

INFORMACIJA

o zaključenju kreditnog aranžmana sa Evropskom komisijom u okviru Programa makrofinansijske pomoći zemljama iz procesa proširenja i susjednim državama u kontekstu pandemijske krize COVID-19

Usled epidemije korona virusa u Crnoj Gori, došlo je do pada ekonomskih aktivnosti, što je za posledicu imalo pad budžetskih prihoda i neplanirani porast budžetskih rashoda. Navedena situacija zahtijevala je brzo reagovanje Države Crne Gore, u cilju obezbjeđivanja nedostajućih budžetskih sredstava za finansiranje budžeta za 2020. godinu i eventualno stvaranje fiskalne rezerve za 2021. godinu.

Odmah nakon proglašenja pandemije, Ministarstvo finansija stupilo je u kontak Međunarodnim monetarnim fondom (MMF), Evropskom komisijom (EK) i Svjetskom bankom (WB), kao i sa domaćim i inostranim bankama u cilju obezbjeđenja finansijskih sredstava. U tom smislu, kreditni aranžman vrijedan 74,2 miliona eura sa MMF-om zaključen je 23.06.2020. godine. Kada je u pitanju kreditni aranžman sa Svjetskom bankom u iznosu od 25 miliona eura, pregovori su završeni, a konačna odluka Odbora direktora Međunarodne banke za obnovu i razvoj (IBRD) očekuje se sredinom jula 2020. godine. Ubrzo nakon donošenja odluke, biće realizovano i zaključenje aranžmana.

Kada govorimo o zaključenju kreditnog aranžmana sa Evropskom komisijom, dana 25. maja 2020. godine, Evropski parlament i Savjet Evropske unije usvojili su Odluku o obezbjeđivanju makrofinansijske pomoći zemljama iz procesa proširenja i susjednim državama u kontekstu pandemijske krize COVID-19. Navedenom Odlukom Crnoj Gori stavlja se na raspolaganje makrofinansijska pomoć do 60 miliona eura u obliku zajma. Navedena podrška isplatiće se Crnoj Gori u dvije rate od po 30 miliona eura, sa razmakom od namanje tri (3) mjeseca između dvije rate.

U cilju realizacije navedenog aranžmana, sačinjeni su i usaglašeni Memorandum o razumijevanju (Memorandum of Understanding) i Ugovor o kreditu između Evropske komisije (kao Zajmodavca), Crne Gore (kao Zajmoprimca) i Centralne banke Crne Gore (kao Agenta Zajmoprimca).

Memorandumom o razumijevanju definisani su uslovi povlačenja kreditnih sredstava, pa će se prva rata kredita povući nakon stupanja na snagu Memoranduma. Povlačenje druge rate kredita biće realizovano najranije tri mjeseca od povlačenja prve rate, a istovremeno je uslovljena pozitivnom ovjenom Evropske komisije o ispunjenju uslova koji se odnose na napredak u oblasti reforme javnih finansija, poboljšanja finansijske stabilnosti, dobrog upravljanja i borbe protiv korupcije, poslovnog okruženja i socijalne zaštite. Za potrebe procjene postignutog napretka, nadležni organi Države će Evropskoj komisiji dostavljati sve informacije koje su neophodne za praćenje njene ekonomske i finansijske situacije i za procjenu napretka u strukturnim reformama.

Kada je riječ o Ugovoru o kreditu, istim su definisane opšte odredbe vezane za realizaciju i otplatu zajma, dok će konkretni uslovi za pojediju tranšu biti definisani prilikom povlačenja svake rate ponaosob. U svakom slučaju, prema indikativnim informacijama primjelnim od predstavnika Evropske komisije, na zajam sa rokom dospjeća od 15 godina, može se očekivati kamatna stopa u vrijendosti od oko 0,175%, kao i provoizija od 0,003%. Međutim, kao što je naglašeno, konačni uslovi će se definisati prilikom realizacije transakcije.

