



**MONTENEGRO**

**Negotiation Team for Accession of Montenegro to the European Union**  
*Working Group for Negotiation Chapter 5 Public Procurement*

**Bilateral Analytical Overview: Chapter 5**  
**PRESENTATION OF MONTENEGRO**

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# **PUBLIC PROCUREMENT PRINCIPLES**

## **(GENERAL PRINCIPLES)**

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**GENERAL PRINCIPLES  
RELEVANT ACQUIS  
(partially aligned)**

- Treaty on the Functioning of the European Union;
- Treaty on the European Union ;





# TRANSPARENCY

## LEGAL FRAMEWORK

- Law on Public Procurement (“Official Gazette of Montenegro” no. 42/11) Article 7, Principle of transparency of public procurement procedure;

### Implementation acts (“Official Gazette of Montenegro” no. 62/11 and 63/11)

- Rulebook on Forms in Public Procurement Procedures and
- Rulebook on Methodology of Expressing Subcriteria into Corresponding Number of Points, Manner of Assessment and Evaluation of Bids.

### Government arrangement to comply with the EU principles and policies

- Stabilization and Association Agreement on accession of Montenegro to the European Union;
- National Program for Integration of Montenegro in the European Union 2008-2012;
- Strategy for Development of Public Procurement for the period 2011-2015 with the Action Plan for its implementation.





- Principle of transparency, **Article 7** Public Procurement Law of MNE;
- Principle of ensuring competition – nondiscrimination, **Article 6** Public Procurement Law of MNE;
- Principle of equality – equal treatment, **Article 8** Public Procurement Law of MNE;
- Principle of cost-effectiveness and efficiency in the use of public funds, **Article 5** Public Procurement Law of MNE.





## TRANSPARENCY INSTITUTIONAL/ I

- **Public Procurement Administration of the Government of Montenegro.**
- The regulation establishing the Public Procurement Administration – Public Procurement Law (“Official Gazette of the Republic of Montenegro” no. 46/06 and “Official Gazette of Montenegro” no. 42/11).
- Web site of the Administration [www.ujn.gov.me](http://www.ujn.gov.me).
  - Project CARDS 2005 “Capacity Building of the Commission for Public Procurement and the Public Procurement Directorate”;
  - Project IPA 2007 “Further Development and Strengthening of the Public Procurement System in Montenegro”;
  - European Commission in cooperation with the ITCILO (Turin, Italy) Project “Training in Public Procurement for Western Balkans and Turkey”, the essence of the Project 2010-2013 being establishing a common training system;
  - EU Delegation to Montenegro funded Project “Enhancing of the Public Procurement System in Montenegro”;
  - Project of continuous cooperation with SIGMA related to education of contracting authorities and economic operators.





## • **Public Procurement Administration of the Government of Montenegro – its competences related to General Principles**

- 1. Establishes and maintains the Public Procurement Portal for the purpose of ensuring transparency of public procurement;*
- 2. Publishes public procurement plans, invitations to public tenders, decisions on qualification of candidates, decisions on selection on the most favourable bid, decisions on suspension of public procurement procedure, decisions on annulment of public procurement procedure, public contracts, changes and amendments to the public procurement plans, invitations to public tenders, decisions and contracts, and other acts in accordance with this Law ;*
- 3. Prepares and publishes a List of contracting authorities on the Public Procurement Portal;*
- 4. Prepares and submits to the Government annual reports on the public procurement, carried out in the previous year ;*
- 5. Prepares and publishes a List of contracting authorities on the Public Procurement Portal on basis of decisions on selection of the most favourable bid ;*
- 6. Issues publications and other technical literature ;*
- 7. Fulfills its obligations in accordance with the Law on Access to Information .*





## TRANSPARENCY INSTITUTIONAL / II

- **The State Commission for Control of Public Procurement Procedures;**
- Regulation establishing the State Commission – the Public Procurement Law ( “Official Gazette of the Republic of Montenegro” no. 46/06 and “Official Gazette of Montenegro” no. 42/11).
- Web site of the State Commission [www.kontrola-nabavki.me](http://www.kontrola-nabavki.me);
  1. President and members of the State Commission shall be appointed for the period of five years and may be re-appointed, Article 138, paragraph 6;
  2. The State Commission is an independent and autonomous legal person. Each form of influence on operation of the State Commission shall be prohibited, each use of public authorization, the media, as well as public appearances for the purpose of influencing the course and the outcome of the proceedings before the State Commission shall be prohibited , Article 137, paragraphs 1, 2, and 3;
  3. An Administrative dispute may be launched against the decision of the State Commission.
- Protection of rights in a public procurement procedure and public interest in all stages thereof, shall be ensured in the manner and under conditions established by this Law – the equal accessibility of legal remedies;
- The right to make an appeal is guaranteed by the Constitution of Montenegro (Article 19 of the Constitution).







