



*Centar za građansko obrazovanje
Centre for Civic Education*

WORKING GROUPS FOR THE PREPARATION AND CONDUCT OF NEGOTIATIONS WITH THE EU

importance, role and position of members



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CONTENT

Introduction	7
Montenegro and European Union - Background of relations	9
Negotiating structure for the conduct of negotiations on the accession of Montenegro to EU	11
Working groups for the preparation and conduct of negotiations	14
Financing of the engagement of members of working groups for the preparation and conduct of negotiations	18
Conclusions and recommendations	24



INTRODUCTION

The analysis “*Working groups for the preparation and conduct of negotiations with the EU – importance, role and position of members*” aims to contribute to the assessment of quality of this process and further improve the efficiency and effectiveness of work of negotiating structure by focusing on working groups, which are an integral part of negotiating structure. Thus the analysis is being done prior to fourth anniversary since Montenegro opened the negotiations with the European Union.

Full membership of Montenegro in the EU presents one of its most important strategic objectives, which enjoys a high level of political concordance, as well as the support of Montenegrin citizens.

Montenegro opened this process by signing the Stabilisation and Association Agreement (SAA) in 2007, and gained the status of candidate based on the decision of European Council in 2012. Accession negotiations officially began on 29 June 2012. By December 2015, Montenegro opened 22 chapters, out of which two are closed provisionally.

In order to prepare for the opening of negotiations, Government of Montenegro in December 2011 appointed the Chief negotiator to conduct the negotiations with the EU, and in February 2012 it passed the *Decision on the establishment of negotiation structure for the accession of Montenegro into European Union*¹, which envisaged an important role for working groups during the preparation and conduct of negotiations with the EU.

¹ Decision on the establishment of structure for the accession negotiations of Montenegro in European Union “Off. Gazette of Montenegro”, no. 09/2012, 15/14

Importance, role and position of members of working groups remain insufficiently emphasised in Montenegrin public, even though working groups represent one of the pillars of negotiation process. This motivated the Centre for Civic Education (CCE) to draw the attention on their work, as well as to try to assess how much was invested into their operation and what can be done to further utilise their role, especially considering the broad spectrum of stakeholders which they encompass. In that respect, the CCE had been collecting the information from February till May 2016, based on the Free Access to Information Law, on the members of working groups and the amount of funds which public sector bodies², that have the representatives in working groups within all negotiation chapter, paid for fees for these engagements. Furthermore, the CCE analysed the level of uniformity of fees between the members of working groups, as well as between the working groups. The information gathered were analysed in relation to the level of involvement of specific working groups, measured through the number of meetings that were held, and finally, the performance and results that were achieved so far. Information were gathered from the day the working groups for each negotiation chapter were formed to March 2016, and these are related to 16 ministries, 14 agencies, 5 funds, 7 agencies, 15 administrations and 58 other institutions (directorates, institutes, centres, courts, and etc.), which have the representatives in working groups. According to the information that the CCE gathered, total amount of funds which public sector bodies invested into their designated representatives in working groups amounted 441.235.16 EUR, for the period from March 2012 to March 2016. Data indicate on the absence of clearly and precisely defined criteria based on which the allocations for members of working groups, heads of working groups and coordinators of subgroups are being made. Therefore, the CCE prepared the recommendations in order to better regulate this system, which would thus put the members in an equal position, and assess them based on their performance.

² The public sector bodies, according to the Law on Budget of Montenegro, includes state bodies, municipalities (local self-government units), independent regulatory bodies, public institutions and companies in which the state or municipalities have a controlling stake, followed by the judiciary (courts and prosecutors) and other .

MONTENEGRO AND EUROPEAN UNION — BACKGROUND OF RELATIONS

History of relations between Montenegro and European Union began within the State union of Serbia and Montenegro with the *Feasibility Report or Report on the readiness of Serbia and Montenegro for the negotiations on the conclusion of Stabilisation and Association Agreement with European Union* by the European Commission³.

The relations intensified after Montenegro restored its independence at the referendum, which was held on 21 May 2006. Month later, the European Council formally acknowledged the independence of Montenegro and on 22 January 2007 it passed the decision on the adoption of new *European partnership with Montenegro*.⁴

Accession process, as a most advanced form of cooperation between a non-member state and EU, begins with the Stabilisation and Association Agreement (SAA), which was signed on 15 October 2007, came into force on 1 May 2010, after every EU member state ratified it. The

Stabilisation and Association Process itself has several clearly defined stages, starting from the period which preceded the signing of Stabilisation and Association Agreement and the negotiations on the same, followed by the submission of request for membership and gaining the status of candidate, to the EU accession negotiations.

Accession negotiations are the negotiations on the conditions based on which candidate state accedes the European Union, and which are determined with international agreement between EU member states and candidate state after the finalisation of negotiations, the so called Treaty of Accession.

³ http://europa.eu/rapid/press-release_IP-05-421_en.htm

⁴ <http://www.skupstina.me/index.php/me/pristupanje-eu/crna-gora-i-eu>

By following the defined stages, Montenegro filed the application for membership on 15 December 2008, after the SAA signing, based on which the European Commission sent a *Questionnaire to Government of Montenegro* in July 2009. Government prepared the answers and submitted them in December of that same year. A year later, on 9 November 2010, European Commission published a positive Opinion on the readiness of Montenegro for the membership, and on 17 December 2012, the European Council awarded Montenegro the candidate status. *European Commission Progress report for 2011*, which was published on 12 October 2011, for the first time suggested the opening of accession negotiations, which were opened on 12 June 2012 at the first Intergovernmental conference between Montenegro and European Union in Brussels.

Prior to this event, Government appointed the chief negotiator to conduct the negotiations with the EU on 29 December 2011, as well as Government's *Decision on the establishment of negotiation structure for the accession of Montenegro into European Union* from 2 February 2012, as well as the decision on the establishment of Working groups for the preparation of accession negotiations for the area of EU acquis, related to negotiation chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security), in March of that same year.

Based on the experience from previous accession negotiations, European Commission opted for a *new approach* in the case of Montenegro. The very essence of this approach reflects in the decision based on which the negotiations begin with the opening of negotiations with chapters 23 and 24 and that during this entire process it monitors the assumed obligations and track record in these areas, or that the negotiations basically finish with the closure of these chapters.

By December 2015, Montenegro opened 22, and provisionally closed 2 chapters, namely Chapter 25 (Science and Research) in December of 2012 and Chapter 26 (Education and Culture) in April of 2013.