Napominjemo da je Ugovorom predviđeno da za navedeni aranžman pravno mišljenje izdaje Ministarstvo pravde. Imjući u vidu da je Zakonom o budžetu i fiskalnoj odgovornosti za izdavanje pravnog mišljenja zadužen Zaštitnik imovinsko-pravnih interesa Crne Gore, navedeno mišljenje će izdati Zaštitnik. Ministarstvo pravde će izdati pismo kojim će biti konstatovano da pomenuto mišljenje u skladu sa Zakonom izdaje Zaštitnik, i uz koje će biti dodato pravno mišljenje i proslijeđeno Evropskoj Komisiji.

**Macro-financial assistance to Montenegro
of up to EUR 60 million**

MEMORANDUM OF UNDERSTANDING

between

**The European Union
as Lender**

and

**Montenegro
as Borrower**

MEMORANDUM OF UNDERSTANDING BETWEEN THE EUROPEAN UNION AND MONTENEGRO

1. On 25 May 2020, the European Parliament and the Council of the European Union adopted a decision (Decision (EU) 2020/701¹) on providing macro-financial assistance to enlargement and neighbourhood countries in the context of the COVID-19 pandemic. The Decision makes available to Montenegro (hereafter referred to as “the Country”) macro-financial assistance (hereafter referred to as “assistance”) of up to EUR 60 million in the form of a loan. The assistance shall be made available for one year starting from the first day after the entry into force of this Memorandum of Understanding (hereafter referred to as “the MoU”).
2. The objective of this assistance is to ease the Country’s external financing constraints, alleviate its balance of payments and budgetary needs, strengthen its foreign exchange reserve position and help the Country address the current external and financial vulnerabilities. This assistance from the European Union is complementary to the resources provided to the Country by international financial institutions and bilateral donors in support of the authorities’ economic stabilisation and reform programme.
3. The assistance shall be disbursed in two instalments of up to EUR 30 million each.
4. The first instalment of the assistance shall be released upon the signature and entry into force of this MoU and the accompanying Loan Facility Agreement and shall be conditional upon the implementation of a “Rapid Financing Instrument” of the International Monetary Fund (hereafter referred to as “the IMF”).

The release of the second instalment shall not, in principle, take place earlier than three months after the release of the first instalment.

The disbursement of the second instalment of the assistance will be conditional on both a positive assessment by the European Commission (hereafter referred to as “the Commission”) on behalf of the European Union, of progress made with respect to a number of macroeconomic and structural adjustment measures and, if applicable a satisfactory track record in the implementation of the commitments agreed with the IMF. The policy conditions attached to this assistance are based on the Economic Reform Programme endorsed by the authorities of the Country. Accordingly, before the release of each instalment of this assistance, the Commission, in co-operation with the national authorities, will verify that the conditions attached to this assistance have been adequately respected or new understandings reached.

5. Prior to the release of the second instalment by the Commission, the Country’s authorities shall provide the Commission with a Compliance Statement on the fulfilment of the conditionality attached to it. Upon receipt of the compliance statement by the authorities of the Country, the Commission will evaluate, based on consultations

¹ OJ L 165, 27.5.2020, p. 31.

with the authorities of the Country, progress made with respect to the fulfilment of the conditionality. In this evaluation, particular attention will be paid to reforms to improve public finance, financial stability, good governance and fight against corruption, business environment, and social protection. The concrete policy measures and frame of reference for this evaluation are made explicit in Annex I. In case of a negative evaluation, the Commission may withhold the disbursement of the instalments until the Country proves the compliance with the conditionality. If necessary, Annex I may be amended upon mutual agreement, following the completion of the respective approval processes of the European Union and the Country.

