

Government of Montenegro

Ministry of European Integration

Questionnaire

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

22 Regional policy & coordination of structural instruments

Minister: Gordana Djurovic

Podgorica, December 2009

TABLE OF CONTENTS

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| CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP . | 5 |
| Chapter 22: Regional policy & coordination of structural instruments | 6 |
| I. Legislative framework | 7 |
| II. Institutional framework..... | 39 |
| III. Administrative capacity | 52 |
| IV. Programming | 61 |
| V. Monitoring and evaluation | 69 |
| VI. Financial management and control | 71 |
| VII. Availability of statistics for the implementation of the structural funds..... | 95 |

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

Chapter 22: Regional policy & coordination of structural instruments

I. Legislative framework

Regional development legislation

1 Please provide a list of all legislation directly relevant to Regional Policy, including related to transport/TEN, environment, economic development, competitiveness, social policies or public procurement. How will the consistency between the national legislation and cohesion policy framework (IPA, Structural funds, Cohesion Fund) be ensured?

The following legal acts, directly or indirectly, regulate issues concerning the implementation of the policy of regional development:

- Constitution of Montenegro (Official Gazette of the Republic of Montenegro 001/07);
- Spatial Plan of Montenegro until 2020 (Official Gazette of the Republic of Montenegro 24/08 of 8 April 2008);
- Law on Territorial Organization of Montenegro (Official Gazette of the Socialist Republic of Montenegro 6/65, 6/70, 45/90); (new Law on Territorial Organization of the Republic of Montenegro is being drafted);
- Law on Ratification of the European Charter of Local Self-Government (Official Gazette of the Republic of Montenegro, International Treaties 5/08);
- Law on Local Self-Government (Official Gazette of the Republic of Montenegro 45/91, 42/03, 28/04, 75/05 and 13/06), (new Law on Local Self-Government is being drafted);
- Law on Financing of Local Self-Government 42/03, 44/03 and 5/08);
- Law on Capital City (Official Gazette of the Republic of Montenegro 65/05) ;
- Law on Historic Royal Capital (Official Gazette of the Republic of Montenegro 47/08);
- Budget Law of Montenegro (Official Gazette of the Republic of Montenegro 40/01, 73/08);
- Law on Income Tax (Official Gazette of the Republic of Montenegro 65/01, 80/04, 40/08);
- Personal Income Tax Law (Official Gazette of the Republic of Montenegro 85/01, 78/06, 04/07);
- Law on Real Estate Turnover Tax (Official Gazette of the Republic of Montenegro 65/01, 69/03);
- Law on Concessions (Official Gazette of the Republic of Montenegro 08/09);
- Law on Spatial Development and Construction of Structures (Official Gazette of the Republic of Montenegro 51/08);
- Law on Control of State Aid and Help (Official Gazette of the Republic of Montenegro 26/07).

LAWS REGULATING ENVIRONMENT AREA

- Law on Environment (Official Gazette of the Republic of Montenegro 48/08);
- Law on Environmental Impact Assessment (Official Gazette of the Republic of Montenegro 80/05);
- Law on Strategic Environmental Impact Assessment (Official Gazette of the Republic of Montenegro 80/05);
- Law on Integrated Pollution Prevention and Control (Official Gazette of the Republic of Montenegro 80/05, 54/09);
- Law on Waste Management (Official Gazette of the Republic of Montenegro 80/05, 73/08);
- Law on Air Quality (Official Gazette of the Republic of Montenegro 48/07);
- Law on National Parks (Official Gazette of the Republic of Montenegro 56/09);
- Law on Protection against Ionizing Radiation and Radiation Security (Official Gazette of the Republic of Montenegro 56/09, 58/09).

(See Chapter 27)

LAWS REGULATING SOCIAL POLICY AREA

- Law on Labour (Official Gazette of the Republic of Montenegro 49/83);
- Law on Amicable Settlement of Labour Disputes (Official Gazette of the Republic of Montenegro 16/07);
- Law on Labour Inspection (Official Gazette of the Republic of Montenegro 79/08);
- Law on Labour Protection (Official Gazette of the Republic of Montenegro 79/04);
- Law on Amendments to the Law on Labour Protection (According to the Programme of the Government, this Law is foreseen to be adopted by the end of 2009);
- Law on Social Council (Official Gazette of the Republic of Montenegro 16/07);
- Law on Strike (Official Gazette of the Republic of Montenegro 43/03);
- Law on Amendments to the Law on Strike (Official Gazette of the Republic of Montenegro 71/03);
- Amendments to the Law on Employment (Official Gazette of the Republic of Montenegro 79/04) are in progress;
- Law on Protection of Citizens of Montenegro Working Abroad (Official Gazette of the Republic of Montenegro 11/04);
- Law on Records in the Field of Labour and Employment (Official Gazette of the Republic of Montenegro 69/03);
- Law on Professional Training and Employment of the Disabled Persons (Official Gazette of the Republic of Montenegro 49/08);
- Law on Employment and Work of Foreigners (Official Gazette of the Republic of Montenegro 22/08);
- Law on Social Welfare and Child Care (Official Gazette of the Republic of Montenegro 78/05);
- Law on Special Rights of Disabled People in Internal Passenger Transport (Official Gazette of the Republic of Montenegro 47/99);
- Law on Amendments to the Law on Movement of Blind Person with Assistance of Guide Dog is in the parliamentary procedure;
- Law on Protection from Discrimination of Impaired Persons will be adopted after the adoption of the general law on non-discrimination;
- Law on Volunteering – the adoption of this Law is foreseen by the Programme of the Government, by the end of 2009;
- Law on Social Cooperatives – the adoption of this Law is foreseen by the Programme of the Government, by the end of 2009;
- Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04, 81/04, 47/07, 9/08).
- Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06 and 14/07);
- The Law on Consolidated Registration and Reporting System on Calculation and Collection of Taxes and Contributions (Official Gazette of the Republic of Montenegro 29/2005);
- The Law on Contributions for Compulsory Social Insurance (Official Gazette of the Republic of Montenegro 13/07);
- The Law on Amendments to the Law on Contributions for Compulsory Social Insurance (Official Gazette of the Republic of Montenegro 79/08);
- The Law on Salaries of Civil Servants and Civil Employees (Official Gazette of the Republic of Montenegro 33/08).

LAWS REGULATING TRANSPORT AREA

- Law on Road Transport (Official Gazette of the Republic of Montenegro 45/08);
- Law on Contracts in Road Transport (Official Gazette of the Republic of Montenegro 53/08);
- Law on Roads (Official Gazette of the Republic of Montenegro 42/08 and 21/09-1);
- Law on Road Safety (Official Gazette of the Republic of Montenegro 72/05 and 27/06);
- Law on Railways (Official Gazette of the Republic of Montenegro 21/08);

- Law on Railroad Safety (Official Gazette of the Republic of Montenegro 04/08);
- Law on Contracts in Railroad Transport (Official Gazette of the Republic of Montenegro 26/95);
- Law on Air Transport (Official Gazette of the Republic of Montenegro 66/08);
- Law on Obligations and Basic Legal Property Relations in Air Transport (Official Gazette of the Republic of Montenegro 12/98 and 15/98);
- Law on Maritime and Inland Navigation (Official Gazette of the Republic of Montenegro 12/98, 44/99, 74/99 and 73/00);
- Law on Sea (Official Gazette of the Republic of Montenegro 17/07 and 6/08);
- Law on Yachts (Official Gazette of the Republic of Montenegro 46/07);
- Law on Ports (Official Gazette of the Montenegro 51/08);
- Law on Electronic Communication (Official Gazette of the Montenegro 50/08);
- Law on Postal Services (Official Gazette of the Republic of Montenegro 46/05).

LAWS AND SECONDARY LEGISLATION REGULATING PUBLIC PROCUREMENT AREA

The system of public procurements in Montenegro is regulated by the Law on Public Procurement (Official Gazette of the Republic of Montenegro 46/06) that entered into force on 29 July 2006, secondary legislation adopted on the basis of this Law, standard forms and templates concerning the implementation of Law. In accordance with the Law on Public Procurement, institutional framework for performing the tasks of state administration of Montenegro has been set up, consistent implementation of the Law and secondary legislation has been ensured and prerequisites for complete introduction of the legislation of the European Union, as well as fulfilment of obligations foreseen by the Stabilization and Association Agreement in the field of public procurements, have been accomplished.

With the implementation of the Law on Public Procurement, rules and requirements of European Union on ensuring full liberty of circulation of goods, people and capital are met. Law on Public Procurement ensures to economic operators of the European Community, whether founded in Montenegro or abroad, access to public procurements under the same conditions as applied to Montenegrin economic operators. The principle of free market is fully complied with, in accordance with Article 76 of the Stabilization and Association Agreement.

The secondary legislation, standard forms and templates, adopted to ensure implementation of the Law on Public Procurement, are:

- The Rulebook on the form, content and manner of issuing the documents ensuring regular payments from public procurements;
- The Rulebook on the methodology of denoting criteria through a corresponding number of points; manner and procedure of rating and comparing offers;
- Standard Form: Terms and Manners of Determining Values of Public Procurements;
- Standard Form: Plan of Public Procurement;
- Standard Form: Form for Invitation to Public Tender;
- Standard Form: Form for Public Tender Announcement;
- Template: Decision on Award of Contract;
- Template; Decision on Award of Contract in Negotiation Procedure Without Previous Announcement of Call for Public Tender;
- Template: Decision on Small Value Procurements;
- Template: Decision on Public Tender Annulment;
- Standard Form: Tender Documentation for Goods;
- Standard Form: Tender Documentation for Works;
- Standard Form: Tender Documentation for Services;
- Standard form: Template of Records on Tender Opening;
- Standard form: Template of Records on Control, Assessment and Comparison of Tender Offers;
- Standard form: Template of Report on Public Procurement Procedure;

- Standard form: Request for Submitting Offers under Shopping Method and
- Standard form: Manner of Recoding Data on Public Procurements.

Concessions area is regulated by the following laws and secondary legislation:

- The Law on Concessions (Official Gazette of Montenegro 08/09);
- The Decree on Detailed Guidance of Conducting Procedures of Public Procurement in Open and Two-Stage Procedure of Awarding Concession (Official Gazette of Montenegro 67/09) and
- The Rulebook on Content and Manner of Keeping Register of Concession Contracts (Official Gazette of Montenegro 47/09).

Harmonization between national legislation and cohesive policy is elaborated in other answers of this Chapter.

2 Please answer the following questions about your regional development legislation. If the answer is affirmative, indicate which law or Government decision is applicable:

a) Does your country have a law to regulate domestic regional policy or is such a law planned?

The key document for the policy of equal regional development in Montenegro is the Spatial Plan, adopted by the Parliament of Montenegro in March 2008, for the period until 2020.

The National Programme for Integration of Montenegro into the EU, for the period 2008-2012, foresees the adoption of the Law on Regional Development of Montenegro. The Law will, inter alia, set the foundation for the regional development policy, institutional framework for conducting the regional development policy, special methodology for determination of levels of development of regions and municipalities, etc. Preparatory activities for drafting of this Law are in progress.

b) Does your legislation specify one administrative unit or entity responsible for coordination at the national level? Which entity? What is its composition?

The issue of regional development in Montenegro is not regulated in a unique manner, from all its aspects. In accordance with the Decree on Organization and Manner of Functioning of Public Administration (Official Gazette of Montenegro 59/09), the Ministry of Economy performs the tasks of coordination concerning drafting of proposals, implementation of strategy and policy of regional development of Montenegro. In order to start the institutionalization of the issue of regional development, within the Ministry of Economy Sector for Development has been formed, with following tasks: preparation and monitoring of the realization of Development Strategy of Montenegro; preparation and monitoring of the realization of Regional Development Strategy of Montenegro; preparation and evaluation of developmental investment projects of interest for Montenegro; drafting and proposing laws and other legal acts in the field of development and regional development; participation in preparation, drafting and giving opinions on draft laws and other legal acts prepared by other bodies; providing expertise, opinions and interpretations; harmonization of national legislation with EU legislation in the field of development and regional development; preparation of analyses, reports and other materials in the field of development of Montenegro, regional development of Montenegro and investment projects of interest for Montenegro; determination of the level of regional development through categorization and typology of the region of Montenegro; proposal of incentive mechanisms and measures of developmental policies, on both national and local level, significant for the creation of a new, optimal ambiance for the development of Montenegro as well as for an equal regional development; encouraging partnership among local self-government units and proposing

measures aimed at creating a unique regional policy for local communities; international and regional cooperation, particularly the one concerning international and cross-border cooperation programmes in the field of regional development; keeping records stipulated by the law; cooperation with other bodies and organizations, scientific and professional institutions as well as business associations; implementation of law and other legislation; preparation of tender documentation for public procurements under the competence of the Sector and other tasks, in accordance with the law. The Rulebook on systematization foresees eight posts within the Sector.

c) Does your legislation specify one unit, group or entity responsible for decision-making at the national level? Which entity?

Decision making on issues regarding regional development, at the national level, is within the competence of the Government of Montenegro. The decisions are made on the proposal from the Ministry of Economy (in accordance with the Decree on Organization and Manner of Work of the State Administration, as described in the answer to the question 2b), as well as other ministries and institutions, depending on the issue concerning regional development, which is under their competence. During the decision making process, initiatives and opinions from the local level are taken into consideration also..

d) Is it specified in your legislation which unit or group functions as the secretariat that prepares the decisions referred to in question b)?

The Ministry of Economy, as an authority responsible for conceiving and implementing of the regional development policy, in accordance with the competencies stated in the answer 2 b), monitors the implementation of the regional development policy, prepares analyses on the realization of the regional development policy and prepares proposals of decisions and measures from that framework. At the same time, other ministries, in particular the Ministry of Agriculture, Forestry and Water Management, as well as the competent institutions (Development Fund, Employment Office, Directorate for Development of Small and Medium-Sized Enterprises, Directorate for Public Works, Transport Directorate, etc) treat, within their scope of work, the regional component of development and provide initiatives and measure proposals in that direction. On the basis of provided initiatives and proposed measures, the competent ministries and state institutions prepare decision proposals to be presented to the Government for adoption (as indicated in question 2 c).

e) Does your legislation specify other responsible administrative units?

Implementation of laws which, directly or indirectly, treat the issue of regional development (as listed in answer 1) is under the competence of line ministries, local self-government units and other authorities. As already stated in answer 2 a), in the legal system of Montenegro there is no legal act treating the issue of regional development in a comprehensive manner, therefore the competence of special administrative units for this field is not determinate.

f) Does your legislation specify decision-making procedures?

Line ministries are, depending of their scope of work, responsible for consistent implementation of laws. Each law foresees implementation procedures.. The Parliament and the Government are responsible for adoption of decisions implementing particular laws on the national level, while on

the local level it is the competence of local self-government assemblies. Line ministries are responsible for consistent implementation of laws, depending on the scope of their work.

The Law on Regional Development will establish mechanisms and procedures for the decision making process.

g) Does your legislation specify at the national level an administrative unit(s) or entity responsible for implementation/management and monitoring of programmes/projects? Which? What is the composition of this/these unit(s)?

The legal system of Montenegro does not foresee separate administrative units responsible for the management and monitoring of programmes/projects in the field of regional development. However, tasks for implementation/management and monitoring of programmes/projects are being organized at the level of ministries, other state bodies (Directorate for Public Works, Transport Directorate, Directorate for Development of Small and Medium Sized Enterprises, Development Fund, Employment Office of Montenegro, etc) and inter-ministerial groups, depending on the type of the programmes/projects.

h) Where relevant, does your legislation specify a decision-making group, council, unit or other entity at the regional level? Which?

In accordance with the Law on Territorial Organization, the regionalization of Montenegro is done at the level of local self-government units, therefore there are neither regions, as an administrative form of territorial organization, nor bodies competent for decision making at the regional level.

The legislative framework enables, in accordance with the Constitution and the Law on Local Self-Government, the local self-government units to form: local coordination centre, associations of municipalities and inter-municipal associations. In accordance with that, the Union of Municipalities of Montenegro has been formed, as an association of all the municipalities, aimed at conducting the following duties of common interest:

- development of local democracy and achievement of common interests of the local self-government units;
- improvement of organization, work and functioning of local self-government;
- creation of conditions for development of various forms of cooperation in all fields of work of local communities of Montenegro;
- cooperation with international organizations and associations of local self-government.

Pursuant to the Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) and other legislation, a municipality adopts:

- development plans and programmes;
- construction land development programme;
- spatial and urban plans;
- budget and budget final statement;
- plan of capital improvements and investment policy;
- plans and programmes in particular administrative fields, in accordance with the corresponding laws;
- environmental development and protection programme.

The Law on Local Self-Government stipulates establishing of administrative bodies aimed at performing administration duties (secretariats, directorates, offices, etc). For performance of specific tasks, communal police, as well as special services and centres, are being founded. Agencies can be founded, by decisions of presidents of municipalities, in order to perform tasks demanding special professional knowledge and operational independence.

In order to ensure efficient and rational performance of activities within the competence of municipal assemblies, committees and councils are formed as permanent working bodies, while commissions can be formed as temporary working bodies.

i) Are the members of this entity specified in your legislation? Are they political appointees or technical, or both?

As specified in answer to question 2 h), representative, executive and administrative bodies of the local self-government units, within the scope of their self-government, make decisions on tasks under their competence. Members of those bodies are not specified by the Law, but the Law on Local Self-Government regulates the composition of representative and executive bodies and their scope of work. The Law on Election of Councillors and Representatives (Official Gazette of the Republic of Montenegro 4/98, 5/98, 17/98, 14/00, 18/00, 9/01, 41/02, 46/02, 45/04, 48/06 and 56/06) regulates the procedure for the election of members of representative bodies, elected at direct elections, by secret vote. Representative bodies appoint and dismiss executive bodies of local self-governments. Pursuant to the Law, criteria for the appointment of the members of these bodies are both political and technical.

j) Is it specified in your legislation which unit or group functions as the secretariat that prepares these decisions?

The Law on Local Self-Government specifies that, within their competence, the assemblies of local self-government units manage organization and scope of work of executive and administrative units of local self-governments, which draft decisions and take care of their implementation.

k) Where relevant, does your legislation specify at the regional level an administrative unit(s) or entity responsible for implementation and monitoring of programs/projects? Which?

Line ministries (Ministry of Economy, Ministry of Transport, Maritime Affairs and Telecommunications, Ministry of Environmental Protection and Spatial Planning and others) and/or special bodies, formed to monitor concrete programmes/projects of national interest, are responsible for the realization and monitoring of projects/programmes of national interest. Implementation and monitoring of developmental projects and programmes which are, pursuant to the Law on Local Self-Government, under the competence of local self-governments, is performed by bodies formed by local self-governments for the purpose of economic, social, communal and other activities of their interest.

l) Is this entity independent from the central level or from the decision-making entity? If no, in what way are they related?

As a rule, executive bodies in local self-government are responsible for programme/project implementation and monitoring, in accordance with their scope of work defined by the Law and they are independent in their work from the central level of authority. The relations between the self-government bodies and state bodies are based on mutual cooperation and state bodies' surveillance over legality of work of local self-government bodies. All the programmes/projects under the competence of local self-governments must be in accordance with the common interest and legislation treating that interest. A new law on local self-governments is under preparation,

which will enable, in accordance with the European standards in the field of efficient and democratic management of local self-governments, further decentralization and transfer of competencies to the level of local self-governments.

3 Does your legislation specify a national budget for regional policy (including for transport/TEN, environment, economic development, competitiveness, innovation..) and/or for labour market policy? In what form and at what level?

The Budget Law (Official Gazette of Montenegro 12/07, 73/08 and 53/09) does not stipulate an amount directly allocated for the implementation of the regional development policy. However, budgetary spending units (ministries, Directorate for Public Works, Transport Directorate etc.) realize the regional developmental component within the framework of their programme orientations.

Developmental programmes, realized through ministries, directorates and other institutions, respect the criteria of regional orientation and effects in terms of comprehensive development of underdeveloped regions. Within that framework, in cooperation with banks, institutional support is provided for the development of entrepreneurship and small and medium-sized business, with priority being given to the projects concerning underdeveloped regions.

The capital budget allocates special funds for capital infrastructure, equipment acquisition and other purposes. Within that framework, projects important for the realization of policy of equal regional development are being realized as well.

At the same time, the budget funds ensure support for the realization of systematic legislative solutions indirectly contributing to faster development of underdeveloped regions (as the solution from the Law on Financing of Local Self-Government referring to the Equalization Fund, conditional budgetary donation, etc).

4 Does your legislation specify a breakdown of the budget for regional policy and/or for labour market policy between the central level and other levels of government?

Budget Law does not specify budget allocation for regional policy between the central level and other state levels. However, the Law on Financing of Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 44/03; Official Gazette of Montenegro 05/08) stipulates financial equalization i.e. equalization of municipalities financing by means of the Equalisation Fund (see the answer to question 12).

Compliance with Community policies

5 What adaptations are necessary to your legislative framework to ensure compatibility of future operations to be financed by the Structural and Cohesion Funds with the following EU/Community policies and legislation:

a) Rules on competition (state aid);

The legal framework for the state aid in Montenegro is established through: (1) Law on State Aid Control as the fundamental document for the establishment of the system of state aid (Official Gazette of the Republic of Montenegro 26/07); (2) Decree on manner and procedure of application and content of required documentation for antecedent and subsequent control of state aid support

(Official Gazette of the Republic of Montenegro 13/08); (3) Decree on Detailed Criteria for allocation and terms of awarding of state aid (Official Gazette of the Republic of Montenegro 13/08) and (4) Rulebook on content of annual report on control of state aid and support (Official Gazette of the Republic of Montenegro 7/08), therefore the rules and procedures comply, to the greatest extent, with the EU regulations. The Structural Funds, as provided by the Budget Law are treated as budgetary receipts and therefore characterized as public funds. Depending on the project for their use and criteria for state aid assessment, they are subject to the rules on state aid.

b) Rules on the award of public contracts/public procurement;

The Law on Public Procurement (Official Gazette of the Republic of Montenegro 46/06) foresees, apart from the basic procedures, a *special contract award procedure by means of design contest* as one of the public procurement procedures. The object of public procurement realized through special contract award procedure by means of design contest encompasses design contests for blueprints, plans or designs as integral part of the procedure for awarding public procurement of services contract, as well as separate design contests for blueprints, plans or designs, including award and payment to the participants. The contracting authority can award the contract on public procurement of services through contest design, in accordance with the Law, in the field of urban, construction and architectural planning, design and IT. A blueprint, plan or design is selected by an independent jury. The jury may be made up only of natural persons not connected with the participants in the contest. If the contracting authority requests from participants to have special professional qualifications or experience, at least one third of the members of the jury must have at least the same qualifications or experience. The jury is independent in decision making. Plans and projects offered by the candidates are considered by the jury anonymously and solely on the basis of the invitation to tender criteria. A contract can be awarded both through an open and restricted public procurement procedure and a procedure with or without previous invitation to tender, in accordance with the decision of the contracting authority on fulfilment of requests for the application of this procedure and previously obtained consent of the Public Procurement Directorate. Within the framework of the 2007 IPA programme, whose implementation started in early June 2009, full harmonization of regulations in the field of public procurements with EU legislation is foreseen as one of the project activities of the Public Procurement Directorate, therefore, within the framework of that process, appropriate solutions will be considered and proposed in order to improve the existing Law, in connection with the public procurement procedure. Only technical corrections are possible in this context, i.e. more precise definitions of the existing legal norms in order to simplify the implementation.

Pursuant to the provisions of the Law on Public Procurement, one of the following procedures can be conducted in awarding public procurement contracts for goods, works and services:

1. open public procurement procedure;
2. restricted public procurement procedure;
3. negotiated public procurement procedure;
4. awarding contract by concluding framework agreement;
5. direct solicitation of tenders (shopping method);
6. direct agreement.

Direct bidding and direct agreement are procedures for small value public procurement.

The Law also regulates the following special cases:

1. awarding contract for public procurement through design contest, as previously described in detail and
2. awarding contract for consulting services.

A contracting authority for public procurement usually chooses either an open or restricted procedure, i.e. procedures ensuring the best adherence to the main principles of public procurement: publicity, equal treatment and non-discrimination.

An invitation to tender, as a basis for submitting tenders in the public procurement procedure, must be announced through the open public procurement procedure, restricted public procurement procedure and negotiated procedure with previous public announcement of the invitation to tender. An invitation to tender must be published on the corresponding administration body's website – Public Procurement Directorate – and in at least one daily newspaper with national circulation. A public procurement procedure that has not been conducted this way is void.

The Law on Public Procurement does not recognize preferential treatment, therefore all the bidders from Montenegro, EU countries or other countries are allowed to participate in public procurement procedures conducted by contracting authorities – who must comply with the Law – which results in the public procurement contract award under equal terms.

The Law on Public Procurement is basically harmonized with the Directive 2004/18/EC for Classic Public Procurement Sector as well as Directives 89/665/EC and 92/13/EC from the field of Protection of Rights. Public Procurement in the communal sector is awarded under the same terms as that in the classic sector.

As far as the sector of communal services is concerned, the obligation from Article 41 paragraph 2 of the Interim Agreement regarding the harmonization of existing regulations from the field of public procurement with the EU legislation (in terms of simplification of procedures), will be fulfilled with the adoption of the Law on Amendments to the Law on Public Procurement or by adoption of a new Law on Public Procurement in the sector of communal services, at the end of 2010 or in early 2011, which will enable full harmonization with the Directive 2004/17/EC. Furthermore, this harmonization will also ensure harmonization with the new Directive 2007/66/EC in the field of protection of rights as well as full harmonization with the Directive 2004/18/EC foreseeing new procedures regarding electronic means of communication, dynamic shopping system and e-auction, marginal values of public procurements, time limits for duration of invitation to tender and other improvements of the existing text of the Law.

c) Rules on the award of concession (and Public Private Partnership);

The Law on Concessions (Official Gazette of Montenegro 08/09) is, to some extent, harmonized with:

- The Regulation of the Commission 2083/2005 of 19 December 2005 amending Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council in respect of their application threshold for the procedures of the award of contracts (OJ L 333/05) - completely harmonized.
- The Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on coordination of procedures for the award of public works contracts, public supply contracts and public services contracts (OJ L 134/04) - partly harmonized (the Directive mostly refers to public procurements and less to concessions (Title III)).
- The Directive 2005/51/EC of 7 September 2005 amending Annex XX of the Directive 2004/17/EC and Annex VIII of the Directive 2004/18/EC of the European Parliament and of the Council on Public Procurements (OJ L 257/05) - not harmonized because the Directive amends the provisions of the previous Directive on Member States' obligation to present information on concession awards to the Commission for publishing in the Official Journal of the Commission.

The Law on Geological Research (Official Gazette of the Republic of Montenegro 28/93, 27/94, 42/94, 26/07)

The Law on Mining is completely harmonized with the following EU directives:

- The Directive of the European Union 92/104/EEC of 3 December 1992 referring to the safety and health protection of workers in surface and underground mineral-extracting industries;
- The Directive 85/337/EEC on the impact assessment of certain public and private projects on the environment, amended by the Directive of the Council 97/11/EC.

The Programme for 2009 foresees consideration of all the necessary secondary legislation in the field of geological research and mining, which will be harmonized with EU Directives.

d) Rules on environmental protection and improvement (in particular environmental impact assessment, application of the polluter pays principle and definition of the Natura 2000 areas);

The following set of regulations that entirely regulates, at the national level, environmental impact assessment is being applied since 1 January 2008: Law on Environmental Impact Assessment (Official Gazette of the Republic of Montenegro 80/05), Decree on Projects for which Environmental Impact Assessment is Conducted (Official Gazette of the Republic of Montenegro 20/07 of 4 April 2007), Rulebook on the Content of Documentation Submitted along with the Request for Deciding on the Need for Environmental Impact Assessment (Official Gazette of the Republic of Montenegro 14/07 of 21 December 2007), Rulebook on the Content of Documentation Submitted with Request for Determining Scope and Content of Study on Environmental Impact Assessment (Official Gazette of Montenegro 14/07 of 21 December 2007) and Rulebook on the Content of Study on Environmental Impact Assessment (Official Gazette of Montenegro 14/07 of 21 December 2007).

The Law on Environmental Impact Assessment transposed the Directive of the Council 97/11/EC, amending the Directive 85/337/EC on Assessment of Public and Private Projects Environmental Impact. Furthermore, the Law transposes the Directive of the European Parliament and of the Council 2003/35/EC providing public participation in decision making and access to information. Montenegro has ratified the ESPOO Convention on Environmental Impact Assessment in a Cross-Border Context, including two amendments (Official Gazette of Montenegro 8/08).

The Law on Environmental Impact Assessment regulates the procedure of assessing impact of projects with potentially significant environmental impact; content of studies on environmental impact; participation of interested bodies, organizations and public; assessment and consent granting procedures; announcement of projects with potentially significant environmental impact in other country; surveillance and other issues important for environmental impact assessment.

Pursuant to Article 4 of the Law on Environmental Impact Assessment, bodies competent for implementation of the environmental impact assessment procedure and granting approval on the Study on Environmental Impact are: state administration body competent for environmental protection tasks (Environmental Protection Agency) for those projects for which approval and licence are granted by another state administration body, and a local administrative body competent for environmental protection duties for the projects for which approvals and licences are granted by another local administration bodies. This way the decentralization of the implementation procedure for impact assessment is ensured.