NEGOTIATING STRUCTURE FOR THE CONDUCT OF NEGOTIATIONS ON THE ACCESSION OF MONTENEGRO TO EU

One of the prerequisites for the successful conduct of accession negotiations was to form the negotiating structure, hence the Government of Montenegro adopted a decision on 2 February 2012 titled *Decision on the establishment of negotiation structure for the accession of Montenegro into European Union*.

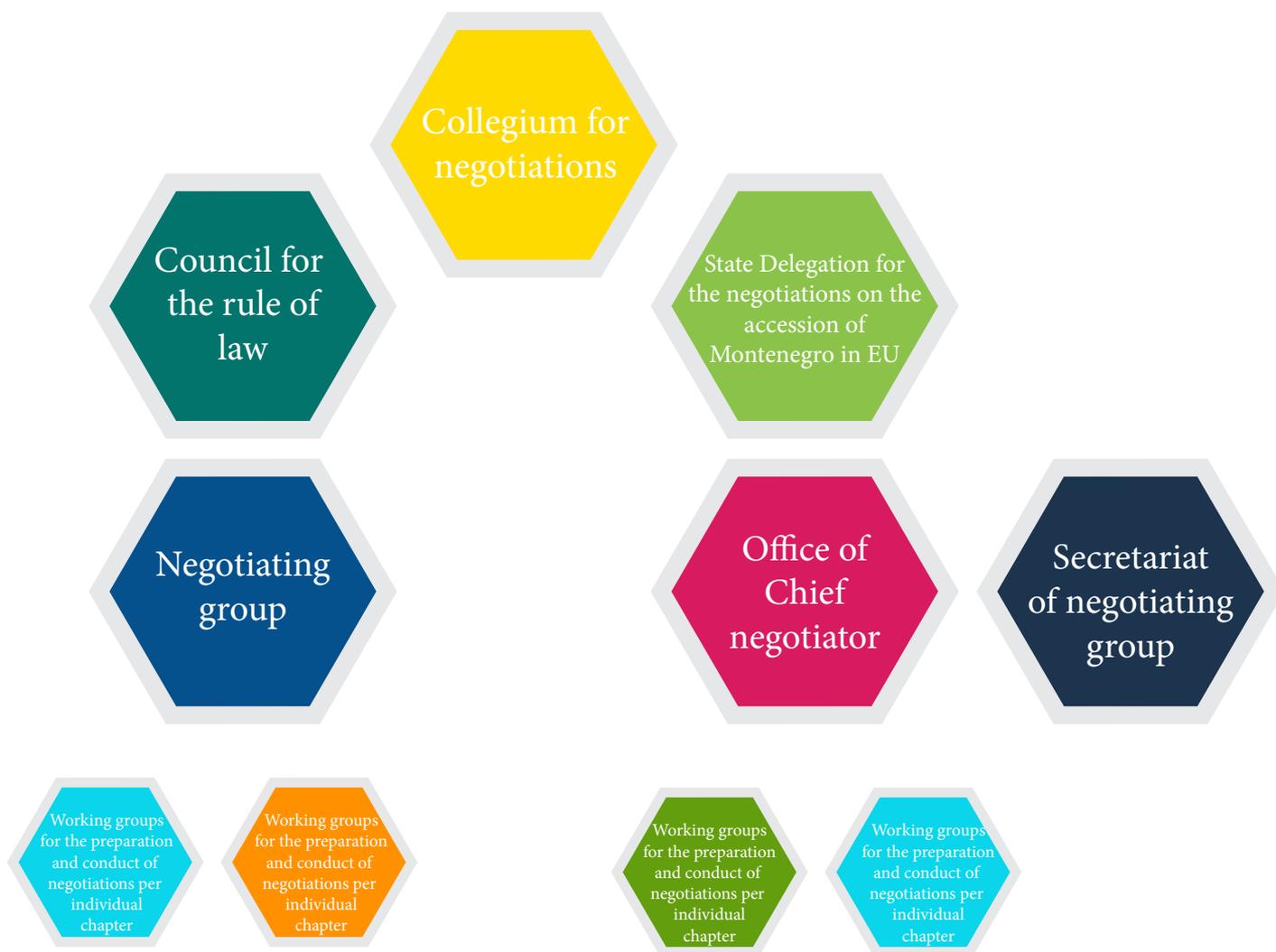
Initially, the negotiating structure was composed of: Collegium for Negotiations on the Accession of Montenegro to European Union; State delegation of Montenegro for the accession negotiations between Montenegro and European Union; Negotiating group for the negotiations on the accession of Montenegro to European Union; working groups for the preparation of negotiations on the accession of Montenegro to European Union per individual chapter of negotiations – European Union acquis (*hereinafter referred to as WG*); Office of chief negotiator for the conduct of negotiations on the accession of Montenegro to European Union; and Secretariat of the Negotiating group. This was followed by formation of 33 WG and the appointment of 10 negotiators for individual or subject-related WG.

This decision was amended on 6 March 2014 with the *Decision on the amendment of Decision on the establishment of negotiation structure for the accession of Montenegro into European Union*, which introduced a new body in the negotiating structure – Rule of Law Council, but also expanded the obligations and competencies of working groups in terms of the preparation of negotiations, which were accordingly renamed into working groups for the preparation and conduct of accession negotiations of Montenegro to European Union.

Therefore, the negotiating structure of Montenegro consists of the following bodies:

- 1) Collegium for Negotiations on the Accession of Montenegro to European Union;
- 2) State Delegation of Montenegro for the accession negotiations between Montenegro and European Union;
- 3) Rule of Law Council;
- 4) Negotiating Group for the conduct of accession negotiations of Montenegro to European Union;
- 5) Working groups for the preparation and conduct of accession negotiations of Montenegro to European Union per individual chapter of negotiations –acquis communautaire;
- 6) Office for the support to Chief negotiator;
- 7) Secretariat of Negotiation group.

Collegium for the Negotiations was positioned at the top of the structure, as the supreme political body which responsibility reflects within the framework of the consideration of every issue which stems from the process, whereas WG for individual chapters are at the bottom of the structure, but with a higher degree of responsibilities and obligations than it was the case with countries which previously completed the negotiation process successfully. More precisely, working groups have to prepare action plans for the opening of negotiating chapters, and monitor the implementation of action plans which influence the progress in negotiations and most importantly, the possibility of closing some of the negotiating chapters, thereby the negotiations.