6. The Commission will also continuously verify the financing needs of the Country and may reduce, suspend or cancel the assistance in case the financing needs of the Country have decreased fundamentally during the period of disbursement compared to the initial projections.
7. The Commission shall transfer the instalments to a euro account of the Ministry of Finance of the Country (hereafter referred to as “the Recipient”) at the Central Bank of Montenegro (hereafter referred to as “the Agent”). Given the substantial budgetary and external financing needs faced by the Country, the proceeds of the loan will be used to finance the Country’s budget and to refinance existing external debt.
8. During the implementation of the assistance, the Country’s authorities shall supply the Commission with all information that is relevant for the monitoring of its economic and financial situation and for the assessment of progress in structural reforms. In particular, the authorities will supply to the Commission on a timely basis the relevant information as set out in Annex II.
9. With a view to preventing irregularities and fraud related to the use of the assistance and ensuring the protection of the EU’s financial interests, the relevant provisions of the Loan Facility Agreement will apply, notably those regarding regular checks by the Country on the use of European Union assistance, and checks, audits and investigations performed by the Commission, including the European Anti-Fraud Office and the European Court of Auditors and the European Public Prosecutor’s Office. Also, the provisions of the Loan Facility Agreement on early repayment will apply in case it has been established that the Country has engaged, in relation to the management of this assistance, in any act of fraud, corruption or any other illegal activity.
10. The Commission, represented by its own agents or its duly mandated experts, shall have the right to carry out operational assessments of the administrative procedures and financial circuits of the Country and of the Agent that relate to the management of European Union macro-financial assistance throughout the duration of this MoU and for five years after the disbursement of the last instalment (*ex-post* period).
11. An independent *ex-post* evaluation of the assistance may be carried out by the Commission or its duly authorised representatives. The authorities of the Country are committed to supplying all necessary information to the Commission, represented by its own agents or its duly mandated experts, for the duration of this process. The evaluation report will be made available to the authorities of the Country for comments.
12. The authorities will ensure, as appropriate, close co-operation with the European Commission.

13. This assistance is implemented on the understanding that the authorities of the Country will continue to respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and to guarantee the respect for human rights.

14. Annexes I and II are an integral part of this MoU.

15. All notices in relation with the present MoU shall validly be given if in writing and sent to:

For the European Union

European Commission
Directorate General for
Economic and Financial Affairs
CHAR 11/248
B-1049 Brussels, Belgium

For Montenegro

Ministry of Finance
Stanka Dragojevic Str. No 2,
81 000 Podgorica, Montenegro

With copy to:

Central Bank of Montenegro
Bulevar Sv. Petra Cetinjskog 6
81000 Podgorica

16. The present MoU shall enter into force following the signature by the European Union and the Country.

17. The MoU may be amended upon mutual agreement of the parties in form of a written Addendum. The Addendum will be an integral part of this MoU and will enter into force according to the same procedures as the MoU.

Done in on in four originals in the English language.

FOR THE EUROPEAN UNION
as Lender

FOR MONTENEGRO
as Borrower

FOR THE CENTRAL BANK
OF MONTENEGRO
as Agent to the Borrower

ANNEX I

STRUCTURAL REFORM CRITERIA

At the time of the Commission staff review that will precede the decision on the disbursement of the second instalment, the authorities of the Country are committed to have accomplished the following actions:

Public Finance

1. Adopt the government proposal providing for the establishment of an independent fiscal council with adequate capacity to conduct independent scrutiny over fiscal policies, plans and performance.
2. Link the central personnel record and payroll systems in order to establish a fully-fledged centralised public sector employment payroll system.
3. Request a public investment management assessment (PIMA) in order to identify reform priorities and improve the return on public investment.

Financial stability

4. Progress with the asset quality review of the banking system.

Good governance and fight against corruption

5. Publish on a quarterly basis comprehensive information on the adoption and implementation of the COVID-19 emergency support measures, including the amounts of aid by category of beneficiaries, the identity of and the amounts allocated to the 50 largest beneficiaries of aid, as well as the conditions and allocation criteria for the support in line with the national legal requirements on confidentiality.
6. Publish an analysis containing recommendations for the rationalisation of the judicial network. This analysis should be based on data and conclusions concerning both the previous and planned reforms in this area.

Business environment

7. Update and expand the functions of a registry of para-fiscal charges at both local and national levels, in order to strengthen the investment climate and the predictability of the regulatory environment.

Social protection

8. Finalize the review of the social protection system and prepare an outline for concrete implementation of social protection reforms on the basis of the review.