The Decree on Projects for Which Environmental Impact Assessment is Conducted determines concrete projects for which assessment of environmental impact is obligatory, as well as projects for which impact assessment can be required. Projects requiring obligatory environmental impact assessment are laid down in List I, while those for which environmental impact assessment can be required are included in List II of this Decree. The List I is completely harmonized with the Appendix to the Decision III/7 of the ESPOO Convention specifying projects for which conducting of environmental impact assessment and cross border consultation is obligatory.

Impact Assessment is conducted for the projects planned or implemented in the field of industry, mining, energy, transport, tourism, agriculture, forestry, water management and communal

activities, as well as for all the projects planned to be conducted in protected areas and in protected area of immovable cultural assets.

Environmental Impact Assessment is conducted in three phases:

- deciding on the necessity of conducting environmental impact assessment,
- determining the scope and content of the study on environmental impact assessment and
- granting consent for the study on environmental impact assessment.

It is obvious, from the abovementioned, that the national legislation is harmonized, to the greatest extent, with the demands of the European legislation regulating the issue of impact assessment. In the following period, it will be necessary to work on improving the existing capacities for the implementation of the Law on Environmental Impact Assessment.

The principle “polluter pays” is one of the basic principles of environmental protection, rooted primarily in the legal system of Montenegro through the Environment Law (Official Gazette of Montenegro 48/08 of 11 August 2008), but also through SEA, IPPC and other regulations from this field.

At the same time, it is the very fundamental principal of sustainable development, whose implementation transfers external costs of environmental degradation to internal polluter’s costs, but it also efficiently prevents and controls pollution and minimizes ecological risks.

The Environment Law Article 4 paragraph 1 item 5 stipulates the “polluter pays” principle, according to which the Polluter, i.e. the assignee, is accountable for the pollution and committed environmental damage, must reimburse and pay for the costs of damage removal, while Article 6 paragraph 1 item 16 defines the Polluter as any legal or natural person whose direct or indirect activity or failing to act causes environmental pollution and that is entered into the Register of Polluters.

Apart from the Environmental Law, as the umbrella law in the field of environmental protection, other regulations setting the rules and environmental improvements also incorporate the “polluter pays” principle. The foundation for establishing an ecological network (NATURA 2000) is provided by Article 30 of the Law on Protection of Nature (Official Gazette of Montenegro 51/08 and 21/09). Pursuant to this Law and the National Programme for Integration of Montenegro into the European Union for the period 2008-2012, activities on collecting data for the establishment of a network of protected areas will be realized in the forthcoming period, as well as definition of monitoring indicators for the realization of activities and creation of a database. In accordance with that, the Office for Nature Protection of Montenegro, a body that, as provided by the Law on Nature Protection, performs assessment of the situation and vulnerability of habitat types, started the realization of the first component of the Project Montenegro and Natura 2000: Strengthening the Capacity of Governments and civil sector to adopt to EU Natura protection Acquis – Montenegro Natura 2000 database development. Financial support for the realization of the project is provided by the Norwegian Ministry of Foreign Affairs, while the implementing agency is the World Wild Fund (WWF). The line ministry, the Office for Nature Protection of Montenegro and civil sector are included in the implementation of the project.

As regards to the harmonization of the legal framework ensuring that future activities financed from Structural and Cohesion funds are harmonized with the policies and regulations of the Community, it has already been recognized, and modalities for the foundation of an Eco-Fund are being considered. The Fund will represent a large enough framework to connect the implementation of the rules on environmental protection and improvement with possibilities arising from the use of Structural and Cohesion funds.

e) Rules on the elimination of inequalities on the basis of gender, race or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementing the Funds and on the promotion of equality between men and women and, in particular, access to them?

The Constitution of Montenegro, as the supreme legal instrument of national legislation, prohibits every direct and indirect discrimination on whatever basis (Article 8). Apart from the Constitution, the national legislation contains a set of laws whose stipulations forbid discrimination, promote equality and establish anti-discrimination measures. The most important legal acts of Montenegro's legal system forbidding discrimination and promoting equality are: Law on Minority Rights and Freedom (Official Gazette of the Republic of Montenegro 31/06, 51/06), Law on Employment (Official Gazette of the Republic of Montenegro 05/02, 79/04 and Official Gazette of Montenegro 12/07, 012/08), Labour Law (Official Gazette of Montenegro 49/08, 26/09), Law on Social Welfare and Child Care (Official Gazette of the Republic of Montenegro 75/05), Law on Healthcare (Official Gazette of the Republic of Montenegro 39/04), Law on Gender Equality (Official Gazette of the Republic of Montenegro 13/04 and Official Gazette of Montenegro 40/08), set of laws concerning education, Criminal Code (Official Gazette of the Republic of Montenegro 70/03, 013/04 and Official Gazette of Montenegro 40/08). More information on anti-discriminatory legislation can be found in the Chapter Political Criteria, 1.2. Human Rights.

Budget planning and implementation mechanisms at national, regional and local level

6 What adaptations are needed to your legislative framework to allow for multi-annual budget programming with a view to provide the national co-financing for the Structural and Cohesion Funds assistance?

With the annual Budget Law of Montenegro, current and capital costs for the following fiscal year are planned. Budget Law (Official Gazette of the Republic of Montenegro 40/01, 44/01, 71/05 and Official Gazette of Montenegro 12/07) stipulates the obligation of municipalities to present, apart from the draft Budget Law for the fiscal year and municipal budget decision, a preview of planned revenues and costs for the following three fiscal years, including the preview of multi-annual agreed obligations, multi-annual costs and investment programmes.

*On continuation of reforms and implementation of the medium term budgetary framework see the answer to the question 7 of this Chapter (second paragraph).

7 Which implementation mechanisms exist or are planned at national, regional and local level to ensure the proper functioning of the budgetary system?

The national co-financing is being realized in accordance with the legal norms of Law on Budget, annual state budget laws, as well as decisions on municipal budgets.

Implementation and function mechanisms of the budgetary system, as well as of financial management, are given in answer 60 of this Chapter.

Within further budgetary reforms in Montenegro, continuation of the implementation of the medium term budgetary framework (MTBF) is foreseen. The process of budget preparation and planning will be reformed and financial limits (ceilings) for budget users will be introduced for a multi-annual period. Budgetary appropriations for a multi-annual period will be based on both the Government and the line ministries strategic documents, in accordance with the fiscal framework of the entire public spending. Thus the stability and sustainability of the Government's fiscal policy will be increased. In accordance with the model of multi-annual planning on the national level, a model of multi-annual projecting on the local level will be developed as well.

Co-financing mechanisms at national, and, where relevant, regional and local level

8 What provisions are foreseen in the national budget which allow to transfer budgets of national co-financing between programs, funds and years?

The Budget Law foresees the possibility of fund diverting in the following manner:

- The Government can divert funds allocated by the Budget Law between user units up to 10% of total planned fund of consumer unit. The amount of 10% is applied for the total planned outlays of the consumer unit whose approved funds are being reduced. The diverted funds are allocated per separate outlays and programmes, by a decision of the Minister of Finance.
- Consumer units, with the approval of the Ministry of Finance, can divert funds approved per programmes and separate outlays up to the amount of 10% of funds allocated by state Budget Law for the programmes and outlays whose amount is being reduced.
- Once the project is over, consumer unit executing the capital budget must inform the Ministry of Finance about the unspent funds planned for the capital project. At the proposal of the Ministry of Finance, the Government can divert unspent funds to other capital projects. Consumer unit must inform the Ministry of Finance if, during the fiscal year, due to extraordinary or unpredicted circumstances, planned capital project has not been realized. At the proposal of the Ministry of Finance, the Government can divert the unspent funds to other capital projects.

The Budget Law of Montenegro does not allow a transfer of funds to the following fiscal year. Article 36 of the Budget Law stipulates that the funds approved for consumer units can be used by 31 December of the current fiscal year and unpaid agreed obligations in the current fiscal year (if any) are paid from the funds approved for the following fiscal year.

Amendments to the Budget Law, Article 35 paragraph 4 stipulate that diverting of funds is not allowed in the case of expenditure intended for co-financing of projects financed from the EU funds donations.

If, during a fiscal year, incomes or expenditure are increased or reduced with regard to those planned, pursuant to Budget Law, the budget can be balanced. This balancing is conducted through amendments to the annual Budget Law.

National co-financing must be planned for every single budget year, regardless of whether the funds approved for the rest of the year have already been spent in the current year or not. In other words, if, for some justifiable reason, the planned co-finance funds have not been spent during the year, those funds must be planned and approved again for the following year through approval of budget for that year.

9 How will national co-financing (at central, regional or local level) in the framework of EU assistance be secured?

National co-financing is ensured in accordance with the stipulations of the Budget Law as well as annual state budget laws. During the budget adopting procedure, funds for project co-financing can be planned for the projects financed from the EU funds.

During the procedure of annual budget planning, in May of the current fiscal year, Ministry of Finance adopts Instructions (budgetary circular letter) for the preparation of consumer units budgets and municipal budgets for the following fiscal year. These Instructions contain a preview of basic guidelines and objectives of the macroeconomic and budgetary policy, as well as expenditure limits set per line ministries and other state bodies, which represents the base for budget preparation. Line ministries present their requests, as well as requests of user units under their competence for the following fiscal year's budgetary funds by 15 September of the current

year.

During the process of IPA funds programming, meetings of the IPA Commission are held in order to discuss the possibilities of co-financing of projects supported by the EU funds. Project users, while preparing project fiches, plan the funds necessary to be ensured for the participation in those projects. Before the signing of the Financial Agreement, the proposal is forwarded to the Ministry of Finance for opinion, after which it is adopted by the Government of Montenegro. Thus Montenegro takes over the obligation of co-financing as foreseen by the Financial Agreement. Depending on the planned project implementation, the users plan their co-financing obligations through annual budgets. The Ministry of European Integration, i.e. NIPAC, ensures fulfillment of obligations taken by Financial Agreements.

In cross-border cooperation projects, final users must co-finance at least 15% for the project participation, while the Government of Montenegro is obliged to co-finance 15% of the amount for the technical support, whose planning is a responsibility of the Ministry of European Integration.

Co-financing of participants from local level will be provided within budgets of local self-governments, under the same terms as those at the state level budget. Other users with obligation to ensure co-financing will either use their own resources or other (non EU) donations.

10 Are financial resources for future co-financing of EU programs and projects available (based on realistic economic forecasts)? If, yes, please specify.

Montenegro has funds for the co-financing of EU projects and programmes. The existing budgetary regulations enable planning and realization of resources for the co-financing of annual and multi-annual programmes and projects financed by the EU funds.

11 Which are the regional and local, economic and social or other partners from whom national co-financing is expected? How will this national co-financing be secured?

Entities from Montenegro, participating in programme and expected to take part in the co-financing, are: ministries, local self-government units, professional associations, chambers of commerce, state and local institutions/agencies, public enterprises, educational and scientific institutions, training centres, business support organizations, directorates for development of small and medium sized enterprises, research centres, institutions dealing with cultural issues, tourist organizations and international governmental organizations.

National co-financing of participants who are state budget users will be ensured in accordance with the legal norms from the Budget Law as well as annual state budget laws. The procedure of annual state budget adoption enables fund planning for the co-financing of projects financed by the EU funds (see answer 9 of this Chapter).

12 How are the regional and local authorities financed? Do they have some autonomy for borrowing funds? What share of their budget comes from own fiscal resources/transfer from state budgets?

The Constitution of Montenegro (Official Gazette of Montenegro 1/07), stipulates that a municipality is financed from its own revenues as well as from state funds, and that it has a budget.

According to the **Law on Financing of Local Self-Government** (Official Gazette of the Republic of Montenegro 42/03, 44/03 and Official Gazette of Montenegro 5/08), the funds for the financing of municipalities (including the Capital and the Historic Royal Capital) are ensured from: their own

sources, joint taxes and fees imposed by the state, the Equalization Fund and state budget dotation.

1. **Municipalities own sources of financing** – municipalities enjoy fiscal autonomy, i.e. they have the right to impose their own taxes, fees and other revenues.
 - a) local taxes (local income taxes for natural persons, property taxes, consumption taxes, corporate taxes or trade name taxes, tax on unused construction land and taxes on games of chance and entertainment games);
 - b) local taxes (stay tax, local communal tax and local administrative taxes);
 - c) local fees (construction land development fee, use of municipal roads fee and environmental protection and improvement fee);
 - d) other local revenues (revenues from the municipal property and property rights, fines and default interests, revenues from concession fees for performing communal services and revenues from other concession agreements concluded by the municipality and in accordance with the law, revenues earned by municipal bodies, services and organizations' operation, revenues from voluntary financial contributions, donations and subventions, as well as other revenues laid down by the law).

Out of the total municipal budget funds in 2007, municipality's own funds made 84%.

2. **Joint taxes and fees imposed by the state** – Part of the taxes and fees imposed by the state are directly diverted to the municipalities:
 - a) 10% of revenues from the income taxes for natural persons collected on the territory of the municipality, except for the Historic Royal Capital to which 15% of taxes are ceded on that basis;
 - b) 50% of revenues from the property taxes collected on the territory of the municipality;
 - c) 30% of revenues from concession and other fees for the use of natural resources (forests, mineral resources, sand, gravel and stone).
3. **Equalization Fund** - The Law on Financing of Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 44/03) determinates the sources of financing for the Equalization Fund, as well as terms under which the municipalities can gain the right to use the resources of the Equalization Fund. Furthermore, the criteria for the allocation of the Fund resources, as well as for the setting up of the Commission as the body responsible for the monitoring of the development of municipalities' fiscal equalization system are established. Financial balancing, i.e. equalization of municipal financing is conducted through the Equalization fund.

The Fund's finances are ensured by the revenues from:

- 3.1. income tax for natural persons, in the amount of 11% of the total collected taxes ;
- 3.2. property transfer taxes, in the amount of 20% of the total collected taxes.

The municipalities whose per capita fiscal capacity in the year preceding the fiscal equalization is smaller than the average per capita fiscal capacity have the right to draw from the Fund resources.

Criteria for Fund Resources Allocation

Municipalities fiscal equalization is conducted based on the following criteria:

- municipality's fiscal capacity and
- municipality's budgetary needs.

The criteria for fiscal equalization of the municipalities participate with the 90:10 ratio. The fiscal equalization through the application of the fiscal capacity criterion for municipalities is conducted in

two phases. The first phase of the fiscal equalization encompasses the equalization of municipalities' joint revenues per capita:

- income tax for natural persons, up to the amount of the average per capita collected income tax revenues for all the municipalities;
- property transfer tax up to the amount of the average per capita property transfer tax revenues for the municipalities that have the right to draw from the Fund's resources.
- fee for the use of natural resources, up to the amount of the average per capita collected fee revenues for the municipalities that have the right to draw from the Fund's resources.

The second phase of the fiscal equalization encompasses the equalization of per capita municipality's standardized local revenues with average collected per capita standardized local revenues of all the municipalities in a year preceding the year of equalization, up to the amount of resources left over after the first phase of the equalization. The standardization of local revenues is conducted by the Ministry of Finance by applying average tax rates for all the municipalities. For a municipality with less than 3000 inhabitants the amount of the resources obtained through the application of the first and second phase of the equalization is increased with the application of the coefficient 2.00.

The fiscal equalization with the application of the budgetary need criterion is conducted in the following manner:

- 30% of resources is allocated, in a fixed manner, to the municipalities that have the right to use the resources of the Fund;
- 70% of resources is allocated on the basis of the surfaces and length of roads of municipalities that have the right to use the Fund's resources, at 50-50 ratio.

In order to monitor the development of municipal fiscal equalization system, and especially the implementation of equity, efficiency and transparency of the system, the Commission for monitoring the development of the fiscal equalization system in the municipalities is being founded.

The Commission has the following competences:

- to monitor the implementation of the criteria for fiscal equalization;
- to give recommendations for overcoming perceived shortcomings in the application of the criteria for the fiscal equalization;
- to give opinion on the Ministry of Finance's act on allocation of the Fund resources;
- to prepare reports on the development of the municipal fiscal equalization system and to give proposals for its improvement.

Apart from the Equalization Fund, the Law on Local Self-Government foresees conditional state budget dotations. The municipalities that have adopted multiannual investment plan have the right to conditional dotations. The multi-annual investment plan determines, in particular: capital demands (list of all the needs for achieving an optimal level of public services), capital procurements (means and equipment), environmental impact priorities, budget impact, sources of financing and justification for every project in plan. The multiannual investment plan is adopted for a five-year period. Up to 50% of the amount intended for the realization of the investment project can be granted to a municipality as a conditional dotation. The Budget Law of Montenegro determines the amount for conditional dotations in the fiscal year for the municipalities from which investment projects of a special interest for one or more municipalities are financed.

As far as the participation of joint revenues and resources from the Equalization Fund are concerned, there are huge differences among municipalities. The smallest ones (Šavnik, Andrijevica, Plužine, Žabljak) are at the same time the poorest and have the smallest fiscal capacity, therefore they are highly dependent on the resources from the Equalization Fund – more than 50% of their total budgets comes from this source. On the other side, Podgorica and coastal municipalities ensure more than 70% of their total budgets from their own sources, the rest coming from the joint revenues, while the resources they obtain from the Equalization Fund are rather symbolic, or they do not get them at all (Podgorica and Budva).

4. **Conditional Dotation from the State Budget** – Municipalities are granted dotations from the State Budget for the financing of priority investment projects. As far as the direct transfer from the Budget to the municipalities is concerned, it represents a rather small percentage of the overall municipal revenues (less than 1%), and it is used for the co-financing of the projects of municipal infrastructure improvements, in the municipalities that have adopted a multiannual investment plan and provided from their own sources at least 50% of the resources for the proposed capital project. A multiannual investment plan is adopted for a five-year period.

13 Which mechanisms are foreseen to take account and attract private co-financing? Is there a legal framework for Public-Private Partnership (PPP) or concessions?

The mechanisms for attracting private co-financing are:

- obligation to make international public tender announcements in accordance with the Law on Concessions (Official Gazette of Montenegro 08/09), by publishing it in the Official Gazette of Montenegro, at least one daily newspaper distributed in whole territory of Montenegro and on the website of the competent body, and when the subject of concession has a strategic interest for Montenegro, it must be announced in a renowned international economic printed media;
- informing the international public and potential – interested investors through the diplomatic and consular representations of Montenegro abroad, as well as by informing the diplomatic corps in Montenegro about current projects;
- promotions at international conferences, fairs and investment forums taking place abroad, as well as during Montenegrin state officials' visits to foreign countries.
- promotional activities of MIPA - Montenegrin Investment Promotion Agency.

Furthermore, the measures of the Foreign Direct Investment Incentives Strategy of Montenegro are grouped into three sets of measures:

1. GENERAL STRATEGIC MEASURES – representing a set of measures intended to ensure creation of favourable general conditions for doing business in Montenegro, resulting in a reduction of general business risk in the medium-term period.
2. FOCUSED STRATEGIC MEASURES – representing a set of inciting regulatory and fiscal measures that should result in further adaptation of the investment policy of Montenegro to the policy of the region, as well as of its position in the region of South-East Europe.
3. PROMOTIONAL STRATEGIC MEASURES – intended to create, in the next medium-term period, an image of Montenegro as an investment destination, primarily through affirmation of general and focused strategic measures as well as presentation and affirmation of positive investment examples in the country.

The legal framework for the public private partnership (PPP) or concessions is provided by the Law on Concessions (Official Gazette of the Montenegro 08/09), while for granting concessions for detailed geological researches and exploitation of mineral resources, apart from the Law on Concessions there is also the Law on Geological Researches (Official Gazette of the Republic of Montenegro 28/93, 27/94, 42/94, 26/07) and the Law on Mining (Official Gazette of Montenegro 65/08).

Specific financial control legal provisions

14 What is the legal framework related to financial control and audit? Are all public bodies, at national or local level, required to set up financial control and independent internal audit structures?

The Law on Internal Financial Control System (Official Gazette of Montenegro 73/08 of 2 December 2008) is the framework law in Montenegro regulating the system of internal controls in the public sector and encompassing both the financial management and control and internal audit. Provisions of this Law refer to: the users of the budget of Montenegro; municipal budgets, state funds, independent regulatory bodies, shareholders companies and other legal persons in which either the state or municipalities have majority shares, meaning that the operators of the public sector at the local or municipal level must establish both financial control and internal audit in accordance with the Law and secondary legislation for the implementation of this Law (see the answer to question 7 of Chapter 32).

15 Are there legal requirement with regard to segregation of duties, in particular between payment and authorizing functions?

The system and procedure of payment from the resources of the Budget of Montenegro are regulated by the Instructions on State Treasury Operations (Official Gazette of Montenegro 02/09 of 16 of January 2009) based on the organic Budget Law (Official Gazette of Montenegro 40/41, 44/01, 71/05, 12/07 and 53/09 of 7 August 2009). The Instructions on State Treasury Operations stipulate that not a single payment from the Budget can be done through the State Treasury main account without an approval of the principal financial officer of a state institution such as the minister or director of a given state institution. Pursuant to the Instructions on State Treasury Operations, the principal financial officer (minister, institution director, etc) can authorize, in written form, another person to act as a budgetary agent and perform the function of general approving and financial activity sanctioning. The Instructions on the State Treasury Operations also define other participants in the budget execution payment system, i.e. financial officers. They are:

- approval officer – performs the function of approving requests for funds reservation and payment with state funds;
- verification officer – verifies accuracy and validity of funds reservation requests;
- authorization officer – a person appointed by the Minister of Finance, responsible to approve fund payments from the state bank account;
- payment request control officer - confirms that a funds reservation request or payment request is correctly verified and approved;
- revenues transfer officer – takes over the revenues from incoming payment accounts and transfers them to the users;
- cashier – a person responsible for cash transactions.

It is important to stress that, according to the Instruction on State Treasury Operations, an officer assigned to the post of approval officer of a user unit cannot perform the duty of either verification officer or authorisation officer. This way, the functions of payment approvals and payment executions are separated, i.e. cannot be performed by the same person.

Previously described state funds payment procedure, as stipulated in the Instructions on State Treasury Operations, refers to the state funds from the domestic sources. However, the Instructions on State Treasury Operations also describe the way of using the state revenues from donations. Donations are foreseen by the State Budget and transferred to the state treasury's main account, or another account opened for that purpose. Within Chapter 14 of the Instructions on

State Treasury Operations, the system of receiving and using donors' funds is described, including those of the Instrument for Pre-Accession Assistance (IPA) in the case of introduction of DIS.

Territorial organisation

16 Please explain briefly the relevant territorial organization of your country. Are they ministerial/inter-ministerial deconcentrated structures?

The Constitution of Montenegro (Official Gazette of Montenegro 1/07) stipulates that the territory of Montenegro is unique and inalienable (Article 3) and that a municipality is the main form of local self-government while other forms of local self-government can be founded as well (Article 114).

Territorial organization of Montenegro has been regulated by the Law on Division of the Socialist Republic of Montenegro into Municipalities (Official Gazette of the People's Republic of Montenegro 10/60, Official Gazette of the Socialist Republic of Montenegro 6/65, 6/70, 45/90 and 23/95). Pursuant to this Law, Montenegro's territory is organized into 19 municipalities, the Capital Podgorica and the Historic Royal Capital Cetinje. Boundaries of the municipalities, the Capital and the Historic Royal Capital are determined by the boundaries of the belonging local communities. There are 1256 local communities in Montenegro. Their boundaries are set by municipal assemblies' decisions.

There is a huge disproportion among the aforementioned self-government units, in terms of their areas, number of inhabitants and population density. According to the 2008 statistical data, with the total area of 13 812km², Montenegro has 628 804 inhabitants.

Nikšić is the municipality with the largest area in Montenegro (2065km²) while Tivat is the smallest (46km²). Population density in Montenegro is unequal: it is smaller in the northern part of the country in comparison with the central and southern part. The Capital City has the biggest number of inhabitants (178 677), while the municipality of Šavnik is the least populated (2 651). The municipality of Pljevlja has the most local communities (159), while Tivat has the least (12). The highest density per square kilometre is in the municipality of Tivat (296.2) while the lowest is in the Municipality of Plužine (4.8), as shown in the table below:

| | AREA IN km ² | PERCENTS | POPULATION PER MUNICIPALITY | PERCENTS | POPULATION DENSITY PER MUNICIPALITY |
|-------------------|-------------------------|----------|-----------------------------|----------|-------------------------------------|
| | | | year 2008 | | year 2008 |
| MONTENEGRO | 13 812 | | 628 804 | | 45.5 |
| ANDRIJEVICA | 283 | 2.05% | 5 499 | 0.87% | 19.4 |
| BAR | 598 | 4.33% | 42 213 | 6.71% | 70.6 |
| BERANE | 717 | 5.19% | 34 832 | 5.54% | 48.6 |
| BIJELO POLJE | 924 | 6.69% | 49 626 | 7.89% | 53.7 |
| BUDVA | 122 | 0.88% | 16 976 | 2.70% | 139.1 |
| DANILOVGRAD | 501 | 3.63% | 16 596 | 2.64% | 33.1 |
| ŽABLJAK | 445 | 3.22% | 4 023 | 0.64% | 9.0 |
| KOLAŠIN | 897 | 6.49% | 9 278 | 1.48% | 10.3 |
| KOTOR | 335 | 2.43% | 22 744 | 3.62% | 67.9 |
| MOJKOVAC | 367 | 2.66% | 9 498 | 1.51% | 25.9 |
| NIKŠIĆ | 2 065 | 14.95% | 75 247 | 11.97% | 36.4 |
| PLAV | 486 | 3.52% | 13 934 | 2.22% | 28.7 |
| PLUŽINE | 854 | 6.18% | 3 894 | 0.62% | 4.6 |
| PLJEVLJA | 1 346 | 9.75% | 34 221 | 5.44% | 25.4 |
| PODGORICA | 1 441 | 10.43% | 178 677 | 28.42% | 124.0 |

22 Regional policy & coordination of structural instruments

| | | | | | |
|-------------|-----|-------|--------|-------|-------|
| ROŽAJ | 432 | 3.13% | 23 622 | 3.76% | 54.7 |
| TIVAT | 46 | 0.33% | 13 624 | 2.17% | 296.2 |
| ULCINJ | 255 | 1.85% | 20 801 | 3.31% | 81.6 |
| HERCEG NOVI | 235 | 1.70% | 33 133 | 5.27% | 141.0 |
| CETINJE | 910 | 6.59% | 17 715 | 2.82% | 19.5 |
| ŠAVNIK | 553 | 4.00% | 2 651 | 0.42% | 4.8 |

In Montenegro, there is both the deconcentration of ministerial structures and deconcentration of administrative activities.

For the purpose of efficiency and economy, some ministries and other administrative bodies have their organizational units in municipalities (see the answer to the question 32 within Political Criteria). It brings them closer to the citizens and ensures meeting of their rights, obligations and legal interests.

The Law on State Administration, in accordance with the Constitution of Montenegro, stipulates that, in order to achieve increased efficiency and economic functioning, some state administration operations can be legally transferred to a local self-government or another legal person. Furthermore, through a regulation, the Government can authorise local self-governments or other legal persons to perform certain state administration operations.

The Law on Local Self-Government, prescribes the possibility of deconcentration of administrative operations. For the purpose of performing certain tasks under the competence of local administration, particularly regarding the fulfillment of the citizens' rights, administrative bodies can organize their operation in municipal districts, which must be publicly announced. The responsibilities, manner and place of their performance are determined by the main administrator.

17 What is the relevant territorial organisation/breakdown of your country and what are your plans to introduce a provisional NUTS classification?

The Government of Montenegro, at its session held on 16 April 2009 (document No: 03-5657 of 23 April 2009), adopted the proposition by the Statistics Office on statistical regions of Montenegro corresponding to the NUTS regions, in accordance with the EC Regulation 1059/2003. The proposal was forwarded to the EUROSTAT, for informal consultation. After receiving the comments and possible correction to the proposal, the official proposal of the division of Montenegro into statistical regions will be presented to the EUROSTAT for adoption.

The proposed division of Montenegro into statistical regions has been done bearing in mind that there is not a legal division of Montenegro into regions or districts (the Law on Territorial Organization of Montenegro from 1960 is in force, with 1965, 1970 and 1990 amendments (Official Gazette of the Socialist Republic of Montenegro 10/60, 6/65, 6/70 and 45/90), therefore the proposal complies with the Regulation of the EC 1059/2003 on the NUTS classification.

The proposal of the division of Montenegro into statistical regions is shown in Table 1:

Table 1. Proposal of division into statistical regions for Montenegro

| | |
|--|------------|
| Statistical region corresponding to NUTS level 1 | Montenegro |
| Statistical region corresponding to NUTS level 2 | Montenegro |
| Statistical region corresponding to NUTS level 3 | Montenegro |

18 How many regions are there in the existing regional breakdown which correspond to the future NUTS level 2?

According to the existing division into statistical regions, Montenegro is one region corresponding

to the future level 2 of the NUTS classification.

(See the answer to the question 17 of this Chapter)

19 How many regions are there in the existing regional breakdown which correspond to the future NUTS level 3?

According to the existing division into statistical regions, Montenegro is one region corresponding to the future NUTS level 3.

(See the answer to the question 17 of this Chapter)

20 Do any entities for regional development exist at the regional level at present (in particular at NUTs 2 level)? What competences and role?

