the foreign company and the name of the part of the foreign company, if different from the name of the foreign company,

- certified copy of the statute of association and translation of the statute of association certified by court interpreter,
- copy of the registration certificate of the foreign company,
- names and addresses of one or more persons with place of residence in Montenegro authorized to represent the company in relation to the third persons,
- names and addresses of one or more persons with place of residence in Montenegro authorized to represent the company in legal procedures,
- last balance sheet and income sheet statement or similar documents proscribed by the law of the country in which the company is registered.

When registering joint stock company, the company submits to the CRCC the following documents and data:

- 1) memorandum of association;
- 2) articles of association;
- 3) list with all the names of the members of the Board of Directors;
- 4) names, last names and, in the event that the change of name/last name has occurred, previous name/last name of the members of the Board of Directors as well as their dates of birth;
- 5) their identification numbers;
- 6) place of residence, that is current residence of the members of the Board of Directors;
- 7) statements of the members of the Board of Directors on their nationality;
- 8) profession of the members of the Board of Directors;
- 9) data on membership in other boards, functions they are positioned on in Montenegro or outside of it, as well as the place of registration of these companies, if they are not registered in Montenegro;
- 10) name and address of the executive director, secretary of the company and auditor;
- 11) name of the company and place of residence of the seat of the company, that is the address on which official letters are sent;
- 12) signed statement of the members of the Board of directors, executive director, secretary of the company and auditor on acceptance of their appointment;
- 13) decision of the Commission for Securities in which it approved prospect for public offer of the shares, that is by which success of the emission is confirmed, that is the decision of the Commission for Securities on registering establishment emission of shares for company which is established simultaneously;
- 14) evidence on payment of the appropriate tax.

Partnership is registered for the statistical needs in the CRCC by submitting registration application. Registration application contains name of the partnership, names of partners, their addresses and identification numbers (JMBG). The partners may submit contract on partnership to the CRCC, if it has been made.

Registration of limited partnership company is done by submission of the statement or contract signed by all members of the company to the CRCC, and it contains the following data:

- 1) name of the company and mark that the company is established as limited partnership;
- 2) seat of the company;
- 3) term for which the company is established and the data of initiation of conduct of business activity;
- 4) name, last name and identification number of every member of the company;
- 5) name of every person that has capacity of partner;
- 6) deposit of the partners and notice if the deposit is in monetary or non-monetary form.

Limited liability company submits the following data and documents to the CRCC and these are published during the first registration of the company:

- 1) charter of foundation;
- 2) articles of association;
- 3) list of establishers, members of the company, managers and members of the Board of Directors, if appointed, including:

- a) names, last names and, in the event that change of name/last name has occurred, previous names/last names;
- b) date and place of birth of the members of the board of directors, identification numbers or passport numbers, if they are foreigners;
- c) place of residence, that is current residence of the members of the Board of Directors;
- d) statements of the members of the Board of Directors on nationality they have;
- e) data on their membership in other companies, boards or other functions they perform in Montenegro or outside of it, as well as place of registration of such companies, if they are not registered in Montenegro.
- 4) name of the executive director;
- 5) name of the company, address of seat of the company and address for reception of the official letters, if different;
- 6) persons authorized to represent the company and data if their representation is collective or individual;
- 7) written acceptance of members of the Board of Directors on their appointment, if they are appointed.

Companies (including: joint stock companies, limited liabilities companies, partnerships, limited partnership companies and parts of the foreign companies) and entrepreneurs are obliged to align their business activities with the provisions of the Law on Companies and other laws. If special law regulates conduct of special business activity they are obliged to fulfil the requirements proscribed for conduct of such activity before actual start of conduct of such business activity. Law on Trade proscribes that trader informs trade inspection within eight days before he/she starts to conduct his/her business activity, and the trade inspection then examines if the trader fulfils the proscribed requirements. Requirements for conduct of certain business activity are regulated by special law that regulates those business activities. It is usually required for the company or entrepreneur to be registered in the CRCC, to fulfil proscribed technical requirements, to employ certain number of qualified personnel. Fulfilment of requirements is confirmed by issuance of the approval for conduct of business activity by the competent authority.

Pursuant to the Article 50 of the Law on Postal Service (Official Gazette of the Republic of Montenegro 46/05), the special license is issued for conduct of universal postal service based on the request containing data on submitter of the request.

Applicant submits the following evidence in the procedure for acquiring the license:

- 1) evidence on registration for provision of postal services;
- 2) evidence on legal basis for use of the postal network;
- 3) evidence on fulfilment of technical and other requirements in compliance with regulations (this decision is issued by the Ministry based on the Rulebook on technical requirements that must be fulfilled by the means and other equipment of the postal network (Official Gazette of the Republic of Montenegro 41/06)

Pursuant to the Article 51 of the Law on Postal Services, the license is issued for conduct of certain postal services regarding the domain of the universal postal service, based on the request, which must contain:

- data on applicant;
- type of postal service it intends to perform;
- period for which the license is requested.

In the procedure for acquiring license, applicant submits the following evidence:

- evidence on registration for conduct of postal services;
- evidence on legal basis for the use of postal network;
- evidence on fulfilment of technical and other requirements in compliance with the regulations.

Decision on fulfilment of requirements for conduct of commercial postal services is issued in compliance with the Article 57 of the Law on Postal Services at the request of natural or legal person and it must contain:

- data on applicant;
- type of commercial postal service it intends to conduct;
- area in which the service will be conducted;
- period for which the decision is issued.

For more information on requests regarding nationality and seat please refer to answers to questions number 2 and 3.

d) To what extent are requirements which the business has already fulfilled in its state of establishment taken into account?

Concerning the part of the foreign company, basic documents for registration are documents acquired from the foreign company (copy of the certificate on registration of the foreign company, name and legal form of the foreign company, certified copy of the articles of association of the foreign company, last balance sheet and income sheet or other adequate document), therefore all stated documents of the foreign company is accepted.

e) How long does it take to obtain a licence?

Pursuant to the Article 86 of the Law on Companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of Montenegro 17/07 and 80/08), if within four working days the rejection on the submitted documents is not received, the company, that is entrepreneur shall be considered dully registered. In practice, the procedure in the Central Register of the Commercial Court (CRCC) is done within 1 - 2 days.

Apart from the registration, the company and entrepreneur should receive approval for conduct of business activity. Pursuant to the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03) the ruling in administrative procedure, including the approval for conduct of business activity, must be finished no later than 30 days, if it is not necessary to conduct special investigation procedure, that is 60 days if it is necessary to conduct investigation procedure in order to determine evidences. Special terms for issuance of the approval for conduct of business activity are determined by special laws and these, as a rule, are within the terms determined by the Law on General Administrative Procedure.

f) Is there a fee for the licence? If so, how much is it?

No remuneration is paid for registration, but the fee is proscribed (in compliance with the directives of the EU the amount of fees is approximate to the amount of administrative costs), which is paid to the Commercial Court in Podgorica: for registration of the joint stock company € 50, for registration of limited liability company, partnership, limited partnership company and entrepreneur €10.

For joint stock companies, limited liability companies, limited partnership companies annual fee is paid for renewal of registration, in the amount of € 1.

Apart from the mentioned fees, there is also an obligation for payment of the published data on registration in the Official Gazette of Montenegro and it is paid according to the actual costs of publication.

The fee is paid for acquiring approval for conduct of business activity. It depends on municipality and the activity. In the Law on Administrative Taxes (Official Gazette of the Republic of Montenegro 55/03, 46/04, 81/05, 02/06, Official Gazette of Montenegro 22/08, 77/08 and 03/09) amounts of administrative fees are determined for certain activities of the bodies. Therefore, for example, for issuance of the decision on issuance of the work permit of the organization for insurance the fee paid

is € 200, for decision on determination of the fulfilment of requirements for conduct of works on disinfection, deratization, then production of means for plant protection and means for plant nutrition fee is paid in the amount of €100, for issuance of decision on certification for performance of the technical inspection of the vehicles the fee is paid in the amount of € 850, etc.

Pursuant to the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) in compliance with the Article 58 regarding acquiring the licenses and decisions compensation is paid in single instance.