ANNEX II

MONITORING SYSTEM

1. Monitoring of macro-economic and financial developments and policies

During the implementation of the European Union macro-financial assistance, the following indicators and reports shall be published or provided to the Commission by the relevant authorities of the Country:

a) Information submitted by the Ministry of Finance:

- GDP or national income (quarterly)
Main components of GDP (quarterly)
- Employment and unemployment rates (quarterly)
Consumer and producer prices (monthly)
- Level and composition of general and central government revenue and expenditure as well as government payment arrears (quarterly)
- Fiscal balance of the central government (quarterly)
Fiscal balance of the general government (annual)
- External public debt stock and (interest and principal) payments (quarterly)
- Central Government public debt stock and (interest and principal) payments (quarterly)
- Scheduled quarterly payments (interest and principal) of domestic and external Central Government public debt for the years 2020-2022 (quarterly)
- Interest rates on benchmark government bonds at liquid maturities (monthly)

b) Information submitted by the Central Bank of Montenegro

- Weighted average interest rate of banks by sectors and maturity (monthly)
- Balance-of-payments and main components (quarterly)
- Claims on non-residents (monthly)

2. Monitoring of structural policies

During the implementation of the European Union macro-financial assistance, data and/or information relating to the implementation of policy measures specified in Annex I shall be provided to the Commission by the relevant authorities of the Country, on request from the Commission, notably:

- Draft Budget proposal and medium term expenditure framework planning for 2021;
- Copy of the official proposal to amend the Law on budget and fiscal responsibility, providing for the establishment of an independent fiscal council;
- Interim report on progress establishing a centralised public sector employment payroll system;
- Copy of the request for technical assistance to the IMF for the elaboration of a public investment management assessment (PIMA);
- Interim report on the implementation of the asset quality review of the banking system;
- Report on the implementation of the COVID-19 emergency support measures, including on categories and amounts of aid, as well as the conditions and allocation criteria for support;

- Copy of the registry of para-fiscal charges at both local and national levels;
- Report on the review of the social protection system and draft outline for concrete implementation of its reform.

**MACRO-FINANCIAL ASSISTANCE FOR
MONTENEGRO**

LOAN FACILITY AGREEMENT

between

THE EUROPEAN UNION

as Lender

AND

MONTENEGRO

as Borrower

and

THE CENTRAL BANK OF MONTENEGRO

as Agent to the Borrower

2020

This Loan Facility Agreement is made by and between

the **European Union**, represented by the European Commission,

as the Lender,

and

Montenegro, represented by the Minister of Finance,

as the Borrower,

and

the **Central Bank of Montenegro**, acting as an agent to the Borrower, represented by the Governor of the Central Bank of Montenegro,

herein jointly referred to as the “Parties” and each of them a “Party”.

PREAMBLE

Whereas:

6. In April 2020, Montenegro requested macro-financial assistance from the European Union in light of the COVID-19 pandemic;
7. The European Parliament and the Council, by Decision (EU) 2020/701 of 25 May 2020 on providing macro-financial assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic¹, decided to provide macro-financial assistance to Montenegro of a maximum amount of EUR 60 million in the form of loans;
8. The macro-financial assistance is granted in conjunction with assistance from the International Monetary Fund, which in June 2020 approved a Rapid Financing Instrument (RFI) for Montenegro of EUR 75 million;
9. The economic policy conditions to be complied with if Montenegro is to be entitled to the benefit of the Facility are laid down in the Memorandum of Understanding signed between the European Union and Montenegro on or about the date of this agreement and in subsequent (Supplemental) Memoranda of Understanding, if any;

² OJ L 165, 27.5.2020, p. 31.

13. The loan instalments will be funded by the European Commission on the capital market. The Commission will launch in due course, on behalf of the EU and after receiving the written request by the Borrower defining the main terms of an Instalment as set out hereinafter, bond issues or any other appropriate financial transactions for the funding, the proceeds of which will be on-lent to the Borrower;

14. Appropriate measures related to the prevention of, and the fight against fraud, corruption and other irregularities affecting the Loan shall be provided for by the authorities of the Borrower.