(See the answer to question 17 of this Chapter)

21 What type of regions corresponds to the future NUTS level 2: political, administrative or other (define)?

(See the answer to question 17 of this Chapter)

22 What type of regions corresponds to the future NUTS level 3: political, administrative or other (define)?

(See the answer to question 17 of this Chapter)

23 Do you intend to create a NUTS 1 level statistical division of your territory according to EC Regulation 1059/2003?

(See the answer to question 17 of this Chapter)

24 At which future NUTS level are representatives elected?

(See the answer to question 17 of this Chapter)

a) Do they play a role in the structures in place for local/regional development?

Not applicable

b) In what form?

Not applicable

25 Do regional and local governments/municipal governments have their own funding through local taxes?

According to Article 5 of the Law on Financing of Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 44/03 and Official Gazette of Montenegro 5/08), the municipalities ensure their own funds through local taxes (see the answer to the question 12).

26 Do regional and local governments/municipal governments have a role in:

Pursuant to the Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06), a municipality is independent in performing the local self-government affairs and its rights cannot be denied or restricted by the acts of state bodies, except in the cases regulated by the law. In accordance with the Constitution (Article 8), a municipality has its property and its revenues. Municipality disposes with its property and revenues independently, in accordance with the Law (Article 9).

A municipality conducts local self-government activities of direct and common interest for the local population. The municipality fulfils the responsibilities that are transferred or for which it is authorized by a Government regulation. The municipality can perform other responsibilities of interest for local population, which are not under the competence of state bodies or other bodies and organizations. Municipal own responsibilities are regulated by the law and municipal charter.

a) Preparing local development strategies and programmes;

Municipalities have a role, not only in the preparation, but also in adoption of local developmental strategies.

Pursuant to the Law on Local Self-Government, a municipality adopts:

1. developmental plans and programmes;
2. programme of construction land restructuring;
3. spatial and urban plans;
4. plan of capital improvements and investment policy;
5. plans and programmes in special administration areas, in accordance with special laws;
6. programme of environmental development and other issues in accordance with law and charter;
7. budget and final statement of budget.

A municipality creates conditions, incites and supports the participation of local population in the implementation of local self-government through various forms of participation of the population in voting and decision making on activities of common interest.

Forms of direct participation of citizens in voting and decision making are: initiative, citizens' initiative, citizens' meeting, referendum (in districts and municipalities) and other forms of voting and decision making provided by the law.

For the purpose of local population participation in making decisions of direct and common interest, an assembly regulates the manner and procedure of citizens' participation in public duties through a special decision. The decision regulates: the forms, mechanisms (opinion polls, media plans,

notice boards, boxes for remarks, suggestions and proposals, websites, hotlines, organization of workshops in municipal districts, information centres, guest lecturers, professional gatherings and round tables, etc), participants, procedures, deadlines and manners of local population participation in conducting public duties, report on procedure success and other questions of interest for the local population in decision making, adopting strategies, programmes and plans.

Before adopting a municipality's developmental programme, spatial and urban plan, budget and general acts regulating citizens' rights and obligations, a municipality will make a plan for citizen participation in decision making and assign a body to conduct the public discussion. A **public discussion** can be set up for other acts deciding about the issues of special importance for the local population, in accordance with the charter and decision of the municipality. A public discussion cannot last less than 15 days.

In order to affirm an open and democratic society, local self-government bodies cooperate with non-governmental organizations. The cooperation is particularly made possible through: 1) information on all the issues important for the non-governmental sector; 2) consultation with the non-governmental sector on local self-government developmental programmes and on draft documents to be adopted by the parliament; 3) enabling their participation in work groups for preparation of normative acts or projects and programmes; 4) organization of joint public discussions, roundtables, seminars etc; 5) financing of NGO projects of interest for local population, under the terms and procedure stipulated by municipality's general act; 6) ensuring conditions for NGO's operation, in accordance with local self-government's capabilities; 7) in other manner stipulated by municipalities statutes.

In order to satisfy their cultural, sport, educational, healthcare, information and other needs, local population participates in public services' managing bodies and other legal persons exercising public powers and providing services to the citizens, in the manner regulated by special laws and other regulations.

The law prescribes that a municipality can have a **manager**, who participates in preparation of developmental programmes, proposes projects in accordance with established developmental programmes and takes care about their realization, which represents another mechanism for efficient implementation of strategies and other developmental programmes.

The Law on Capital City stipulates that both national spatial plans and those of the capital city ensure harmonious establishment of the purpose and use of the space for work and development of the Capital City, operation and functioning of the state bodies, diplomatic missions, consulates, international organizations and their missions. Moreover, the bodies of the state and those of the Capital City cooperate and harmonize the activities under their competence, through developmental programmes and investment projects, particularly in these fields:

- a. environmental protection;
- b. spatial planning and development;
- c. public peace and order and traffic safety;
- d. performing public services' duties;
- e. in other fields when there is a public interest for it.

For the purpose of realization of developmental programmes and investment projects, the Government of Montenegro and the Capital City conclude agreements and in order to implement the agreement they conclude annual or multiannual agreements regulating the rights and obligations, the way of realization and payment of costs.

On the other side, the **Law on the Historic Royal Capital** stipulates that, due to the special importance of the Historic Royal Capital for Montenegro, harmonization of operations under the competence of the bodies of the state and those of the Historic Royal City, especially in terms of creating conditions for the development of the Historic Royal City, its representation and promotion should be ensured.

b) Implementing development strategies and programmes;

The communities have a role in the implementation of developmental strategies and programmes, both in accordance with the Law on Local Self-Government and with developmental strategies, plans and programmes adopted on the national level. The president of the municipality presents to the citizens and Parliament a report on his work and on fulfilling self-government functions at least once a year. The Constitution of Montenegro stipulates that the Government can dissolve a municipal assembly or depose a municipal president only if the municipal assembly or the president of the municipality fail to perform their duties for a period longer than six months.

c) Initiating and selecting projects in the context of government or donor-funded programmes;

Municipalities, in initiating and selecting projects, in the context of Government and donors' programmes, have a possibility to cooperate with the Government and state administration bodies, as well as with representatives of international organizations and donors.

The cooperation is implemented through the realization of concrete projects, and as an example we can point to the Government project *Employment Stimulation in the North of Montenegro* focused on vulnerable population categories, under the slogan *Job for You*. The project is being successfully implemented, inciting development of entrepreneurship and business, which is resulting in employment of a significant number of unemployed persons. The implementation of this project is particularly important in the conditions of the economic crisis.

Apart from the assistance to the citizens, the Government and municipalities cooperate on the issue of conducting the fiscal equalization of the municipalities through the Equalization Fund. The resources of the Fund are ensured with the revenues from: the income tax for natural persons in the amount of 11% of the total revenues collected from that tax and the transfer of property tax in the amount of 20% of the total revenues collected from that tax. The municipalities whose per capita fiscal capacity, in the year preceding the year of fiscal equalization, is smaller than the average per capita fiscal capacity of every municipality have the right to use the Fund resources.

Apart from the Equalization Fund, conditional state budget dotations are foreseen too. Those municipalities that have adopted multi-annual investment plans have the right to use conditional state budget dotations. Multi-annual investment plans particularly regulate: capital requests (list of everything that is needed for achieving an optimum level of public services), capital procurements (means and equipment), environmental impact priorities, budget impact, sources of financing and justification for every project in the plan. Multi-annual investment projects are adopted for a period of five years.

d) Management and/or monitoring of projects;

Local administrations/municipalities in Montenegro have a significant role in managing of the projects and their surveillance, especially when the projects are linked to the funds of the EU institutions.

Local self-government units, among other things, have the right to participate in, or apply for the cross-border cooperation projects, within the framework of the IPA II component, while the Union of Municipalities, as a member of the Joint committees for the monitoring of four bilateral programmes (Montenegro-Albania, Montenegro-Bosnia-Herzegovina, Montenegro-Croatia and Montenegro-Serbia) is responsible for the monitoring and implementation of those projects.

e) Implementing national employment policies and adapting them to local needs;

National employment policy is based on a comprehensive understanding of the macroeconomic situation in the country, with appreciation for the specific character of some municipalities when it comes to their developmental level. In accordance with that, the *National Strategy of Employment and Development of Human Resources 2007-2011*, within its *Priority III - strengthening of social cohesion*, foresees, as a specific goal, prevention of poverty in municipalities in the North of Montenegro, while the *National Employment Action Plan for the period 2007-2011* sets out a series of appropriate measures. A concrete contribution to that plan is the *Job for You* project, whose implementation has resulted in local partnership (more details in Chapter 19 – Social Policy and Employment, question 98).

Significant contribution to the improvement of local partnership in employment is provided by a network of local employment offices in all the municipalities. Business centres have been established in 11 municipalities and local social councils in 18 of them. Moreover, local administrations are increasingly appreciating employers' suggestions, formulated within local social councils and referring to the elimination of local level business barriers.

f) Implementing social inclusion policies and adapting them to local needs?

The Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) stipulates that, for the purpose of ensuring performance of affairs of direct interest for local population, a municipality founds Public Services in the field of tourism, education, culture, physical culture and sport, technical culture, social welfare, child care, employment, primary health care and other fields (Article 34) and that a municipality performs in accordance with a special law (Article 39) the transferred competences in the field of education, primary healthcare, social welfare and child care, employment and other fields of interest for local population.

Since competences in the field of welfare and child care have not been delegated to the municipalities, the social inclusion policy implementation is not in the competence of the local self-government units.

However, in accordance with their financial capabilities and in coordination with the Ministry of Labour and Social Welfare, Social Work Centre, international organizations, NGO's, municipalities have an active role in the implementation of the social inclusion policy and their adaptation to local needs.

The Capital Podgorica, with its decisions, projects and programmes, implements the policy of social welfare of its own population, persons with special needs, displaced persons and RAE population (Roma, Ashkali and Egyptians). For internally displaced persons 24 apartments have been provided. A kindergarten for 130 children of the RAE population has been founded in the Konik city area. Persons with special needs have been given a place to use (160m²), and for the next year adult day care centres are foreseen to be opened. Persons needing social assistance are provided with help on a one-time basis and schoolbooks are provided for the educational needs of the children from the families needing social assistance.

Implementing the policy of social inclusion, the municipality of Bar formed a Commission for Children with Special Needs Orientation, whose operation has an active impact on making this population capable of taking care of themselves and on their inclusion. The project Care for the Elderly, implemented by the Municipality with other institutions' support, represents a form of social welfare and assistance for this vulnerable population, i.e. the citizens of Bar older than 65 years, with meagre social, economic and health condition. Day care centres gathering children with special needs (two of them) represent a support, both for the attendants and their parents, for the education, upbringing and nurturing of children with special needs. Impaired persons enjoy privileges in getting a job, reflected through tax reliefs and adaptation of working environments to the needs of impaired persons, in accordance with the Law on Professional Rehabilitation and Employment of Impaired Persons (Official Gazette of the Republic of Montenegro 49/08).

The Municipality of Bijelo Polje, in cooperation with the Ministry of Labour and Social Welfare and Ministry of Health, formed a Public Institution Day Care Centre TISA for the impaired persons, as well as a Support Centre for the children with special needs. Moreover, a local plan Action for Disabled Persons is being made. In cooperation with the Ministry for Human and Minority Rights, a project of constructing 30 apartments for the RAE population is in progress.

The Municipality of Berane has a department for persons with special needs within its Public Institution Health Centre, while in cooperation with the Ministry of Health, a Day Care Centre is being made, with the capacity of 15-20 people. In cooperation with the Ministry of Human and Minority Rights and for the needs of the RAE population, five houses worth EUR 60 000 are under construction. Persons needing social assistance are receiving help on a one-time basis depending both on their needs and financial potential of the municipality.

The municipality of Nikšić has adopted an Action Plan for the RAE population, in accordance with which activities are being implemented as planned. The Action Plan foresees and implements the activity of building four housing units, and for the next year nine more units are planned to be build. Construction of a facility for the children with special needs, whose operation will be coordinated by a public institution that will soon be formed, is in its final phase.

Other municipalities in Montenegro, within the limits of their financial capabilities, are adopting decisions, programmes and projects aimed at implementing the policy of social inclusion and their adaptation to the local needs.

27 What are the competences dedicated to regional / local authorities (transport, environment, education and training, economic development)?

The Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06), in accordance with the Constitution of Montenegro, stipulates that a municipality is independent in performing the duties of local self-government and its rights cannot be denied or restricted by state body's acts, except in the cases and under the terms stipulated by law.

A municipality performs activities of direct and common interest for the local population. It performs activities transferred or delegated to the municipality by a Government regulation. Its own activities are regulated by law and the municipal charter. A municipality can perform other activities of interest for the local population, which are not under the competence of either the state bodies or other bodies and organizations.

As far as municipal competences are concerned, in accordance with law and other regulations, a municipality adopts:

- plans and other developmental projects;
- construction land restructuring programme;
- spatial and urban plans;
- budget and final statement of budget;
- capital improvements plan and investment policy;
- development and environmental protection programme.

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

- terms of conducting and development of communal activities;
- terms of entrepreneurship development;
- conducting restructuring, use and protection of construction land;
- terms of natural resources preservation and protection;

- terms of preservation, use, managing and improvement of areas with natural healing characteristics;
- activities on determination, collection and control of local public revenues;
- terms of building construction and use;
- terms of protection against weather, fire, explosion, technology disasters and other accidents and emergency situations and creation of conditions for the removal of the consequences.

Within its own competences, a municipality also performs the following activities:

- protection of erosion areas;
- public interest recognition in real-estate expropriation for the local needs;
- keeping registers of communal and waste waters, users and polluters of waterworks and other activities.

A municipality regulates the manner and terms of conducting its own duties in accordance with its capabilities, interests and local population needs. The Draft Law on Amendments to the Law on Local Self-Government, adopted by the Government of Montenegro on 30 July 2009 with the purpose of ensuring efficient implementation of legal solutions, harmonizes the activities of local self-government with the new material regulations adopted since 2003.

28 Is there a legal framework allowing local authorities to set up inter municipal structures for general or specific issues (water sector for example)?

There is a legal framework in Montenegro enabling local authorities to establish intermunicipal structures.

Article 1 of the Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) stipulates that the local self-government encompasses the right of the citizens and local self-government bodies to regulate and manage, within the limits set by law, certain public and other activities, based on their own responsibility and in the interest of local population. Furthermore, the Law stipulates that in conducting the duties under its own competence, local self-governments can, based on the free will and solidarity, cooperate and merge funds for the purpose of conducting activities of common interest aimed at satisfying local population needs.

Municipal assemblies can, for the purpose of conducting more economically and efficiently certain administrative and public service activities, found an intermunicipal union. A union is founded by a municipal assemblies' agreement. The agreement on foundation of a union consists of: the founders, name and headquarters of the union, representation and advocacy of the union, type, size and manner of conducting activities, union bodies, manner of work and decision making, manner of financing, manner of conducting control by municipalities over the operation of the union, union's responsibility for its public performance, transparency of its work, procedure of withdrawing from the union, cessation of union operation and other issues important for its organization and operation.

A union is registered at the line ministry competent for the local-self-government activities. If the agreement specifies that a union makes decisions on the citizens' rights and obligations in administrative issues, a municipal chief administrator is authorized to decide in cases against union body's administrative acts. Local authority of a chief administrator is regulated by the provisions of the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03). Union bodies' employees fulfill their rights, obligations and responsibilities within municipal bodies hosting the headquarters of the union. As far as control over the operation of a Union is concerned, provisions of the Law on Local Self-Government regulating the relationship and cooperation between the bodies of local self-government and state bodies apply.

As a concrete example in connection with this question, we are giving the example of the Law on Waters (Official Gazette of Montenegro 27/07), Article 155 paragraph 1, stipulating that the activity of public water supply and public sewage is regulated and ensured by a local self-government unit. Moreover, in order to meet and harmonize common interests in the use of waters for irrigation, water supply, fish farming etc, as well as in water protection, those interested can make associations or conduct activities of common interest.

In accordance with the law, municipalities can found their own association on the territory of Montenegro. An association founded by more than half of all the municipalities shall be considered an association of municipalities. The municipalities have used this legal option and formed the Union of Municipalities of Montenegro, based in Podgorica (see answer to the question 22, Chapter Political Criteria – Democracy and Rule of Law).

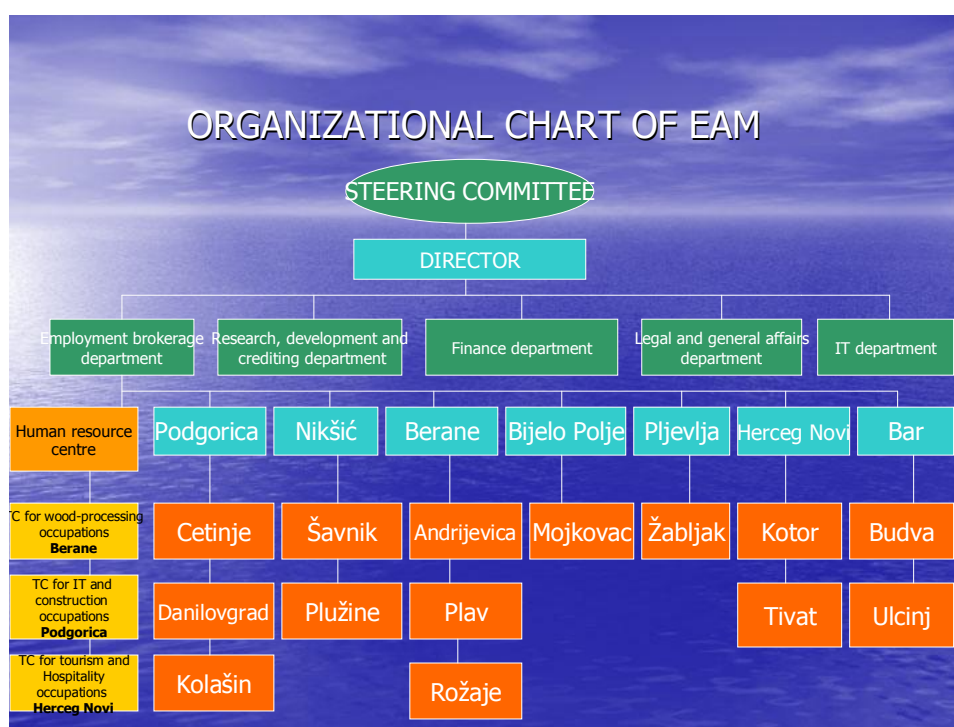
For the purpose of solving the problem of water supply in the coastal region of Montenegro, in March 2005, the municipalities founded the *Vodacom* enterprise that implements projects regarding water supply, sewage and increase of local waterworks efficiency. During the last three years, projects worth EUR 20 million have been implemented, while in the next five years implementation of the projects of water purification facility worth EUR 120 million is foreseen. Members of the Management Board are the presidents of the coastal municipalities (Ulcinj, Bar, Tivat, Kotor and Herceg Novi).

29 Do you have local or regional employment offices in your country? Do local employment offices have a role in:

In terms of institutional organization, the Employment Office of Montenegro represents a single service – public institution with legal person attributes. Its operation is regulated by the Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04 and Official Gazette of Montenegro 21/08), its statute and the secondary regulations.

The Office operates within the Central Service based in Podgorica and is made of five sectors and one work unit. There are seven regional bureaus in the organizational scheme of the Sector for Employment, covering two to four municipalities, as well as fourteen offices in smaller municipalities, whose organization is connected with the regional bureaus. With such an organization, the Office ensures territorial coverage in its operation.

The operation of the Office is based on the functional connection and interdependence of both its horizontal and vertical organizational structure.



a) Implementing national labour market policies;

The role of the Office's regional and local organizational segments (bureaus and offices) in the implementation of the national labour market policy depends on the character of particular programmes to be implemented through the Office and within the framework of that policy. Regional and local organizational segments of the Office (bureaus and offices) are, more or less, included in the realization of almost all the active policy measures implemented through the Office, moreover, they represent a *service* of the unemployed for the realization of the abovementioned measures in these fields.

In the implementation of some programme activities, regional bureaus can have even more straightforward cooperation with local administrations, i.e. public institutions in some municipalities, as they do, for example, in public works programmes (both local and national). That has been particularly accentuated during the realization of the *Job for You* project for the underdeveloped, northern municipalities.

b) Making use of active labour market policies to combat structural unemployment;

The regional employment bureaus have an important role in **considering the structure and character of unemployment** in their fields, and, in accordance with that, in suggesting the way to solve it, i.e. in the selection of persons to be engaged in implementation of appropriate programmes for particular categories of the unemployed.

The regional employment bureaus and offices have a very important role in the field of cooperation with employers: through mediation, selection of human resources matching employers' needs, organization of training and education of unemployed persons to match employers' needs as well as surveys on the size and structure of directly needed human resources in the medium-term period.

c) Management and/or monitoring of projects?

The role of the regional employment bureaus in the implementation of certain projects is necessary, i.e. some of those programmes could hardly even be implemented without their direct participation, both in the preparation phase through selection of candidates/attendants and

suggesting of programme executors, but also in the phase of their practical realization enabling surveillance over the dynamics and quality of those programmes.

(For more details see Chapter 19, answer 96)

30 Is a process of decentralisation or de-concentration of the administrative and political structures in force or expected?

In compliance with the Constitution of Montenegro of 2007, with acceptance of the principles of the European Charter on Local Self-Government, the adoption of the Law on Local Self-Government and several material laws, a quality institutional and legal framework for further development and strengthening of the local self-government in Montenegro has been set.

The Constitution of Montenegro has created the prerequisites for the process of democratization and **decentralization** of local self-government. The Constitution guarantees the right to local self-government, and it has been stipulated that some state administration activities are legally transferred to the local self-government or another legal person. Furthermore, some state administration activities are delegated, by a Government regulation, to the local self-government or another legal person. Montenegro's orientation toward stimulation of decentralization has been stipulated by the Constitution in the segment concerning the local self-government, which stipulates that every municipality: has the capacity of a legal person; has certain proprietary authorizations in the state-owned properties, in accordance with the law; has its own property; is independent in conducting its competencies.

As far as the form of the acts delegating the duties to the local self-government is concerned, the transfer of duties is performed in accordance with the law, while the delegation is regulated by a Government decree, preceded by a justifiability study, as stipulated in the Law on State Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08). The Law on Local Self-Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05, 13/06) stipulates that a municipality is independent in conducting its duties and that its rights cannot be denied or restricted by state bodies' acts, except in the cases and under the terms provided by the Law, in accordance with the Constitution. Thus, through legal regulations, further implementation of the decentralisation process has been made possible, through the strengthening of local self-government capacities and better fulfilment of citizens' needs.

Certain ministries and other administrative bodies have their organizational units within municipalities. That brings them closer to the citizens and ensures increased efficiency and economy in the fulfilment of their rights, obligations and legal interests.

The Law on Local Self-Government stipulates that competences of some state administration bodies can be legally transferred to municipalities, which ensures their more efficient and economic implementation. These transferred competences in the fields of education, primary healthcare, social welfare and child care, employment and other fields of interest for local population are conducted by municipalities in accordance with a special law.

The possibility of **deconcentration of administration competences** has been provided by the Law on Local Self-Government. A Government regulation can transfer certain activities under state administration competence to municipalities. The terms of the transfer or delegation of these competences are regulated by the Law (Article 38). For conducting certain activities under the competence of local self-governments, particularly in fulfilling the citizens' rights, administrative bodies can organize work in municipal districts, on which the citizens must be informed in an adequate manner. Duties, manner and place of their conducting are set by the chief administrator.

The Law on State Administration stipulates that certain state administration duties, inter alia, can be conducted by the local self-government bodies, when those duties are transferred or delegated to them.

The **decentralization**, i.e. the transfer of duties from the State to the local self-government represents a general standard and as such, implementation of the principles of the European Charter on Local Self-Government. The decentralization is followed by control of legality of local self-government units' while deconcentration is followed with control legality and expediency control of local self-government units or local units of state administration bodies. Financial autonomy and increase of municipalities' own revenues go together with the decentralization, as a precondition for an unobstructed functioning of the local self-governments. The Law that transfers the competences or the Government regulation that delegates the competences to local self-governments or to another legal person must establish the manner of their financing.

Deconcentration of political structures exists in Montenegro in the form of activities of political parties delegating their representatives to the Parliament of Montenegro, 21 local assembly and two city assemblies, based on the number of election votes.

In accordance with the Law on Election of Councillors and MPs (Official Gazette of the Republic of Montenegro 4/98, 5/98, 17/98, 14/00, 18/00, 9/01, 41/02, 46/02, 45/04, 48/06, 56/06), citizens elect councillors and representatives on the basis of their free, universal, equal and direct suffrage, by a secret ballot. One representative per every 6 000 voters is elected in the Republican Parliament. In the assemblies of municipalities, the Historic Royal Capital and the Capital, 30 councillors are elected and an additional councillor per every 5 000 voters. Councillors and MPs are elected in the constituencies on the basis of a list submitted by political parties (a party electoral list), coalitions of political parties (a coalition electoral list) or lists submitted by groups of citizens (an electoral list of a group of citizens) (hereinafter referred to as "electoral list"). Election of councillors is conducted in a municipality as a single constituency, while election of MP's is conducted on the state level as a single constituency.

Apart from the Parliament of Montenegro and local self-government assemblies, political parties and citizens elect their representatives for the assemblies of town municipalities, in accordance with the Law on the Capital City (Official Gazette of the Republic of Montenegro 65/05). The Law on the Capital City stipulates that town municipality assembly is elected by the citizens of the town municipality on the basis of their free, universal, equal and direct suffrage, and 20 councillors are elected for the town municipality assembly, plus one councillor for every 5 000 voters.

Therefore, in conclusion it can be said that the process of decentralization and deconcentration of administrative and political structures is in force in Montenegro, that positive legal grounds for further decentralization do exist, and that through the realization of numerous projects of strengthening of local self-government capacities local self-governments are encouraged to conduct independently an increasing number of duties and thus bring the providing of services closer to the citizens, which will, eventually, ensure a higher quality fulfilment of citizens' needs in the local communities.

II. Institutional framework

31 Please provide a description of the authorities responsible for the programming and implementation of EU and other assistance in your country, and in particular those bodies and structures which will manage IPA Component III and IV (planning, programming and implementation). The description should also include an overview of tasks and responsibilities for each authority. Particular emphasis should be put on programmes/projects of socio-economic development, including transport and environment infrastructure, SME and regional development and human resources development measures.

For the purpose of an increased efficiency in programming and preparation for the introduction of a decentralized implementation system (DIS), the following structures have been appointed for the performance of responsibilities stipulated by the Framework Agreement (Annex A):

- By *the Decision* 03-101412504/3 of 24 September 2009 Prof. Gordana Đurović, PhD, the Minister of European Integration, was appointed the National IPA Coordinator (NIPAC);
- By *the Decision* 03-10140/32504/4 of 24 September 2009, Igor Lukšić, PhD, Minister of Finance, was appointed the Competent Accrediting Officer (CAO);
- By *the Decision of the Ministry of Finance* 01-9672/1 of 20 October 2009, Boris Bušković, Assistant Minister for Treasury, was named the National Authorising Officer (NAO).
- By *the Decision of the Ministry of Finance* 01-2194/1, Nataša Kovačević was appointed the Programme Authorising Officer (PAO) and Coordinator of the Central Financing and Contracting Unit (CFCU). With the constitution of the new Government she was appointed Assistant Minister of Finance, and the CFCU was reorganized into the Sector for Finance and Contracting of the EU Assistance Funds with two departments: Department for Contracting of the EU Assistance Funds and Department for Finance of EU Assistance Funds.
- By *the Decision* 01 – 511 of 2 October 2009, the NIPAC appointed Aleksandar Drljević, Assistant Minister of European Integration (Sector for programming, monitoring and evaluation of the EU technical and financial assistance), the Strategic Coordinator for IPA components III and IV.
- By *the Decision* 01 – 510 of 2 October 2009, the NIPAC appointed Ratka Sekulović, Assistant Minister of European Integration (Sector for Cross-border Cooperation Programmes) Coordinator of Cross-border Cooperation Programme (CBC coordinator).

IPA Component I

On the basis of Article 37 paragraph 2 of the Law on State Administration (Official Gazette of the Republic of Montenegro 38/03, 22/08), the *Rulebook on Internal Organization and Job Descriptions* of the Ministry of European Integration was adopted. Within the Ministry of European Integration, the Sector for Programming, Monitoring and Evaluation of the EU Technical and Financial Assistance conducts activities concerning: coordination of the process of programming, monitoring and evaluation of technical and financial assistance of the EU, its Member States and other assistance concerning the process of EU integration; coordination of state bodies' cooperation with EU institutions and bodies, their Member States and other states, in the field of providing their technical assistance to the process of EU integration.

The Sector conducts the tasks concerning: coordination of the process of need analysis; programming; project confirmation; monitoring and reporting about the EU support for the institution building for fulfilling political and economic criteria and EU standards; EU support for the countries of the region within the Multi-beneficiary Instrument for Pre-accession Assistance and Assistance Coordination within the Community Programme. The Sector also conducts the tasks concerning the coordination of the work of EU assistance funds programming structures, as well as other tasks from the scope of work of the Ministry.