In the Rulebook on the amount of single instances and annual compensations for postal operators (Official Gazette of the Republic of Montenegro 72/06) the amount of single instance and annual compensations payable for postal operators is determined. In compliance with the Article 2 of the Rulebook on the amount of single instance and annual compensations for postal operators the amount of single instance compensation is the following:

- for issuance of the special license €10,000;
- for issuance of the license € 5,000;
- for issuance of the decision on fulfilment of the requirements for conduct of commercial postal services €1,000.

g) Is the licensing requirement combined with mandatory membership of a chamber of commerce, trade association or other body? If this membership involves a fee, how much is it?

Membership in the Chamber of Commerce of Montenegro and other organizations is not prerequisite for registration, establishment or change of data in the Central Register of the Commercial Court, as well as for, in general, beginning of conduct of business activity, and the membership itself is not prerequisite for acquiring of any type of permit.

Article 19 of the Law on Chamber of Commerce of Montenegro (Official Gazette of the Republic of Montenegro 42/98) proscribes that funds for the work of the Chamber of Commerce are determined by the payment of the membership contribution. Membership contribution for the year of 2009 is determined in the amount of 0,30% of the gross wages of the employees on the day of the payment. The amount is determined by the decision of the Assembly of the Chamber of Commerce of Montenegro for every calendar year.

h) What is the justification in policy terms for the licensing system?

The system of issuance of decisions on registration of business entity, that is procedure of registration according to the system of application inaugurated by the Law on Companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of Montenegro 17/07 and 80/08), consists on the fact that registrar (person who performs registration) has no competences or duty to examine the accuracy of the data contained in the documents for registration. Registrar only examines if all documents and data required by the law are submitted (in written).

Special laws regulate conduct of certain activities, as well as proscribed requirements that company that is, entrepreneur, must fulfil in order to conduct its business activity. Issuance of permits provides that companies and entrepreneurs that acquired their permits fulfil the proscribed requirements. This is particularly important in conduct of dangerous activities which unprofessional conduct may have consequences on people, environment, flora and fauna. Such activities are, for example, production and trade with fuel and other flammable and explosive materials, poisons, pharmaceutical industry, transport of passengers and goods, etc.

i) Are service providers able to complete by electronic means any procedures that may be deemed necessary for the provision of a service?

The Law on Companies (Official Gazette of the Republic of Montenegro 06/02 and Official Gazette of Montenegro 17/07 and 80/08) and Direction on the work of the Central Register with forms for enrolment enable submission of the registration application in electronic form. Legal persons are obliged to submit financial reports to the CRCC in written as well as in electronic form, in compliance with the Law on Amendments and Supplements on the Accounting and Auditing Law (Official Gazette of Montenegro 69/05 and Official Gazette of Montenegro 80/08).

III. POSTAL SERVICES

A. General legal framework

8. To what extent is your legal framework regarding postal services aligned with the relevant Community acquis (Directive 97/67/EC as amended by Directive 2002/39/EC and Directive 2008/06/EC)? Please provide details about the license regime; universal service provision; reserved area; requirements for tariff principles; transparency and separation of accounts for service providers; standards for quality monitoring for postal services.

Legal framework regulating postal services has been complied with the *Acquis* of the Community. The Directive 97/67/EC has been amended by the Directive 2002/39/EC. Montenegrin legal framework has not been complied with the Directive 2008/06/EC, but with amendments of the existing legislation it will align. Postal Affairs Development Strategy in Montenegro for the period from 2008-2018 is in compliance with the Directive 2008/06/EC.

Licensing regime

Article 48 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) ([Annex 19](#)) proscribes that postal services are provided based on the special license, license, that is decision on fulfilment of the requirements for provision of postal services.

Universal postal service is provided by the legal person based on the special license.

Certain postal services from domain of universal postal services are provided by legal person, who acquires the license for provision of such service, on the whole territory of the Republic.

Commercial postal services are provided by natural and legal persons that acquire decision on fulfilment of requirements for provision of such services.

Provision of universal services

Universal postal service is provided by universal postal operator as legal person that fulfils requirements proscribed by the law, and based on the special license.

Provision of universal postal service is provided to all users, on every working day, not less than five days a week, at least one reception and one delivery of the postal item.

Regulatory body may, in special circumstances and geographic conditions determine to provide universal postal service otherwise.

Universal postal operator is obliged to provide proscribed density of access points which correspond to the needs of the users, and in compliance with the technical development.

Area of reserved services for universal operator

Pursuant to the Article 14 of the Law on Postal Services reserved postal service encompasses:

- reception, processing, transfer and delivery of letter items up to weight of 100 grams and price which is lower than triple the amount of postage of the first rate of weight and the lowest degree of transfer;
- reception, transfer and payment of money orders;
- direct mail, in compliance with the conditions in point 1 of this paragraph;
- reception, processing and delivery of the court letter regardless of limits.

Reserved postal service referred in the paragraph 1 of this article is provided by the universal postal operator that encompasses postal services in internal and international postal traffic.

Tariff principles requirements

Price of the universal postal service, pursuant to the Article 23 of the Law on Postal Services, is determined by the universal postal operator under the criteria determined by the Ministry. The prices of the reserved postal service are determined by the Ministry, on proposal of the universal postal operator. Prices of the reserved postal services in the international postal traffic are established based on the criteria determined by the acts of the Universal Postal Union.

Transparency and separation of the account of service providers

Rulebook on the manner of keeping separate accounting of the operators of the universal postal service (Official Gazette of Montenegro 29/08) the manner of separate accounting, accounting records and cost accounting of the operator of the universal postal service has been proscribed, in order to provide transparent monitoring of reserved and non-reserved services, as well as in order to prevent subsidizing commercial postal service with incomes from the reserved postal services.

Article 2 of the mentioned Rulebook proscribes, inter alia, that the Post must provide transparency of its operations in such manner that price (costs of the postal services between mentioned domains) is obvious.

Internal accounting system of the Post must be based on the established principles of the cost accounting and their consistent application, in a manner that enables review and supervision of all services, taking into account adopted accounting standards.

Within the accounting system proscribed by this Rulebook, the costs will be distributed in the following manner:

- costs that may be directly attributed to the specific services;
- common costs – costs that may not be directly attributed to the specific service, they should be distributed based on the physical criteria that present objective and complete exploitation of the capacities and resources (use of keys);
- in the event when it is not possible to directly distribute common costs, even with the use of the keys, common costs should be distributed based on the calculated scale of such common costs, on one side and overall common costs, on the other side.

The Post needs to adjust its accounting system in compliance with the provisions set in the Rulebook on the manner of keeping separate accounting of the operator of the universal postal service by 1 January 2010 at latest.

By the period set in the paragraph 1 of this Article, the Post will apply the Project of sustainability of the universal service, adopted by the Board of Directors of the Post of Montenegro number 00010-5476/6 during its session held on 5 October 2007.

Standards for monitoring of the postal service quality

Quality of postal service implies measures of the quality regarding reception, transfer and delivery of postal items which must be provided by the providers of the universal postal service to the users of postal services.

The Post is obliged to provide the quality of reception and delivery of postal item in compliance with the standards determined by the Rulebook on General Conditions for Provision of Postal Services and the Rulebook on Postal Network Organization.

The Post is obliged to perform fifteen-day measurement of the quality of transfer of postal items annually.

The Post is obliged to publish annual data on the quality of transfer of postal items and data on total number of complaints received and solved in its official journal or on its web site.

9. Do you have any plans to modify the existing legislation and/or to restructure the postal services? Please give details and timetables.

The Postal Affairs Development Strategy in Montenegro for the period from 2008-2018, that is the Action plan in the part of the Strategy of Liberalization of Postal Services and Compliance of the Postal Affairs for Integration in the EU, activity of amendment of the Law on Postal Services is determined (reserved services, standards and quality goals shall be complied with the EU standards of safety and security of the users, employees and postal items). Amendment of the existing law is planned for the fourth quarter in accordance with the Government Work Program for 2009. In drafting Proposal for amendments and supplements of the Law on Postal Services, the regulatory body, Universal postal operator as well as a representative of the postal operators of Montenegro will participate along with the Ministry.

Strategy defines that Montenegro should implement gradual liberalization that implies retention of the reserved services (100 grams) until 2010, and then reduce the reserved services to 50 grams by 31 December 2012. This implies that the restructuring of the UPO would be finished by 2010 because it practically represents the condition for the complete liberalization of the postal services market that would occur by 1 January 2013.