Now, therefore, the Parties hereto have agreed as follows:

16. DEFINITIONS

In this Agreement (including its recitals) the following terms have the following meaning:

- 18. **"Agreement"** means this Loan Facility Agreement.
- 19. **"Availability Period"** means the period of 12 months commencing on the first day following the entry into force of the memorandum of understanding (MoU).
- 20. **"Borrower"** means Montenegro.
- 21. **"Borrowing Contract"** means an arrangement the Lender enters into to finance an Instalment. The terms of an Instalment shall be the same as those determined in the corresponding Borrowing Contract, provided such terms are consistent with those set out in the relevant Request for Funds.
- 22. **"Business Day"** means a day on which the TARGET2 payment system is open for business.
- 23. **"Commission"** means the European Commission.
- 24. **"Confirmation Notice"** means the Lender's written notice to the Borrower in the form of Annex 2 setting out the final terms of an Instalment.
- 25. **"Decision"** means Decision (EU) 2020/701 of the European Parliament and of the Council of 25 May 2020 providing macro-financial assistance to enlargement and neighbourhood countries in the context of the COVID-19 pandemic.
- 26. **"Disbursement Date"** means, in relation to any Instalment, the date of transfer of the Net Disbursement Amount to the Borrower's account with the Central Bank of Montenegro.
- 27. **"Due Date"** means any day on which a payment by the Borrower to the Lender is due under this Agreement.
- 28. **"Event of Default"** means an event defined in Clause 9(1).
- 29. **"EU"** means the European Union.
- 30. **"External Indebtedness"** means all indebtedness of the Borrower (i) which is denominated or payable in a currency other than the lawful currency of the Borrower

and (ii) which was not originally incurred or assumed under an agreement or instrument made with or issued to creditors substantially all of whom are residents of Montenegro or entities having their head office or principal place of business within the territory of Montenegro.

4. **"Facility"** means the sum of the Instalments which the Lender makes available to the Borrower in an aggregate principal amount of up to EUR 60 million under this Agreement.
5. **"Financial Transaction"** means a bond issue or any other appropriate financial transaction for the funding of the amount of an Instalment.
6. **"IMF"** means the International Monetary Fund.
7. **"IMF Arrangement"** means any agreement, programme, facility or other financial arrangement between the Borrower and the IMF.
8. **"Instalment"** means a part of the Loan pursuant to Clause 2(2).
9. **"Interest Period"** means, in relation to any Instalment, the first Interest Period and each consecutive twelve-month period thereafter until Maturity Date.
10. **"Interest Rate"** means the per annum interest rate which applies to an Instalment during an Interest Period.
11. **"Lender"** means the European Union.
12. **"Loan"** means collectively all disbursements made or to be made to the Borrower under the Facility or the aggregate principal amount thereof outstanding.
13. **"Maturity Date"** means the scheduled date for full repayment of principal of an Instalment as defined in a Confirmation Notice.
14. **"MoU"** means the Memorandum of Understanding signed on or about the date of this Agreement between the European Union and Montenegro and any subsequent (Supplemental) Memoranda of Understanding or any Addendum to those.
15. **"Net Disbursement Amount"** means the proceeds of the Financial Transaction less the aggregate amount of any commissions, fees and costs related to such Financial Transaction and its preparation and execution, as referred to in Clause 6(4), in relation to any Instalment.
16. **"Request for Funds"** means the Borrower's request for funds in the form of Annex 1, irrevocably accepting the main terms thereby indicated pursuant to Clause 4(2).

THE LOAN FACILITY

8. The Lender makes available to the Borrower a loan facility in euro in an aggregate principal amount of up to EUR 60 million, subject to the terms and conditions of the MoU and of this Agreement.
9. The Facility shall be disbursed in two equal Instalments. The disbursement of the second Instalment shall not take place earlier than three months after the release of the previous Instalment.
10. The Borrower shall use all amounts borrowed by it under the Facility in conformity with its obligations under the MoU.
11. The Central Bank of Montenegro shall act as the Borrower's financial agent and shall not be liable for any financial obligations of the Borrower under this Agreement.

MATURITY

The average maturity of the Loan shall not exceed 15 years.