As far as the programming and implementation of the IPA Component I is concerned, it must be emphasized that Senior Programme Officers (SPO) have been appointed within the line ministries and that forming of Project Implementation Units is in progress. The abovementioned structures within the line ministries must take into account the horizontal aspect of IPA funds programming. Their role is:

- to inform the sectors within the line ministry, as well as state administration bodies under the competence of the line ministry, on the beginning of the IPA funds programming;
- to prepare project ideas and project fiches within line ministries;
- to coordinate state administration bodies' activities under the competence of line ministries;
- to organize consultations with civil sector representatives active in the line ministries' scope of work;
- to prioritize project ideas and project fiches within the sector, and, to this end, to organize consultation meetings with interested sides;
- to define reserve project ideas and project fiches;
- to present project ideas to the NIPAC, in the form of a logical framework matrix;
- to elaborate project proposals, confirmed by the NIPAC, Commission for European Integration and EC Delegation by transforming them into project fiches;
- to report to the NIPAC on the programming process.

Furthermore, in the forthcoming period, in the line ministries, Rulebooks on Organization and Job Descriptions will be amended in order to separate functions of programming and implementation among the officers of Project Implementation Units.

On the basis of the conclusions of the IPA Commission of 7 October 2009, a risk management officer and irregularity reporting officer will be appointed in every line ministry.

IPA Component II

In accordance with the *Rulebook on Internal Organization and Job Descriptions* of the Ministry of European Integration, the Sector for Cross-Border Cooperation Programmes conducts activities concerning: coordination of the need analysis processes; creation of cross-border cooperation programmes (neighbouring and trans-national); project confirmation; monitoring and reporting on cross-border cooperation programmes within the EU and its members' assistance as well as cooperation with EU institutions and bodies, EU Member States and South-East European states in the field of cross-border cooperation.

The Sector conducts activities concerning technical assistance to the ministries, other state bodies and local self-government bodies, as well as civil society organizations concerning cross-border cooperation programmes; participates in the work of joint implementation structures of cross-border coordination programmes; coordinates participation and participates in task forces for coordination of donor activities focused on cross-border cooperation; conducts other tasks within the scope of work of the Ministry.

Within the IPA 2007-2013, Montenegro participates in four cross-border programmes with the neighbouring countries (Montenegro – Albania, Montenegro – Bosnia-Herzegovina, Montenegro – Croatia and Montenegro – Serbia), IPA Adriatic Cross-Border Programme and two transnational programmes (SEE TP - South East Europe Transnational Programme and MED Mediterranean Programme).

Bodies competent for programming and implementation of EU assistance in Montenegro are: Operational Structure (OS), Joint Monitoring Committee (JMC), and Joint Technical Secretariat (with the antenna) (JTS). The Ministry of European Integration represents the Operational Structure, responsible for the programming and implementation of the programmes in Montenegro. As an IPA funds coordinator in Montenegro, the Ministry is responsible for the coordination and management of the IPA Component II – Regional and Cross-Border Cooperation, where Montenegro participates in the seven abovementioned programmes. Pursuant to Article 91 of the IPA Implementation Regulation, this structure is responsible for the preparation of cross-border programmes and establishment of Joint Technical Secretariats and monitoring of their work. In

cooperation with them, the Operational Structure ensures the quality of cross-border programme implementation as well as its promotion. Moreover, the Operational Structure, i.e. the Ministry of European Integration is responsible for sending annual reports and final reports on cross-border programme implementation to the European Commission, Delegation of the European Commission to Montenegro and NIPAC.

A Joint Monitoring Committee, within the cross-border programme, represents a body with decision making power. After adopting the operational documents for all the four bilateral cross-border programmes, the Ministry of European Integration appointed members of the Joint Monitoring Committees, joint bodies representing the highest decision-making bodies within the framework of these programmes. They have seven members each. Within the Joint Monitoring Committees, apart from the representatives of the Ministry of European Integration, there are also representatives of the following ministries and institutions as permanent members with the right to vote: Ministry of Spatial Planning and Environmental Protection, Ministry of Interior and Public Administration, Ministry of Economy, Sustainable Development Office and Union of Municipalities of Montenegro. Moreover, within the Joint Monitoring Committees, the following representatives participate as observers delegated by the Ministry of Finance (Sector for Finance and Contracting of EU Assistance Funds) and Ministry of Foreign Affairs. For the IPA Adriatic Programme, as well as for transnational programmes South-East Europe and MED, apart from the representatives of every member state of the programme, representatives of the Ministry of European Integration are full members of the Joint Monitoring Committee too. The responsibilities of the Joint Monitoring Committee are, inter alia, programme implementation monitoring; consideration of both annual and final implementation report as well as consideration and confirmation of every proposal for cross-border programme content modification. Furthermore, the Joint Monitoring Committee will, occasionally, on the basis of documentation presented by the Operational Structures, evaluate the progress achieved in fulfilling single (and quantified) programme objectives.

Pursuant to Article 139 paragraph 4 of the IPA Implementation Regulation, and with the purpose of efficient implementation of the Programme, the Operational Structures have formed Joint Technical Secretariats to assist the Joint Monitoring Committee and Operational Structures in fulfilling their obligations. Both Operative Structures manage the Joint Technical Secretariat in bilateral neighbouring programmes. The Joint Technical Secretariats for bilateral programmes are based in: Shkodra, with the Antenna in Podgorica (for the programme with Albania); in Sarajevo, with the Antenna in Nikšić (for the programme with Bosnia-Herzegovina); in Kotor, with the Antenna in Dubrovnik (for the programme with Croatia) and in Prijepolje, with the Antenna in Bijelo Polje (for the programme with Serbia). The Joint Technical Secretariat for the IPA Adriatic cross-border programme is based in Aquila, for the South-East Europe transnational programme in Budapest and for the Mediterranean programme in Marseille.

A Joint Technical Secretariat is an administrative body responsible for daily programme management, which, in cooperation with the Operational Structures, elaborates, inter alia, the entire programme information strategy and entire public relations system concerning the programme, starting with the programme Internet address and media communication to organization of joint seminars and conferences as well as production of information and advertising materials. Furthermore, they organize meetings of the Joint Monitoring Committees, information campaigns and other activities and manage programme data bases. As far as call for proposals are concerned, responsibilities of the Joint Technical Secretariat and its Antenna are to assist potential users in search for partners and programme definitions, application receipt and registration, initial evaluation and documentation preparation for the evaluation process, as well as to assist the Joint Monitoring Committee or the Managing Committee (Joint Evaluation Committee) in project assessment and selection.

IPA Components III and IV

In accordance with Article 28 of the IPA Implementation Regulation, an adequate Operational Structure is competent for the preparation of an adequate programme document. The Operational Structure for management and implementation of the IPA Components III and IV consist of the following bodies:

- Body competent for the Operational Programme – relevant unit/units within ministry (Head of Operating Structure);
- Body competent for priorities/measures - relevant unit/units within ministry;
- Body competent for contracting and implementation – Sector for EU Assistance Funds Programme Finance and Contracting (CFCU) of the Ministry of Finance.

A body competent for the Operational Programme performs the following activities:

- coordination of preparation/revision and implementation of Operational Programme;
- accreditation of the decentralized system of EU funds management in cooperation with the National Authorising Officer;
- functioning of sectoral monitoring committee;
- reporting to the National IPA Coordinator, Strategic Coordinator, National Authorizing Officer and the European Commission.

A body competent for priorities/measures – relevant unit/units within ministry performs the following activities:

- prepares parts/modifications (revision) of the Operational Programme within its sectoral competence;
- implements priorities/measures of the Operational Programme within its competence;
- prepares data and reports within its sectoral competence.

A body competent for contracting and implementation – Sector for EU Assistance Funds Programme Finance and Contracting of the Ministry of Finance performs the following activities:

- conducts public procurement procedures, their evaluation, contracting and payment in accordance with the PRAG rules;
- prepares tender documentation and checks technical specifications and work descriptions prepared by users;
- provides support for documentation creation for sectoral surveillance committee on the achieved progress in the realization of measures, as well as support in the creation of sectoral annual and final reports on project implementation.

All the activities, roles and responsibilities of the Operational Structures will be regulated in more detail by special agreements that will be prepared and signed between the National Authorising Officer and Head of Operational Structures, as well as between the very bodies making the Operational Structure.

The composition of the Operational Structure can be established once the priorities within the Operational Programmes are established and measures and projects for their realization are formulated.

32 How is co-ordination between the authorities or bodies at the central level being assured (arrangements foreseen for ensuring inter-ministerial co-ordination)?

On the basis of the Framework Agreement between the Government of Montenegro and the European Commission on cooperation rules concerning EC financial assistance to Montenegro within the implementation of the Instrument for Pre-Accession Assistance (IPA), the National IPA Coordinator (NIPAC) is responsible for the entire coordination of IPA assistance programmes. S/he ensures the partnership between the European Commission and national bodies as well as a firm connection between the integration process and use of pre-accession funds within the IPA programme. The NIPAC is fully responsible for the harmonization and coordination of programmes provided through IPA programmes, as well as for the creation of annual IPA Component I

programmes. Furthermore, the IPA Commission, formed in September 2009 by the Government's Decision on Establishment of the Commission for Coordination of Instrument for Pre-Accession Assistance, has the key role in the coordination process. The Commission is chaired by the NIPAC, and is composed of senior programming officers. The responsibilities of the IPA Commission are:

- monitoring of the process of programming and establishment of project priorities in accordance with the European and relevant national documents;
- consideration of submitted project ideas;
- coordination with other donors' activities;
- consideration of problem issues regarding projects that have been applied;
- giving recommendations for merging similar project ideas into one project;
- project selection in accordance with National IPA Coordinator's recommendations;
- monitoring of IPA project implementation;
- proposing programme realization measures;
- resolving proposals for possible project description modifications;
- resolving issues regarding national co-financing;
- harmonization of national stands before every meeting of the IPA Component I Sectoral Monitoring Committee - Transition Assistance and Institution Building and the Joint IPA Monitoring Committee, as foreseen by the Framework Agreement between the Government of Montenegro and the Commission of the European Communities on cooperation rules concerning EC financial assistance to Montenegro within the framework of the Instrument for Pre-Accession Assistance
- monitoring of activities concerning preparations for the use of other IPA components;
- monitoring of the creation of Strategic Coherence Framework and Operational Programmes for the IPA III and IV Components.

Depending on the IPA Commission meeting agenda, the Chair can invite representatives of state administration bodies, other institutions and organizations, structures responsible for establishment of decentralized implementation system (National Accrediting Officer, National Authorising Officer, Programme Authorising Officer, representative of the revision body and assistant minister competent for internal revision sector) as well as other scientific and technical workers who are not members of the IPA Commission.

With the support of the Capacity Development Programme (CDP), an Operational Manual for IPA programming process has been prepared. In accordance with the abovementioned, the coordination of IPA support is implemented through the Ministry of European Integration (Sector for Programming, Monitoring and Evaluation of the EU Technical and Financial Assistance) and the IPA Commission. The Sector for programming, monitoring and evaluation of the EU technical and financial assistance conducts the following activities:

- manages programming process;
- in cooperation with the Delegation of the European Commission, line ministries and other competent institutions of Montenegro, coordinates preparations and conducts revision of the Multi-Annual Indicative Planning Document (MIPD);
- coordinates activities of interested sides during project identification and formulation;
- mediates between users/potential users and the Delegation of the European Commission;
- incites sectoral priorities integration and ensures that national priorities are included in IPA programmes;
- sets time frame for preparation and submission of project ideas and project descriptions by potential users of IPA funds;
- keeps regular contacts and consultations with national institutions but also points to shortcomings in particular sectors;
- ensures professional support to competent institutions during the phase of IPA funds programming in terms of expert assistance to institutions that are not enable to access the process on their own;

- if needed, requires additional explanations concerning the submitted project ideas and, when necessary, organizes sectoral meetings;
- evaluates submitted project proposals in accordance with the corresponding criteria (Annex 6 of the Operational Manual);
- if needed, sends suggestions to competent institutions, with the purpose of project idea quality improvement;
- reports to the Government on IPA programming process, project formulation and implementation;
- submits the final list of projects and project descriptions established in a programming process to the Delegation of the European Commission;
- signs a Financial Agreement with the European Commission after its adoption by the Government;
- conducts monitoring of the programming process, preparations and programme implementation with the purpose of programming process improvement, timely identification, removal and reduction of potential problems during the programming process as well as during programme and project implementation
- in partnership with the Delegation of the European Commission, informs the public on EU assistance programmes in Montenegro;
- submits a request to the Delegation of the European Commission for funds re-allocation within the projects financed by the European Union.

Coordination of IPA Component II

Among central authority bodies, apart from the Ministry of European Integration, representatives of other relevant ministries and state institutions participate in programming and implementation in the framework of IPA Component II. As already mentioned, they are representatives of Joint Monitoring Committees for bilateral cross-border cooperation programmes in which Montenegro takes part.

Meetings of Joint Monitoring Committees take place at least twice a year. At these meetings, final decisions are made on all the problems concerning a particular programme; guidelines are given for the most important activities to be undertaken and programme documents are adopted. Meetings of the Joint Monitoring Committees have been held for every single bilateral programme, discussing joint management structures for provided bilateral programmes and values of joint projects to be financed through IPA Component II. Work rules for the abovementioned committees have been adopted and important decisions taken concerning the manner of decision-making in the future projects, allocation of funds commensurate with programmes, dates of the Call for Project Proposals, etc.

Apart from the regular meetings, representatives of the abovementioned institutions decide by means of written procedure, when necessary, to make urgent decisions on important programme issues (for example adoption of application packages for calls for projects, adoption of annual implementation reports, etc)

Thus, representatives of central authority bodies, in coordination with the Ministry of European Integration and other members of Joint Monitoring Committees, bring final decisions on programme managing and implementation.

In the forthcoming period, preparation meetings of Joint Monitoring Committees are planned, with the participation of Montenegrin Committee members – representatives of the Ministry of European Integration, relevant ministries and institutions taking part in the work of those Committees. For every particular programme, these meetings will be held prior to official meetings of Joint Monitoring Committees, with the purpose of introducing the participants and getting prepared for those meetings (for details, see the answer to question 31).

33 How is co-ordination between the central level and, where relevant, the regional/local level assured

As far as IPA Component I projects are concerned, the local administrations are represented by the Union of Municipalities in the process of programming and implementation preparation. The

Union was established in 1972 as a union of all Montenegrin municipalities. In 2001, the Union was organized as a non-governmental organization of all the local communities in Montenegro, in order to represent municipal interests before central authorities, provide assistance to the municipalities in local self-government development and development of international cooperation. After the adoption of the Law on Local Self-Government in 2003, the Union was registered as a national association of local communities of Montenegro, on the basis of free will and solidarity, for the purpose of conducting tasks of common interest for its members. The mission of the Union of Municipalities of Montenegro is to become a true representative of a decentralized, depoliticized and democratic local self-government, able to conduct its tasks and duties in a legal manner, efficiently and economically, in the interest of citizens, by providing services to its members, representing their interests and establishing relationships and cooperation with state bodies, other national associations and international organizations.

From the very beginning, local level (municipality) representatives have been included in the programming process and preparation for programme implementation within the IPA Component II. As members of both the Operational Team and Drafting Team, they have participated in the adoption of the Operational Programmes, setting of programme scope, advantages and shortcomings, as well as programme priorities and measures. The representative of the Union of Municipalities, an association of local administrations in Montenegro is a member of Joint Monitoring Committees and participates in the adoption of the most important programme decisions (which implies both regular attendance of Joint Monitoring Committee meetings and participation in written procedures).

a) Are there regular co-ordination meetings?

- Representatives of the Ministry of European Integration, as the Operational Structure in Montenegro, and of Joint Technical Secretariats and Antennas, hold regular coordination and information meetings with representatives of Montenegrin municipalities. Their frequency and scope depends of the phase in programme implementation.
- Before the Call for Projects was announced in 2008, representatives of Joint Technical Secretariats and Antennas held meetings with all the municipalities in Montenegro. The goal of these meetings was to promote the Cross-Border Cooperation Programme and have a direct insight into the capacities and needs of potential fund users within the IPA Component II. Representatives of the municipalities were informed about possibilities provided by this component, available and needed funds for participation in IPA Component II programmes, and local administrations were informed how important it is to create teams for IPA projects and ensure funds within municipal budgets allocated for participation in IPA Component II projects.
- In order to promote programmes and give information on the possibilities provided by the IPA Component II, in 2009 information meetings have been held in many Montenegrin municipalities, where representatives of the Ministry of European Integration, together with representatives of the Joint Technical Secretariats and Antennas, presented all the seven IPA Component II programmes, including information on: programme priorities and measures, financial allocations per years, Joint Structures for programme management, acceptable activities and programme types, possible partnerships, etc. The meetings were open for participants' questions and helped clarify possible dilemmas of potential applicants in connection with their participation in these programmes. Even the least developed Montenegrin northern municipalities were visited; moreover, special attention was paid to them in order to improve awareness on cross-border programmes.
- Representatives of the municipalities participated in the Partner Search Forums for all the four bilateral programmes. These forums, divided into thematic workshops, enabled potential applicants to be introduced to each other, exchange experiences and project ideas, and develop partnerships for future projects.

- After the Call for Projects was announced for every particular programme, a series of info seminars were held discussing Call for Proposals rules and application for IPA Component II funds as well as the documents to be submitted as part of a project proposal.

There is also the Ministry of European Integration Forum (Sector for Cross-Border Cooperation Programmes), having all the information on neighbouring and trans-national programmes in which Montenegro participates within the IPA Component II. Through the Forum, all the potential applicants can obtain information on all the news and current affairs concerning the programme, make contacts with potential partners, ask any question and get a prompt answer. Programme web sites for two bilateral programmes are in function, while the sites of the other two will be in function in the future period. Information about neighbouring and trans-national programmes can be obtained in these programmes' web sites.

b) Who participates in these meetings?

The abovementioned coordination and information meetings, apart from the representatives of the Ministry of European Integration as Operational Structure and Joint Technical Secretariats with Antennas, were attended by: the representatives of municipal administration and institutions from Montenegro and its neighbouring countries – chambers of commerce, public institutions, public enterprises, agencies for development of small and medium-sized enterprises, non-governmental organizations, tourist organizations, associations of nature enthusiasts, cultural institutions, educational institutions, etc, as well as the Delegation of the European Commission to Montenegro.

c) How often are they organised?

The abovementioned meetings are organized depending on the need of the current programme implementation phase, as well as of programme activities and events. Local self-government representatives attended:

- more than 40 information and coordination meetings in Montenegrin municipalities during the second half of 2008 and first half of 2009 ;
- eight Partner Search Forums during the first half of 2009;
- ten information seminars following Call for Proposal announcements during the second half of 2009.

34 Do the different line ministries benefit from sufficient autonomy for designing their investment strategies and related planning documents

The line ministries are autonomous in creating sectoral strategies in accordance with their priorities and work plans. During the process of strategic documents creation, line ministries include all the relevant social subjects that could contribute to the quality process of strategic documents preparation. Representatives of technical and scientific public, professional associations and the civil sector are involved in the very process of strategic documents preparation. After the preparation of strategic documents, prior to their presentation to the Government for adoption, strategic documents are presented for opinion to all the line ministries, in order to consider a relation between the strategic document in preparation and the corresponding line policies. Prior to the adoption by the Government, positive opinion of the Ministry of Finances must be obtained for the evaluation of strategic document activities' costs.

35 What entity ensures the role of co-ordination and arbitrage? (resources, political support). Which entity would have overall responsibility?

The role of the coordinator has been assigned to the Ministry of European Integration (NIPAC), with the support of the IPA Commission. In case that some issues cannot be solved by the NIPAC or IPA Commission, the role of arbiter is taken over by the Government of Montenegro (see the answer to question 32 of this Chapter).

36 What is the role of the Ministry of Finance with regard to the coordination of other Ministries?

The comprehensive role of the Ministry of Finance, as a coordinator of other ministries, is reflected through budget planning, preparation and execution. State budget planning is based on economic development projections, macroeconomic stability, economic policy, laws and other legislation.

In terms of management and use of EU funds as well as establishment of the decentralized implementation system (DIS) and its comprehensive project management, the Ministry of Finance has the leading role, as confirmed by the Information on the second phase of establishment of DIS in Montenegro, adopted at the Government session held on 15 January 2009. The Information defines a division of competences between the NIPAC, responsible within the DIS for the overall coordination, and the National Authorising Officer (NAO), responsible within the DIS for the overall management of the EU funds.

The Role of the Ministry of Finance in the coordination of other ministries, as regards the use of the EU funds, primarily refers to the role of the NAO. The Law on Ratification of Framework Agreement (Official Gazette of Montenegro 01/08 of 10 January 2008), stipulates in detail the responsibility of the NAO as regards the use of the EU funds, as well as his/her authority concerning other structures whose functioning is surveyed by the NAO. The NAO is responsible for the overall management of the EU funds in Montenegro and accountable for the legality and accuracy of executed transactions. Within these activities, the NAO is obliged to confirm: the lawfulness and accuracy of transactions through endorsed cost reports presented to the European Commission; existence and accuracy of co-financing funds, including reporting to the European Commission on discovered irregularities. Furthermore, the NAO is responsible for the issuing, suspension and withdrawal of operational structures' accreditations, but also ensures efficient functioning of the programme management system and funds management internal control system; reports on and ensures existence of a prescribed reporting system; monitors the implementation of audit findings and promptly informs the European Commission and the Competent Accrediting Officer on all the important changes concerning the management and control system.

In order to fulfil the abovementioned responsibilities, the NAO and PAO signed, on 6 May 2009, the Implementation Agreement defining both NAO's and PAO's responsibilities in the field of establishing of the management and control system, i.e. programme/project implementation, which also describes the system of monitoring and coordination between the NAO, PAO and other ministries. In a decentralized implementation system, it is NAO's obligation to monitor the functioning of the IPA programme/project implementation system, while the Programme Authorising Officer (PAO) supervises the functioning of project implementation units (PIUs) formed within all the ministries. These activities are conducted in a coordinated and harmonized manner agreed between the NAO and PAO. The coordination of activity implementation will be conducted through regular monthly meetings that PAO will have with the Senior Programming Officers (SPO's), managing the project implementation units (PIUs). In order to ensure a harmonized and coordinated communication with the SPOs and PIUs, the NAO and PAO must previously agree on the agenda of all the meetings to be held with SPOs.

At regular monthly meetings, important monitoring issues are discussed, after previously being considered and agreed between the NAO and PAO, as well as the following relevant issues:

- a) Status of a Call for Proposals or Tender;

- b) Programme and project implementation progress in comparison with the plan;
- c) Preview of management and control efficiency and efficacy;
- d) Proposal for project or programme modification;
- e) Future meetings and events;
- f) Reports to be made.

The NAO and PAO will hold regular weekly meetings, during which, at least once a month, shortcomings of project implementation units (PIUs) will be discussed, as identified by the National Fund (NF) or the Sector for Finance and Contracting of the EU Assistance Funds (CFCU), but also the activities for their removal.

The CFCU project managers will hold regular meetings for monitoring of implementation with representatives of various project implementation units (PIUs), and, when necessary, with other IPA institutions, in order to review both the status and progress of the concerned programmes/projects. The meetings will be organized monthly by the project implementation units (PIUs). Invitations to attend those meetings should also be sent to the representative of the EC Delegation to Montenegro (sector manager) and the representative of the NIPAC.

Principal issues to be discussed are:

- a) Status of preparation/confirmation of project tasks/technical specifications and corresponding tender files;
- b) Schedules of future tenders;
- c) Monitoring of current projects in terms of project objectives (for example assurance on correct project implementation and removal of any early phase problems and mistakes;
- d) Problems they are facing and recommendations for possible solutions.

The CFCU project manager will inform the PAO, in writing, on every problem identified during the meeting with project implementation units (PIUs). Both the NAO and PAO will consider those problems at their weekly meetings and decide on appropriate activities for their removal.

Both the coordination and monitoring are defined in detail in the Operational Agreement that PAO will sign with the relevant ministries' SPOs. An Operational Agreement model consists of competences and responsibilities of co-signers (PAO and SPOs) and the organizations they are in charge of (CFCU and PIUs). The text of the agreement stipulates that the PAO is responsible for the establishment of a quality monitoring system, reporting and communication between project implementation units and the PAO or CFCU. Furthermore, the CFCU will be competent for providing the necessary training and counselling of the employees in project implementation units (PIUs) in the field of EU public procurement, contracting and payment procedures. In order for control and coordination of project implementation units' work to be complete, the SPOs must, in accordance with the Operational Agreement, issue twice a year: a Statement on Guarantee confirming the efficient functioning of control and management; confirmation on legality and regularity of all the activities conducted in connection with projects financed from EU funds as well as information regarding all the system changes. Competences and responsibilities of the SPOs and the units they manage, regulated this way, ensure a quality control, management and coordination under the competence of the PAO.

37 Does one ministry or other entity hold a central responsibility in the domain of State reform and Institutional capacity of public bodies?

The Ministry of Interior and Public Administration, as a central state administration body, is responsible, within the framework of its competences, for the implementation of reformed administration regulations. The Ministry is currently fulfilling its administrative functions within five administrative fields: the field of defence and security preparations and control of police operation;

the field of administrative and internal affairs; the field of emergency situations and civil security; the field of state administration and the field of local self-government.

In the process of state administration reforms, special attention is paid to the strengthening of human resources, as well as state institutions. In order to ensure implementation of new administrative regulations, the strengthening of existing and establishment and development of new institutions are in particular emphasized, as prerequisites for further development of the state and the society as a whole. In that sense, several new state institutions have been formed:

- Human Resources Administration;
- Ombudsman;
- Administrative Court;
- Appeal Commission.

With the purpose of strengthening the administrative capacities, the Human Resources Administration has been founded, competent for human resources management as well as for state employees and civil servants training and professional development. In 2008, the Government of Montenegro adopted the Training Strategy for State Employees and Civil Servants, stipulating the responsible persons and providing precise and clear guidelines concerning human resources planning and management.

As far as the reform of the state administration is concerned, one should also stress improved quality of the protection of state employees and civil servants' rights through the institute of the Appeal Commission, and as regards human rights and freedoms protection, it is important to mention introduction and beginning of operation of the Office of the Ombudsman or Human Rights and Freedoms Protector.

38 How is partnership (stakeholder participation) organized in the preparation, financing, monitoring and evaluation of assistance?

The Ministry of European Integration, i.e. its Sector for Programming, Monitoring and Evaluation of the EU Technical and Financial Assistance, ensures full participation of stakeholders – ministries and other state administration bodies, local self-government, the Parliament of Montenegro, judicial bodies, civil society organizations, media and the State Audit Institution – during the preparation, financing, monitoring and evaluation of the assistance.

During the programming phase, the Ministry of European Integration organizes all the necessary activities to invite the interested sides to participate in proposing and preparation of project proposals, as well as to take part in discussion and elaboration of all important issues regarding preparation of project documentation. During the programming process, the line ministries are obliged to organize consultations on the proposed project ideas with civil sector representatives active in that field. After the preparation of an annual programme, representatives of the EC Delegation and the Ministry of European Integration organize a presentation of project proposals for the representatives of EU Member States in Montenegro and representatives of the donor community and civil society. This manner of consultation is very important for avoiding an overlap of project activities supported by different donors.

In the phase of assistance financing, the Ministry of European Integration ensures, i.e. guarantees, commitment of all the users that have taken financial obligations to provide their national contribution for the assistance projects during previous consultations and creation of project fiches. In that regard, constant communication is needed with representatives of the Ministry of Finance in order to allocate the necessary funds for project realization co-financing.

39 What partnership structures: coherent, independent and representative network of civil society representatives, socio-economic partners?

There are 4 822 registered non-governmental organizations in Montenegro, in a register of non-governmental organizations kept by the Ministry of Interior and Public Administration (August 2009 data). Two network organizations gather non-governmental organizations are: the Centre for Development of Non-Governmental Organizations and the Network for Affirmation of NGO sector. A contact person is appointed within every line ministry for cooperation with non-governmental organizations. Furthermore, NGO's are consulted by the Government and Parliament during strategic documents' drafting. A cooperation agreement between eleven non-governmental organizations and the Ministry of European Integration has been re-signed on 15 October 2009, in the interest of cooperation in the field of European integration. Non-governmental organizations are partners in training and creation of communication strategy. Within the General Secretariat of the Government of Montenegro an Office for Cooperation with Non-Governmental Organizations has been formed.

The Strategy of Cooperation between the Government of Montenegro and Non-Governmental Organizations, within the special goal 5.2 – Development of Inciting Ambience for NGO Operation, stated as the first sub-goal 5.2.1 - increase of NGO participation in the processes of European and Euro-Atlantic integration, which will be achieved, among other things, by the Government's:

- continued ensuring of permanent public dialogue on the process of Montenegro's EU integration and accession; on different aspects of that process; on negotiations, reforms and results as well as on an increased NGO involvement in the realization of the Communication Strategy in informing Montenegrin public on EU accession process;
- enabling timely information and data access concerning the use of the EU pre-accession funds and ensuring increased participation of NGO representatives in the process of establishment of priority areas to be financed by these funds;
- consideration of a possibility of definition of mechanism/mechanisms for co-financing of NGO project financed from EU funds, as well as from the revenues from the games of chance;
- continued inclusion of relevant NGO capacities in public servants' training for the process of European integration.

40 What are the preparations for decentralised implementation and accreditation for that purpose under the IPA instrument for component III and IV? Is there a strategy and action plan? How does the institutional set up under IPA decentralised management for component III and IV differ from the current set up? Please describe the main structures as referred to in the IPA Implementation regulation.