Graph 1: Negotiating structure for the conduct of accession negotiations of Montenegro to EU

COLLEGIUM FOR NEGOTIATIONS

Collegium gathers Prime Minister, Deputy Prime Ministers, Minister of Foreign Affairs and European Integration and Chief negotiator for the conduct of accession negotiations of Montenegro to European Union. Collegium for Negotiations reviews the proposals of negotiating positions and once the procedure in competent working body of Parliament of Montenegro is conducted, it submits them to Government for the adoption. It also discusses every other important issue related to negotiations.

STATE DELEGATION

State Delegation conducts direct political discussions and negotiations with member states and institutions of EU and it is responsible for the successful implementation of negotiations related to all chapters.

It is accountable to Government for its work and acts in line with guidelines for negotiations passed by the Government. It submits a report to Government on the state of negotiations after every meeting of intergovernmental conference between Montenegro and EU member state on the level of ministers, as well as the special reports, if the Government requires that. Its members are: Head of State Delegation – Minister of Foreign Affairs and European Integration; Deputy Head of State Delegation – Chief negotiator; deputies of Chief negotiator; Head of the Mission of Montenegro to EU and Secretary of Negotiating group.

RULE OF LAW COUNCIL

This body was recently formed and represents a novelty in Montenegrin negotiations compared to comparative experiences. Its task is to monitor the process of negotiations in chapters 23 and 24, and key reasons for the delay in the realisation of commitments, as well as to provide recommendations for urgent acting in areas covered with these chapters and assumed obligations in those frameworks. Rule of Law Council consists of the president, deputy president and 40 members, or representatives of every relevant ministry and agency for the implementation of laws in the area of rule of law. Formation of this body caused divided reactions, and its basis can be found in current modest results within most significant and most demanding chapters and insufficiently active role of Collegium for Negotiations, which lead to the idea of “political pressure” that would come from heads of bodies which representatives are the members of WG 23 and 24.⁵

NEGOTIATING GROUP⁶

Negotiating Group is in charge of the professional and technical part of the negotiations with the institutions and EU member states, per each negotiating chapter, or the EU acquis. It consists of chief negotiator, ten members of negotiating group who are in charge of specific negotiating chapters and head of the Secretariat of negotiating structure. Appointment of Montenegrin negotiators proceeded in parallel with the formation of WG for the conduct of negotiations, from February 2012 to April 2013. During that period, eleven negotiators⁷ were appointed for 33 chapters of EU acquis which make the Negotiating group.⁸ Each of the ten negotiators is in charge of at least two areas, or chapters, while the Chief negotiator chairs the Negotiating group.

OFFICE FOR THE SUPPORT TO CHIEF NEGOTIATOR

Office of Chief negotiator has nine members, out of which seven are in Podgorica and two in Brussels, and work of this office is managed by Head of the Office. In general, its task is to perform technical and administrative affairs necessary for the work of chief negotiator. Office coordinates the activities with the negotiating structure and other relevant subjects of process of accession.

SECRETARIAT OF NEGOTIATION GROUP

Secretariat of Negotiation group coordinates the tasks and activities which stem from the accession negotiations, prepares the analytical overview and the assessment of harmonisation of Montenegrin legislation with the EU acquis as well as the accompanying reports on the course of analytical overview and appraisal of harmonisation of legislation, and the reports on the course of the negotiations. In addition, it performs the technical processing and prepares the basis for the work of WG per individual chapter, technical preparation of proposals of negotiating positions, as well as the technical preparation of meetings between State Delegation and Negotiating Group, but also coordinates the use of database for the monitoring of negotiations. At the request of Chief negotiator and Secretary of Negotiating group, it performs other administrative-technical activities related to negotiations. Secretariat has eighteen members, representatives of MFAEI, and its work is managed by the Secretary of Negotiation Group.

⁵ Negotiations between Montenegro and the EU: Data access for the privileged only, Institute Alternative, 2015

⁶ Brochure “Negotiating team”, MFAEI CG, 2015

⁷ Ten negotiators plus the chief negotiator, which makes a total of eleven

⁸ <http://www.eu.me/mn/pregovori-o-pristupanju/pregovaracke-strukture/pregovaracka-grupa>

WORKING GROUPS FOR THE PREPARATION AND CONDUCT OF NEGOTIATIONS

Working groups for the preparation and conduct of negotiations participate in the screening and appraisal of harmonisation of Montenegrin legislation with the EU acquis, as well as in the creation of proposals of negotiating positions; then in the creation, implementation and reporting on the implementation of action plans and other documents of significance for the accession, but also in the monitoring and reporting on the implementation of initial, provisional and final benchmarks for the closure of negotiating chapters; monitor and report on the realisation of Accession Programme of Montenegro in the EU; participate on meetings of subcommittee for stabilisation and association; participate in expert missions; and perform other activities of significance for the negotiations, with the support of state administration bodies and other bodies and institutions.

During the period 2012-2013, total of 33 working groups were formed for 33 negotiating chapters based on the Decision of Government of Montenegro, whereby the last WG were formed in April 2013. Government makes the decision on the formation of WG separately for each negotiating chapter, and they currently engage around 1,330 members⁹. This figure changes, and compared to the period of formation up to date, it increased considerably.

WG consists of the members and chief appointed based on the proposal of head of the State Delegation and with the concordance of Chief negotiator. Chief manages the WG in agreement with a member of Negotiation Group who is in charge of the coordination of an individual negotiating chapter and to whom he/she is accountable for his/her work.

⁹ <http://www.eu.me/mn/>

The Government can form subgroups for specific issues within the WG, based on the proposal of chief of WG and with the concordance of Negotiation Group. Each working subgroup has its chief, appointed at the proposal of Chief negotiator, and he/she manages the working subgroup in the agreement with the chief of WG and member of Negotiation Group in charge of the coordination of an individual negotiating chapter, and to whom he/she is accountable for his/her work.

Members of WG and subgroups are appointed at the proposal of Chief negotiator, with the consultations with managers of state administration bodies and other bodies, institutions and organisations. WG are multi-sector, thus their members can be also the representatives of civil society, apart from the representatives of institutions.

The number of members varies depending on the complexity of negotiating chapter and ranges from minimal number of 12 (Chapter 21 – Trans-European networks), to 101 members (Chapter 18 – Statistics).

The intensity of work is demonstrated through the number of meetings held. It is also uneven and characterised with small, predominantly single-digit, number of meetings of WG members. It should be emphasised that the dynamics of meetings is far greater on the level of coordinators, which can be seen on the example of negotiation chapters 23 and 24. In this respect, this raises the question of expediency of participation of every appointed member of WG, considering that a significant scope of decisions is made on the level of coordinators, and that a large number of members does not provide an effective contribution.