B. Universal Service Obligations (USO)

10. What is the scope of universal service in your country?

Pursuant to the Article 6 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) ([Annex 19](#)), universal postal service encompasses reception, processing, transfer and delivery of postal items in internal and international postal traffic. This includes the following:

- 1) letter items weighting up to 2 kg;
- 2) packages weighting up to 10 kg;
- 3) money orders;
- 4) cecogram;
- 5) registered and insured postal items.

Universal postal service also encompasses delivery of packages weighting up to 20 kg in international postal traffic.

11. What are the access and delivery conditions?

Pursuant to the Article 8 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) ([Annex 19](#)), provision of universal postal service is available to all users, on every working day, not less than five days a week, at least one reception and one delivery of postal items.

Regulatory body may, in special circumstances and geographic conditions, determine different provision of universal postal service.

Conduct of the universal postal services provides to all users possibility to access the postal network of the universal postal operator on proscribed distance from the place of residence, including mail boxes in public places and in official premises of the postal operator.

12. Are postal services exempted from VAT?

Pursuant to the provisions of the Article 26 of the Law on Value Added Tax (Official Gazette of the Republic of Montenegro 65/01, 12/02, 38/02, 72/02, 21/03, 76/05, 04/06 and Official Gazette of

Montenegro 16/07), public postal services, as well as turnover of goods directly related to these deliveries, are exempt from paying VAT.

13. What are your standards of quality of service (target objectives for transit time performance)?

Pursuant to the Article 56 of the Rulebook on General Conditions for Provision of Postal Services (Official Gazette of the Republic of Montenegro 29/06, 42/06), the quality of provision of universal postal service implies delivery of 95% of postal items in internal postal traffic within the proscribed time periods.

Term of delivery of postal items in internal traffic implies the time from the reception of the postal item to its delivery. Postal operator is obliged to deliver postal items within three days.

The mentioned time period does not imply:

- day of the reception of the postal item;
- time of delay due to the incomplete and incorrect address of the recipient;
- time of the delay due to the major force or hold in the traffic occurred without culpability of the postal operator;
- non-business day and days when delivery of postal items is not conducted.

If the postal item has been received after the last shipment of postal items from the units of the postal network, the terms are extended for one day.

Postal operator may, with the users that give in larger number of postal items, determine special terms for delivery.

In international postal traffic with Member States of the European Union, in order to provide quality of universal postal service, transfer of average 85% of letter items within at most three working days and 97% within at most five working days must be provided.

Terms for transfer of postal items in the international postal traffic depend on the distance of the country of recipients, traffic connections and standards of quality of national operators of the universal postal services.

Pursuant to the Article 83 of the Rulebook on Special Conditions for Provision of Postal Services (Official Gazette of the Republic of Montenegro 79/06), the Post is obliged to perform fifteen-day measurement of the quality of transfer of postal items annually.

This measurement does not refer to the postal items for which the Post arranged special terms for transfer and delivery with the sender.

The Post is obliged to publish annual data on the quality of transfer of postal items and data on total number of received and solved complaints in its official journal or on its web site.

14. Are there exceptions to the USO? Please specify.

The Post is obliged to conduct delivery of postal items at least three times a week in wider delivery area. The Post is obliged to conduct delivery of postal items at least once a week in the widest delivery area (Article 58 of the Rulebook on Special Conditions for Provision of Postal Services, Official Gazette of the Republic of Montenegro 79/06), and the Regulatory body provides consent on this matter.

C. Licensing and authorisations regime

15. How is the licensing regime applied in your country, in particular the granting, supervision and withdrawal of general authorisations and licenses?

Legal person that wants to conduct universal postal services is obliged to acquire the license or decision issued by the regulatory body. For provision of universal postal service, in compliance with the Article 50 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) ([Annex 19](#)), the special license is issued based on the request containing data on the applicant.

In the procedure for acquiring license, applicant submits the following evidence:

- evidence on registration for conduct of postal services;
- evidence on legal basis for the use of postal network;
- evidence on fulfilment of technical and other requirements in compliance with regulations (Rulebook on Technical Requirements Instruments and Other Equipment of the Postal Network Must Fulfil (Official Gazette of the Republic of Montenegro 41/06)). Commission established by the Ministry of Maritime Affairs, Transportation and Telecommunications and Ministry of Economy inspects, in compliance with the Rulebook, if the legal person fulfils all the necessary criteria for conduct of the universal postal service.

Pursuant to the Article 51 of the Law on Postal Services, license is issued for conduct of certain postal services in the domain of the universal postal services. The license is issued based on the application which must contain the following:

- data on applicant;
- type of postal services it intends to provide;
- period for which the license is requested.

In the procedure for acquiring license, applicant submits the following evidence:

- evidence on registration for conduct of postal services;
- evidence on legal basis for the use of postal network;
- evidence on fulfilment of technical and other requirements in compliance with the regulations.

Special license and license contain:

- provisions on rights and obligations for conduct of universal postal service, that is postal services in the domain of the universal postal service;
- data on the holder of the license;
- time of duration of the license;
- special rights and obligations of the holder of the license.

Decision on fulfilment of requirements for conduct of commercial postal services is issued pursuant to the Article 57 of the Law on Postal Services at the request of natural and legal person. The request must contain the following:

- data on the applicant;
- type of commercial postal service it intends to conduct;
- area in which the services would be conducted;
- period for which the decision is issued.

Pursuant to the Article 56 of the Law on Postal Services, the regulatory body shall withdraw the license, that is decision, if the holder of the license, that is decision:

- 1) acquires the license, that is decision based on the incorrect data;
- 2) does not fulfil the requirements based on which it acquired license, that is decision;
- 3) does not conduct postal services in a manner and under conditions determined in the license, that is decision;
- 4) does not act according to the ruling of the postal inspector;

- 5) does not perform its financial obligations towards the regulatory body in due time;
- 6) conduct postal service by dumping prices.

D. Reserved area

16. Are reserved services operated as a de facto monopoly or defined through your postal services legislation?

Reserved postal services are conducted pursuant to the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) ([Annex 19](#)) within the Montenegrin legislation.

17. In case of the latter situation, how are the relevant requirements defined in national legislation?

Pursuant to the Article 14 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) reserved postal service encompasses:

- 1) reception, processing, transfer and delivery of letter items up to weight of 100 grams and price which is lower than triple the amount of postage of the first rate of weight and the lowest degree of transfer;
- 2) reception, transfer and payment of money orders;
- 3) direct mail, in compliance with the conditions in point 1 of this paragraph;
- 4) reception, processing and delivery of the court letter regardless of limits.

Reserved postal service is provided by the universal postal operator that encompasses postal services in internal and international postal traffic.

Universal postal operator is the only who is authorized to use the name **the Post** (pursuant to the Article 5 of the Law).

Universal postal service is conducted by the Post pursuant to the Article 68 of the Law, and in compliance with the mentioned it acquired special license within the time period proscribed by the Law on Postal Services.

E. Universal Service Provider (USP)

18. How are the obligations of the USP defined in your country? When was the relevant legal framework adopted and what form does it take?

Universal postal operator is obliged to provide proscribed density of the access points suitable for the needs of the users, and in compliance with the economic and technical development.

It is also obliged to transfer postal items when the universal postal service is not paid or is not paid enough, if the address of the sender is specified, under the conditions determined in the Rulebook on General Conditions for Conduct of the Postal Service (Official Gazette of the Republic of Montenegro 29/06, 42/06).

Universal postal operator is obliged to enable access to the postal network to other postal operators under the terms determined by the Law and the Rulebook on General Conditions for Conduct of the Postal Service.

The Law on Postal Services published in the Official Gazette number 46 of 3 August 2005, as well as

the number of by-laws adopted by the Ministry represent the legal framework for specified matters.

19. How is the provision of the universal service by USP supervised, in particular regarding the granting of any exceptions or derogations from the universal service requirements? Is this supervision exerted by an NRA (National Regulatory Authority) or other supervising national authorities?

Pursuant to the Article 64 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05), the supervision of the provision of the universal service by the provider of the universal service is done by the postal inspector of the Ministry, in compliance with this and special law.

Regulatory body does not supervise application of the Law on Postal Services, however, Amendments to the Law on Postal Services, planned for the first quarter of 2010 by the Government Work Program, shall provide that supervision over the implementation of the Amended Law on Postal Services will be conducted by the Agency within which competence is the implementation of this Law.