DRAWDOWN, CONDITIONS PRECEDENT AND DISBURSEMENT

- (1) Subject to the terms and conditions of this Agreement and of the MoU, the Borrower may, after consultation with the Lender, request the disbursement of an Instalment of the Loan by delivery to the Lender of a duly completed Request for Funds. The Borrower is irrevocably bound by the terms of the Request for Funds, except if the Lender has served a notice indicating that the EU is not able to conclude the Financial Transaction at the terms indicated in the respective Request for Funds.
- (2) A Request for Funds will not be regarded as having been duly completed unless it at least specifies the information set out in Annex 1.
- (3) Following submission of a Request for Funds by the Borrower in respect of an Instalment, the Lender's obligation to pay the Net Disbursement Amount to the Borrower under this Agreement shall be subject to:
 - (a) no event having occurred that would render incorrect any statement made in the Legal Opinion issued by the Ministry of Justice of the Borrower in the form set out in Annex 4;
 - (b) the Lender having received from the Minister of Finance of the Borrower an official document indicating the persons authorised to sign the Requests for Funds (and thus validly commit the Borrower) and containing the specimen signatures of these persons;
 - (c) the Lender having received from the Minister of Finance, prior to the first Instalment, an official document identifying: (i) the euro account of the Central Bank of Montenegro to which the Lender shall transfer the Net Disbursement Amount of an Instalment on the Disbursement Date, and (ii) the account of the State Treasury Service held at the Central Bank of Montenegro to which the Borrower will transfer the Net Disbursement Amount;
 - (d) the Lender having adopted a release decision regarding the Instalment confirming compliance by the Borrower with the terms of the MoU;

- (e) the Lender on the one hand and a bank or a syndicate of banks on the other hand having signed Borrowing Contracts on the basis of a Commission borrowing decision and having received on the Disbursement Date the net proceeds of the Financial Transaction from the bank or the syndicate of banks;
 - (f) no material adverse change having occurred since the date of this Agreement such as would, in the opinion of the Lender, after consultation with the Borrower, be likely to prejudice materially the ability of the Borrower to fulfil its payment obligations under this Agreement, *i.e.* to service any of the Instalments to be funded and to repay them; and
 - (h) no Event of Default having occurred which has not been cured to the satisfaction of the Lender.
- (4) Subject to the above conditions, the Lender shall, at its discretion, launch a bond issue or any other appropriate Financial Transaction for the funding of the amount of an Instalment.
 - (5) Once the Financial Transaction is concluded, the Lender shall issue to the Borrower a Confirmation Notice setting out the final financial terms of the Instalment. The Borrower shall be deemed to have accepted in advance the terms of the Instalment set out in the Confirmation Notice, provided that such terms are consistent with the terms set out by the Borrower in the applicable Request for Funds. For the avoidance of doubt, the Lender is under no obligation to consider favourably any eventual request from the Borrower at any time to modify any of the financial terms of an Instalment.
 - (6) The Lender shall transfer the Net Disbursement Amount of an Instalment on the Disbursement Date to the euro account of the Central Bank of Montenegro as notified according to Clause 4(3)(c).
 - (7) The disbursement of an Instalment shall under no circumstances commit any of the Parties to proceed with the lending and borrowing of any further Instalments.
 - (8) The Borrower's right to receive Instalments under this Agreement expires at the end of the Availability Period, following which any undisbursed amount of the Facility shall be considered as immediately cancelled, except for any Instalment for which the Commission has adopted a release decision and a borrowing decision prior to that date and for which disbursement subsequently takes place.

5. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

(1) Representations

The Borrower represents and warrants to the Lender on the date of this Agreement and on each Disbursement Date that:

- (a) each Instalment shall constitute an unsecured, direct, unconditional, unsubordinated and general obligation of the Borrower and will rank at least *pari passu* with all other present and future unsecured and unsubordinated loans and obligations of the Borrower arising from its present or future External Indebtedness, provided however that the Borrower shall have no obligation to effect equal or rateable payment(s) at any time with respect to any such other External Indebtedness and, in particular, shall have no obligation to

pay other External Indebtedness at the same time or as a condition of paying sums due on the Loan and vice versa; and

- (b) the legal opinion of the Ministry of Justice provided in accordance with Annex 4 is accurate and correct.