Working group	Negotiation chapter	Date of formation	Number of members	Number of meetings of WG until 2016*	Number of meetings of coordinators	Status
1	Free movement of goods	27/12/ 2012	47	9	35	Not open
2	Freedom of movement for workers	11/04/2013	33	3	6	Not open
3	Right of establishment and freedom to provide services	26. 10. 2012.	31	6	35	Not open
4	Free movement of capital	14.12.2012	25	6	17	Chapter opened on 24/06/2014
5	Public Procurement	26. 07. 2012.	31	4	25	Chapter opened on 18/12/2013
6	Company Law	6.09.2012.	26	5	15	Chapter opened on 18/12/2013
7	Intellectual Property Law	20.09.2012.	21	4	15	Chapter opened on 31/3/2014
8	Competition Policy	20.09.2012.	26	5	27	Not opened
9	Financial Services	25.03.2013.	38	4	15	Chapter opened on 22/06/2015
10	Information Society and Media	15.11.2012.	40	6	37	Chapter opened on 31/3/2014
11	Agriculture and Rural Development	18. 10. 2012.	74	10	7	Not open
12	Food safety, Veterinary and Phytosanitary policy	20. 09. 2012, i izmijenjena februaru 2014.	60	5	25	Not open
13	Fisheries	14.02.2013.	42	8	5	Not open

* Response of the Secretary of Negotiating working group on the CCE letter, 5 May 2016

14	Transport policy	4. 04. 2013.	51	3	13	Chapter opened on 21/12/2015
15	Energy	21. 02. 2013.	26	4	12	Chapter opened on 21/12/2015
16	Taxation	21. 03. 2013.	39	5	37	Chapter opened on 30/03/2015
17	Economic and Monetary Policy	18.12. 2012.	41	5	9	Not open
18	Statistics	18.04.2013.	101	6	43	Chapter opened on 16/12/2014
19	Social Policy and Employment	27.12.2012.	64	6	13	Not open
20	Enterprise and Industrial Policy	20.09.2012.	46	9	7	Chapter opened on 18/12/2013
21	Trans-European Networks	26.04.2013.	12	2	7	Chapter opened on 22/06/2015
22	Regional policy and Coordination of Structural Funds	10.2012.	33+3	11	-	Not open
23	Judiciary and Fundamental rights	8.03.2012.	54	21	173	Chapter opened on 18/12/2013
24	Justice, Freedom and Security	8.03.2012.	46	20	188	Chapter opened on 18/12/2013
25	Science and Research	26.07.2012.	26	7	10	Chapter has been provisionally closed on 18/12/2012
26	Education and Culture	26.07.2012.	41	7	25	Chapter has been provisionally closed on 15/04/2013
27	Environment	17.01.2013.	61	13	19	Not open
28	Consumer and Health Protection	31.01.2013.	45	7	18	Chapter opened on 16/12/2014
29	Customs union	18.04.2013.	31	5	36	Chapter opened on 16/12/2014
30	External relations	18.04.2013.	24	4	16	Chapter opened on 30/03/2015
31	Foreign, Security and Defence Policy	22.04.2013.	33	10	11	Chapter opened on 24/06/2014
32	Financial control	23.04.2013.	26	5	7	Chapter opened on 24/06/2014
33	Financial and Budgetary Provisions	11.04.2013.	33	3	30	Chapter opened on 16/12/2014
Ukupno			1 330	221	941	22

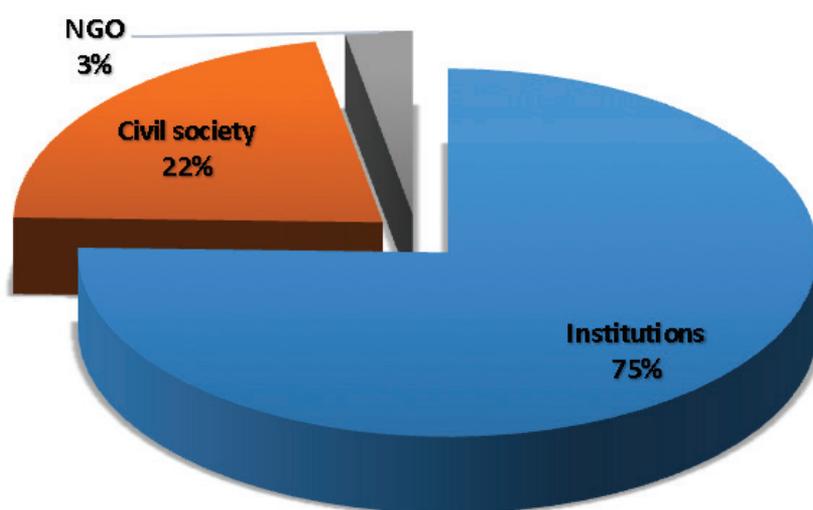
Table 1: Cross-section of WG per negotiation chapter, with dates of formation, total number of members, number of meetings of all members of WG and coordinators, and the status within negotiation process

Hence, in four years, Montenegro opened the total of 22 negotiation chapters, 11 have still not been opened, while 2 negotiation chapters have been provisionally closed.

Though there are indicators of the upcoming opening of remaining chapters, it should be pointed out that from the formation of WG till nowadays nearly four years have passed, which is slightly longer than in the case of other states that previously successfully completed the negotiation process. Considering all of the particularities of Montenegrin system, proclaimed goal of quality before the speed of the process, and the moment in which the negotiations are being conducted, the process could still run at a faster pace.

CIVIL SOCIETY IN WORKING GROUPS

Montenegrin civil society managed to gain the direct inclusion into the negotiation process effectuated with the decision of Government of Montenegro, during the formation of Negotiating structure. In other words, the Government involved the representatives of civil society into working groups as active participants, which in this form presents a novelty compared to comparative experiences. In total, civil society participates with 327¹⁰ representatives, out of which 39¹¹ are the representatives of non-governmental organisations.



Graph 2: Structure of working groups in relation to the involvement of civil society

¹⁰ <http://www.eu.me/>

¹¹ After reviewing individual decisions on the education of WG, for each individual negotiation chapter.

FINANCING THE ENGAGEMENT OF MEMBERS OF WORKING GROUPS FOR THE PREPARATION AND CONDUCT OF NEGOTIATIONS

Based on the Decision on the establishment of structure for the negotiations on the accession of Montenegro to European Union, members of WG for the preparation and conduct of negotiations are entitled to compensations, paid at the expense of budget user where the member of that structure is employed.