20. Is partial or full privatisation of the USP envisaged?

The Postal Affairs Development Strategy in Montenegro for the period from 2008-2018, that is in the Action plan within the part Strategy on Restructuring and Privatization of the Universal Postal Operator, Program of restructuring of the UPO is provided. In the Program of restructuring of the Post of Montenegro, planned for the third quarter by the Government Work Plan, complete privatization of the Universal postal operator is planned.

F. Tariffs for Universal Service

21. Describe the tariff structure for the Universal Service and the way in which this is defined, including any relevant legal provisions.

Pursuant to the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05), the price of the universal postal service is determined by the universal postal operator in accordance with the criteria determined by the Ministry. To this regard, the Ministry adopted the Rulebook on Criteria for Determination of Prices from Conduct of the Universal Postal Service (Official Gazette of the Republic of Montenegro 79/06).

Price of the reserved postal service is determined by the Ministry in compliance with the provisions of the Article 23 paragraph 2 of the Law on Postal Services, based on the proposal made by the universal postal operator. The Ministry determined the prices of the reserved postal services in compliance with the specified, by the Rulebook on Determining Prices for the Reserved Postal Services (Official Gazette of the Republic of Montenegro 02/07).

Prices of commercial postal services are determined by the provider of postal services and they must be unique for all users of services of the same type in the whole area in which the services are conducted.

Pursuant to the Law on Postal Services (Article 22), the prices of postal services (postage) must be unique for the services of the same type on the whole territory of the country.

Exceptionally, the postal operator may allow lower price for the users of the postal services that send larger number of postal items or that send postal items of different senders to the same user

provided that the lower price is determined by the price list of postal services.

Prices of the universal postal service must be affordable for all the users of postal services.

Postal operators must submit prices of the postal services to the regulatory body.

G. Accounting

22. Are systems for the supervision and control of accounting requirements for universal service providers (systems for cost accounting and accounting separation) already in place? If not, what are the time schedules for their implementation?

In conformity with the provisions of the Law on Postal Services (Article 25 paragraph 3), the Universal postal operator must provide separate accounting monitoring for reserved services and non-reserved services.

Within accounting monitoring of non-reserved services, universal postal operator must provide separate accounting monitoring of the universal postal service (Article 25 paragraph 4).

Accounting statements of the universal postal operator are revised regularly on an annual basis and submitted to the regulatory body with the financial report (Article 25 paragraph 6).

Pursuant to Articles 25 and 26 of the Law on Postal Services, the Regulatory body adopted the Rulebook on Manner of Keeping Separate Accounting of the Operator of the Universal Postal Service, published in the Official Gazette of the Republic of Montenegro 29/08.

Article 7 of this Rulebook proscribes that the Post needs to adjust its accounting system by 1 January 2010 at latest. Commission that will participate in drafting of this project is constituted contains of representatives of the Ministry of Maritime Affairs, Transportation and Telecommunication, Agency for Electronic Communications and Postal Services and Universal Postal Operator.

H. Quality of Service

23. Who sets the quality standards for service providers and supervises them?

Quality standards are proscribed by the Rulebook on General Conditions for Conduct of the Postal Services (adopted by the Ministry of Economy, Official Gazette of the Republic of Montenegro 29/06, 42/06) as well as by the Rulebook on Special Conditions for Conduct of the Postal Services (adopted by the Universal Postal Operator, Official Gazette of the Republic of Montenegro 79/06), for which the Regulatory body gave its approval.

Pursuant to the Law on Postal Services, the postal inspector supervises the conduct of the postal services.

24. Is the performance of the universal service providers (measuring quality of service against the standards set for domestic and cross-border mail and ensuring corrective action is taken when necessary) periodically monitored? If not by the National Regulatory Authority (NRA), by whom?

The Universal Postal Operator is obliged, pursuant to the Article 83 of the Rulebook on Special Conditions for Conduct of the Postal Services (Official Gazette of the Republic of Montenegro 79/06),

to annually perform fifteen-day measurement of the transfer of postal items. The Universal Postal Operator is obliged to publish annual data on the quality of transfer of postal items and data on total number of received and solved complaints in its official journal or on its web site.

Supervision over the implementation of the Law on Postal Services, as well as the regulations adopted for implementation of the Law, is conducted by the Ministry.

I. Complaints procedures

25. What main measures have been taken to establish complaint procedures?

Pursuant to the Article 13 of the Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) access to the network of the universal postal operator is achieved based on the request, while manners and conditions for the access are determined by contract. Universal postal operator may reject the request for access, and disputes related to this matter are resolved by the Regulatory body.

Pursuant to the Article 49 of the same Law, the complaint on the license and decision issued by the Regulatory body may be lodged to the Ministry, and against the ruling of the Ministry administrative dispute may be initiated.

Pursuant to the Article 44 of the Law on Postal Services, if the user of postal services considers that registered postal service was not delivered to the recipient or it was delivered with delay or specially arranged service was not provided or it was not provided as a whole, it may submit complaint to the postal operator within six months from the day the postal item was submitted.

Complaint due to the damage or reduction of the content of the registered postal item the user of the postal services must submit immediately at delivery of the postal item, that is the following working day at latest.

The postal operator is obliged to reply on the merits of the complaint within 15 days from the day the complaint is submitted in the internal traffic, that is, within 30 days in the international traffic.

J. National Regulatory Authority

26. Has a Postal Market NRA (National Regulatory Authority) been established? If not, are there plans in this respect and what is the time schedule? If yes, is it an autonomous body? To what extent is it independent from universal services providers? How and to what extent is its operational independence ensured?

Agency for Telecommunication (AGENTEL) was established as an independent regulatory body in the area of telecommunication, by the Decision of the Government of the Republic of Montenegro in 2001. The Agency is established as an independent regulatory body, functionally independent from all the subjects exploiting telecommunication networks, provide equipment or provide services.

The Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05) regulates conduct of postal services and creates the possibility of competition on the postal services market, and the Agency for Telecommunication continues its work under the name Agency for Telecommunication and Postal Services, that is, **within the Agency the department for regulation of the postal affairs is established**. The Law on Electronic Communications (Official Gazette of Montenegro 50/08) renames this regulatory body into Agency for Electronic Communications and Postal Services.

Independence from the provider of the universal service is reflected in the manner in which the

regulatory body is financed. Sources of financing of the Agency are the following:

- 1) registration fees;
- 2) fees for performing activities of regulation and supervision of the market;
- 3) fees for authorizations to use radio frequencies and numbering;
- 4) fees prescribed by laws regulating the field subject to the jurisdiction of the Agency.

For acquiring licenses and decisions compensation is paid in single instance. In addition to compensation, holders of the licenses and decisions pay annual compensation for conduct of postal services. The Rulebook on the amount of single instance and annual compensations for postal operators (Official Gazette of the Republic of Montenegro 72/06) proscribes the amount of the single instance compensation in the following manner:

- for issuance of the special license € 10,000;
- for issuance of the license € 5,000;
- for issuance of the decision on fulfilment of the requirements for conduct of commercial postal services € 1,000.

Postal operators that conducted postal services before entering into force of the Law on Postal Services pay annual compensation in the amount of 1% of the total annual revenue realized in the previous calendar year.

Funds from the compensations represent the revenue of the regulatory body and they are paid at the special account of the regulatory body (compensation fund), and these funds are used for:

- 1) financing activities of the regulatory body;
- 2) covering possible losses in conduct of the universal postal service of the universal postal operator.

If the funds from the compensation fund can not settle possible losses for conduct of universal postal service, the missing funds are provided from the budget of the Republic. The procedure for exercise of right on cover of costs (losses) from the budget of the Republic is proscribed by the Ministry, in cooperation with the Ministry of Finance.

27. Please provide information on the organisation of the Authority, including the number of its staff. Do you have any plans to strengthen the human resources (in terms of full-time equivalent) dealing with postal services available to this body?

Agency for Electronic Communications and Postal Services is organized in such manner to provide solution of legal, economic, technical and technological and administrative matters in the area of electronic communications and postal affairs. The Agency employs 59 people, and in the area of postal service two employed officers.

Through amendments to the Law on Postal Services strengthening of human resources was planed so that the supervision over the work of the operators registered in the Agency is done by the Agency, through the supervisor for postal services.

28. Has the NRA been assigned responsibilities similar to those defined in the postal acquis in respect to European NRAs?