(2) Undertakings

The Borrower undertakes, until such time as all principal under this Agreement has been fully reimbursed and all interest and additional amounts, if any, due under this Agreement have been fully paid:

- (a) to utilise the Net Disbursement Amount of each Instalment consistently with the Decisions and in accordance with the MoU, applicable at the time of issuing the Request for Funds for the Instalment;
- (b) to obtain and maintain in full force and effect all authorisations necessary for it to comply with its obligations under this Agreement;
- (c) to comply in all respects with applicable laws which might affect its ability to perform this Agreement;
- (d) to pay any fees, costs and expenses, including if applicable breakage costs and cost of carry, resulting from any Financial Transaction that the Lender may have undertaken under this Agreement following receipt of a Request for Funds, regardless of whether the disbursement of the Instalment will ultimately take place;
- (e) in relation to External Indebtedness to recognise that the Lender shall have the identical legal capacity, immunities and privileges as accorded to international financial institutions.
- (f) with the exception of those encumbrances enumerated in Subparagraphs (1) to (7) below:
 - (i) not to secure by mortgage, pledge or any other encumbrance upon its own assets or revenues any present or future External Indebtedness and any guarantee or indemnity given in respect thereof, unless the Loan at the same time shares *pari passu* and *pro rata* in such security; and
 - (ii) not to grant to any other creditor or holder of its sovereign debt any priority over the Lender.

The grant of the following encumbrances shall not constitute a breach of this Clause:

- (1) encumbrances upon any property incurred to secure financing for the purchase price or construction of such property and any renewal or extension of any such encumbrance which is limited to the original property covered thereby and which secures any renewal or extension of the original secured financing; and
- (2) encumbrances on commercial goods arising in the course of ordinary commercial transactions (and expiring at the latest within one year

thereafter) to finance the import or export of such goods into or from the country of the Borrower; and

- (3) encumbrances securing or providing for the payment of External Indebtedness incurred exclusively in order to provide financing for a specific investment project, provided that the properties to which any such encumbrances apply are properties which are the subject of such project financing, or which are revenues or claims which arise from the project; and
- (4) any other encumbrances in existence on the date of the signing of this Agreement, provided that such encumbrances remain confined to the properties presently affected thereby and properties which become affected by such encumbrances under contracts in effect on the date of the signing of this Agreement (including, for the avoidance of doubt, the crystallization of any floating charge which had been entered into at the date of this Agreement), and provided further that such encumbrances secure or provide for the payment of only those obligations so secured or provided for on the date hereof or any refinancing of such obligations; and
- (5) all other statutory encumbrances and privileges which operate solely by virtue of law and which cannot be reasonably avoided by the Borrower; and
- (6) any encumbrance securing the Borrower's obligations with any central securities depository such as *Euroclear* given in the normal course of the business; and
- (7) any encumbrance securing an indebtedness of less than EUR 3 million, provided that the maximum aggregate amount of indebtedness secured by such encumbrances does not exceed EUR 50 million.

As used in this Clause, "financing for a specific investment project" means any financing of the acquisition, construction, or development of any properties in connection with a project if the providing entity for such financing expressly agrees to look to the properties financed and the revenues to be generated by the operation of, or loss or damage to, such properties as the principal source of repayment for the moneys advanced.

6. INTEREST, COSTS AND EXPENSES

- (1) In respect of each outstanding Instalment, the Borrower shall transfer to the account referred to in Clause 8(3) on each Due Date the amount of interest which by the end of an Interest Period will have accrued on the principal amount outstanding of that Instalment, and such amount shall be applied to discharge the interest due under such Instalment in respect of such Interest Period on the Due Date. The Interest Rate and the Due Dates will be, for each Instalment, communicated to the Borrower in the Confirmation Notice for that Instalment.
- (2) The Interest Rate, the Interest Periods and the Due Dates for payment of interest shall be the same as those determined in the corresponding Borrowing Contracts.