NIPAC, with the *Decision 01 – 511* of 2 October 2009, has appointed Aleksandar Drljević, Assistant Minister of European Integration (Sector for Programming, Monitoring and Evaluation of the EU Technical and Financial Assistance) as the Strategic Coordinator for IPA Components III and IV. With the purpose of Montenegro's preparation for the use of IPA Components III and IV, the Ministry of European Integration prepared an indicative action plan for these components (2010-2011). This plan is expected to be adopted by the Government during the fourth quarter of 2009. The action plan regulates an indicative time frame for the preparation of a framework for harmonization of strategies, operational programmes, project documentation and institutions responsible for implementation of stipulated activities.

As far as institutional organization within the decentralized system of EU funds management is concerned, it is important to distinguish between horizontal institutions existing in other IPA components and those specific ones. In this respect, the horizontal institutions, which will become part of the system, are:

- NAO and National Fund;
- CFCU, as an implementation body;
- Audit Authority.

Apart from these bodies and the strategic coordinator that has already been appointed, other structures will be formed, as special bodies necessary for the DIS accreditation of IPA components III and IV, as described in the answer to question 31 of this Chapter.

Once the priorities and measures within the framework of Operative programmes are defined, persons responsible for these functions will be appointed together with internal units responsible for specific tasks (see the answer to the question 56 of this Chapter).

III. Administrative capacity

41 What overall staff levels (also breakdown per organisation if available) are involved in programming and implementation of EU assistance in your country?

The Ministry of European Integration, Sector for Programming, Monitoring and Evaluation of Technical and Financial EU Assistance, consisted of 7 employees: Deputy Minister - the Head of the Department and 6 advisors, is in charge of the **coordination of IPA I** component.

The National Fund and the Central Finance and Contracting Unit were established within the Ministry of Finance. There are two employees in the National Fund: Head of the National Fund and one advisor. There are 7 employees in the Central Finance and Contracting Unit: Head of the Central Finance and Contracting Unit and 6 advisors.

In each SPO Unit, apart from SPO, in line ministries there are: two civil servants employed in the Ministry of Finance, four in the Ministry of Health, three in the Ministry of Education and Science, two in the Ministry of Foreign Affairs, one in the Ministry of Human and Minority Rights, two in the Ministry of Tourism, six in the Ministry of Spatial Planning and Environmental Protection, two in the Ministry for Information Society, two in the Ministry of Labour and Social Welfare, three in the Ministry of Interior and Public Administration, five in the Ministry of Economy, two in the Ministry of Agriculture, Forestry and Water Management and three in the Ministry of Culture, Sports and Media.

The Ministry of European Integration, as the Operational Structure in Montenegro, has been in charge of the **coordination of IPA II** component. There are five people employed in the Department for Programmes of Cross-Border Cooperation, which coordinates the process of programming and implementation of IPA II component:

- i. Deputy Minister, the Head of the Department for Programmes of Cross-Border Cooperation;
- ii. Four advisors, national coordinators for four bilateral, one neighbouring and two transnational programmes of cooperation.

During 2008, the Joint Technical Secretariats and Programme Antennas employed people for everyday management of bilateral programmes:

- The Joint Technical Secretariat for Cross Border Albania – Montenegro Programme, with its headquarter in Shkodër – Albania, employs four people. Out of those four people, one is the official representative in charge of the programme implementation and one is employed in the Antenna in Podgorica, both of them appointed by the Operational Unit of Montenegro;
- The Joint Technical Secretariat for Cross Border Bosnia and Herzegovina - Montenegro Programme, with its headquarter in Sarajevo - Bosnia and Herzegovina, employs three people. Out of those three people, one is the official representative in charge of the programme implementation and one is employed in the Antenna in Nikšić, both of them appointed by the Operational Unit of Montenegro;
- The Joint Technical Secretariat for Cross Border Croatia – Montenegro Programme, with its headquarter in Kotor, employs three people. All of them are from Montenegro side, as well as one employed in the Antenna in Dubrovnik, appointed by the Operational Unit of Croatia;
- The Joint Technical Secretariat for Cross Border Serbia - Montenegro Programme, in the Operational Unit in Prijepolje - Serbia, employs three people. One of those three people was appointed by Montenegro, and one employed in the Antenna in Bijelo Polje was also appointed by Montenegrin side.

One Task Manager was employed as the representative of Montenegro in the Joint Technical Secretariat in L'Aquila in Italy, aimed at more efficient coordination and management of IPA

Adriatic Cross Border Programme. In the forthcoming period, one person is planned to be employed in the Antenna in Montenegro, for the Programme.

CARDS Donation 2005/2006 worth 620 000 € was at Montenegro's disposal for supporting the implementation of bilateral programmes. Among other things, employees engaged by the Ministry of European Integration of Montenegro for work in Joint Technical Secretariats and Bilateral Programme Antennas have been financed out of these funds. For management of these CARDS funds (Support to the Implementation of Cross-Border Programmes in the Framework of IPA Component II in Montenegro" Contract number: 06MON02/02/001), the Ministry of European Integration employed a Project Manager as well as an Administrative and Technical Assistant who have been financed out of the EU funds.

42 Has (Is) training been (being) organised for staff in EU assistance programmes? What training plans for developing management capacity, project management, public procurement, evaluation capacity and financial management and control are envisaged?

Within IPA I component, regular trainings have been organized for the staff in the Ministry of European Integration and in line ministries beneficiaries of projects financed through the Instrument for Pre-Accession Assistance (IPA). The trainings have been organized by the Ministry of European Integration, with the support of the Capacity Development Office from UNDP (Capacity Development Programme - CDP) and through the twinning project "Capacity Building Regarding the European Integration Process" – CARDS 2004 (signed with the State Union of Serbia and Montenegro).

During 2008 and 2009, education was organized in the form of trainings, seminars and study visits, with the following topics:

- Seminars on the cycle of programming IPA funds financed through IPA I component (Support to transition and strengthening of institutions), where the model of the project cycle used in the process of programming IPA funds was presented to participants and consisting of the following phases: identifying projects that are in compliance with strategic documents, formulating projects in the form of project proposals and logical matrix, project implementation process as well as the process of monitoring and evaluation of project results. Representatives of the Ministry of European Integration participated in these seminars as well as representatives of the line ministries which have been beneficiaries of the projects financed through IPA programme.
- Trainings for preparation of the logical matrix framework, project draft (project fiche) and project task, where representatives of the Ministry of European Integration, as well as representatives of line ministries which have been beneficiaries of the projects financed through IPA programme, worked on the specific project examples.
- Study visit for representatives of the Ministry of European Integration and Ministry of Finance, organized in Slovenia, with a view to strengthening administrative capacities of civil servants in Montenegro regarding the implementation of EU funds and meeting with the institutions involved in the implementation of the projects financed from EU funds.

Regular trainings of staff employed in the Operational Structure of Montenegro, Joint Technical Secretariats and Antennas, were organized from the beginning of programming and implementation of seven programmes within IPA II component. The trainings were organized by the Ministry of European Integration, with the support of CBIB (Regional project of the EU for strengthening capacities for cross-border cooperation), CDP (Capacity Development Programme, UNDP) and Spanish Agency for International Development Cooperation (AECID).

During 2008 and 2009 education was organized in the form of trainings, seminars and study visits, with the following topics:

- Trainings on neighbouring and transnational programmes in which Montenegro participates within IPA II component, with the subject of cross-border and transnational cooperation, as well as the structures for programme management, types of projects financed within these

programmes, actors involved in these projects and their expected effects on the programme area. Experience of the countries that previously participated in similar programmes was also exchanged. All trainings were attended by representatives of the Ministry of Finance (CFCU), as well as all the relevant state institutions.

- Trainings for representatives of the Ministry of European Integration, Ministry of Finance and Joint Technical Secretariats/Antennas, with a special emphasis on the implementation of neighbouring cross-border cooperation programmes, where main topics were grant schemes, tenders and public procurement. Their aim was to strengthen the capacities for programme management and monitor implementation of selected projects. Negotiating and financing within these programmes were also mentioned during trainings, by which capacities for financial management and control over programme/project implementation were strengthened.
- A series of thematic trainings dedicated to organizing and implementing Call for Proposal, where representatives of joint programme structures were trained in: organizing informative seminars, preparing activities after announcement of the Call for Proposals, as well as in evaluating and selecting project proposals which will be funded within the Call.
- Trainings for writing project proposals, in 2009, aimed at all interested potential applicants that will apply within the Call for Proposals. Representatives of the Ministry of European Integration and Joint Technical Secretariats/Programme Antennas attended these trainings.
- Study visits for representatives of the Ministry of European Integration and Ministry of Finance, organized in Germany and Spain, with a view to strengthening administrative capacities of civil servants in Montenegro in relation to coordination of programming the EU funds and becoming acquainted with the institutions in charge of the regional and cross-border cooperation programmes, and with systems of management and control of projects within these programmes.

Support to the Ministry of European Integration by the Operational Structure of Montenegro, and to Montenegrin staff in Joint Technical Secretariats/Antennas was provided through CARDS donation worth 620 000 €, aimed at providing assistance in establishing and efficient functioning of joint structures of bilateral cross-border programmes, organizing activities within these programmes and establishing procedures for financial management and reporting.

CBIB (Cross Border Institution Building), regional project of the EU for strengthening capacities for cross-border cooperation in candidate/potential candidate countries, also supports the Operational Structure of Montenegro in coordinating the use of funds from IPA II component. In the first phase of the project, CBIB I supported the programming process, through assistance in preparing documents and procedures. In its second phase, CBIB II supported preparation of the Call for Proposals, staff training and training of potential applicants, as well as monitoring programme implementation.

Education on implementation of the programme from IPA II component will be continued in the forthcoming period, with a view to further strengthening staff capacities and efficient implementation of cross-border cooperation programmes/projects.

Through a series of trainings, civil servants were given an opportunity to become familiar with project cycle phases, first of all with the phase of preparation of projects which were approved as a part of national IPA programme for 2007, 2008, 2009 and 2010. The trainings were held under the sponsorship of different donor initiatives (above all UNDP and EU), and with the overall coordination of the Ministry of European Integration.

A series of trainings, aimed at all IPA bodies, related to the areas covered by certain chapters of IPA Handbook on procedures for I and II component, were ensured through the project "First Steps in DIS Establishment (Decentralized implementation system)", financed from CARDS 2006. Trainings were held in the field of human resources management, risk management, management of irregularities, monitoring, evaluation, on-site inspection and internal audit. Trainings were also planned within the project in the field of public procurement in compliance with the EU rules. Apart from the abovementioned project, the Ministry of Finance prepared and proposed the project: "Strengthening Management and Control System for Financial Support of the EU to Montenegro", which will be financed out of IPA programme for 2009. This project will prepare national institutions

for meeting accredited criteria for IPA I and II component, as well as for project management from IPA III and IV component.

During all trainings, through lectures of international experts, the participants were given opportunities to become familiar with the characteristics of the abovementioned areas, with the experience gained in other countries which are in the process of establishing DIS or which already have an established and accredited system.

43 Are there institutions responsible for the formation and continuous training of the civil servants? (in the national, regional and local levels)?

At the national level, the Human Resources Administration is a public authority responsible for conducting development policy and implementing practice of human resources management in public authorities. In compliance with this, Human Resources Administration established the system of continuous training of civil servants and state employees and as such, it has the leading role in defining and meeting priorities of civil servants and state employees for training, professional improvement and human resources development.

The Human Resources Administration is a body in charge of conducting analysis of the needs for professional development of civil servants and state employees and for defining Training Programme, as well as the Plan of Professional Development which is continuously implemented in the Human Resources Administration.

At the local level, the Union of Municipalities of Montenegro represents the interests of all local self-government units before state authorities and international organizations and associations. The training programme for local self-government, which has been successfully implemented, was established in cooperation with the Human Resources Administration and the Ministry of Interior and Public Administration. The Association of Municipalities adopted the National Training Strategy whose importance is emphasized in the next question.

At the regional level (ReSPA) the Regional School of Public Administration - project ReSPA has been one of the most significant projects for Western Balkans countries initiated in view of improving regional cooperation in the field of public administration, strengthening administrative capacities and human resources development in compliance with the principles of the European Administrative Space. By its activities, ReSPA encourages cooperation among institutions for public administration of Member States and similar institutions of the EU countries in order to contribute to the exchange of information and experience in view of improvement of cooperation and promotion of good practice. ReSPA programme for 2009 envisaged 2500 seminar days and ReSPA will become institutionalized and located in Danilovgrad, Bralenovica as an institution which will provide trainings to participants from the region.

44 Have the relevant organisations ever prepared human resources or organisational development strategies?

Specifically the Human Resources Administration is the bearer of activities related to the Civil Servants and State Employees Training Strategy in Montenegro for the period 2008 to 2012, adopted by the Government at its session held on 3 July 2008 and with Conclusion No. 03-7141, of 10 July 2008, the Government obliged the Human Resource Administration to prepare an Action Plan for implementation of the aforementioned strategy, as well as to propose the funds necessary for its implementation. The Human Resources Administration has already started implementation of the activities from the Action Plan. The funds proposed for the implementation of the Action Plan for Implementation of the Civil Servants and State Employees Strategy 2008-2012 amount to EUR 4 431 908,32.

Drafting of the Civil Servants and State Employees Strategy was technically supported by the Project Parim CB, while the drafting of the Action Plan for its implementation was supported by UNDP (through engagement of an international expert).

The significance of the said Strategy has been great and the training has been the main instrument of authorities for professional development of civil servants and state employees and it also represents an important part of the reform process. Therefore, it is important to ensure that civil servants and state employees develop through the improvement of their knowledge and competences.

One of the goals of the Strategy is the introduction of units for human resources, which will strengthen the quality of work of the bodies and better organization of human resources. Officials in these units have been responsible for professional human resources management which includes: human resources planning, training and development, monitoring the employees work, their mobility as well as the budget planning for the training. After the establishment of these units, their strengthening and development must be worked on, in order to make a good basis for development of high quality policies, through strategic planning and strengthening of human potential.

The Union of Municipalities of Montenegro also adopted the National Training Strategy. Adopting the National Training Strategy in Montenegro, the local self-government gained the first strategic document which defines the training system, training types and priorities. The National Training Strategy envisages trainings for local self-governments for employees, management and elected representatives. Development of the "National Training Strategy for Local Self-Government in Montenegro" was part of the Programme "Strengthening Capacities of the Local Self-Government in Montenegro", which was implemented with the expert assistance of the Council of Europe and with financial support of the European Agency for Reconstruction, as well as with the assistance of local experts and organizations and support and cooperation of the Steering Committee, which monitored the development and evaluated the success of implementation of activities for its development.

Prior to the development of the National Training Strategy, analysis of the existing situation and the local self-government capacities was conducted, which showed whether our local self-government is capable of answering the requests for more efficient and better provision of services and of meeting the expectations of legal persons in relation to provision of greater quality of services but also to answering their more numerous and diverse requests. In brief, the picture of the existing situation was obtained and possibilities for achieving European standards and answering the challenges in the European integration process were analysed. The National Training Strategy and Action Plan for Implementation of the National Training Strategy are based on the key roles and tasks which have to contribute to the development and establishment of the training system in the local self-government.

45 What changes are foreseen with regard to IPA and decentralised implementation?

The Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08 of 19 August 2008) represents the legal basis which regulates the rights and obligations of civil servants and state employees. Prior to the adoption of this Law on Civil Servants and State Employees, training and professional development of civil servants and state employees were performed in an imbalanced way and on *ad hoc* basis, depending on the body. In view of solving these problems, analyses and research were conducted, with the Human Resources Administration providing great contribution as a body in charge of the comprehensive training and improvement of civil servants and state employees.

In view of conducting long term analysis and keeping records in the field of training and improvement, the Government of Montenegro adopted the Civil Servants and State Employees Training Strategy for the period 2008 - 2012, which is based on a completely new organization of professional development of civil servants and state employees and on the practice established

based on the positive regulations in Montenegro and the international standards. This Strategy envisages establishment of units for human resources in all public authorities, which will strengthen the quality of the work of authorities and better organization of human resources. Officials of these units will be responsible for professional management of human resources, including: human resources planning, training and development, monitoring employees' work, their mobility and planning budget for the training. After establishment of these units, work will be done for their strengthening and development in view of creating a good basis for development of high quality policies through strategic planning and human resource strengthening. The existence of these units will be of paramount importance for all IPA bodies, as they will participate in the engagement of staff for their needs and thus will use the procedures intended for that purpose. IPA bodies represent units established within decentralized system of the EU funds management (achievements and forthcoming activities which stand before public authorities in the field of DIS establishment have been described in detail within the answer to question 19 of the Chapter on Political Criteria).

Using the Law on Civil Servants and State Employees as the most significant legal act in this field, Law on Wages of Civil Servants and State Employees (Official Gazette of Montenegro 27/08 of 24 April 2008), Labour law (Official Gazette of Montenegro 49/08 of 15 August 2008), Ethical Code of Civil Servants and State Employees (Official Gazette of Montenegro 81/05 of 29 December 2005), the said Strategy and procedures on human resources management which have been currently used in the public authorities in Montenegro, the Chapter of IPA Handbook on Procedures related to human resources management has been developed. An expert for human resources management, engaged through the project "First Steps towards DIS Establishment", participated in the development of the said chapter, in close cooperation with the Human Resources Administration.

The Chapter of IPA Handbook which is related to human resources and which will be one of the most significant documents for all IPA bodies was made on the basis of the best practice and lessons learned from other countries. The chapter on human resources management of IPA Handbook on Procedures contains 19 Annexes, which represent formats for documents that need to demonstrate the capability of each IPA body to perform its tasks, in compliance with the requests of the EU, in view of gaining DIS accreditation. These are as follows: Work Plan, Work Load Analysis, Job Description, Recruitment Plan, Declaration on Disclosure of Interest, Interview Observation Note, Interview Report, Declaration of Confidentiality and Impartiality, Substitution Plan, Handover Checklist, Induction Training Checklist, Training Needs Questionnaire, Training Needs Self Assessment, Training Map, Training Register, Training Report, Personnel Performance Evaluation, Annual Action Plan and Indicators, Sensitive Positions.

Some of the above mentioned documents represent a new challenge for administration, taking into account that, up to now, they have not existed as an element of domestic procedures for human resources management. In this respect, Work Load Analysis, Declaration of Confidentiality and Impartiality, placing performance indicators (SMART), etc were particularly taken into account. The Work Load Analysis will be used for estimating human resources needed in view of performing tasks and capacities, which are related to IPA programmes. The Analysis is based on the Work Plan which is revised once a year or any time, when the need for that arises. In view of preventing conflict of interest, all employees will have to sign the Declaration of Confidentiality and Impartiality which was produced in compliance with the Ethical Code of Civil Servants and State Employees, which all employees must respect and abide by. SMART indicators will be used during evaluation of the results of work i.e. performance. SMART Analysis is based on placing goals which need to be: specific, measurable, achievable, relevant and time-based.

Due to the complexity of procedures on drafting Work Load Analyses, Training Needs Analysis, SMART Analysis, etc, and due to the lack of experience, IPA body will need an additional support in order to implement these procedures properly.

Amendments will be also done in the Rulebooks on Organization and Job Descriptions of Line Ministries, in the following period so as to separate functions of programming and implementation among officials within Project Implementation Units. In each line ministry, an Official competent for risk management and an Official competent for reporting on irregularities will be appointed by the end of November 2009, on the basis of Conclusions of IPA Commission held in October 7, 2009.

46 Recruitment: What are the recruitment procedures (efficiency and transparency)? Does the administration face difficulties in recruiting officials? Are there substantial differences related to working conditions between ministries hampering mobility?

Recruitment procedure of civil servants and state employees is defined by the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), according to the principles of equal access to job and political neutrality and impartiality in performing job tasks.

Public advertising is been transparent, all internal and public advertisements and public tenders are published on the website of the Human Resources Administration, and all public advertisements and public tenders are published on the website of the Employment Office as well as in daily press which is published on the territory of Montenegro.

Filling up of staff vacancies in public authorities may be performed from internal resources, which entails implementation of internal advertising in compliance with the Regulation on conditions and implementation procedure of internal advertisement for filling up of staff vacancies in public authorities (Official Gazette of Republic of Montenegro 73/04). In case the filling up is not performed in this manner, public advertisement is announced for systematized, vacant and financially secured jobs.

A person, who fulfils the basic requirements defined by the Law on Civil Servants and State Employees and special requirements defined by an act on internal organization and job descriptions, may be employed in public authorities.

Upon receipt of candidates documentation, the Human Resources Administration defines the List of Candidates who fulfil conditions of the public advertisement, or candidates who submitted timely and complete documentation - all the evidence on fulfillment of all basic and special requirements.

Candidates who fulfil the requirements of a public advertisement undergo a compulsory capacity testing procedure. The compulsory capacity testing procedure is performed in compliance with the Rules on the form and manner of the capacity testing for performing job tasks, defined by the Human Resources Administration.

Compulsory capacity testing procedure may be performed in several phases in which the number of candidates gradually lowers. The procedure may be performed by a written form of testing, by an interview or in a different appropriate manner, in the presence of the Commission consisting of 3 members: one representative of the Human Resources Administration, one representative of the body for which the testing is performed and one representative from another public body.

After the testing is performed, the Human Resources Administration makes a List for Selection of Candidates who achieved satisfactory results in the capacity testing procedure, as well as a Report with all data (score achieved in all conducted tests).

The List for Selection of Candidates is submitted to the head of public authorities, upon whose request the said procedure of the public advertisement was performed.

The Head of the public authority decides on the selection of a civil servant or a state employee by a decision on the selection, and is obliged to submit it to the Human Resources Administration within 30 days from the day of receipt of the List for Selection of Candidates.

An appeal against a decision on the selection, due to the breach of the selection procedure, may be submitted in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08). An appeal against a decision on employment rights and obligations shall be decided upon by the Appeal Commission.

A civil servant or a state employee enters employment by a decision, for a fixed-term or indefinite contract.

Fixed-term employment is concluded in view of: substituting temporarily absent worker, performing project tasks, performing greater volume of work and training trainees for the trainee period.

The Human Resources Administration implements public advertisements for persons entering employment for senior positions. Senior positions are: Secretary of the ministry and Deputy Minister in ministries; Deputy Head in the public authority; Deputy Head in the institution formed by

the Government. Legal provisions which define the advertisement apply in the public advertisement implementation process. The capacity testing procedure is performed by an interview with obligatory attendance of the head of the public authority in which the employment is to be entered. The Head of the authority defines proposal for appointment or nomination in the List for Candidate Selection, which is submitted to the public authority by the Human Resources Administration. Proposal for appointment or nomination is submitted to the Government of Montenegro. Decision on the appointment, nomination or resignation or dismissal of senior position persons is adopted by the Government. Senior position persons are appointed or nominated for the period of 5 years and at the end of that period they may be re-appointed or re-nominated.

Taking over of staff among public authorities within the Government of Montenegro is performed on the basis of internal advertisement, which does not imply announcing a public advertisement/tender by the Human Resources Administration. This contributes to and facilitates mobility of public authorities' staff, as it does not imply the procedure needed for a public advertisement/tender.

Experience to date of this Administration has shown that partially there is a problem of work motivation in the public authorities, especially taking into account low wages of civil servants and state employees. However, the situation has been changed since heads of public authorities recognize the significance of engaging and retaining already recruited civil servants and state employees, who possess certain knowledge and competences.

Global financial crisis has also reflected on this field, in a manner that the work in public authorities has been perceived as more secure and that is one of the reasons why candidates, lately, decide to enter employment in public authorities. Wages, remunerations and other sources of income of civil servants and state employees have been described in the answer to the question 47 hereinafter.

There are no essential differences in working conditions which would prevent mobility of available staff. Functions and conditions for performing tasks of certain functions have been defined in compliance with the Law on Civil Servants and State Employees or special regulations. In the process of giving opinion on acts on internal organization and job descriptions of an authority, the Human Resources Administration takes care to ensure uniformity and to define classification into functions and job descriptions in compliance with regulations. Also, all bodies are obliged to envisage initial positions for performing least complex jobs and recruitment of new employees. According to that, there are all preconditions to ensure greater mobility of available staff.

The change of the Article 30 of the Law on Employment is currently being considered, in terms of equalizing possibilities of entering employment by a fixed-term or indefinite contract, in compliance with the Government Employment Policy.

47 Remuneration: is the level of remuneration competitive with the private sector in order to recruit skilled and stable staff? Are there extra wages remunerations (bonuses)?

Wages of civil servants and state employees are not competitive with the wages in the private sector, and, in one way, this represents the basic reason why private sector has become increasingly attractive for employment.

Concerning the wages of civil servants and state employees, they exercise their right to a wage, remuneration and other sources of income in the manner and under the conditions defined by the Law on Wages of Civil Servants and State Employees (Official Gazette of Republic of Montenegro 27/04 and Official Gazette of Montenegro 17/07, 27/08). Accordingly, a wage of a civil servant or a state employee is composed of:

- fixed wage;
- extra wage remuneration (bonus);
- variable part of wage.

To determine fixed part of the wage, titles of civil servants or state employees have been classified into thirty-eight payment grades expressed as coefficient in accordance with the complexity, responsibility, significance and work conditions. The amount of fixed part of the wage is calculated by multiplying the payment grade coefficient wherein the title has been classified with the coefficient value for the specific month - the period is defined by the Government. The wage defined in such a manner is increased based on the years of service.

Regarding extra wage remuneration (bonus), according to this Law, the wage of a civil servant or state employee increases per hour:

1. 40 % for night work;
2. 50 % for work during national or religious holidays;
3. 40 % for overtime work;
4. under other grounds stipulated by a regulation.

Based on special work conditions, the wage increases on the basis of the decision of authority's head of the body, up to 10 % for civil servants and state employees who perform:

- works of authorized officials;
- geodesic works;
- metrological works;
- hydrological and chemical works related to field measurement and sampling;
- servicing instruments in the field under difficult work conditions;
- graphic works;
- works of conservator and preparator;
- typing in judiciary, prosecution and misdemeanour authorities and Parliament of Montenegro;
- executor works;
- office works in the General Secretariat of the President of Montenegro and in the Parliament of Montenegro;
- works in the General Secretariat of the Government of Montenegro;
- auxiliary works - cleaning.

A civil servant or state employee has the right to a variable part of wage, which is defined on the basis of their special professional references and exceptional results and work quality, and in compliance with the Decree on closer criteria and manner of defining variable part of the wage of civil servants and state employees (Official Gazette of Montenegro 23/08).

A head of a public authority designates a civil servant or a state employees, who, according to his estimates, fulfils conditions for exercising the right to a variable part of the wage and proposes the amount of the variable part to the minister competent for budget affairs.

The amount of funds for public authorities' variable part of wage has been defined on the basis of the sum of funds planned by the annual Budget Law of Montenegro.

On the basis of the Decree on Organization and Manner of Functioning of Public Administration (Official Gazette of Montenegro 59/09 of 4 September 2009), Article 69, the Government of Montenegro may form a working group for performing affairs within which professional cooperation of civil servants and state employees from different internal organizational units is required, and based on this project groups, teams or other appropriate forms of work may be created. A project group, team or other type of work is formed by a Deputy Prime Minister, a minister, or a head of another public authority. Act on formation of the project group, team or other type of work defines the composition of the group, affairs and deadlines in which the task will be completed, funds and other work conditions. Civil servants and state employees from other ministries or public authorities may be engaged in a project group, team or other type of work, with the approval of a minister or a head of other public authority. Experts outside the public authorities may be engaged in the work of a project group, team or other type of work.

IV. Programming

48 Do national planning documents and sector strategies, including for transport, environment, economic development or human resource development exist? If yes, for what period and what are its main features in terms of socio-economic analysis, strategy formulation and objectives, priorities of investment, concrete measures to be taken as well as implementation arrangements?

Issues concerning development planning in Montenegro have been addressed in various strategic documents, which aim at streamlining development trends from different aspects. However, Montenegro does not have an integral strategic development document. Goals, targets and measures set forth in the National Strategy of Sustainable Development and Spatial Planning until 2020 provide a framework for formulation and implementation of the strategic trends and main macroeconomic projections for development of the national economy. The triennial Economic Fiscal Programme, prepared by the candidate countries for EU membership and the countries obtaining this status, is regularly developed in Montenegro and is updated each year.

Sectoral strategies streamline development in virtually all economic sectors with the aim to achieve best effects and contribution of the specific sectors to the overall economic and social development through the realization of sectoral development objectives. The sectoral strategies are occasionally updated and reviewed in accordance with changes caused by sectoral trends as well as by the defined global developments. The following strategies are being implemented:

- National Programme for Integration of Montenegro into the EU for the period 2008 - 2012;
- Montenegro's Agriculture and the EU - Food Production and Rural Development Strategy;
- National Programme for Food Production and Rural Development 2009 - 2013;
- Montenegro's Fisheries Development Strategy;
- National Policy of Forest and Forest Land Administration of Montenegro;
- Energy Development Strategy of Montenegro by 2025;
- Tourism Development Strategy of Montenegro by 2020;
- Transport Development Strategy in Montenegro;
- Foreign Direct Investment Incentives Strategy of Montenegro;
- Strategy for Encouraging Export in Montenegro;
- Strategy for Development of Small and Medium-sized Enterprises 2007 - 2010;
- National Strategy for Integral Management of Coastal Area in Montenegro;
- Spatial Plans for Special Purpose Area of the Coastal Management Zone in Montenegro;
- National Biodiversity Strategy with its Action Plan for the period 2009 - 2014;
- Strategic Master Plans for Waste Management - waste water, solid waste;
- Strategy for Scientific Research Activity of Montenegro;
- Strategic Plan for Education Reform for the Period 2005 - 2009;
- National Strategy for Employment and Human Resources Development 2007 - 20011;
- Poverty Reduction and Social Inclusion Strategy;
- Social and Child Protection Development Strategy for the Period 2008 - 2009;
- Strategy for Development of Pension and Disability System in Montenegro;
- Strategy for Development of Social Protection of the Elderly 2008 - 2012;
- Strategy for Inclusion of the Disabled People for the Period 2008 -2016;

- National Strategy for Durable Solutions of Refugees and IDPs Issues in Montenegro;
- Strategy for Improvement of the Position of RAE Population in Montenegro 2008-2012.