National regulatory body has similar competences and responsibilities in a manner this matter was resolved in other European national bodies.

29. What are the nomination procedures and terms of office of the NRA's head? What are the NRA's powers?

President and members of the Council of the Agency, on the call of public competition, at the proposal of the Ministry, are appointed by the Government for five-year term. For the first election of the Council, two members of the Council are appointed for a period of five years, and three for a period of three years. Executive director is appointed by the Council of the Agency for a period of four years. The procedure of the public competition for election of the Executive director is done by the commission appointed by the president of the Council of the Agency.

President of the Council, members of the Council and Executive director cannot be appointed more than two times in a row. Pursuant to the Article 62 of the Law on Postal Services, the following are the competences of the Agency:

- 1) issuance and withdrawal of licenses and decisions on conduct of postal services in compliance with this law;
- 2) monitoring of prices from the standpoint of equality and their availability and taking measures for prevention of irregularities regarding the prices;
- 3) giving approvals on conditions and prices for access to the network of the universal postal operator;
- 4) giving approvals on special conditions for conduct of postal services;
- 5) monitoring of development of postal services;
- 6) keeping register of postal operators;
- 7) performing other tasks in compliance with the law.

30. Are there several regulatory bodies dealing with different aspects of postal services, e.g. specific regulatory issues, tariff regimes and prices, market competition, etc.?

There is only one regulatory body - Agency for Electronic Communications and Postal Services.

IV. MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

A. Training

31. What is the duration and the content (curricula) of the training leading to access to the profession and/or the professional activities of doctor, nurse responsible for general care, dentist, midwife, veterinary surgeon, pharmacist and architect, given the requirements set out for the mentioned professions in the medical field and the criteria laid down in Directive 2005/36?

For acquiring professional title (occupation) **doctor** of medicine it is necessary to have finished higher education in duration of six years, for which the curriculum is hereby submitted in separate document for each year. In order for a person to be capable to perform the profession, it is necessary, after acquired degree, to perform professional practice and to pass professional exam, which is under the competence of the Medical Chamber, that is, the Ministry of Health.

For acquiring professional title (occupation) **dentist** it is necessary to have finished higher education in duration of five years, and its curriculum by years is submitted in separate document. In order for a person to be capable to perform the profession, it is necessary, after having acquired degree, to perform professional practice and to pass professional exam, which is under the competence of the Medical Chamber, that is the Ministry of Health that issues the working license.

For acquiring professional title (occupation) **pharmacist** it is necessary to have finished higher education in duration of five years. In order for a person to be capable to perform the profession in Montenegro, it is necessary, after having acquired degree, to perform professional practice and to pass professional exam, which is under the competence of the Pharmaceutical Chamber, that is the Ministry of Health.

Academic program of pharmacy is independent program realized on the Faculty of Medicine of the University of Montenegro in Podgorica.

In Montenegro, study program in **the area of veterinary** is not realized, but the procedure for diploma recognition acquired in other states is performed. In order for a person to be capable to perform the profession in Montenegro, it is necessary, after having acquired degree, to perform professional practice and to pass professional exam, which is under the competence of the Veterinary Chamber, that is the Ministry of Health.

For acquiring professional title (occupation) – Bachelor of **Architecture** it is necessary to have finished higher education in duration of three years, after which students may enter the post-graduate specialist studies in duration of one year, after which the professional title – specialist in the area of architecture – designer/urbanism area is acquired. In order for person to be capable to perform the profession of architect it is necessary, after acquiring degree, to pass the professional exam, which is under the competence of the Chamber of engineers, that is, Ministry for spatial planning and environment, which issues the license for work.

Higher education in the area of **nursery** is acquired in the Medical high school in Berane, within the University of Montenegro, and in the independent private institution “Kraljica Jelena”, Igalo. After completion of the applied programs realized in these institutions level of education – bachelor is acquired.

Education of **medical nurse for general health care** is acquired in medical school, while education for midwives can be obtained on a special course within medical school– gynaecology and obstetrics. Study program for education of midwives at the level of higher education is not realized in Montenegro.

Health care workers and health care assistants are obliged to, after finished education, complete apprenticeship in health care institutions and pass the professional exam. Apprenticeship is done in accordance with the program determined for practical work in health care institutions, under direct

supervision of the authorized health care worker, with at least two years of independent work and at least same level of degree as the apprentice. Duration of the apprenticeship for health care workers and health care assistants with higher degree is 12 months, with high bachelor degree 9 months, and with high and secondary school degree 6 months. Health care workers and health care assistants have the right and obligation of professional development in order to maintain and improve quality of health care protection they provide. Health care institution is obliged to provide professional development of health care workers and health care assistants, in compliance with the Law on Health Care Protection (Official Gazette of the Republic of Montenegro 39/04).

Health care workers with higher degree have the right of specialization, that is field specialization.

Specialization, that is field specialization, as special type of professional development, provides knowledge and expertise for specialist and sub-specialist practical work in certain area of health care protection.

Specialization, that is, field specialization is done according to certain program that encompasses theoretical and practical part. Theoretical part of the specialization, that is, field specialization is conducted at the appropriate faculty of the health care orientation, and the practical one in the health care institution that fulfils proscribed requirements.

Health care workers and health care assistants to which specialization, that is, field specialization has been assigned, start with the apprenticeship on the day of enrolment on the faculty of health care orientation.

Types, programs and duration of specializations, as well as field specializations, manner of apprenticeship and passing the exams, requirements that health care institutions need to fulfil for apprenticeship, more detailed requirements and the manner of recognition of apprenticeship are proscribed by the Ministry of Health.

Apart from specified, professional development of the health care workers and health care associates encompasses participation of the health care workers and health care associates through courses, seminars, symposiums, congresses and other professional and scientific meetings, in the domain of their work that is specialization.

Also, health care workers are obliged to, for the purpose of training and acquiring expert knowledge, spend certain time at professional seminars, courses and other types of professional development, in compliance with this law, as well as to monitor and adopt contemporary knowledge continuously.

Health care workers may independently conduct health care activities, if, in addition to the adequate level of degree they have passed professional exam, and the health care workers with higher education in addition to the passed professional exam must have license for work, issued by the competent Chamber. For each regulated field of work there are proscribed criteria, requisites and, possibly, performance of professional practice, as prerequisite for engagement in certain profession. This refers to the following areas: medicine, dental medicine, pharmacy, veterinary, architecture. In Montenegro, there are professional bodies (mostly chambers) – Medical, Bar Association, Engineering, Veterinary, competent to proscribe requirements and criteria, and issuance of the licenses for work, in order to precisely determine the area of work certain person is qualified to perform.

32. Are the dental profession and the medical profession two legally distinct professions? Please provide details.

Pursuant to the Law on Health Care Protection (Official Gazette of the Republic of Montenegro 39/04), health care workers, depending on the degree and health care services performed, are:

- 1) doctor of medicine, dentist and graduate pharmacist medical biochemist
- 2) senior nurse, senior medical technician and senior health care technician, with closer mark on the orientation and senior dentist, in compliance with the special law;
- 3) nurse, medical and health care technician, laboratory technician, pharmaceutical technician and dental technician, with closer mark on the orientation, in compliance with the special law.

From the aforementioned we may conclude that dental profession and medical profession are not legally different professions.

33. Does the profession of midwife exist as a specific profession, legally distinct from nurses and doctors?

Professional name of midwife does not exist in Montenegrin health care system, but tasks of midwife in Montenegrin health care system are performed by nurse of gynaecological and obstetrics orientation.

34. As regards other professions and/or professional activities, what are the requirements, if any, for access to and practice thereof, especially those concerning the duration and content (theoretical and practical) of training?

General regulation on labour, that is Law on Labour (Official Gazette of the Republic of Montenegro 49/08, 26/09) proscribes general and special requirements for conclusion of the work contract, that is for employment.

The work contract may be concluded by the person fulfilling general and special requirements for performance of certain tasks at the adequate work position.

General requirements for conclusion of the work contract are the following: person is at least 15 years old and person has general medical capacity.

Age of 15 years, according to medical, psychological and social standards represents the lower age limit for involvement in work process without danger for health of the person employed.

Pursuant to the Law on Labour, disabled persons have general medical capability for those job positions adequate for the medical capability for work in certain job positions.