However, this Decision does not prescribe clear criteria for the determination of amount of compensation for the work of members of WG. Instead, this was determined based on the application of general Government's Decision on the criteria for the determination of amount of compensation for the work of member of working body or other form of work.¹² Hence, every member, not just of WG but of other bodies of negotiating structure as well, is equal, in terms of financial allocations, to every other state employee, member of advisory bodies, working groups, working bodies and etc., formed by the Government of Montenegro, vice president of Government, minister and chief of autonomous administration body. Apart from that, part of the prescribed criteria which define the scope of potential additional benefits, leaves ample room for interpretation and decision-making by competent person. Information which CCE gathered showed that these amounts were not equal and that they varied compared to the institution, or organisation.

Law on salaries of employees in public sector was adopted in February 2016 in order to consolidate all incomes into an integral system of salary and compensation. The law abolished compensations for commissions and other working bodies, but also increased the coefficient for the account of basic salary. On one hand, this will secure the conditions for better control of salary policy in public sector, correct the inequalities in salaries depending on the branch of government and harmonise the level of salaries with the level of responsibility, but it will also increase the transparency of system of salaries and level of fiscal responsibility. From the aspect of work and compensations for work of members of WG, this Law disabled the payment of additions on salaries of members who work in public sector, and instead it envisaged that they perform these significant and demanding obligations within their regular salaries.

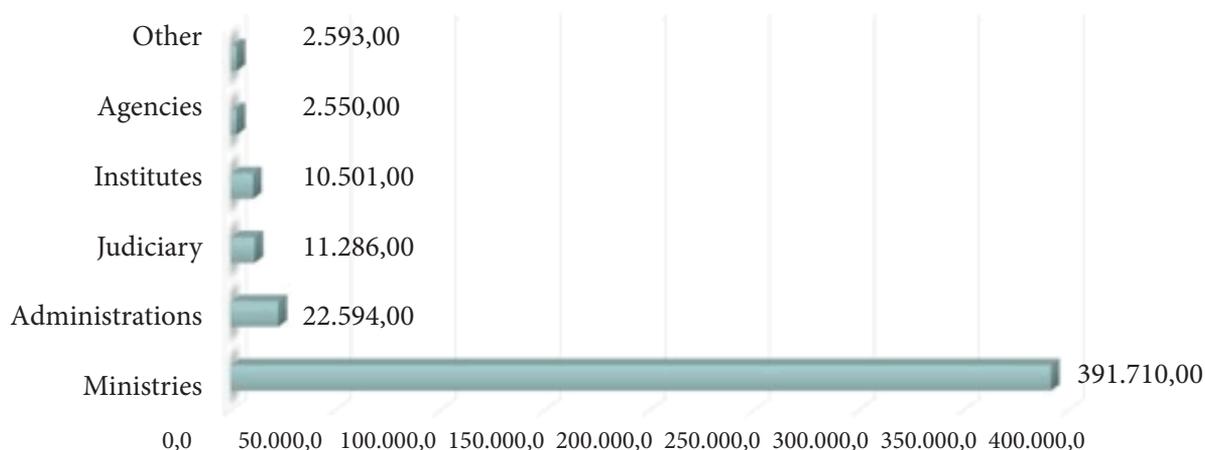
¹² Decision on the criteria for the determination of amount of compensation for the work of members of working body or other form of work "Off. Gazette of Montenegro", no. 26/12, 34/12, 27/13

WHAT WAS THE CURRENT MANNER OF PAYMENT OF COMPENSATIONS FOR THE WORK OF MEMBERS OF WORKING GROUPS?

In order to determine the total amount of costs on this ground, CCE filed a request for free access to information on the addresses of 116 public sector bodies which have their representatives in WG. In total, 87 bodies provided their responses or 75%, while 29 or 25% did not.

Total amount of funds which public sector bodies paid to their designated representatives in WG, during the period March 2012¹³ – March 2016, amounted **441.235,16 EUR**.

Out of the said amount, highest percentage was paid to representatives of ministries, or the total of 391.710,20 EUR or 88.8 %, followed by the administrations with considerably lower amount of 22.594,00 EUR or 5.1%, judiciary 11.286,96 EUR or 2.6%, institutes with 10.501,00 EUR or 2.4%, agencies 2.550,00 EUR or 0.6% and others with 2.593,00 EUR or 0.6 %.



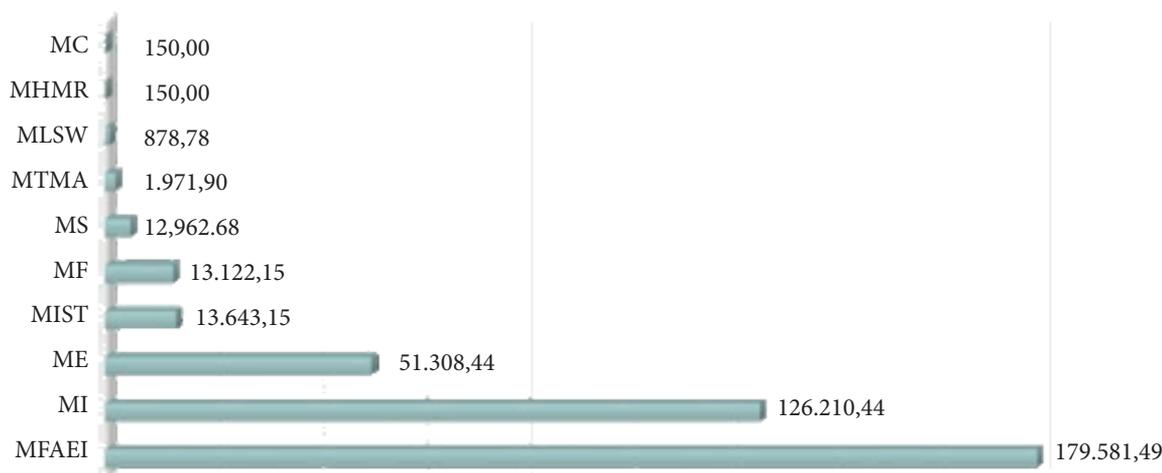
Graph 3: Cross-section of allocations for the compensations to members of WG per institution during the period 2012-2016

INDIVIDUAL FINDINGS PER INSTITUTION

Ministries allocated the largest amount of funds for the compensations to members of WG, more precisely the amount of 391.710, 20 EUR, which relates to 13 ministries that submitted the requested information¹⁴, out of which 10 had costs on this ground.