49 If no, do you envisage preparing such a plan and strategies and for what period?

The National Programme for Integration of Montenegro into the EU for the period 2008 – 2012 foresees the drafting of the Development Strategy of Montenegro in 2010. Drafting the strategic development document “Montenegro in XXI Century – in Competitiveness Era” is the first stage in the process of formulation of the overall and consistent strategic development framework. The second and the third stages of this process imply the implementation of the IPA 2009 projects regarding the drafting of the National Development Plan.

Drafting of the development document “Montenegro in XXI century – in Competitiveness Era” has started with signing of the Memorandum on Development of the Document “Montenegro in XXI Century – in Competitiveness Era” between the Government of Montenegro and the Montenegrin Academy of Sciences and Arts (signed on 14 April 2009), setting the development timeframe of 15 months. The Project Task for development of this document provides for the formulation of the key development directions of Montenegro as a knowledge based society, by considering all relevant factors of development and the possibility to evaluate the natural, economic and human resources potential. In view of ensuring consistency of sectoral strategies and national development vision it was envisaged to make an analysis and examination of the postulates, commitments and solutions within sectoral development strategies. The strategic development document “Montenegro in XXI century – in Competitiveness Era” will comprise ten subprojects with the following topics:

1. Environment and sustainable development (waters, soils, air, forests, food supply, land use, transport, construction, CO₂ and other greenhouse gases and pollution, biodiversity changes, waste management, evaluation of natural resources – waters, forests, soils);
2. Economic development (economy and sustainability, competitiveness of Montenegrin economy; knowledge, technologies and economy, documented development trends, projected development, labour force and employment, ownership, regional development, integration with international structures);
3. Integration into Euro-Atlantic structures (opening up a dialogue, regionalization and market, movement of people and goods, international governmental and non-governmental organization);
4. Building and functioning of the state;
5. Population aspects (demographic movement, age structure, mortality and birth rate, urbanization, ruralisation, multinational and multiconfessional state, health and living, food and water supply, gender ratio and employment, status of women);
6. Energy (consumption and supply, respect of domestic sources of supply, integration into regional markets, commitments for 21 century, elimination of energy deficit, environmental impact of the new energy facilities, legal regulations, energy efficiency and renewable sources of supply, level of knowledge);
7. Values issues (universal and human values, family and ethics, citizens and ethics, philosophical developments and 21 century, status of religion in the society, ethics and business, ethics and political decisions, ethics and science, ethics and an individual, ethics in time, ethics and medicine, honour and honesty);
8. Cultural environment (cultural identification of the state and valorisation, cultural heritage, culture of living – modern society, preservation and conditions of cultural environment, valorisation of cultural heritage, diversity of cultural environment and tradition, harmonization of cultural diversities, media, dialogue and spiritual culture, intercultural dialogue);
9. Education (raising intellectual level of the nation, education of young population, mainstreaming education into the life cycle, education of the nation for IC technologies,

education as a developmental factor, individual education, Internet and education, health and education, education and culture);

10. Science and technologies (benefits of science, knowledge impact on development, key trends and interdisciplinarity, basic and applied sciences, integration into ERA and other forms; knowledge impact on innovation and employment, knowledge based decision making, infrastructure, management and organization of science, ethics in science and risks, funding, human resources, relation of natural, social and humanistic sciences).

50 Is there a linkage between these plans/strategies and the process of national investment and budget planning and, if yes, how is it ensured?

The National Development Plan, which is to be developed based on IPA 2009 Programme, will be a fundamental document for budget planning, considering that it encompasses development programmes and projects to be financed primarily out of public funds – public resources (domestic budget resources at state and local level; bilateral grants, IPA funds and loans).

Sectoral development strategies are realized according to their implementation action plans, with a linkage between them and the State Budget being ensured. The line ministries are responsible for implementation of the development strategies within their competence.

As of 2006, apart from the current, the State Budget also contains the capital budget. The capital budget may include programmes implying multi-annual funding and therefore it is planned that incurring debt is financed by loans, bonds or long-term credits. At the same time, their funding may be provided by donor resources. The three-year medium-term budget expenditure framework represents the basis for establishment of the current and the capital budget.

51 Which authority(ies) or body(ies) were/will be responsible for (or involved in) the preparation of these plans and strategies?

As already stated in the answer to question 49 of this Chapter, the document "Montenegro in XXI Century - in Competitiveness Era" as a comprehensive document in which strategic developmental goals will be defined, with policy and guidelines for their achievement, will represent a basis for drafting the National Development Plan.

In compliance with the Memorandum on Drafting the Document "Montenegro in XXI Century - in Competitiveness Era", signed by the Government of Montenegro and Montenegrin Academy of Sciences and Arts, the Academy as the document elaborator will:

- carefully examine all the existing strategic documents of the Government of Montenegro, and, depending on the research results, take a position on the stands expressed in them;
- engage professional and scientific public from Montenegro in document drafting;
- organize a series of public discussions where the impact of knowledge on Montenegro will be affirmed, all related to project implementation;
- organize promotion of the final document together with the Government.

The Government of Montenegro will ensure funds for drafting of these documents. At the same time, the Government charged the Ministry of Finance to provide logistical support in the drafting process of the document, as well as to communicate with a team of authors responsible for document drafting, and to participate, via its representatives, in public discussions.

Concerning the project from IPA 2009 programme "National Development Plan", the Ministry of Finance will coordinate the development and implementation of this project.

52 Which are the procedures in place or foreseen for preparing these plans and strategies and for ensuring inter-ministerial co-ordination as well as a wide and effective association of all the relevant partners (regional and local authorities, economic and social partners etc.)?

In all drafting phases of the document "Montenegro in XXI Century - in Competitiveness Era", expert and participatory approach will be applied. Partnerships will be established with public institutions, local government units, regions, non-governmental sector, social partners, associations of employers, Trade Unions and Chamber of Commerce of Montenegro. During the implementation of the project assignment, professional discussions will be organized, where proposed solutions would be criticized. After the document is drafted, the NDP (2011-2013) drafting begin. Finally, procedures for regular review of the NDP will be defined.

53 How will it be ensured that the basic principles of programming (decision-making on the basis of objective criteria) will be respected?

As stated in the answer to question 52, during the implementation of the project "National Development Strategy - Montenegro in XXI Century - in Competitiveness Era and National Development Plan", expert and participatory approach will be applied in all phases. During the first phase, Montenegrin Academy of Sciences and Arts, as the elaborator of the document "Montenegro in XXI Century - in Competitiveness Era", will draw up a development vision of Montenegro. In order for the document to be based on objective criteria it was envisaged to review and examine all the existing strategic development documents and to ensure participatory approach, with the support of expert knowledge. By organizing presentations of conceptual assumptions of sub-projects, which are elements of the project, and public discussions on working texts and the Draft Document, conditions will be created for a critical analysis of the proposed solutions and giving of remarks and suggestions within that framework. In addition to this, it is envisaged that economic and social partners (trade unions, employers) be involved in public discussion process, and other competent actors, such as representatives of the civil society sector, university, institutes, which will ensure a wide support for development vision, and its harmonization with the existing sectoral strategic goals. Along with the preparation of this document, its connection with quality sources of funding will be ensured through defining of the National Development Plan (second and third phase of the above mentioned project implementation) and its implementation, and thus Development Strategy will be based on a real basis.

54 Which are the sectoral priorities in terms of national public or equivalent structural expenditure (covering areas such as basic infrastructure, human resources, productive environment etc.)? Please provide a detailed breakdown.

Priorities of the Government have been given by annual Law on the Budget of Montenegro, through the capital budget, as well as through debt policy, by which priorities in infrastructure are realized (transport infrastructure, waste waters, water and electricity). Apart from this, priorities financed from budget subventions have been electricity (for citizens, Aluminium Plant, Steel Plant Nikšić and small and medium sized enterprises), railway transport and agriculture (through agro-budget). It is important to stress that all state subventions are approved on the basis of previous notified and approved schemes of state aid by relevant Commission for State Aid.

In the field of agriculture, forestry, hunt and fishery, there are activities envisaged in relation to the current and development policy in agriculture, use and improvement of agricultural land, plant production, cattle breeding, beekeeping, fresh water and sea fisheries, rural development, agro-industry, application of modern technology in agriculture carried out by the agro-budget.

In the field of tourism, there are activities envisaged for the promotion and positioning of Montenegro as unique and recognizable tourism destinations, which will be attractive on international market during the whole year by creating image of Montenegro, promotion and positioning of Montenegro brand as an attractive tourism destination. Improvement of the quality and diversity of integral tourist products, as well as development of specific tourism types – active and extreme, hiking and biking, nautical, health, eco-mountain, and other active improvement of ecological status of Montenegro in the service of protection of nature, health and economic interests for the current and future generations.

In the field of health care system, there are activities envisaged for creating health, labour, social and pension policy in view of economic and social progress of Montenegro.

As significant priorities in the sense of national public and other structural tasks, the field of transport is also separate, where activities are envisaged for quality transport infrastructure, which is ready to support economic needs of Montenegro, better functional connection of transport infrastructure with its beneficiaries.

55 How have regional development and human resources development measures/projects under IPA components I and II been programmed/prepared? What national authorities/institutions have taken part in the process and to what extent? Have local/regional level bodies taken part in the process or have they been consulted?

Within **IPA component I**, projects from the field of regional development and human resources development are implemented according to the principle of centralized management of EU funds. All national institutions/bodies are involved in the process of programming and implementation with an active involvement of the European Commission Delegation. Representatives of national institutions actively participate in the preparation of annual national IPA programmes, as well as programme planning documents of the European Commission (MIPD, MB MIPD) by giving comments.

For regional development projects, recognized potential beneficiaries are as follows:

- The Ministry of Spatial Planning and Environmental Protection;
- The Ministry of Transport, Maritime Affairs and Telecommunications;
- The Ministry for Information Society;
- The Ministry of Tourism;
- The Ministry of Economy;

while recognized potential beneficiaries for human resources projects are:

- The Ministry of Education and Science;
- The Ministry of Labour and Social Welfare;
- The Ministry of Health.

Projects implemented or planned for implementation within the support through IPA programme, in terms of regional development are the following:

An example where a municipality was the beneficiary of the funds from IPA component I is the construction of a mini bypass around Podgorica from IPA 2007 programme.

IPA 2007: *Development of Transport Sector.* The project is being implemented through services and works, and the beneficiaries are the Ministry of Transport, Maritime Affairs and Telecommunications, as well as the Municipality of Podgorica; *Development of quality infrastructure in Montenegro.* The project is implemented through services and supply. The beneficiary is the Ministry of Economy; *Support to implementation of the Contract on Energy Community.* The project is implemented through the contract on services for technical support. The beneficiary is the Ministry of Economy, as well as the Energy Regulatory Agency.

IPA 2008: *Improvement of Ecological Infrastructure.* The project is implemented through works, supply and services. The beneficiary is the Municipality of Nikšić, Water Supply and Sewage

System (through the Ministry of Spatial Planning and Environmental Protection); *Support to management of environment*. The project is implemented through twinning. The beneficiary is the Ministry of Spatial Planning and Environmental Protection; *Main Reconstruction of the Main Railway Line Bar-Vrbnica* (border with Serbia). The project is implemented through works. The Ministry of Transport, Maritime Affairs and Telecommunications is the beneficiary of the project.

IPA 2009: *Development Strategy (2010-2015) and National Plan of Development of Montenegro*. The project is being implemented through twinning. The beneficiary is the Ministry of Economy; *Accession to Internal Market* (indirect centralized management). The project is being implemented through donation. The Ministry of European Integration and Ministry of Economy are the beneficiaries of the project.

The projects implemented or planned to be implemented within IPA programme, related to human resources development are the following:

IPA 2007: *National Qualifications Framework and Quality Assurance in Education*. The project is implemented through services and supply, and the beneficiary is the Ministry of Education and Science;

IPA 2008: *Labour Market Reform and Development of Labour Force*. The project is implemented through the contract on services and supply. The beneficiaries are the Ministry of Labour and Social Welfare, Ministry of Education and Science, Employment Office of Montenegro; *Improvement of Business Environment for Small and Rural Enterprises*. The project is implemented through the contract on services. The Ministry of Economy and Directorate for Small and Medium-sized Enterprises are the beneficiaries of the project.

IPA 2009: *Harmonization and Implementation of the Regulations on Labour and Inspection for Security at Work*. The project is implemented through the contract on twinning and the contract on supply. The beneficiary is the Ministry of Labour and Social Welfare.

IPA component II

For bilateral programmes, measures for all four programmes have been prepared within Programme documents and they refer to: economic development of cross-border areas; tourism development; protection and improvement of the environment; protection, promotion and management of natural and cultural resources; and improvement of social cohesion through projects aimed at exchange of people and ideas. The measures have been defined through a complex process of situation analysis of the programme area, consultations with the main stakeholders, SWOT analyses with identified main strengths, weaknesses, opportunities and threats of cross-border areas, and they have been in compliance with Multi-Annual Indicative Planning Documents.

Members of relevant line ministries and state institutions, who were members of Joint Programme Committees and teams that worked on the preparation of these documents (drafting teams), formed for drafting Programme documents, participated in this process. As such, they were in charge of: collecting and providing all relevant data/input, consulting the relevant institutions at national and local level, as well as drafting texts of Programme documents and all annexes.

Representatives of all municipalities of programme areas, non-governmental organizations, as well as representatives of the Union of Municipalities of Montenegro, who were members of Programme Committees and teams that worked on preparation of these documents (drafting teams), participated in the process of identifying programme measures and drafting Programme documents and were actively involved in the whole process. Representatives of local bodies were to a maximum extent responsible for ensuring accuracy of data and their analyses.

Programme measures in which Montenegro participates with EU member states refer to: strengthening innovations and entrepreneurship, protection and improvement of the environment and encouraging sustainable territorial development (integrated water management, prevention of environmental risks, management of natural goods, energy and resources efficiency, risk prevention and strengthening security at sea), improvement of accessibility and transport networks,

as well as promotion of balanced and integrated polycentric model of development of programme areas.

The membership counterparts in the programmes and representatives of the Ministry of European Integration of Montenegro were involved in drafting process of programme documents. Implementation of the specific projects has not started yet, since calls for submission of projects are still open.

56 Is there a plan and schedule for preparing programming documents for IPA components III and IV including the Strategic Coherence Framework and Operational Programmes? What bodies will take the lead on this programming process?

In view of preparation of Montenegro for the use of IPA III and IV components, the Ministry of European Integration prepared Draft Action Plan for these components. This Action plan is expected to be adopted by the Government in the fourth quarter of 2009. According to the Draft Action Plan, the Government of Montenegro will prepare one Operational Programme for each component. In compliance with the Action Plan, the Strategic Coherence Framework is expected to be adopted by the Government in December 2010, while Operational Programmes are expected to be approved by the European Commission in April 2011.

In compliance with Article 23 of IPA Implementation Regulation, Strategic coordinator is, inter alia, responsible for drafting Strategic Coherence Framework. In compliance with Article 28 of IPA Implementation Regulation, appropriate Operational Structure is competent for the preparation of appropriate programme document.

Draft Action Plan for IPA components III and IV envisages that one Operational Programme will be prepared for each IPA component and that programming process will be organized through appropriate working groups, under management of the Strategic coordinator:

- working group for Strategic Coherence Framework;
- working groups for Operational Programmes (for each programme).

(see answer 40 of this Chapter)

57 Does the project pipeline to ensure absorption under IPA component III and IV (and later under Structural Funds/cohesion fund) exist? If not,

- when will the project pipeline be prepared (time plan)?

- which bodies will be responsible for projects preparation?

- which body will coordinate at national level preparation of project pipeline for IPA (Structural Funds, Cohesion Fund)?

- how the preparation of projects will be financed (sources of financing)?

At this moment, there are no specifically allocated IPA funds for preparation of the project documentation for project implementation within IPA components III and IV. In the forthcoming period necessary analyses will be conducted in order to define how budget funds allocated for the preparation of project documentation may contribute to their drafting in compliance with requests of DG Region and DG Employment.

In compliance with Draft Action Plan for IPA components III and IV, potential projects will be identified and the source of their financing will be defined by December 2009. Even today there is a

large number of project ideas in the field of transport and environment. Further dynamics of drafting project documentation will depend on readiness of project documentation of identified projects. During project documentation drafting the rule N+3 will be taken into account.

Having regard to the competences of the bodies which constitute the Operational Structure, bodies responsible for project preparation will be institutions which constitute the Operational Structure.

Coordination of potential projects preparation will be performed by Strategic coordinator, in close cooperation and coordination with Head of Operational Structure.

IPF (Infrastructure Project Facility), bilateral donors, as well as the budget of the Government of Montenegro and local self-governments have been identified as potential funding sources of the project documentation preparation. The support for project documentation preparation for certain projects is already being provided by means of the instrument for IPF technical support. Preparations of feasibility studies for projects in the field of transport, environment, social sector, energy, are under way. Precise funding plan for project documentation preparation is expected to be drafted by December 2009.

V. Monitoring and evaluation

58 Are there entities with sufficient experience and capacity to perform independent evaluations of public investment programs? Do they have experienced experts?

In Montenegro, there are independent institutes, agencies and entities in the private sector which are able to carry out independent evaluations of public investment programmes. In previous experience, international and local consulting firms have been consulted for evaluations of major public investments programmes. Pursuant to the Decree on Organization and Manner of Functioning of Public Administration of the Government of Montenegro (Official Gazette of the Republic of Montenegro 54/04), the Public Works Directorate and Transport Directorate carry out, *inter alia*, professional evaluations of projects for making investment decisions. These Directorates have the necessary capacities and are capable of performing the above mentioned affairs. With a view to conducting a new regional policy which is in accordance with the European practice, the strengthening of capacities of independent entities for evaluating public investment programmes is needed.

59 Is there a monitoring and evaluation system in place in your country to monitor the implementation of programs/projects which are co-financed by the EU? If this is the case, please describe this system (actors involved, allocation of tasks, key data/indicators, collection and transfer of data etc.).

IPA I Component

In the public administration of Montenegro there is a monitoring and evaluation system for monitoring the implementation of programmes/projects which are co-financed by the EU and it is regulated by the existing Systematisation of the Ministry of European Integration. Within the Sector for Programming, Monitoring and Evaluation of Technical and Financial Support of the EU, it has been planned to perform monitoring and evaluation of the programme of technical support of the EU for different IPA components after accreditation is obtained. The IPA Monitoring Committee has been established, in which participated representatives of the European Commission as well as representatives of all structures necessary for usage of IPA funds at the national level and representatives of all line institutions which are beneficiaries of this programme. At national level, the IPA Commission for monitoring IPA projects has been established consists of National IPA Coordinator (NIPAC) and Senior Programme Officers (SPO) in line ministries participating. The task of the Commission is to monitor the programming process and prioritize projects in accordance with European and relevant national documents; to consider all submitted project ideas; to recommend connecting of related project ideas; to perform selection in accordance with recommendations of the NIPAC and Ministry of European Integration; to monitor progress in the implementation of IPA projects; to monitor the attainment of goals and results of annual IPA programmes; to monitor the procurement plan within project implementation, as well as relevant evaluation recommendations; to discuss problematic issues; to propose corrective measures for programme implementation; to monitor irregularities and record them, so as to avoid their reoccurrence in future projects; the Commission for monitoring IPA projects is headed by the National IPA Coordinator. Sessions of the Commission for monitoring IPA projects are regularly held twice a year, but they may be held more often as well. The Commission has the task to inform the IPA Monitoring Committee of the progress which has been made in the process of project implementation. This includes evaluation of the results achieved, indicators of financial implementation, as well as proposals for improving the implementation of the given programme. The Commission also informs the IPA Monitoring Committee on all aspects of the functioning of management and supervision systems of the given programme which is established by the audit body, the National Authorising Officer (NAO) or Competent Accrediting Officer (CAO).

IPA II component

In Montenegro there is not a system for evaluating programmes of cross-border and transnational cooperation at national level, but all evaluations are performed at joint programme level.

Bilateral programmes with neighbouring countries are also monitored primarily at programme level (Joint Monitoring Committee and Joint Technical Secretariat), while at national level implementation is monitored by the Operating Structure and National IPA Coordinator, in accordance with relevant provisions of the IPA Implementing Regulation.

Implementation of programmes with Member States of the European Union at national level is monitored by National Coordinators within the Ministry of European Integration of Montenegro, who are members of the Joint Monitoring Committee.

Implementation of projects for bilateral programmes and programmes with Member States at national level is monitored by the Operational Structure and National Coordinators of relevant programmes, in cooperation with Joint Technical Secretariats and Programme Managing Authority.

The Delegation of the European Commission to Montenegro as a contracting party is responsible for a successful implementation of projects for bilateral and transnational programmes.

The Adriatic Programme and South-East Europe Cooperation Programme provide for setting up of an Info-Point, whose mission includes planned activities and activities related to monitoring project implementation. Due to small financial allocations, the Mediterranean Programme does not provide for setting up of an Info-Point.

The first control level, a structure which will be set up for the purposes of the IPA Adriatic Programme, will also be responsible for monitoring project implementation and the validity of costs which will be presented within the given Programme by partners from Montenegro.

VI. Financial management and control

60 Which authority or body has overall responsibility for giving guidance or instructions on financial management?

The Ministry of Finance is the body which gives guidance and instructions on financial management. The Ministry of Finance prepares the annual Budget Law, which defines expenditure by beneficiaries (organizational), by purpose or types of expenditure (economic), by programmes (programme classification), and which defines sources of funding expenditures. The process of budget execution starts after the budget is adopted in a parliamentary procedure. Procedures and forms based on which budget execution is performed are defined by the Instructions on Treasury Operation (Official Gazette of Montenegro 80/08), and they are binding on all spending units. The first step towards budget execution is defining the dynamics of usage the planned funds, which are approved by the Ministry of Finance on the proposal of spending units. Based on the defined dynamics of expenditure, the Ministry of Finance (the Budget Department) issues warrants - written documents, which allow expenditure to spending units in accordance with the purpose defined by the budget. Spending units negotiate obligations and on the grounds of negotiated obligations they allocate expenditure to the level of allowed expenditure (by issued warrants). The payment application is a document based on which the payment of obligations and expenditure of state money from the Treasury Consolidated Account is made. The planned expenditure at the annual level, allowed expenditure according to the dynamics (issued warrants), as well as all stages of budget execution (reserve funds, submitted payment applications and payment) are recorded in the General Ledger.

SAP – a financial information system providing IT support for keeping records in the General Ledger. SAP enables a better financial management, faster and more efficient processes and up-to-date reporting, and it is also one of control mechanisms at both monthly and annual level.

Apart from the Instructions on Treasury Operation, the Ministry of Finance adopted the Rulebook on a unique account classification for the budget of the Republic, budgets of non-budgetary funds and budgets of municipalities (Official Gazette of the Republic of Montenegro 37/06), and the Rulebook on the manner of preparation, drafting and reporting on financial statements of the budget, state funds and local government units (Official Gazette of Montenegro 21/09), and they are binding on all spending units, state funds and local government units.

The National Authorising Officer (NAO), as the head of the National Fund, is responsible for giving guidance and instructions in the area of financial management of EU funds. It is a function or body which is run by the Deputy Minister of Finance for the Treasury Department. The role of the NAO, as a top-level officer in the state administration of Montenegro, is defined by the Law on Ratification of the Framework Agreement between the Government of Montenegro and Commission of European Communities (EC) on co-operation rules related to financial assistance of the EC to Montenegro within the implementation of Instrument of Pre-Accession Assistance (IPA) – the Framework Agreement (Official Gazette of Montenegro 01/08 of 10 January 2008). According to the Framework Agreement, competences and responsibilities of the NAO in the field of financial management may be considered from two major aspects:

- The NAO assumes overall responsibility for financial management of EU funds in Montenegro; it is responsible for the legality and regularity of transactions made and
- it is responsible for the effective functioning of management and control systems within IPA programmes.

In order to fulfil the above mentioned responsibilities, the National Fund and the NAO as the manager of the National Fund, are in charge of giving instructions to the Implementing Agency (CFCU), so as to prepare data needed for the National Fund to produce financial documentation,

especially IPA payment applications. Instructions regarding financial management are defined by the chapter of the Manual of Procedures relating to financial management, whose finalisation is underway. The above mentioned chapter has been drawn up based on the requirements of the European Commission concerning the use of IPA funds (Framework Agreement), as well as relevant provisions of the Budget Law (Official Gazette of Montenegro 53/09 of 7 August 2009) and the Instructions on Treasury Operation (Official Gazette of Montenegro 02/09 of 16 January 2009).

A detailed description of functions of the National Authorising Officer (NAO) and National Fund (NF), as well as the Programme Authorising Officer (PAO) and Sector for Finance and Contracting of EU Assistance Programmes (CFCU) has been given in the Implementing Agreement, which was signed on 6 May 2009 by the NAO and PAO.

In accordance with the Implementing Agreement, the NAO shall assume the following responsibilities and fulfil the following tasks:

- a) As the manager of the National Fund, it assumes overall responsibility for the financial management of EU funds in the decentralised system in Montenegro and is responsible for legality and regularity of underlying transactions.

With respect to those responsibilities, the NAO shall fulfil the following tasks:

- Ensure the legality and regularity of underlying transactions;
- Prepare and submit certified statements to the European Commission (EC) on expenses and IPA payment applications; s/he bears responsibility for the accuracy of IPA payment applications and transfer of funds to the Implementing Agency and/or Final Beneficiary;
- Verify the existence and correctness of co-financing elements;
- Ensure identification of any irregularity and report thereon without delay;
- Make necessary financial adjustments related to irregularities detected, in accordance with Article 50 of the IPA Implementing Regulation;
- Act as contact point for financial information exchanged between the EC and Montenegro as a beneficiary country.

- b) The NAO is responsible for the effective functioning of management and control systems in accordance with the IPA Implementing Regulation (No. 718/2007 of 12 June 2007).

With respect to those responsibilities, the NAO shall particularly carry out the following tasks:

- Be responsible for issuing, monitoring and suspending or withdrawing the accreditation to an operating structure;
- Ensure the existence and efficient functioning of systems management of assistance in accordance with the IPA Implementing Regulation;
- Ensure efficiency and effectiveness of the internal control system regarding the management of funds;
- Report on management and control systems;
- Ensure that proper information and reporting system is functioning;
- Follow-up findings of audit reports, in accordance with Article 18 of the Framework Agreement and Annex D of the Framework Agreement (Official Gazette of Montenegro 01/08 of 10 January 2008);
- Notify the European Commission, without delay, of any substantial change regarding management and control systems, along with a copy of notification to the Competent Accrediting Officer (CAO);
- As a corollary to the responsibilities under items a) and b), the NAO shall make an annual Statement of Assurance, as defined in Article 17 of the Framework Agreement and supporting Annex B of the Framework Agreement, which shall include: (i) a confirmation of the effective functioning of management and control systems; (ii) a confirmation referring to

- legality and regularity of underlying transactions; (iii) information concerning any changes in systems and controls, and elements of supporting accounting information;
- For every IPA programme which is financed in accordance with the Component I and which is managed by the CFCU, the NAO may give special instructions or guidance, if necessary.
- c) Apart from functions and responsibilities defined in items (a) and (b) of this Article, the NAO shall:
- Conclude an appropriate agreement with every Implementing Agency which must be confirmed by the Commission;
 - Ensure flow of national and other co-financing funds;
 - Ensure that the financial reporting system Perseus¹ is updated regularly and that all reporting procedures are adhered to by the National Fund and Implementing Agency;
 - Participate in the IPA Monitoring Committee;
 - Participate in the Transition Assistance and Institution Building Committee (TAIB Committee).

National Fund (NF)

- a. The National Fund (NF) is located in the Ministry of Finance in the Treasury Department and performs its functions under the responsibility of the NAO. It is responsible for the central budget and acts as a central treasury body, under Annex A (5) of the Framework Agreement;
- b. The NF shall be in charge of tasks of financial management of assistance within IPA, under the responsibility of the NAO;
- c. The NF shall particularly be responsible for the organization of bank statements, seeking funds from the EC, approving transfer of funds from EC to operating structure or to final beneficiaries and for financial reporting to the EC. In this respect, the NF is especially responsible for:
 - Receiving payments of IPA funds from the European Commission, and having its own interest account for each programme of the IPA component I, as well as for keeping records of all transactions;
 - Acting as payment agent on behalf of the CFCU, thus making all payments from IPA funds to contractors. Payments are made on the basis of individual IPA payment applications which are submitted by the PAO and they are related to the PAO-approved payments pursuant to agreements signed in accordance with PRAG. The National Fund shall define a payment application form and make instructions for their preparation;
 - Performing controls, for its own purposes and purposes of securing guarantees of the NAO that:
 - The CFCU as an Implementing Agency has fulfilled its responsibilities, prescribed by section 6(b) of Annex A of the Framework Agreement, by Article 8(3) of the Framework Agreement, as well as by Article 11(3) of the IPA Implementing Regulation;
 - payment applications are a proof of a properly selected project and that they include solely acceptable costs, and that they are supported by received invoices or accounting documents of equivalent probative value, as indicated in the payment application;
 - financial data in financial reporting system Perseus are regularly updated, complete and accurate, and that reporting procedures are properly complied with by the Implementing Agency;
 - general obstacles to disbursements from IPA funds are not identified.