Conditions and manner of employment are the same for all citizens, regardless of their work abilities, therefore disabled persons are employed according to the same regulations as completely healthy persons.

Special working conditions on certain positions, depending on the nature and complexity of the work on such positions, may be determined by the special law, other regulations and Act on Systematization. Act on Systematization represents the general act by which the competent body of the employer determines job positions, skills and professional experience, type and degree that is level of education and profession.

Law on Professional Rehabilitation and Employment of Disabled Persons (Official Gazette of the Republic of Montenegro 49/08) proscribes employment of disabled person under the same general or special conditions. Disabled person is employed at the open labour market under the general conditions, and disabled person is employed under special conditions in specific organizations, Institutions for professional rehabilitation, Working centres, Protective workshops and Safety plants, if, based on the working abilities and medical capabilities, this person may not be employed at the open labour market.

Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08) governs issues of civil servants, that is state employees regarding their: employment, title, rights and duties, responsibilities, transfer, promotion and establishment of capability, professional development, termination of employment, protection of rights, human resources management, as well as control over its implementation, based on the principle of equal access of work positions and political neutrality and impartiality in conduct of tasks of the job position.

Employment in state authorities is done based on the public announcement, that is open competitions, conducted in a transparent manner, so that all internal and public announcements as

well as open competitions are published on the web site of the Human Resources Management Authority, and all public announcements and open competitions on the web site of the Employment Agency and in daily newspapers published on the territory of Montenegro.

Filling vacancies in state authorities may be done from internal resources, which implies implementation of the internal announcement pursuant to the Decree on Conditions and the Implementation of Internal Announcement for Filling Vacancies in National Authorities (Official Gazette of the Republic of Montenegro 73/04). If the vacancy is not filled in such manner, than the public announcement is conducted for job positions that are systematized, open and for which financial funds are provided.

Person fulfilling general requirements proscribed by the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), as well as special requirements proscribed by the act on internal organization and systematization, may be employed in the state authority.

Persons from the list of candidates are subjected to the obligatory assessment of capacity for performance of activities within the respective position conducted pursuant to the Regulation on the Method and Procedure for Appraisal of Probationary Work, determined by the Human Resources Management Authority.

After conducted appraisal, the Human Resources Management Authority forms the List for selection of candidates who achieved satisfactory results in the procedure for appraisal of capabilities, as well as the Report with all data (number of points in all tests conducted).

List for selection is then submitted to the head of the authority that requested conduction of the aforementioned procedure of public announcement.

The head of the national authority decides on the selection of the civil servant, that is state employee.

The Human Resource Management Authority conducts the public announcements for employment of managing persons. Managing persons in the ministries are: secretary of the ministry and deputy minister; in the administrative authority deputy of the head of the administrative authority; and in services established by the Government, deputy of the head of the service.

In the procedure for conduction of the public announcement, the provisions of the law regulating public announcement shall be applied.

Procedure for appraisal of the working competences is conducted by the oral interview, where the head of the national authority which employs must be present.

On the basis of the list for selection of candidates which the Human Resources Management Authority submits to the national authority, the head of the national authority determines the proposal for appointment, that is, nomination.

Proposal for appointment, that is, nomination is then submitted to the Government of Montenegro.

Decision on appointment, that is, nomination and dismissal of the managing persons is rendered by the Government of Montenegro.

Managing persons are appointed, that is nominated for the period of 5 years. Upon the expiration of this term, the same person may be appointed, that is nominated again.

Pursuant to the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), trainee is the person employed in the national authority for the first time, in order to qualify for independent performance of duties.

The procedure for employment of the trainee is transparent and public, from the procedure of publication conducted by the Human Resources Management Authority, based on the request submitted by the head of the national authority in which trainee shall be employed.

Concerning that the trainee is the person employed in the national authority for the first time in order to qualify for independent performance of duties, procedure of appraisal of capabilities set in the Article 23 of the Law on Civil Servants and State Employees is not obligatory. However, the head of the national authority, regarding the competences, needs and duties performed in this

national authority, may request, as special condition for employment conduction of appraisal of special knowledge and skills (knowledge of foreign languages, IT knowledge, etc.).

In that case, the procedure of obligatory appraisal of capabilities is conducted pursuant to this Law and the Regulations on Manner and Methods of Appraisal of Capabilities for Performance of Duties in National Authorities determined by the Human Resource Management Authority. The procedure of appraisal of capabilities may be conducted in several phases in which number of candidates is gradually reduced, and the same may be repeated in written form, by oral interviews or in some other adequate manner. The procedure of appraisal of capabilities is conducted in the presence of commission for appraisal of capabilities, part of which is the representative of the national authority the conducting the employment.

Afterwards, the Human Resources Management Authority forms the list of candidates that achieved satisfactory results in the procedure of appraisal of capabilities and submits it to the head of the national authority (in addition to this list, the head of the national authority is also submitted the report from the procedure of appraisal containing information on the procedure of appraisal itself, results and points the candidates achieved in the testing procedure) or the list itself if in the request for conduction of the public announcement procedure does not contain appraisal of special knowledge and skills.

The head of the national authority must reach a decision on selection, pursuant to the Article 25 of the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), within 30 days from the day the selection list was submitted to him/her. If he/she does not make selection among candidates from the selection list, he/she must inform the Human Resource Management Authority on reasons for such decision. In this case, the public announcement may be repeated.

An appeal may be filed against the decision on the selection of the candidate, due to the violation of the procedure of selection, pursuant to the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08). Commission for appeals decides on the appeal against the decision on rights and obligations from the work and based on the work.

Pursuant to the mentioned law, civil servant, that is, state employee performs works in certain title he/she acquires by the employment or transfer.

Exceptionally, title of civil servants in judicial authorities, authorities performing works in diplomacy, police, safety, defence, security of detained and convicted persons, customs operations and other affairs requiring special authorizations and duties, may be determined by the law or other regulation when provided in the law. In addition, other titles may be determined for this, when necessary due to the nature of the work.

Regarding professions in the area of education, detailed answer was provided in the Chapter 26 "Education and culture", question 18.

There are certain specificities regarding professions of lawyer and notary.

After graduation at the faculty of law in duration of four years, the title LL.Bis obtained.

The Law on Courts (Official Gazette of the Republic of Montenegro 05/02, 49/04 and Official Gazette of Montenegro 22/08) proscribes the LL.B fulfilling general requirements for employment in national authorities may be employed as the court clerk, for a period of two years. The training is done in compliance with the special program adopted by the president of the court.

If the trainee, according to the estimates of the session of the judges, during the training, particularly protruded in performance of judicial duties, his/her employment may be extended after the expiration of the training period for one year, if he/she passes bar exam within three months.

Bar, advocacy and notary exams are taken before the competent committee of the Ministry of Justice.

After acquiring LL.B degree, passed bar exam and passed advocacy exam, the person has right to practice advocacy upon registration in the directory of advocates and taking an oath.

Right on registration in the directory of the advocates has the person that fulfils the following requirements: to be the citizen of Montenegro; to have a degree of the Faculty of Law or diploma of

the Faculty of Law acquired in foreign state and recognized in compliance with regulations regulating the area of the higher education; to have passed the bar exam and advocacy exam; not to be employed; not to conduct any other registered business activity; to be honourable to practice advocacy in compliance with the Code of professional ethics of lawyers; not to be convicted for criminal act which would make him/her unworthy for practicing advocacy.

Notary, upon acquiring LL.B degree, having passed bar and notary exam, may be appointed, that is may conduct duties of notary under certain conditions. Requirements the appointed person needs to fulfil in order to perform notary duties are the following: to be a citizen of Montenegro; to have good general medical and working abilities; to be a lawyer; to pass bar and notary exam; to have at least 5 years of working experience in the legal profession, and at least three years of working experience after passed bar exam; not to be convicted for criminal act which would make him/her unworthy for practicing duties of the notary. Notary is appointed by the minister competent for judicial affairs, upon received opinion of the Bar Association, after which the person appointed for the notary takes and oath.

In addition, there are certain particularities regarding professions of auditor and actuary.