¹³ Date of the formation of first working groups

¹⁴ Ministry of Economy, Ministry of Education and Ministry of Health did not submit the information



Graph 4: Total amounts paid by the ministries

Ministry of Foreign Affairs and European Integration (MFAEI) paid the total amount of 179,581.49 EUR for the compensations to secretaries of WG, while members did not receive additional payments.

On the other hand, *Ministry of Interior (MI)* paid the total amount of 51.308,44 EUR for 13 representatives who were delegated in WG 23, WG 24 and WG 31. For this purpose, 49,058.44 EUR were paid to members of WG 23, then 2,250.00 EUR to members of WG 24, while the members of WG 31 were not paid based on the said arrangement, while the information on the structure of these payments was not submitted. Ministry of Justice has a chief of WG for 23, and up until recently, it also had the negotiator for chapters 23 and 24.¹⁵

Based on this engagement, *Ministry of Information Society and Technology (MIST)* paid only one representative from the formation of WG, i.e. head of the WG 10, in the total amount of 13,643.15 EUR. Other representatives of MIST did not receive additional funds for this purpose compared to the regular salary.

Ministry of Finances (MF) is the institution with largest number of representatives in WG – 76. Total amount of their income based on this engagement amounted 12,962.68 EUR from the formation of WG. And in this case, compensation for the engagement in WG was paid to those who occupied the position of negotiator or head of WG, while members did not receive additional funds for the work in WG, according to submitted information.

Ministry of Science (MS) has one member in WG 8, WG 20 and WG 22, and 4 members in WG 25. This Ministry also made payments only to heads of WG 25 who received a total of 4,853.00 EUR on the basis of this arrangement.

Ministry of Transport and Maritime Affairs (MTMA) has a total of 38 representatives in WG, whereby the majority is in the WG 14 (Transport policy). They were paid a total of 1,971.9 EUR, namely only those representatives – heads of WG 14 and 21, or the representative who was the negotiator for Chapter 14.

In spite of having 28 representatives in 13 working groups, *Ministry of Labour and Social Welfare (MLSW)* only paid the representatives of WG 2, WG 19 and WG 23 in the amount of 878.78 EUR. The disclosed decision provides the total amount, without specifying which of the following members received the individual payments and in which amount.

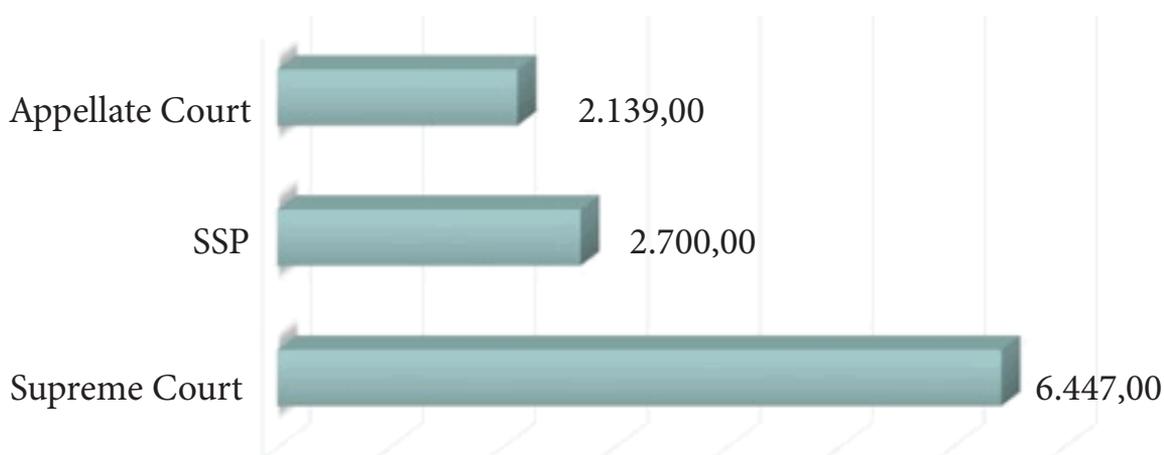
¹⁵ From May 2016, negotiator for chapters 23 and 24 is from MFAEI

Ministry of Culture (MC) and Ministry of Human and Minority Rights (MHMR) only paid the representatives in WG 23 for this purpose. Both ministries paid 150 EUR to their members in WG 23.

Ministry of Agriculture and Rural Development (MARD) was the only to reply with the information that they do not possess the requested information. They forwarded the request to Ministry of Finances, however they submitted the same response to the CCE, hence there are no available data for MARD.

Ministry of Sustainable Development and Tourism (MSDT) and Ministry of Defence (MD) did not have payments when it comes to the engagement of their members in WG, while the *Ministry of Economy, Ministry of Education and Sport and Ministry of Health* decided not to disclose the information.

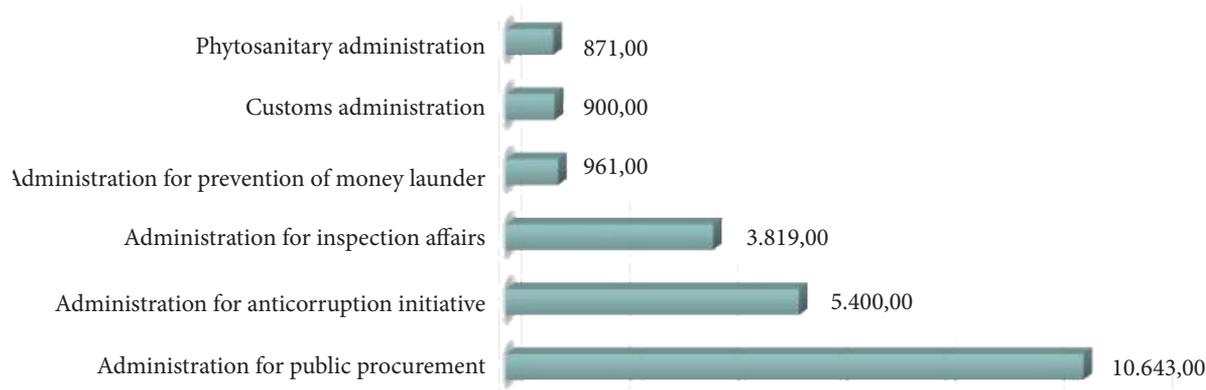
Judicial bodies allocated the total of 11,286.96 EUR for the engagement of their representatives in WG.