¹ Perseus is current financing system for reporting to the European Commission

- Receiving and verification of all data and documents pertaining to IPA-funded projects, as well as those related to on-site controls of underlying projects;
- Keeping an account of amounts recoverable and amounts recovered, and drawing up a annual statement of recoverable amounts;
- Drawing up and submitting an interim and final statement of expenditure to the NAO for authorisation and certification along with IPA payment applications which are submitted to the European Commission;
- Designing plans for submitting IPA payment applications which are submitted to the European Commission for the current and next year, based on data submitted by the Implementing Agency;
- Giving instructions to the Implementing Agency for preparation of data necessary for the National Fund for designing plans for submitting IPA payment applications;
- Reporting to the NAO on irregularities detected.

Under the Implementing Agreement between NAO and PAO, the Sector for Finance and Contracting of EU Assistance Programmes (CFCU) in the Ministry of Finance as the Implementing Agency for the IPA Component I Programme shall perform the following functions related to programme implementation:

- a) Overall implementation of tender procedures;
- b) Contracting (by granting *ex-ante* authorisations to IPA contracts which are concluded between a ministry and selected contractor/grant beneficiary);
- c) Payments (by authorising payments under contracts signed in accordance with PRAG and submitting individual payment applications to the National Fund which acts as a payment agent);
- d) Accounting (by harmonising accounting data of certain ministries in the state budget with analytic record and account kept with CFCU);
- e) Financial reporting on all procurements;
- f) Providing the NF and NAO with all necessary information regarding procedures and verifications regarding expenses;
- g) Maintenance and updating of the financial reporting system Perseus;
- h) Ensuring reporting on irregularities and risk management;
- i) Ensuring that all documents regarding certain programmes are kept at least three years after the closure of a programme and that, by way of deviation from the above mentioned, written accounts of the entire procurement process, grant allocation and agreed procedures be kept by the Operating Structure within the period of at least seven years from the date of the last disbursement;
- j) Providing necessary information for implementing monitoring and programme assessment;
- k) Ensuring compliance with information and publicity requirements.

For the purpose of Annex A (4b) of the Framework Agreement, the CFCU shall particularly implement the following tasks:

- a) Preparing and submitting to the NAO, until 31 July each year, semi-annual statements of assurance for past six months, which shall include certification regarding the efficient and effective functioning of internal control systems pertaining to management of funds and certification regarding the legality and regularity of transactions with elements of supporting accounting information;
If the above mentioned certifications are not available, the CFCU shall inform the NAO of reasons and potential consequences, as well as of actions undertaken so as to remedy the situation;
- b) Preparing and submitting to the NAO until 31 January each year, annual statements of assurance for the past financial year, which should include certification regarding the efficient and effective functioning of internal control systems pertaining to the legality and regularity of transactions with elements of supporting accounting information.

If the above mentioned certifications are not available, the CFCU shall inform the NAO on the reason and potential consequences as well as of actions undertaken so as to remedy the situation;

- c) Ensuring an appropriate follow-up of internal audit reports and reporting to the NAO on shortcomings revealed by internal audit and measures undertaken in order to remove them, along with the annual statement of assurance at the latest;
- d) Ensuring regular quarterly reporting on irregularities to the NAO;
- e) Informing the NAO *ex-ante* of any substantial change in the management and control system and obtaining a prior approval from the NAO;
- f) Co-operating with the National Fund in exchange of information relating to payment forecasts, payment applications and financial implementation at the priority/project level for each IPA component I programme;

Co-operating with the NF in exchange of information regarding the preparation of annual reports on implementation as well as the final report for each IPA component I programme.

61 Which are the provisions in place concerning the mobilisation and circulation of financial flows in the framework of EU assistance?

- Budget Law (Official Gazette of Montenegro 53/09 of 7 August 2009);
- Budget Law for the particular year;
- Law on Final Statement of the Budget of Montenegro for individual year;
- Instructions on Treasury Operation (Official Gazette of Montenegro 02/09 of 16 January 2009);
- Law on ratification of the Framework Agreement between the Government of Montenegro and the Commission of the European Communities on the rules for cooperation concerning EC financial assistance to Montenegro under implementation of Instruments for Pre-Accession Assistance (IPA) (Official Gazette of Montenegro 01/08 of 10 January 2008);
- Law on Ratification of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (Official Gazette of Montenegro 07/07 of 20 November 2007);
- Law on Internal Financial Control Systems in the Public Sector (Official Gazette of Montenegro 73/08 of 2 December 2008);
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on the National Programme for Montenegro within IPA Component for Transition Assistance and Institutional Building for 2007, signed on 12 March 2008;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities within IPA Component for Transition Assistance and Institutional Building for 2008, signed on 23 January 2009;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Albania and Montenegro under the IPA Cross-border Cooperation component for the year 2007, signed on 27 March 2008;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Bosnia-Herzegovina and Montenegro under the IPA Cross-border Cooperation component for the year 2007, signed on 27 March 2008;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Croatia and Montenegro under the IPA Cross-border Cooperation component for the year 2007, signed on 27 March 2008;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Serbia and Montenegro

under the IPA Cross-border Cooperation component for the year 2007, signed on 27 March 2008;

- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Albania and Montenegro under the IPA Cross-border Cooperation component for the year 2008, signed on 19 March 2009;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Bosnia-Herzegovina and Montenegro under the IPA Cross-border Cooperation component, for the year 2008, signed on 19 March 2009;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Croatia and Montenegro under the IPA Cross-border Cooperation component for the year 2008, signed on 19 March 2009;
- Financing Agreement between the Government of Montenegro and the Commission of the European Communities on Cross-Border programme between Serbia and Montenegro under the IPA Cross-border Cooperation component, for the year 2008, signed on 19 March 2009;

62 Which are the authorities or bodies through which financial flows are channelled (being part of the audit trail)? Please indicate which functions these authorities or bodies have.

Pursuant to the Budget Law (Official Gazette of Montenegro 53/09 of 7 August 2009), grants are defined as a part of budget receipts. Such a treatment of grants provides for using the existent budget procedures with respect to preparation, planning and execution of the budget, internal control, budget accounting, Treasury and budget affairs. Furthermore, the system of Treasury Consolidated Account is in effect and it contains all accounts to which the state money is recorded. Pursuant to the Budget Law, all payments are made from the main account of the Treasury, which is run by a person authorised by the Minister of Finance.

Although the usual model of using EU pre-accession assistance entails the existence of a special CFCU account to which the money from the National Fund is transferred and through which further payments to final beneficiaries, i.e. line ministries are made, and having regard to the operation of the Single Treasury Account in Montenegro, this method may be simplified by the CFCU verifying payment applications, which are submitted by line ministries and submitting payment applications to the National Fund after they are approved by the PAO. The National Fund would act as payment agent, while the overall responsibility to the European Commission regarding justifications of payments would be borne by the CFCU. Such a method of payment of funds to final beneficiaries, i.e. line ministries, would also enable the recording of IPA funds through the budget system, which meets the requirement of the European Commission.

The CFCU in Montenegro shall not have its own account for the payment of funds to final beneficiaries, which means that in fact it shall not have the payment facility, but due to the request for compliance of accounting records between the National Fund and CFCU, it shall have an established system of analytic accounting records of funds disbursed. The beginning of the establishment of DIS system required adjustment of the existing budget procedures to the use of IPA funds. This requirement was met by incorporating IPA funds and Instructions on Treasury Operation (Official Gazette of Montenegro 02/09 of 16 January 2009), this enabling the existing Budget Law and other relevant legislation to be in effect without amendments.

The National Fund and CFCU represent bodies which are connected with the flow of financial funds allocated by the European Union. In this sense, the CFCU verifies the correctness and justification of payment orders which are submitted by line ministries, whereas the National Fund has the role of payment agent (for further information see answer to questions 36 and 40).

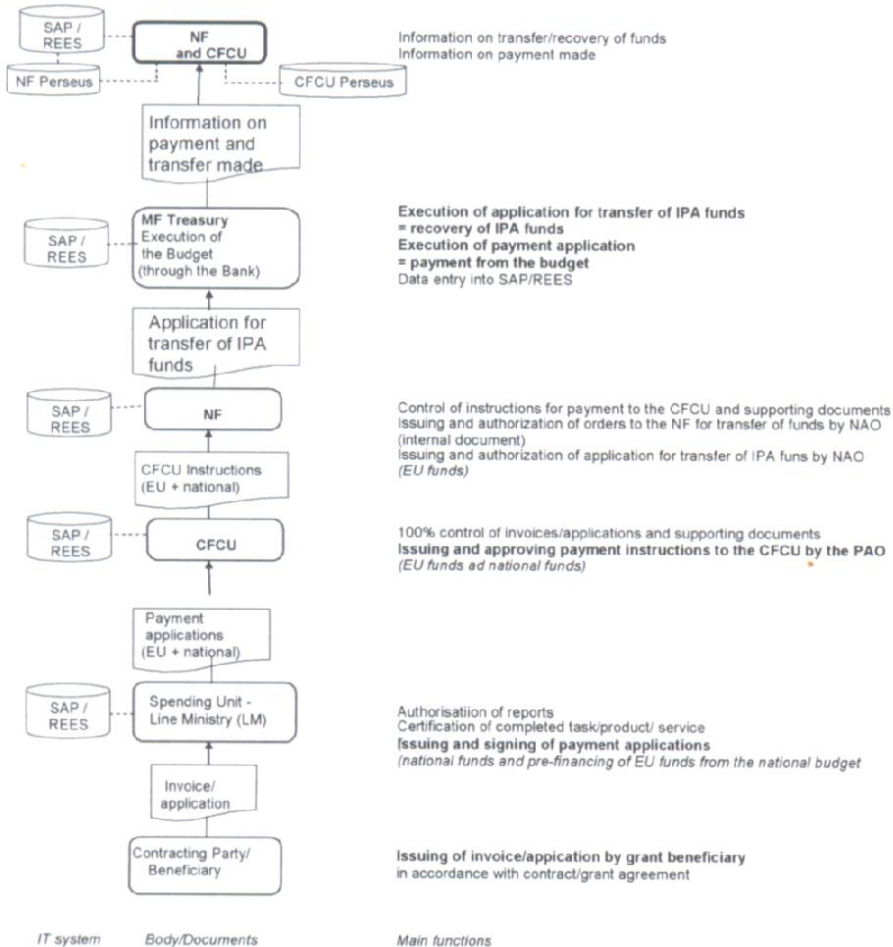
The flow of financial funds allocated by the EU is given in the following schematic diagram:

Payment system: Flowchart

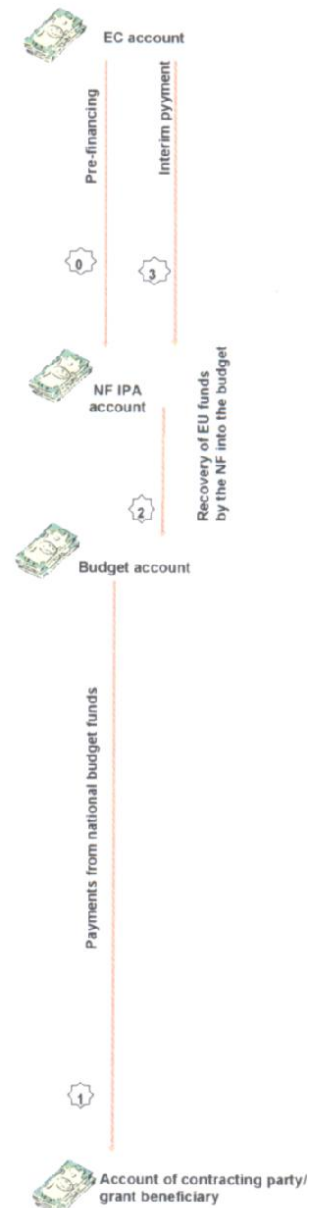
A: Payment application to the European Commission



B: Execution of payments at project level



Flow of funds



The description of functions of the National Authorising Officer (NAO) and National Fund (NF), as well as those of the Programme Authorising Officer (PAO) and Sector for Finance and Contracting of EU Assistance Programmes (CFCU) has been presented in the Implementing Agreement, which was signed on 6 May 2009 between the NAO and PAO. The relation between the NAO and PAO, as well as the bodies which are headed by them, has been presented in detail in the answer to question No. 60 of Chapter 22.

63 In particular, which authorities or bodies would be responsible for verifying the correct implementation of operations, and for certifying the legality and regularity of expenditure to the Commission?

Pursuant to the Law on Ratification of the Framework Agreement (Official Gazette of Montenegro 01/08 of 10 January 2008), the National Authorising Officer and National Fund shall be responsible for certifying the legality and regularity of expenditure. Pursuant to Annex A of the Framework Agreement, the NAO assumes overall responsibility for the financial management of EU funds in Montenegro and for the legality and regularity of underlying transactions, and it shall submit a relevant confirmation to the European Commission. The NAO is also responsible for the effective functioning of management and control systems within IPA programmes. The NAO's responsibility is also reflected in his obligation, which is prescribed by the Framework Agreement, to annually draw up a statement of assurance which shall contain:

- Confirmation of the effective functioning of management and control systems;
- Confirmation of the legality and regularity of underlying transactions;
- Information concerning any changes in systems and controls and elements of supporting accounting data.

The Operating Structure is also responsible for verifying the correct implementation of operations, mainly within the realm of programme implementation in accordance with the principles of sound financial management. In this sense, the Operating Structure prepares annual programmes and monitors their implementation. Information concerning implemented activities is summarized in sectorial annual and final implementation reports which shall be drawn up by the Operating Structure pursuant to the Framework Agreement. The NIPAC Office, as a part of the Operating Structure, is responsible for the preparation of sectorial annual and final reports which consist of a technical and financial part. The NIPAC Office obtains information for drawing up the technical part of these reports from Senior Programme Officers (SPOs) in line ministries, whereas the financial part of the data is submitted by CFCU. After the NIPAC and NAO examine these reports, they shall be submitted to the Commission within prescribed time limits. Apart from reporting on programme implementation, the Operating Structure shall, pursuant to the Framework Agreement, verify whether the expenditure declared regarding programme implementation has actually been incurred, whether services have been provided, whether appropriate goods have been delivered, or whether works have been completed.

The process of designation of officers for reporting irregularities and risk management, as well as other appointments, are concluded in line ministries in accordance with IPA Manual of Procedures. For a more detailed review of procedures for establishing and reporting irregularities see answer 70 of this Chapter.

64 If applicable, please indicate which functions relating to the correct implementation of operation and to the certification of expenditure are delegated or partly delegated to other bodies to be identified.

The CFCU and PAO are responsible for the correct implementation of operations and certification of expenditures, since the CFCU gives certification of the payment application which is submitted by the Project Implementation Units (PIUs) to the CFCU with respect to implemented activities on certain IPA-funded projects. A detailed allocation of tasks and responsibilities between the CFCU and PIU has been described in the model of the Operating Agreement which was signed by the PAO and Senior Programme Officers (PAOs) in line ministries.

In accordance with provisions of the Operating Agreement, the Programme Authorising Officer (PAO) shall ensure a sound financial management of programmes/projects under IPA Component I, implemented in the Decentralised Implementation System. Within this framework, the PAO shall be responsible for financial and administrative part of the contracting process regarding services,

procurement, works, twinning and grants, as well as for timely implementation and execution of EU-funded programmes/projects. The PAO may also have additional responsibilities defined by the Implementing Agreement, which was signed with the National Authorising Officer.

The PAO shall ensure adherence to EU rules, regulations and procedures pertaining to the process of procurement, services and works, as well as the conclusion of twinning and grant contracts, and a proper functioning of the reporting system.

In case of leave or sickness, the PAO may delegate a part of their tasks, including the right to sign all documents, as well as activities stated in Article 4, to other authorised signatories, not more than two senior officers within the CFCU, whose signatures thus become equally valid. The PAO shall continue to be responsible for tasks delegated in this manner and at the same time they shall be stated in a special document and submitted to the NAO and the Delegation of the European Commission to Montenegro (DEC). The PAO may repeal the right to signature at any time.

As a person responsible for sound financial management, timely implementation and execution of EU-funded projects, the PAO shall also supervise the SPO, with respect to the technical implementation of projects.

With a view to ensuring an acceptable level of supervision of the SPO, the PAO shall organize a proper monitoring system and keep ultimate responsibility towards the NAO and DEC. While submitting information regarding the financial and technical progress of projects and programmes, the PAO shall state to the National Authorising Officer, through the National Fund, whether the information is correct and must be able to support that statement with documents.

Programme Authorising Officer

The PAO shall have exclusive responsibility for overall tender procedure, contracting process, payments, accounting and aspects of financial reporting regarding services, supply, works, twinning and grants under IPA Component I in Montenegro, as well as for submission of documents to the Delegation of the European Commission to Montenegro for approval.

The PAO shall perform these duties in accordance with provisions prescribed by:

- Financing Regulation
- IPA Implementing Regulation
- IPA Framework Agreement
- Relevant Financing Agreement relevant procurement procedures prescribed by the European Commission, e.g. PRAG, Twinning Manual, Framework Agreement, etc.

The PAO shall advise the SPO, at his/her request, on issues related to implementation procedures of the EU external assistance (e.g. procurement and contracting procedures), but it certainly must be clear that full responsibility for technical implementation stays with the SPO. However, the PAO has ultimate responsibility for the sound financial management, as well as for supervising the implementation and execution of IPA-funded projects.

Department for Finance and Contracting of the EU Assistance - CFCU

In accordance with item 6 of Annex A of the Framework Agreement and Article 28 of the IPA Implementing Regulation, the CFCU shall, within the PAO's competences, carry out the following tasks:

a) Tender Procedure

- Prepare Procurement Plan and update it on a monthly basis, along with consultation with the SPO;
- Obtain Draft Tender Dossier, relating to services, procurement, works and grants from the SPO;

- Verify administrative, procedural, contractual, financial, as well as qualitative aspects of the project task, technical specifications and guide for potential applicants;
- Submit requests for publication of contract forecasts and public procurement notices on the EuropeAid website to the European Commission, through the Delegation of the European Commission, as well as to the Official Journal of the European Communities, if it is applicable to a specific case, as laid down by Articles 90, 91, 105, 167 of the Financial Regulation applicable to the General Budget of the European Communities;
- Jointly with the SPO, organize publication of calls for tender in the local media or on the website of the CFCU/IA and on a user's website;
- Finalize tender dossiers and submits them to the Delegation of the European Commission for approval;
- Receive and register all applications of future tender participants for service contracts, which are financed by the European Communities funds;
- Send tender dossier to potential tender participants or publish it;
- Receive and register all applications of future tender participants and grant applications;
- Jointly with the SPO, give information regarding requested explanations to tender participants/potential applicants for grants;

b) Evaluation

Evaluation for shortlist of bidders (service contracts only)

- Verify and appoint a Commission for shortlist of bidders, whose members are proposed by the SPO with the right to vote;
- Appoint, among people from its organization, a chairperson and secretary of the Commission for shortlist of bidders, without the right to vote;
- The PAO shall formally appoint members of the Commission for shortlist of bidders and submit appointments to the Delegation of the European Commission for approval;
- Provide advisory and administrative support and ensure compliance with procedures in the process of drawing up a shortlist of bidders, without a direct influence on a technical decision of the Commission for shortlist of bidders;
- The secretary shall draw up a Report on shortlisted bidders, whereas all members of the Commission sign it;
- Verify recommendations of the Commission for shortlist of bidders and formally submit the Report on shortlisted bidders to the Delegation of the European Commission for approval.

Tender evaluation

- Verify and appoint a Commission for evaluation of proposals, whose members are proposed by the SPO with the right to vote;
- Appoint, among people within its organization, a chairperson and secretary of the Commission for evaluation of proposals, without the right to vote;
- If necessary, appoint observers who are present during tender evaluation, after which they are subject to approval by the Delegation of the European Commission;
- Formally appoint members of the Commission for evaluation of proposals and submit appointments to the Delegation of the European Commission for approval;
- If necessary, appoint evaluators with a view to providing assistance in evaluating grant applications, which are subject to approval by the Delegation of the European Commission;

- Ensure compliance with procedures: verifies the presence of Commission members and external observers during full-time working hours, if applicable to a specific case;
- Provide advisory and administrative support in conducting evaluation of proposals without taking part in it, apart from advice relating to procedures in the process of technical evaluation, technical or financial selection, which falls under the responsibility of members of the Commission for evaluation of proposals, acting in accordance with requirements of the tender dossier;
- Prepare reports on evaluation of bids by the Secretary or reports on evaluation of calls for bids which shall be signed by members of the Commission;
- The PAO confirms recommendations of the Commission for evaluation of proposals and submits reports on evaluation of proposals or reports on evaluation of calls for bids to the Delegation of the European Commission for approval.

c) Contracting

- Manage the process of contract allocation, with a view to ensuring a correct application of EU administrative procedures;
- Be responsible for the contracting process, if necessary, in co-operation with the SPO, who shall provide assistance;
- Prepare a contract ensuring compliance with EU administrative and legal requirements, and submit them to the SPO for approval;
- The PAO, acting as a contracting authority, shall sign the contract and submit it to the Delegation of the European Commission for approval and reconfirmation;
- Prepare and publish notices of allocated contracts on the European Commission website, via the Delegation of the European Commission;
- Prepare and organize publication of notices of allocated contracts and lists of successful grant beneficiaries on the website of the CFCU/Implementing Agency and a line ministry, if necessary, in local media as well, if applicable to a specific case, the publication expenses being borne by the line ministry;
- Perform administrative verification of twinning contracts prepared by the SPO, in co-operation with the selected Member States;
- The PAO shall sign the twinning contract, whereas the CFCU shall submit it to the Delegation of the European Commission for approval and reconfirmation;
- Submit contracts to consultants, contracting parties, EU Member States and grant beneficiaries for signature;
- Record allocated contracts per project and programme;
- Inform non-selected tender participants and grant applicants of results of the evaluation process.

d) Accounting

- Establish and maintain analytic recording system, with a view to harmonising the accounting data of line ministries from the State Budget with records/data held by the CFCU;
- Record, register and keep separate reports on each contract, project or programme, as well as invoices/payment applications;
- Maintain proper archiving of complete financial documentation.

e) Payments

- Accept payment orders submitted by the SPO, verify legality and correctness of payment applications/invoices, as well as their compliance with provisions of the contract;
- Perform on-site controls which are directly related to verifications of payment applications during project implementation, especially before the final payment;
- Authorise payments in accordance with standard EU procedures and prepare payment instructions;
- Submit approved payment applications to the National Fund along with payment instructions;
- Accept certification of payments made to contractors/grant beneficiaries from the National Fund/Treasury.

f) Reporting

- Submit monthly reports covering financial status to the National Fund, including co-financing elements, for each programme per project and contract;
- Check and submit to the NF/NAO monthly reports on technical progress prepared by the SPO, on how the projects have been implemented, problems (if any), as well as on future prospects;
- Provide timely and updated information, as an input for iPerseus, which is the reporting system of the European Commission;
- Submit monthly Report on irregularities to the NAO;
- Provide the NF/NAO with information on forthcoming tenders/calls for proposal, as well as completed evaluations and allocated contracts;
- Provide any other information at the request of DEC and/or NAO and NIPAC.

g) Training and advising

- If applicable to a specific case, prepare and provide trainings on decentralised management, especially for EU contracting procedures, payment and procurement procedures for any PIU.
- Advise the SPO on EU procurement and financial implementation procedures, or on any other issue, with a view to avoiding/resolving any problem it could encounter during programme implementation.

h) Audit

- In his/her own estimate, the PAO may initiate audit of projects implemented by fund recipients including donor beneficiaries; it shall provide full assistance and cooperate with state auditors and auditors of the European Commission, including external auditors hired by the European Commission, not questioning responsibility of the European Commission, OLAF and European Court of Auditors. The CFCU shall provide access to information and documents as requested by a controller or auditor.

i) Keeping of documents

- Jointly with the SPO, the PAO shall ensure keeping of all documents regarding procurement, grant allocation and contracting procedures, including original documents as well, at a safe place during a period of at least seven years from the date of the last payment on the grounds of the contract. Detailed provisions regarding keeping of documents are laid down in the Financing Agreement for the given year. This period may be shortened either in case of instituting legal proceedings or with a completely justified request referred to the European Commission.

j) Monitoring:

- Participate in the IPA Monitoring Committee;

- Participate in the TAIB Committee, as laid down in Article 36 of the Framework Agreement, as well as in Articles 59 and 83 of the IPA Implementing Regulation, especially by providing documents necessary for monitoring the quality of implementation of different projects;
- Participate in Sectoral Monitoring Sub-Committee;
- Draw up sectoral annual report and final implementation report, as laid down in Article 38 of the Framework Agreement, as well as in Articles 61 (1) and 84 (2,3) of the IPA Implementing Regulation, and then, after a review by the Sectoral Monitoring Committee, submit them to the DEC, NIPAC and NAO;
- Jointly with PIUs, conduct on-site controls which are organized during project implementation, at any reasonable time.

Role of Senior Programme Officer (SPO)

Pursuant to provisions of the Operating Agreement, the Senior Programme Officer (SPO) is an officer, appointed by the PAO and proposed by a beneficiary institution, who shall ensure, under ultimate responsibility of the PAO, that technical and financial aspects pertaining to the preparation and implementation of projects related to the beneficiary institution are implemented in an effective and timely manner. The PAO shall be informed of any change regarding appointment of the SPO and it shall inform the NAO of that.

The SPO should be at a sufficiently high hierarchical level within the beneficiary institution and that would enable him/her to make proper decisions and act in accordance with delegated responsibilities.

The SPO may delegate a part of his/her responsibilities and activities, including the right to confirm documents (“read and approved”), to not more than two officers within the same beneficiary institution, whereby responsibility for these tasks stays with the SPO. The SPO shall submit to the PAO the names and signatures of the officers to whom he/she has delegated his/her responsibilities.

Where certain SPO responsibilities are delegated to special bodies outside the beneficiary institution, in accordance with Article 6 (2) of the Framework Agreement and Article 31 of the IPA Implementing Regulation, delegation of special tasks should be stipulated by an agreement on sub-delegation of tasks, signed by the SPO or a special body, after an approval of the PAO. The PAO shall be informed of any amendment to the above-mentioned agreement and he/she shall also approve it. Regarding the appointment of a special body, the SPO shall ensure that there is a proper formal structure within this organization, with a sufficiently competent staff and resources available in order to carry out delegated tasks. However, it is clear that the SPO keeps responsibility of ensuring an effective carrying out of tasks delegated to a special body.

The SPO, as the person who is responsible for technical management and timely project implementation shall, as necessary, perform the supervision of relevant Montenegrin institutions involved in preparation and technical implementation of projects under his/her responsibility.

Responsibilities of Senior Programme Officer (SPO) and Project Implementation Unit (PIU)

Senior Programme Officer (SPO)

The Senior Programme Officer (SPO) shall be responsible for the preparation and technical management of projects with respect to his/her institution, supervised by the PAO and shall provide assistance to the PAO in implementing activities which fall are under his/her responsibility.

More specifically, the SPO's responsibilities, regardless of the programming which shall be performed jointly with the Ministry of European Integration (MEI), shall also comprise the following tasks:

- a) S/he shall establish a proper internal organization with sound internal procedures and employment of a certain number of qualified staff so as to provide for the implementation of

- EU projects in a timely, effective and efficient manner, including the signing of the Statement of Willingness, within 15 days from the signing of the Operating Agreement;
- b) S/he shall be responsible for the technical part of procedures within his/her ministry;
 - c) S/he shall provide assistance to the PAO in a sound and timely preparation and implementation of procedures at technical level;
 - d) In accordance with provisions of the Budget Law which is in force in Montenegro, the SPO shall ensure the performance of activities regarding the role of the line ministry as a direct budget user which uses state budget funds;
 - e) He/she shall be responsible for co-ordination within each respective priority axis which has been stated in the Montenegrin project proposal which is attached to the Financing Agreement;
 - f) He/she shall prepare and submit a Statement of Assurance to the PAO twice a year, in accordance with the model attached to the Operating Agreement, and thus provide a certificate of effective operation of the management and control system, a certificate regarding the legality and regularity of underlying activities carried out by the fund beneficiary with respect to EU funded projects, and information regarding any changes in systems and controls.