The Law on Accounting and Auditing (Official Gazette of the Republic of Montenegro 69/05 and Official Gazette of Montenegro 80/08) and Rulebook on Detailed Requirements and Documents for Acquiring License of Authorized Auditor (Official Gazette of the Republic of Montenegro 33/09) prescribe that the License for conduct of auditing may be issued to the person who: has university degree; is certified auditor; has recognized certificate or other document obtained abroad; evidence that he/she was not convicted for a crime that makes the person unworthy to perform the activities in the area of accounting and auditing; as well as an evidence that the person has been engaged in activities of auditing legal persons, under supervision of certified auditor, for a minimum period of three years.

Regarding the training, the auditors follow IFAC Code of Ethics for Professional Accountants and IFAC International Accounting Education Standards (IES) 7. Auditors are obliged to pass 120 hours for three years, i.e. 40 hours a year.

Law on Insurance (Official Gazette of the Republic of Montenegro 78/06) prescribes obligatory conduct of actuary activities in the insurance company, and these activities are conducted by certified actuaries, persons that, in adequate college, course actuary, obtained the knowledge in the area of actuary (economic, mathematic or other faculty of technical direction, that is post-graduate studies in actuary), and passed professional exam for obtaining the title of certified actuary.

Requirements for conducting actuary activities in the area of insurance are prescribed by the specified law, which determines that requirements for obtaining the title of certified actuary are prescribed by the Ministry of Finance of Montenegro (Note: by-law, that is rulebook on obtaining the title of certified actuary is still in preparation).

Upon passing professional exam for conduct of actuary activities, it is necessary to obtain authorization for conduct of such activities, issued by the regulatory body (the Agency for Supervision of Insurance), that issues the approval to the insurance company to appoint certain actuary for conduct of actuary activities as well.

For obtaining approval for conduct of activities of certified actuary (in addition to the specified approval obtained by passing the professional exam, which will be prescribed in the rulebook of the Ministry of Finance), it is necessary to submit the following documents as well: preliminary contract concluded with the insurance company on conduct of actuary activities, as well as evidence on insurance from liability for damage the certified actuary may cause by given opinion; evidence on fulfillment of requirements regarding education, qualification and professional experience; evidence that the proposed actuary has not been convicted on an unconditional prison sentence for a period of more than three months; evidence that the proposed actuary has settled his/her tax liabilities, evidence that the proposed actuary has not been member of board of directors or carrier of special authorities in legal person over which the liquidation, i.e. bankruptcy procedure has been conducted in the previous three years; evidence that the proposed actuary is not member of board of directors or executive director of insurance company (for which he/she is supposed to conduct

actuary activities) and evidence that he/she is not connected with legal person in which the company has qualified participation. In Montenegro, actuary activities may be conducted by persons obtaining this title before the Law entered into force, as well as persons obtained the title abroad.

B. Practice of the profession/professional activity

35. Which professions/professional activities are regulated by your legislation? What is the scope of the professional field of activities?

Montenegro still uses Unique Nomenclature of Occupations adopted in 1990 by the Parliament of SFRY, as well as Codes of Occupations and Professional Qualifications made based on the Nomenclature. The Codes of Occupations and Professional Qualifications is prepared pursuant to the Decision on unique methodological principles for taking register in the area of work and forms of applications and reports (Official Gazette of the Federal Republic of Yugoslavia 40/97). Initial version of the National Classification of Professions is done as well based on the International Standard Classification of Professions (ISCO/88).

For each regulated area of work, there are proscribed criteria, requirements and, possibly, performance of professional practice, as prerequisite for practicing certain profession.

Pursuant to the Montenegrin legislation, the following professions are proscribed by the law:

Notary or public notary

Law on Notaries (Official Gazette of the Republic of Montenegro 68/05) regulates the duties of notary, organization of notary services, conditions for performing and reasons for termination of notary activities, supervision over the work of notaries, disciplinary responsibility of notary and other matters of importance for performing notary activities.

Notary conducts notary services as public service, professionally and as exclusive profession, in compliance with this law.

Notary is authorized to perform the following duties: 1) draft notary acts; 2) receive statements, money, securities and other items as deposits; as well as to 3) on the court order perform duties proscribed by this law.

The court may authorize the notary to perform the following duties: 1) inventory and assessment of inheritance; 2) saving inheritance documents, money, securities or valuables; and 3) other duties proscribed by the special laws.

Advocacy

Advocacy is an independent and autonomous service that provides legal aid to natural and legal persons. Advocacy may be practiced by attorneys-at-law advocates, independently, in common law office or advocacy partnership, registered in the directory of the Bar Association. Legal aid encompasses: 1) provision of legal advices and opinions; 2) drafting complaints, appeals, requests, applications and other documents; 3) drafting contracts, wills, statements, general and individual documents and other acts; 4) representation and defence of natural and legal persons before courts and other national authorities, companies and other legal persons; 5) representation of natural and legal persons in their legal affairs; as well as 6) conduct of other activities of legal aid in the name and on the behalf of the natural and legal persons, based on which these persons exercise some right.

Attorney-at-law acquires the right to practice advocacy by registration in the directory of attorneys and taking the oath.

The Law on Advocacy (Official Gazette of the Republic of Montenegro 79/06) regulates conditions for practicing advocacy, manners and forms of the work of attorney, rights, obligations and

responsibilities of the attorneys-at-law and trainees, competences of the Bar Association of Montenegro and other matters of importance for practicing advocacy.

Veterinary

Veterinary activity is regulated by the Law on Veterinary (Official Gazette of the Republic of Montenegro 11/04, 79/04, 80/04, 27/07, 48/07, 14/07 and 14/08).

For the purpose of this Law, veterinary encompasses: protection and improvement of animal health, protection of animals from infectious and other diseases; detection and diagnosis of diseases and treatment of diseased animals; implementation of programs of measures of health care protection of animals; control in order to determine health validity of raw materials and supplies; care for health validity of supplies and prevention of occurrence of traces of harmful materials in supplies by the control of the breeding place of animals, production, processing and storage of raw materials; control in order to provide health validity of food, water for animals; production, trade and control of medical products and medical means in use in veterinary medicine. Duties of the inspection supervision in the area of veterinary are done by the administrative authority through republic veterinary inspectors.

Medical professional

Purpose of medical profession is preservation, protection and improvement of health of population. This activity is regulated by the Law on Health Care Protection (Official Gazette of the Republic of Montenegro 39/04). Medical profession implies activities of health care institutions and other forms of health care services on provision of health care services that enable health care protection of citizens.

Pursuant to the Law on Health Care Protection, depending on their degree and duties in the health care profession they perform, the following are the health care workers: 1) doctor of medicine, dentist and graduate pharmacist; 2) higher medical nurse, higher medical technician and higher health care technician, and higher dentist; 3) medical nurse, medical and health care technician, laboratory technician, pharmaceutical technician and dental technician.

The Law, in addition to the tasks of doctors of medicine, encompasses dentists, as well as pharmacists, who are, in order to protect their professional interests and to improve the quality of health care protection, organized in Medical and Pharmaceutical Chamber of Montenegro.

Brokers

The Law on Securities (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06 and Official Gazette of Montenegro 52/09) proscribes that the Commission is competent for determining general requirements natural person needs to fulfil in order to perform trade with securities.

Pursuant to the competences contained in the Law, Securities Commission adopted the Regulations on Closer Requirements for Acquiring the Title of Broker, Dealer and Investment Manager (Official Gazette of the Republic of Montenegro 34/07 of 8 June 2007) and it is proscribed that person that intends to acquire some of these titles (broker, dealer, investment manager) is obliged to attend training and pass exam for acquiring title of broker, dealer and investment manager organized by the Securities Commission.

Jobs with securities conducted by authorized participants, for the purpose of this law, are the following: intermediation in purchase and selling of securities upon the order given by the client (in its own name, on someone else's behalf), with charging commission (brokerage operations); trade of securities in its name and on its behalf in order to achieve difference in price (dealer operations); management of the portfolio of securities that belong to other person (investment manager operations); other works the Commission determines represent operations with securities.

Decision on unique code of codes for entry and data encryption in registers in the area of work (Official Gazette of the Federal Republic of Yugoslavia 9/98, and Official Gazette of the Republic of Montenegro 25/00) proscribes the code for broker: 71.68.57".

Actuary

Pursuant to the Law on Insurance (Official Gazette of the Republic of Montenegro 78/06), conduct of actuary activities in insurance company is obligatory, and this activities are conducted by certified actuaries.

Requirements for conduct of the actuary activities in the area of insurance as well as requirements for issuance of the approval of the insurance company are processed in the answer to the question 34 of this Chapter.