## OTHER LAWS

### INSTITUTIONAL/III

- Law on Free Access to Information (“Official Gazette of Montenegro” no. 73/10 and 40/11), [www.mku.gov.me](http://www.mku.gov.me), [www.pravda.gov.me](http://www.pravda.gov.me);
- Budget Law (“Official Gazette of Montenegro” no. 66/11), [www.mf.gov.me](http://www.mf.gov.me);
- Law on the State Audit Institution (“Official Gazette of Montenegro” no. 17/07, 73/10 and 40/11), [www.dri.co.me](http://www.dri.co.me).





## THE PRINCIPLE OF ENSURING COMPETITION - NONDISCRIMINATION

- Law on Public Procurement (“Official Gazette of Montenegro” no. 42/11), **Article 6**, ;
- Law on Protection of Competition (“Official Gazette of Montenegro” no. 44/12) [www.uzzk.gov.me](http://www.uzzk.gov.me), Administration for the Protection of Competition (Articles 101, 102 and 106 of the Treaty on Establishment of the European Community are fully incorporated into Articles 8,9 and 12, as well as 11 and 13 and Articles 14 and 15 of the Public Procurement Law which correspond to the Articles 6 and 8 of the Law on Public Procurement of Montenegro);
- Law on Internal Trade (“Official Gazette of Montenegro” no. 49/08 and 40/11), conditions for implementation of trade activities, unfair competition and prohibition of violation of freedom of market competition (Articles 4, 5, 31, 38 and 39) [www.minekon.gov.me](http://www.minekon.gov.me) ;
- Law on Foreign Trade (“Official Gazette of Montenegro” no. 73/10), regulating foreign trade of supplies and services (Articles 2, 3, 6, 12, 13, 31) [www.minekom.gov.me](http://www.minekom.gov.me) .





## PRINCIPLE OF EQUALITY – EQUAL TREATMENT

- The Constitution of Montenegro (“Official Gazette of Montenegro” no. 1/07) (**Article 19**);
- Law on Public Procurement (“Official Gazette of Montenegro” no. 42/11) **Article 8**;
- Law on Companies (“Official Gazette of Montenegro” no. 40/11) **Article 80**, Chapter VII – Foreign company;
- The Laws on Internal and Foreign Trade (“Official Gazette of Montenegro” no. 49/08 and 40/11 and “Official Gazette of Montenegro” no. 49/08 and 40/11); **Articles 4 and 39, Articles 2, 3, 6 and 12** ;
- Law on Foreign Investments (“Official Gazette of the Republic of Montenegro” no. 18/2001) **Article 6**;
- The Law on Recognition of Foreign Qualifications for Regulated Professions (“Official Gazette of the Republic of Montenegro” no. 18/2011), **Article 7**, Recognition of Foreign Qualifications .





## ADMINISTRATIVE CAPACITIES

- Public Procurement Administration (Act on Internal Job Classification and Organization, provides for 18 job positions, pursuant to the Decree on Internal Organization of the State Administration, the Public Procurement Administration is an independent state authority);
- Ministry of Finance supervises the legality and purposefulness of the PPA's operation;
- State Commission for Control of Public Procurement Procedures (a new Act on Job Classification is currently in the process of its adoption, four Members, President and Technical sector).





## CONCLUSION

- Montenegro has made significant progress in implementing the principles of the Treaty on the Functioning of the EU within the public procurement system by adopting the new Public Procurement Law and the implementing regulations.
- Montenegro plans, in accordance with the recommendations of the EC and the Strategy on the Development of Public Procurement System in Montenegro for the period 2011-2015, a wide range of activities defined by the accompanying Action Plan to achieve a complete and satisfactory harmonization with the EU acquis, primarily within the following segments:
  - Further development of the legislative framework and ioperational measures for its implementation (Coordinating body for monitoring the Law's implementation),
  - Development of the institutional framework and strengthening of administrative capacities (Improvement of the Help-desk for providing advisory and consultant services, Open Forum of the Public Procurement System),
  - Prevention of Corruption in Public Procurement (Agreements on inter-institutional cooperation of the relevant bodies responsible for the prevention of corruption – Government, civil society; Awareness raising campaign – transparency in public procurement).





Thanks for your attention.

**QUESTIONS**