Under the leadership of the SPO, the PIU shall be responsible for carrying out the following tasks within certain stages in the process of project implementation:

a) Tender Procedure

- Submit information to the PAO, if necessary, aimed at updating the Procurement Plan;
- Draw up project tasks, technical specifications, and guide for applicants in case of allocation of grants, as well as timely submission of these documents to the CFCU/PAO;
- It shall prepare a twinning agreement (along with the administration of the selected EU Member State) and submit it to the CFCU/PAO;
- Submit to the PAO requests for inviting tenders;
- Organize, in co-operation with the CFCU/PAO, the publication of a tender in local media, at the expense of the beneficiary institution, as well as the publication of a tender on the website of the beneficiary institution;
- At the request of the CFCU/PAO, it shall make amendments to any documentation regarding tender procedure;
- Provide necessary information to the CFCU/PAO regarding technical aspects of projects during the preparation of tender and/or tender process;
- Provide information to the CFCU/PAO so as to ensure timely answers to questions asked by tender participants/potential grant beneficiaries with a view to eliminating ambiguities.

b) Evaluation

- Propose to the PAO members of the Commission for shortlist of proposals and Commission for evaluation of tenders with the right to vote, along with proper curriculum vitas ensuring technical competences, including adequate knowledge of English;
- Ensure the presence of members of both Commissions with the right to vote during evaluation, namely the Commission for shortlist of proposals and the Commission for evaluation of tenders, during full-time working hours;

- Ensure the absence of a hierarchical link between proposed members of evaluation commission, as well as that there is not a potential conflict of interest regarding tender participants/grant applicants.

c) Contracting

- Provide assistance to the PAO in the negotiation process, at the request of the PAO;
- Confirm IPA-funded contracts. These contracts are valid for IPA funding only after they are approved by the Delegation of the European Commission;
- In co-operation with the CFCU/PAO, organize the publication of notices of allocated contracts and lists of successful grant beneficiaries in local media, if applicable to a specific case, with publication expenses being borne by a line ministry, as well as on the website of the ministry, if necessary.

d) Implementation

- Ensure the appointment of a partner (project manager) who shall be responsible for making contacts/cooperating directly with contracting parties, as well as for providing logistic and other types of assistance, if necessary;
- Technical management of projects ensuring that a contract signatory/grant beneficiary carries out tasks in accordance with previously set time limits, as well as in line with the required quality standards;
- Monitoring contract implementation through on-site visits which are organized during project implementation at any reasonable time and informing CFCU in advance on planned visits so as to ensure their participation as well, if necessary;
- Authorise reports of consultants/contract signatories/grant applicants (“read and approved”);
- Authorise and co-sign temporary and ultimate consent (“read and approved”);
- Authorise technical documents, control tables, presence of experts and preparation of payment orders on the grounds of payment applications/invoices (“read and approved”) issued by consultants/contract signatories/grant applicants;
- Where necessary, conduct on-site controls regarding invoices/certification of payment applications, under the supervision of the CFCU;
- Prepare payment applications regarding invoices within time limits provided by contract;
- Submit payment applications with all supporting documents to the CFCU/IA for approval within internal time limits set by the CFCU/PAO (Article 11.5);
- Where necessary, ensure co-ordination with other sectors within his/her beneficiary institution, with a view to the development and correct implementation of projects;
- Keep documentation regarding overall project implementation within the period of seven years from the payment of the total agreed amount. Detailed provisions regarding keeping of documents are laid down in the Financing Agreement for the given year. This period may be shortened either in case of instituting legal proceedings or with a completely justified request referred to the European Commission.
- Participate in trainings concerning decentralized management of IPA which are organized by the CFCU;
- Follow advice provided by the CFCU/PAO regarding the rules on procurement and implementation of financial procedures or any other problem with a view to avoiding/resolving any problem which could occur during project implementation;
- Any other tasks regarding technical implementation of projects under his/her responsibility.

d) Reporting

Prepare a monthly technical report on progress in project implementation, problems that have emerged (if any), future prospects and their submission to the CFCU/PAO;

- Ensure input for drawing up a financial statement and other reports as requested by the CFCU/IA;
- Ensure regular reporting on irregularities to the PAO;
- Provide additional information during project implementation, at the request of the PAO;
- Assist CFCU/IA in preparation of sectoral annual and final reports on implementation, which shall be referred to the DEC, NIPAC, and NAO respectively, after being reviewed by the Sectoral Monitoring Committee.

e) Monitoring

- Monitor services, supplies, works, grants and the Twinning Contract, along with reporting to the PAO on possible difficulties and failures during contract implementation;
- Provide assistance to the PAO in drawing up sectoral annual report and final report on implementation, which shall be submitted to the delegation of the European Commission, NIPAC and NAO respectively, after being reviewed by the Departmental Monitoring Committee;
- Provide inputs to the NIPAC office for preparation of reports on the state of the implementation process for the TAIB Committee;
- Participate in the Sectoral Monitoring Sub-Committee;
- Participate in the Sectoral Monitoring Committee, known as the TAIB Committee;
- Participate in the IPA Monitoring Committee if necessary.

f) Communication

- Participate jointly with the CFCU's manager for a specific contract at regular monthly meetings, with a view to discussing the state of a project, forthcoming tenders, any problems detected as well as given recommendations; these meetings must be organized by the SPO and Programme Implementing Unit (PIU). The NIPAC and DEC representatives may be invited to participate;
- Participate at regular (on a monthly basis in the beginning) meetings with the PAO so as to enable him/her to properly perform supervision of the SPO's activities.

65 If applicable, please specify how the concept of adequate separation of functions is applied in all implementation structures.

In February 2008, the Government of Montenegro adopted the Information on the establishment of Decentralized Information System (DIS) in Montenegro for IPA components 1 and 2. Pursuant to provisions of the Information, the Government of Montenegro has committed itself to appointing key DIS functions so as to fulfil initial requirements for creating structures and meeting the requirements of the European Commission.

In the decentralized implementation system, the separation of duties in managing EU funds has been achieved by placing the responsibility for programming on the Ministry of European Integration, as well as on the NIPAC office. The Minister of European Integration holds the function of the NIPAC in Montenegro. The National Authorising Officer (NAO), who holds the function of Deputy Minister for the Treasury Sector in the Ministry of Finance, is responsible for the financial management of EU funds. Within the above mentioned Sector, the National Fund has been established as a separate department.

Separation of responsibilities and obligations among key DIS bodies had to be realised in the area of functioning of the Operating Structure as well. Particularly, the Central Finance and Contracting Unit (CFCU) has been established as the Department for Finance and Contracting which is directly accountable to the Secretary of the Ministry of Finance, who at the same time holds the function of Senior Programme officer (SPO) in the Ministry. With respect to the requirement for the introduction of DIS, such positioning is not acceptable and therefore the Government of Montenegro, at its session held on 28 January 2009, passed the Information on the second stage of the establishment of DIS and adopted Conclusion No. 03-134522, on 22 January 2009, according to which the Ministry of Finance is responsible for reorganizing the Department for Finance and Contracting into a Sector. The implementation of this decision was achieved by adopting the amended Rulebook on systematization and internal organization of the Ministry of Finance (1 April 2009), according to which the Department for Finance and Contracting was reorganized into the Sector for Finance and Contracting of the EU Assistance, which is headed by the Programme Authorising Officer (PAO), who is at the same time the Deputy Minister for the above mentioned Sector.

In the implementation stage, the CFCU shall be responsible for approving payment applications, whereas the execution of payment shall be delegated to the National Fund, as the payment agent (Pursuant to the Instructions on Treasury Operation (Official Gazette of Montenegro 02/02 of 16 January 2009)), the functions of authorisation of payment and the execution of payment, have been separated as described in detail in the answer to question 15 of Chapter 22). EU funds are regarded as a part of budget funds and thus accounting for these funds shall also be secured within accounting systems of budget funds of spending units and the Ministry of Finance, where the National Fund and CFCU have been established.

This answer refers to IPA components 1 and 2. The process of establishing structures of the DIS system for components 3, 4 and 5 is underway. The principle of separation of duties of certain functions will be adhered to under these components as well.

66 Are the authorities or bodies mentioned above subject to internal audit?

Having regard to the fact that the Sector for Finance and Contracting of the EU Assistance (CFCU) and the National Fund are organizational units of the Ministry of Finance, these bodies are subject to internal audit which is performed by the Department for Internal Audit in the Ministry of Finance.

We point out that internal audit in the public sector of Montenegro is described in more detail in Chapter 32 of the Questionnaire.

67 If applicable, which is the location of these internal audit units? Are these units functionally independent? How is this guaranteed?

Pursuant to Article 20 of the Law on Internal Financial Control Systems in the Public Sector (Official Gazette of Montenegro 73/08), an internal audit unit must be separate from other organizational units of an entity in terms of function and organization. The Internal Audit Department of the Ministry of Finance has been organized as a separate organizational unit within the Ministry of Finance and that body is responsible for auditing all organizational units of the Ministry of Finance. Functional independence is achieved by independent planning, implementation and reporting on completed internal audits.

68 How much staff is available for internal audit?

Article 18 of the Law on Internal Financial Control Systems in the public sector stipulates that an internal audit unit may not have less than three internal auditors, which means that budget users will define the necessary number of internal auditors by an act of internal organization, taking into account work processes and defined goals, budgetary and other funds available and overall number of employees.

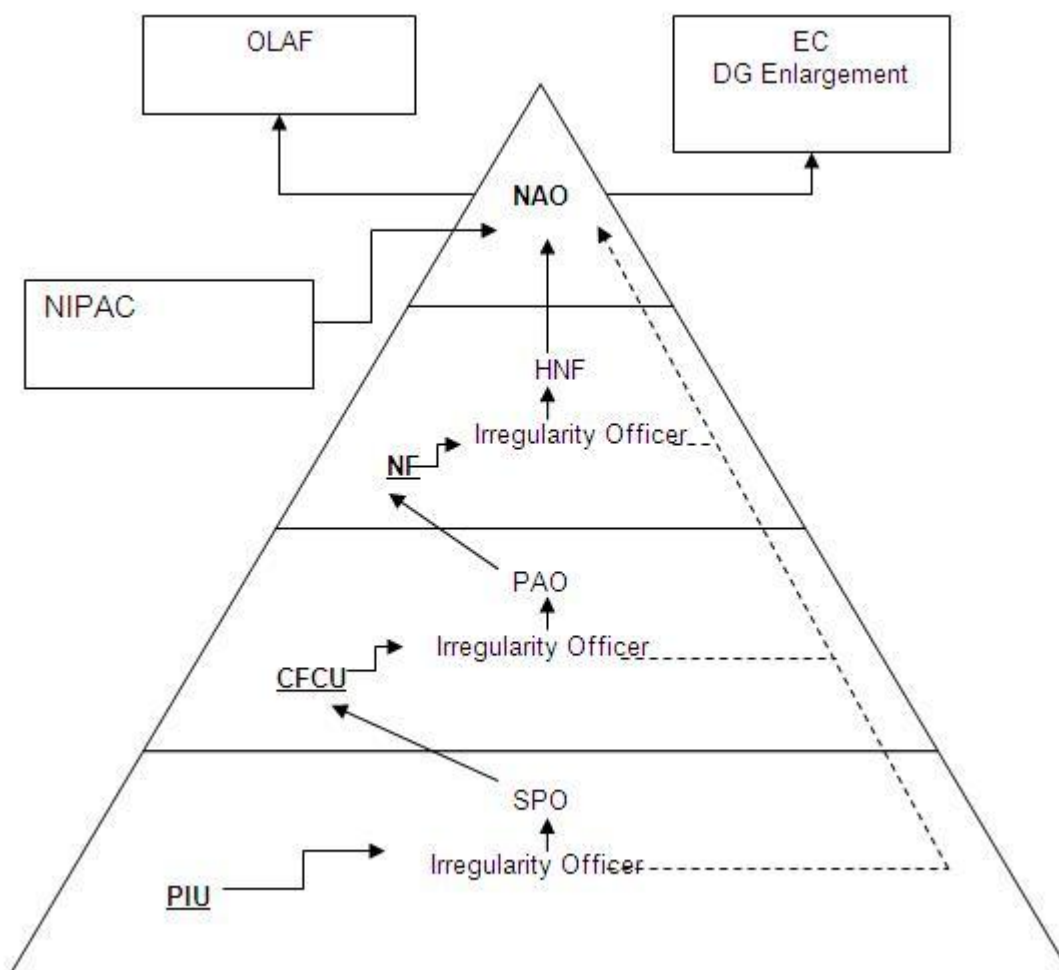
Internal audit affairs in the Internal Audit Department of the Ministry of Finance are performed by three internal auditors.

69 What are the accounting arrangements for EU assistance? Which authority (authorities) or body (bodies) is (are) responsible?

Bookkeeping rules for EU support are applied to the National Fund and CFCU respectively. The CFCU and National Fund shall be responsible for accounting and shall be responsible for following all international rules on accounting procedures, based on internationally recognized accounting standards (IAS), which provide for double entry bookkeeping and accounts on the grounds of invoicing.

70 Do procedures exist to manage irregularities at national and regional level (reporting / claiming system)?

The scheme of reporting on detected irregularities is presented in the following picture:



The above presented scheme provides an overview of reporting on irregularities from the SPO to PAO, and from the PAO to NAO. The NIPAC shall also report to the NAO on suspicious or detected irregularities. It is always possible for the Irregularities Officer to report directly to the NAO, even without a signature of his/her superior in the reporting hierarchy, if the Irregularities Officer suspects that irregularity cases may remain undetected. In the presented scheme, the broken line represents the reporting process directly from the Irregularities Officer to the NAO.

Irregularity is any event that is not in accordance with the law or does not meet a certain quality standard during the implementation process. It represents any breach of the Community's regulations, as well as a breach of regulations of a beneficiary country and results in violation of the budget of the European Community.

In order to enable the European Commission to protect its financial interests, since a part of irregularities has a financial impact, Article 28 of the Framework Agreement between the Government of Montenegro and the Commission of European Communities (Official Gazette of Montenegro 01/08 of 10 January 2008) establishes the rules regarding prevention of irregularities and reporting on them. In accordance with the above mentioned Article of the Framework Agreement, the beneficiary country shall ensure investigation in cases when a fraud or irregularity are suspected and shall ensure the functioning of control and reporting mechanisms. Moreover, the beneficiary shall take all appropriate measures so as to prevent and combat any active or passive corruption at any stage of procurement or grants allocation, as well as while implementing certain agreements. The beneficiary country and persons responsible for implementing activities funded by the Community shall take all precautionary measures which are necessary so as to avoid conflict of interests and it shall immediately inform the Commission of any conflict of interest or a situation which could cause such a conflict.

71 In case of irregularities, who will be informed first?

Irregularity may be detected at several levels, in all stated institutions. However, the National Authorising Officer (NAO) is the person who must be informed, immediately upon detection, of an determined irregularity or of a suspected irregularity.

However, the irregularities reporting procedure must follow the hierarchy which is established in institutions. That means that every institution has an officer who is appointed as the Irregularities Officer and whose responsibility, apart from reporting new irregularities, is also updating data on irregularities that have already occurred. The Irregularities Officer is the first level in the reporting procedure. S/he is directly responsible for reporting detected irregularities to the executive of his/her institution. The Programme Authorising Officer (PAO) is directly responsible for verification of irregularities reports submitted by the SPO, whereas the head of the NF is responsible for reviewing and verifying reports that the PAO submits to the NAO.

While performing his/her functions, the NAO plays an important role with respect to irregularities. The NAO shall ensure investigation and a satisfactory overview of current and suspected irregularities, following national controls or Community controls, and it shall ensure reporting to the European Commission in accordance with provisions of Article 19 of the IPA Implementing Regulation. The NAO must be immediately informed if the Irregularities Officer, Head of NF, PAO, SPO, internal or external auditors, staff members or any other institution and/or person detects or suspects irregularity. The NAO shall send the information regarding irregularities to the European Commission or OLAF.

Furthermore, rules for reporting on irregularities have been set out in the Implementing Agreement which was signed between the NAO and PAO on 6 May 2009, as well as in draft operating agreements which will be signed by the PAO and heads of project implementation units – the SPOs.

Employees shall report facts that refer to a possible illegal activity, including fraud or corruption, or any serious omission in fulfilling professional duties of employees. This obligation refers to facts discovered by an employee while performing his/her duty or to those which are related to his/her duties. The employee who becomes aware of any serious abuse shall notify his/her superior, the SPO, PAO, head of the National Fund, NAO or Irregularities Officer without delay and in writing. Employees who report irregularity shall be protected from adverse consequences of “pointing” to irregularity.

An employee and executive are not expected to prove that assumptions about reported irregularities are correct. Similarly, while reporting, it shall be assumed that an employee or executive believe with a reason that the irregularity occurred at the time of reporting. Employees who meet the above mentioned requirements shall be protected from harmful consequences of pointing to irregularities. Protection of those who point to irregularities is governed by provisions of the Law on Prevention of Conflict of Interests (Official Gazette of Montenegro 01/09 of 9 January 2009), Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08 of 11 August 2009) and Code of Ethics of Public Servants and State Employees (Official Gazette of Republic of Montenegro 81/05 of 29 December 2005).

72 Are there procedures and responsibilities concerning the notification of irregularities to the Commission?

In accordance with IPA Manual of Procedures, whose drafting is in its final stages, the manner of reporting to the Commission on irregularities has been defined. The NAO shall ensure investigation and a satisfactory overview of current and suspected irregularities, following national controls or Community controls and s/he shall ensure reporting to the European Commission in accordance with provisions of Article 19 of the IPA Implementing Regulation. The NAO must be immediately

informed if the Irregularities Officer, Head of NF, PAO, SPO, internal or external auditors, staff members or any other institution and/or person detects or suspects irregularity. The NAO shall send the information regarding irregularities to the European Commission and OLAF.

Since irregularities are unforeseeable events, regarding place and time, the NAO has several possibilities for reporting them to the Commission.

“Regular quarterly report” is a report that is submitted to the Commission on a quarterly basis and which is signed by the NAO. This report contains all information about procedures that have been introduced upon discovering previously detected irregularities, as well as changes that have arisen from the implementation of those procedures.

Furthermore, if irregularities occur, the NAO may send an “Interim Report on Irregularities” to the Commission. This report is sent when it has been established that the detected irregularity might have a high impact outside Montenegro, and when there is a proof that an employee of an IPA institution abuses his/her position. The report consists of a standard letter and completed standard form of irregularities reports which is set out in Annexes of the Manual of Procedures.

If new irregularities have not occurred in between the sending of quarterly reports, the NAO shall send the so-called “Zero” Report to the Commission.

The NAO shall also send a Special Report to the Commission regarding amounts of money which have been subject to irregularities, but which are impossible to recover. The report should also contain facts that contributed to the loss of those funds. This report shall be sent where appropriate.

73 Is there a guarantee in the rules that at all times the Commission will be informed of irregularities?

It is the obligation of all employees in all institutions involved in IPA-funded projects to report on irregularities. The National Authorising Officer (NAO) is an officer whose responsibility is to report directly to the Commission on irregularities. In order to enable the European Commission to protect its financial interests, since a part of irregularities has a financial impact, Article 28 of the Framework Agreement between the Government of Montenegro and the Commission of European Communities (Official Gazette of Montenegro 01/08 of 10 January 2008) establishes the rules regarding prevention of irregularities and reporting on them. Article 28 of the Framework Agreement is worded as follows:

- (1) The Beneficiary shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that foreseen in the Commission Regulation (EC) No 1828/2006 of 8 December 2006. In the case of suspected fraud or irregularity, the Commission shall be informed without delay.
- (2) Furthermore, the Beneficiary shall take any appropriate measure to prevent and oppose any active or passive corruption practices at any stage of the procurement procedure or grant award procedure or during the implementation of corresponding contracts.
- (3) The Beneficiary, including the personnel responsible for the implementation of the Community financed activities, undertakes to take whatever precautions are necessary to avoid any risk of conflict of interests and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.
- (4) The following definitions shall apply:
 - a. *Irregularity* shall mean any infringement of a provision of applicable rules and contracts resulting from an act or an omission by an economic operator which has, or may have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.
 - b. *Fraud* shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the

misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

- c. *Active corruption* is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the European Communities.
- d. *Passive corruption* is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the European Communities.

In each structure, an Irregularities Officer must be appointed and s/he directly reports to his/her executive, i.e. the head of Programme Implementation Unit (PIU) – SPO. The SPO's responsibility of reporting to the NAO will be laid down by operational agreements, which will be signed between heads of Programme Implementation Units (PIU) – SPO and Programme Authorising Officer (PAO). Furthermore, Article 13 of the Implementing Agreement, which was signed between the NAO and PAO on 6 May 2009, establishes clear and binding rules regarding reporting on irregularities and the role of the CFCU in reporting.

In view of the above mentioned, it is clear that reporting on irregularities is the duty of both executives and employees of institutions involved in the implementation of IPA programmes.

74 Are there responsibilities for control and audit at national and regional level? If yes, please provide a description of the competent authorities.

The State Audit Institution of Montenegro is an independent and supreme body of state audit in Montenegro. The Institution was established in 2004 by adoption of the Law on State Audit Institution.

The State Audit Institution is defined by Constitution. Article 144 of the Constitution of Montenegro (Official Gazette of Montenegro 01/07) guarantees independence of the Institution and defines that “the State Audit Institution shall perform audit of the legality and successfulness of managing state property and obligations, budgets and all financial affairs of an entity whose sources of funding are public or arise from using the state property”.

The Law on State Audit Institution (Official Gazette of the Republic of Montenegro 28/04, 27/06, 78/06, Official Gazette of Montenegro 17/07) establishes the rights, obligations and manner of work of the State Audit Institution, while secondary legislation clearly defines affairs, tasks and organization of bodies of the supreme Institution.

Article 4 of the Law on State Audit Institution stipulates that bodies and organizations managing the budget and property of the state and local government units, funds, the Central Bank of Montenegro and other legal persons in which the Government has a stake shall be subject to audit. The Institution also performs audits of entities which execute a part of the budget, manage the state property, receive subsidies or obtain grants or guarantees from the state, i.e. cooperate with auditee.

Article 9 of the Law on State Audit Institution stipulates that the Institution shall perform audit of the final statement of the budget of Montenegro every year, whereas audit of other entities is defined by an annual schedule of audits.

In accordance with Articles 18 and 19 of the Law on State Audit Institution, the Institution reports to the Parliament and Government by submitting annual reports, special reports and consulting based on findings obtained by means of audit.

The Institution submits an annual report to the Parliament and Government by the end of October. This report contains in particular:

1. an assessment of whether the amounts set out in the final statement of the budget correspond to the amounts set out in the record or whether the controlled revenues, expenses and property are correctly documented in accordance with regulations and general standards;
2. an assessment of major cases in which regulations and rules on the budget and economic affairs of the state have not been complied with;
3. major objections to deficiencies detected in the auditee;
4. recommended measures;

Conclusions on former and proposals concerning future budget years may also be stated in the annual report.

The Institution shall make the annual report available to the public, pursuant to Article 50 of the Law on State Audit Institution.

75 What anti-fraud measures (responsibilities, procedures) are in place?

The legal framework for the protection of persons reporting corruption is laid down in the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), whereas practical protection mechanisms are governed by the Professional Instructions on procedures for reporting criminal offences with elements of corruption and protection of persons reporting these acts to the Police Directorate. The law incorporates the concept of *whistle blowing*, i.e. protection of persons reporting corruption. Article 54 provides for the protection of a civil servant and state employee reporting corruption. The Article prescribes that his/her employment and status in a body cannot come into question because of that, while guaranteeing protection of identity which may not be disclosed to unauthorized persons. If life, health, physical integrity, freedom or property of the officer is under threat, he/she may be protected in accordance with the Law on Witness Protection. Article 59 provides that the abuse, limitation or infringement of rights of a civil servant or state employee, as defined by this Law, who reports a criminal offence with elements of corruption or gives an official statement on it shall be considered a serious disciplinary violation. A fine or termination of employment may be imposed for such misdemeanor. Article 64 provides for instituting disciplinary proceedings for a serious violation of employment obligations against an executive who acts contrary to Article 54. On 24 October 2008, the director of the Police Directorate adopted the Professional Instructions on procedures for reporting criminal offences with elements of corruption and protection of persons reporting these offences to the Police Directorate. The Instructions lay down procedures of reporting corruption to the police by telephone, fax, e-mail or directly, as well as the system of protecting persons reporting corruption and information he/she gives on that occasion. For information on protection of persons reporting corruption, see answers to questions 46 and 51, Chapter 23 - Justice and Fundamental Rights.

The Directorate for Anti-Corruption Initiative (DACI) is responsible for, *inter alia*, raising public awareness on the problem of corruption and ways of combating it. Apart from addressing the general public, the DACI also participates in activities geared to professionals, so as to enable the application of international standards in this field through the strengthening of professional knowledge. Thus, the DACI organized a number of lectures for the professionals so far, including: a series of lectures at the Institute of Certified Accountants of Montenegro and the Institute of Accountants and Auditors of Montenegro; the training of public prosecutors, accountants and auditors in reporting criminal offences with elements of corruption, inter-institutional co-operation and exchange of information in association with the Council of Europe; the roundtable discussion entitled "Harmonization of Montenegrin Legislation with Provisions of the United Nations

Convention against Corruption” in association with UNDP; two roundtable discussions on “Implementation of Council of Europe’s Civil Law Convention on Corruption”, in association with the Council of Europe”.

The role of accountants and auditors in discovering criminal offences with elements of corruption is very important and thus the Council of Europe in Montenegro addressed a binding recommendation in this direction, within the joint evaluation round I and II.

The above mentioned activities have been undertaken with a view to implementing the said recommendation.

According to the IPA Manual of Procedures, which defines actions and procedures while using EU funds, *fraud* means any deliberate action or omission relating to:

- i. Using and presenting false, incorrect and incomplete statements on documents, resulting in abuse or wrong channeling of funds from the main budget of the European Community (EC) or the budget it manages or the funds represented by the EC, or the budget of Montenegro;
- ii. Failing to publish information as a breach of special obligations, with the same effect;
- iii. Abuse of such funds for purposes different from those for which the funds were originally approved.

Frauds also include:

- Forging or alteration of archive or documents;
- Preventing and leaving out effects of transactions from archive or documents;
- Archiving false transactions;
- Theft or conscious destruction or loss of funds;
- Abuse of accounting or other provisions or policies.

Fraud is one of the risks (among many) that may affect the achievement of objectives. Together with other risks, the management is responsible for ensuring a satisfactory level of control for discovering any fraudulent activities.

Article 28 of the Law on Ratification of Framework Agreement (Official Gazette of Montenegro 01/08 of 10 January 2008) between the European Commission and the Government of Montenegro sets the rules on obligations of the beneficiary country regarding frauds (for more detailed information, see answer 71 of this Chapter).

For more details on the legal framework for the criminal offences of fraud see answer to question 26 in Chapter 32.

VII. Availability of statistics for the implementation of the structural funds

76 Please describe which socio-economic data/statistics are available at national and regional level.

Since, according to the division of Montenegro into statistical regions, the regional level actually represents the national level corresponding to the NUST classification, the following socio-economic indicators arising from statistical research are available at national level:

Demographic statistics

Population and the number of households according to censuses, population by sex and age and censuses. Natural movement of population, birth, death and marriage rates, general and specific fertility rates, specific mortality rates, population by activity and sex according to censuses, live births by age of mother and order of birth, deaths by place of death and treatment, dead infants by age and treatment, deaths by age and sex, marriages concluded by previous marital status, divorces by duration of marriage, etc.

Migration

Emigrants and immigrants by sex and age, etc.

Labour force and salaries

Population by activity and sex according to censuses. Employees by occupation, total population by activity and sex (ARS), women aged 15 and more, employees by educational degree, unemployed by duration of job seeking, inactive population, unemployed by educational degree. Average salaries by occupations classification etc.

Gross Domestic Product

Gross Domestic Product by occupations classifications in current prices, Gross Domestic Product by expenditure category in current prices and other.

Population expenditure and poverty analysis

Available funds and household expenditure, the structure of available funds and household expenditure, supply of consumer durables to households. Absolute poverty line, poverty rate, etc.

Education and science

Educational structure and literacy according to census. Basic indicators on primary and secondary schools, teaching staff, students by funding type and sex by faculties, by year of studying, graduate students by faculties, postgraduates, masters and doctors by educational field of scientific paper and sex, pre-school education institutions and halls of residence. Development of scientific-research and research-development activity, etc.

Social welfare

The number of recipients and workers in social welfare institutions by institution type, recipients of social welfare, recipients of social welfare services and measures by type, child allowance recipients, etc.

77 Are these data/statistics harmonised at the European level (accepted and published by Eurostat)?

Eurostat receives and publishes data from all the said areas (for more detailed information on data produced see Chapter 18).

78 Are (harmonised) GDP data at PPP available on future NUTS level 2?

Since, according to the division of Montenegro into statistical regions, future NUTS level 2 actually represents the national level corresponding to NUTS classification, GDP data at purchasing power parity (PPP) exist at national level, as well as at future NUTS level 2.

79 Are (harmonised) GDP data at PPP available on future NUTS level 3?

Since, according to the division of Montenegro into statistical regions, future NUTS level 3 actually represents the national level corresponding to NUTS classification, GDP data at purchasing power parity (PPP) exist at national level, as well as at future NUTS level 3.

80 Are (harmonised) unemployment data available on future NUTS level 2?

Since, according to the division of Montenegro into statistical regions, future NUTS level 2 actually represents the national level corresponding to NUTS classification, unemployment data exist at national level, as well as at future NUTS level 2.

81 Are (harmonised) unemployment data available on future NUTS level 3?

Since, according to the division of Montenegro into statistical regions, future NUTS level 3 actually represents the national level corresponding to NUTS classification, unemployment data exist at national level, as well as at future NUTS level 3.

List of Annexes:

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