Auditor

Law on Accounting and Auditing (Official Gazette of the Republic of Montenegro 69/05 and Official Gazette of Montenegro 80/08) regulates the following professional titles: certified accountant, authorized professional accountant and authorized auditor.

Pursuant to the mentioned Law, auditing represents examination of financial statements in order to provide opinions if the financial statement subjected to the auditing in a true and objective manner presents state of property, capital and liabilities, as well as the results of business activities applying International Auditing Standards and Code of Ethics.

Certified accountant is an accountant that has certificate of the state administrative authority competent for financial affairs.

Authorized professional accountant is an accountant that has certificate of the state administrative authority competent for financial affairs issued in compliance with the Law on Accounting and Auditing (Official Gazette of the Republic of Montenegro 6/02).

Authorized auditor and auditing companies may, apart from auditing financial statements, provide only services of estimate of the value of property, liabilities and capital, services of financial analysis and making financial studies.

Craftsman

Law on Craftsmanship (Official gazette of Montenegro 54/09) proscribes requirements for conduct of craftsmanship and other matters of importance for craftsmanship. Pursuant to this Law, craft activities, that is, craftsmanship is activity which natural person or company conducts by production, sales and providing services on the market as well as based on the individual orders, for profit. Pursuant to the Law, products and services are products that are products, that is, services that are provided, by the use of adequate machines, tools and technical devices, and which do not represent result of serial production, that is working process divided into individual working operations, characteristic for industrial production.

Crafts may be:

- common craft, for which no professional qualification is required
- complex craft, for which adequate professional qualification is required.

Craftsmanship may be practiced by natural person, that is, craftsman in his/her name and on his/her behalf provided that he/she fulfils requirements for practicing craftsmanship. Craftsman may practice one or more crafts as main business activity. Exceptionally, company may practice craftsmanship, if it does it in a non-industrial manner.

For practicing craftsmanship, minimal technical requirements must be fulfilled (premises, equipment, means, etc.). If craftsmanship is practiced in mobile premises, the craftsman must acquire the approval of the competent authority on which territory the activity is conducted.

Complex craft may be conducted by natural person who, in addition to the mentioned requirements, owns at least passed professional craftsmanship exam in the area of work of his/her activity on which this complex crafts refers to.

Specified requirements are determined by regulation of the ministry competent for craftsmanship.

Artists

Pursuant to the Law on Culture (Official Gazette of Montenegro 49/08), freelance artist, that is freelance expert in culture is artist or expert in culture that deals with artistic or cultural creativity, that

is, conducts activities proscribed by this Law as main activity, for profit, without employment.

The artist is a person who creates original work of art as an author or person who interprets artistic or other works.

Expert in culture is person who, with adequate professional qualification, conducts scientific research, educational, producer, art-cooperative, specialist-technical or organization activities in the field of culture.

36. How are these professions regulated: monopoly of activity? Protection of title? Affiliation to the social security system? Incompatibilities?

Procedure for regulation of professions

Montenegrin legislation recognizes professions regulated by the specified laws.

Special laws enable “recognition of qualifications” such as recognition of qualifications of higher education in order to conduct professional activities in Montenegro.

Monopoly of activities

Monopoly of activities exists in conduct of notary profession. Namely, pursuant to the Law on Notaries (official Gazette of Montenegro 49/08), notary has been organized according to the principle of territoriality and number of notary positions is limited. Number of notaries is determined according to the population of Montenegro; therefore for the territory of the municipality for each 1500 citizens one notary position is determined, with official seat of the notary in this municipality. For 15 Basic courts there is in Montenegro, 54 notary positions are determined.

There is no monopoly of activities in other professions, except medical profession (such are doctors, dentists and pharmacists) and veterinary profession, when it comes to possible employment, specific requirements regarding applicable regulations as well as regarding approvals issued by the competent ministries.

Protection of profession

Within several laws regulating previously mentioned professions and their application, several regulations govern protection of illegal reorganization for certain professions. In professions where natural person may conduct an activity, liability is on that natural person, while in activities conducted by legal persons, liabilities is on the legal person. Competent chamber should protect professions.

Connection with the social protection system

All professions regulated by Law are connected to the social protection system, as well as every other profession. This may be viewed from the two aspects: the first aspect is provision of public service by legal person, and the other aspect is provision of public service by natural person. In both cases, persons conducting their professional activities exercise rights deriving from employment, for example, they have right on health care, pension and disability insurance. In both cases, specified persons have right on health care in the event of unemployment.

37. Which are the bodies overseeing the profession: professional orders, Ministries (which), other?

Supervision over certain professions is conducted by professional associations – chambers and line ministries. In the case of notary, notaries are associated into the Notary Chamber under the competence of the Ministry of Justice. Also, attorneys-at-law are associated into the Bar Association, and the Ministry of Justice is competent for it.

In the case of medical professions, doctors are associated into the Medical Chamber which is under the competence of the Ministry of Health. Also, members of the Medical Chamber are dentist conducting operations of health care protection in the area of dentistry, while pharmacists are associated in the Pharmaceutical Chamber for protection of their interests, also under the competence of the Ministry of Health.

In order to provide expertise and to protect public interest, persons conducting operations of spatial planning and construction are associated in the Engineering Chamber under the competence of the Ministry of Spatial Planning and Environment.

Veterinarians, in order to protect and improve their expertise, protect professional ethics, and protect professional interests, are associated in the Veterinary Chamber.

C. Administrative structures

38. Please describe the administrative structures and related procedures for granting recognition of foreign professional qualifications in your country.

Within Ministry of Education and Science, the ENIC (*European Network of Information Centres*) centre is established and it is responsible for recognition of professional degrees of education for the purpose of employment. The procedure is conducted in compliance with the Law on Recognition and Equivalence of Certificates (Official Gazette of the Republic of Montenegro 04/08). This Law was drafted in cooperation with the Ministry for Higher Education and Technology of the Republic of Slovenia and NUFFIC (Netherlands organization for international cooperation in the area of higher education) centre from Netherlands, through Tempus Project **CO12Z04** „Development of ENIC centre in Montenegro”. During the work on this Law, experiences of Slovenia and Netherlands were taken into consideration, and especially legal framework of Slovenia, due to the similarities in educational systems of Slovenia and Montenegro. It is also important to notice that the Law is founded on the postulates of Lisbon Convention on Recognition of Qualifications concerning Higher Education in the European Region (ratified in Serbia and Montenegro in March 2004).

In the procedure of recognition for employment, in compliance with the Article 13 of the Law, the following is estimated:

- 1) educational system in the country the certificate is acquired;
- 2) duration of the education without comparison of educational programs;
- 3) acquired degree;
- 4) rights provided by the foreign certificate in the country it is acquired in; and
- 5) other circumstances important for recognition.

In conduct of their activities, the ENIC centre performs the following:

- 1) conducts the procedure for recognition of the foreign certificate;
- 2) provides opinions on matters that are subject of the procedure of equivalence;
- 3) provides information on procedures of recognition and equivalence of certificates to institutions for higher education, employers, ENIC partners and other organizations;
- 4) cooperates with the ENIC network in drafting national frameworks for qualifications in the European region of higher education;
- 5) contributes to further improvement of the educational system in Montenegro;
- 6) updates and provides information on educational systems, foreign certificates and their relations to certificates in Montenegro, regulations on recognition and equivalence of certificates, information on accredited institutions of higher education, requirements for enrolment, etc;
- 7) updates information on educational system in Montenegro, in a manner provided in the annex of the Common ENIC/NARIC Charter on tasks and competences of ENIC/NARIC centres;
- 8) performs activities of national and international interests proscribed by the Lisbon Convention for Recognition of Qualifications concerning Higher Education in the European Region; and

- 9) performs other activities, in compliance with the regulations and Common ENIC/NARIC Charter on tasks and competences of ENIC/NARIC centres.

In order to continue education, recognition of certificate is done by institution for higher education in which person wants to continue his/her education, upon previously acquired opinion of the ENIC centre.

The Ministry of Education and Science, however, is not competent to estimate if person is qualified to conduct some of the regulated professions, but this is under the competence of the relevant ministry.

List of Annexes:

Annex 18 - LAW ON BUSINESS
ORGANIZATIONS, 7, 11

Annex 19 - LAW ON POSTAL SERVICES,
18, 20, 22, 23