Graph 5: Total amounts paid by judicial bodies

Highest amount of compensation was paid for two representatives of *Supreme Court* for the work in WG 23, more precisely 6,447.60 EUR. For the work in that same WG, 2,700 EUR were paid for three representatives of *Supreme State Prosecution (SSP)*. *Appellate Court* has one representative in WG 24, who has been present there since the formation of the group, hence from March 2012, who received the compensation in the amount of 2,139.36 EUR. *Commercial Court* has a total of 4 representatives in WG 6, WG 7 and WG 20, but in their response to CCE they stated that none of them received any compensation for their work in WG.

Administrations allocated a total of 22.594,00 EUR for compensations to their members in WG.



Graph 6: Total amounts paid by administrations

Administration for public procurement made payments for 6 members in WG 5, 22 and 23 in the total amount of 10,643.34 EUR.

Ministry of Justice paid the amount of 5.400,00 EUR to servants of *Anticorruption Initiative Administration*, which was previously part of the Ministry of Justice by 31/12/2015, based on the engagement in WG 23. However, from the formation of Agency for the Prevention of Corruption in January 2016, this institution assumed the payments on this basis and has been making monthly payments in the amount of 230.77 EUR for four of its servants, member of WG 23.

Administration for Inspection Affairs has 18 representatives in 6 WG. Since the formation of WG, only one representative – head of the WG 28, received the compensation based on this engagement. She received a total of 3,819.00 EUR on that basis.

Administration for Prevention of Money Laundering and Terrorist Financing has 4 representatives in 4 WG, but only one of them is financed based on this engagement. He received the amount of 961.10 EUR.

Customs Administration has 31 representatives in 11 WG. According to the decision on their engagement in working groups, it is stated that the amount of funds which was allocated to members amounted 900.00 EUR on this basis.

Phytosanitary Administration has 12 representatives in 5 WG, whereby the head of WG 12 is the only one who receives the compensation for her engagement. She received 871.20 EUR.

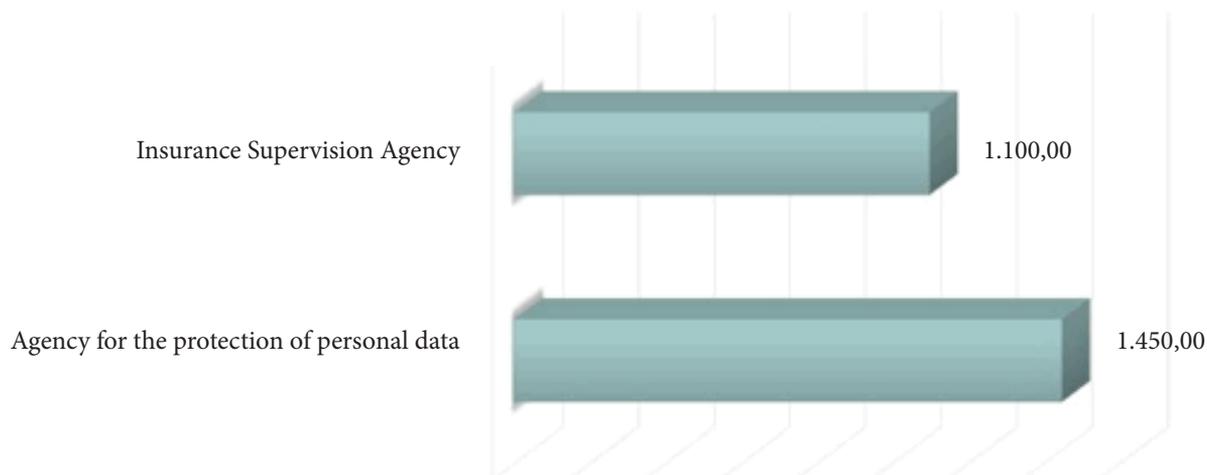
Representatives of other administrations, who provided their replies, did not receive compensations for their engagement.¹⁶

When it comes to **institutes**, the only institute where representatives received the compensation for their work in WG was the Statistical Office (MONSTAT), which has 56 representatives in 11 WG. Majority of them, even 44 are members of WG 18 (Statistics), which is headed by the representative of Monstat. Total amount paid to their head and members of WG 18 amounted 10,501.86 EUR (2013 - 1.862,58 EUR, 2014 - 3720.00 EUR, 2015 - 4919.28 EUR).

¹⁶ Human Resources Administration, Police Department, Maritime Safety Administration, Real Estate Administration and Administration for Care of Refugees did not submit the requested information.

Out of the seven institutes which have their representatives in WG, six replied on the request: Institute of Geological Survey of Montenegro, Institute of Hydrometeorology and Seismology, Institute of Metrology, Statistical Office, Bureau for Education Services, Employment Agency.¹⁷

Agencies allocated a total of 2.550,00 EUR for compensations to members of WG. The said amount relates to costs of two agencies which made the payments on said basis. The remaining ten did not make additional payments for their representatives in WG.



Graph 7: Total amounts paid by agencies

Insurance Supervision Agency paid 1.100 EUR for four representatives in WG 9, while the *Agency for the protection of personal data and free access to information* had two payments for two representatives in WG 10 in the amount of 500 EUR, or in WG 23 in the amount of 950 EUR.

Agency for the promotion of foreign investments replied that it has no representatives in WG anymore. Other agencies, or Civil Aviation Agency, Agency for electronic communications and postal services, Agency for electronic media, National Security Agency, Insurance Supervision Agency, Tobacco Agency, Agency for medicines and medical devices, Energy Regulatory Agency, did not make any payments to their representatives in WG.

Ombudsman has one representative who participates in the work of WG 23 and who has been receiving a monthly compensation in the amount of 150 EUR for his work.

Total amount invested for **other institutions** amounted 2593.20 EUR. This amount relates to the payments of Institute of Accountants and Auditors, Chamber of Engineers and Judicial Training Centre. *Institute of Accountants and Auditors* has one representative in WG 6, and he received the payment in the amount of 1,740.00 EUR. *Chamber of Engineers* has four members in 3 working groups: WG 1, WG 3 and WG 20. *Judicial Training Centre* has one representative in WG 7 and WG 23. Representative of JTC in WG 23 received the compensation in the amount of 150.00 EUR, while the same amount was paid to representatives of Chamber of Engineers.

¹⁷ Institute of Intellectual property did not submit the information.

CONCLUSIONS AND RECOMMENDATIONS

- » Working groups are the heart of the negotiating structure and their role in the negotiation process is of key importance for the preparation and conduct of negotiations. The scope and the complexity of tasks which were placed under the competence of members of WG often exceeds the duties, tasks and obligations prescribed under the description of working post which certain member, public sector representatives, covers. This fact should be acknowledged and adequately awarded if there is an intention to preserve the level of quality in the work of members of WG.
- » Collected data indicate that there are no clearly defined criteria based on which the decision is made as to which member of WG, and on which grounds, receives the compensation for his/her work in WG. In the majority of cases, heads of the working groups for some chapters, coordinators of certain subgroups and secretaries are the ones who receive the additional payments. However, it could be assumed that this decision is made depending on the estimate of managers of certain public sector bodies and that it is not uniform, neither in terms of the amount of compensation or basis for the payment.
- » Out of the total amount of 441.235,16 EUR which was paid to members of WG since their formation, 88.8% was paid to representatives of ministries, while significantly lower amounts were paid to representatives of other public sector bodies. This practice should be additionally reviewed and redefined, especially considering the particularity of certain negotiating chapters and the necessity of specific contribution by the members of WG who do not come only from ministries, and whose professional skills are of great importance for the preparation of necessary documents, or eventually for the successful course of negotiations.
- » In order to analyse the contribution in the preparation and conduct of negotiations by the members of WG per individual negotiating chapter, it is necessary to prepare the analysis of current performance of members of WG in the negotiating system, and compared to the findings, prescribe the criteria and manner of valorisation of additional work of members of WG.
- » European integration process is composed of the spectrum of reform activities within the state and harmonisation with best European standards and practices. Apart from the undisputable political will, it requires full devotion, professionalism and motivation of

every segment of negotiation structure. In order to achieve that, it is necessary to establish a system which values the work of all members of WG objectively, and has the mechanisms necessary to determine the responsibility both in the cases of implemented and failed activities, with the respective sanctions.

- » Given the chronic lack of necessary administrative capacities, or the fact that Montenegrin administration is characterised with series of problems and that it does not dispose with optimal number of quality staff who could manage and perform professionally within this process, we are ought to invest additional efforts to keep the staff who stand out in this process with quality of their work.
- » Apart from the fact that there was no unique basis for the payment of compensations for the work in WG, the process was also at the expense and limitation of NGOs, since the NGOs had to cover every potential cost for their representatives, starting from the ones which directly relate to physical participation at the meetings, such as travel costs, as well as any other. That segment should be better resolved considering that NGOs depend on project based funds which leaves these expenses uncovered and further puts the representatives of NGOs in an unequal position.
- » Finally, 25% of public sector bodies did not submit the requested information, which confirms the previously identified trend of opaqueness when it comes to information on the allocation of funds from state budget. Public institutions and state bodies have to be more transparent in their work, because transparency, among other issues, is one of the most important categories which improvement is also expected from the EU, and those state bodies which curtail basic information on their work convey a negative message to citizens of Montenegro.



ANNEX – LIST OF BODIES WHICH WERE THE SUBJECT OF RESEARCH

- General Secretariat of Government of Montenegro
- Ministry of Justice
- Ministry of Interior
- Ministry of Defence
- Ministry of Economy
- Ministry of Finances
- Ministry of Foreign Affairs and European Integration
- Ministry of Agriculture and Rural Development
- Ministry of Sustainable Development and Tourism
- Ministry for Information Society and Telecommunications
- Ministry of Transport and Maritime Affairs
- Ministry of Human Rights and Minority Rights
- Ministry of Labour and Social Welfare
- Ministry of Health
- Ministry of Education
- Ministry of Culture
- Ministry of Science
- Anticorruption Initiative Directorate
- Port Administration
- Phytosanitary Administration
- Veterinary Administration
- Customs Administration
- Administration for Inspection Affairs
- Administration for Public Procurement
- Property Administration
- Administration for Forestry
- Administration for Prevention of Money Laundering and Terrorist Financing
- Police Department
- Maritime Safety Department
- Directorate for Refugees
- Institute for Geological Survey of Montenegro
- Institute of Hydrometeorology and Seismology
- Institute of Intellectual property
- Institute of Metrology
- Statistical Office
- Bureau for Education Services
- Labour Fund
- Deposit Protection Fund
- Health Insurance Fund
- Retirement and Disability Fund
- Investment and Development Fund
- State Archive
- Directorate for development of small and medium sized enterprises
- Directorate for Transport
- Railway Directorate
- National Security Authority
- State Audit Institution
- Commission for the Control of Public Procurement Procedures
- Commission for Securities
- Office of National Coordinator for Fight against Trafficking in Human beings
- Union of Municipalities of Montenegro
- Ombudsman
- Parliament of Montenegro
- Appellate Court
- Commercial Court
- Supreme Court

- Supreme State Prosecution
- Civil Aviation Agency
- Agency for electronic communications and postal services
- Agency for electronic media
- National Security Agency
- Insurance Supervision Agency
- Agency for the promotion of foreign investments
- Tobacco Agency
- Agency for Protection of Competition
- Air Traffic Services
- Agency for Peaceful Resolution of Disputes
- Agency for the protection of environment
- Agency for Medicines and Medical Devices
- Agency for the protection of personal data and free access to information
- Energy Regulatory Agency
- Centre for Eco-Toxicological Research
- PE Airports of Montenegro
- Accreditation body of Montenegro
- Montenegrin Academy Of Sciences and Arts
- Central Bank of Montenegro
- Judicial Training Centre
- Montenegrin Power Transmission System
- Montenegrin National Theatre
- Radio Television of Montenegro
- Montenegrin operator of the electricity market
- Centre for Professional Education
- Centre of Contemporary Art
- Centre for Conservation and Archeology
- Biotechnical Faculty
- Faculty of Economy
- Test Centre of Montenegro
- Institute of Public Health
- Chamber of Engineers
- Institute of Accountants and Auditors
- Institute for Standardisation
- Institute of Certified Accountants
- Institute for Strategic Studies
- Institute of Marine Biology
- PE Coastal Zone
- Clinical Centre of Montenegro
- Commission for the Prevention of Conflict of Interest
- Faculty of Mechanical Engineering
- Montenegrin Music Centre
- PE National Parks
- Faculty of Law
- National Museum
- Chamber of Commerce
- Radio Broadcasting Centre
- Audit Authority
- Regional Water Supply
- Social Council of Montenegro
- Council of Foreign Investors
- Railway Transport of Montenegro