- (3) Without prejudice to the terms of Clause 9, if the Borrower fails to pay any sum payable under this Agreement on its Due Date, the Borrower shall pay in addition default interest on such sum (or, as the case may be, the amount thereof for the time being due and unpaid) to the Lender from the Due Date to the date of actual payment in full, calculated by reference to successive interest periods (each of such length as the Lender may from time to time select, the first period beginning on the relevant Due Date and, wherever possible, the length of such period shall be that of one week) on such overdue sum at the higher of
- (a) a rate per annum being the aggregate of:
 - (i) 200 basis points, and
 - (ii) the EURIBOR rate for the relevant period selected by the Lender,
 - or
 - (b) 200 basis points over the Interest Rate which would have been payable if the overdue amount had, during the period of non-payment, constituted an Instalment.

So long as the failure to pay continues, such rate shall be re-fixed in accordance with the provisions of this Clause 6(3) on the last day of each such interest period and unpaid interest under this Clause concerning previous interest periods shall be added to the amount of interest due at the end of each such interest period. The default interest is immediately due and payable.

- (4) The Borrower undertakes to pay all costs and expenses incurred and payable by the Lender in relation to the Financial Transaction and the preparation and implementation of the Borrowing Contracts and any other costs and expenses incurred and payable by the Lender in relation to such Borrowing Contracts and any related costs and expenses during the life of the Borrowing Contracts. These costs and expenses to be borne by the Borrower may include, *inter alia*, legal costs (such as the costs incurred for legal opinions), rating costs and commissions related to the financial service of the Borrowing Contracts, taxes, registration fees and publication costs.
- (5) The Borrower undertakes to pay to the Lender all additional interest and all costs and expenses, including legal fees, incurred and payable by the Lender as a result of a breach of any obligation under this Agreement by the Borrower.
- (6) If the Lender due to prevailing market conditions at the time of launching a bond issue or any other Financial Transaction is not able to obtain a funding at or below the maximum Interest Rate referred to in the relevant Request for Funds, then the Lender is under no obligation to make the Net Disbursement Amount of the Instalment available to the Borrower. However, upon request from the Borrower, the Lender may after consultation with the Borrower propose a revised Interest Rate in the light of the then prevailing market conditions, in which case the Borrower may submit an amended Request for Funds reflecting such revised Interest Rate.

7. REPAYMENT, EARLY REPAYMENT AND CANCELLATION

- (1) The Borrower shall repay the principal amount of each Instalment on the date(s) and under the conditions determined in the corresponding Borrowing Contracts and as notified to it by the Lender based on the relevant Confirmation Notice.

The Borrower shall transfer the amount of principal due to the account referred to in Clause 8(3) on the Due Date.

Any amount of principal which is transferred for the purpose of a repayment to the account referred to in Clause 8(3) by the Borrower cannot be re-borrowed.

- (2) The terms and conditions of the Financial Transaction shall not include an early repayment clause.
- (3) The Lender may suspend or cancel any undrawn Instalments of the Facility if:
 - (a) the financing needs of the Borrower decrease fundamentally compared to the initial projections;
 - (b) the Borrower does not comply with the terms of the MoU and of the Decisions; or
 - (c) the IMF cancels its Arrangement in whole or in part without reaching an agreement with the Borrower on a new IMF Arrangement.

8. PAYMENTS

- (1) All payments to be made by the Borrower shall be paid without set-off or counterclaim, free and clear of, and without deduction for and on account of, any taxes, commissions and any other charges for the entire term of this Agreement.
- (2) The Borrower declares that all payments and transfers under this Agreement, as well as the Agreement itself, are not subject to any tax or any other impost in the country of the Borrower and shall not be so subject for the entire term of this Agreement. If nevertheless the Borrower or the Central Bank of Montenegro is required by law to make any such deductions, the Borrower shall pay the requisite additional amounts so that the Lender receives in full the amounts specified by this Agreement.
- (3) All payments by the Borrower shall be made in euro on the Due Date before 11:00 a.m. Luxembourg time to the euro-account of the Lender with *Banque et Caisse d'Epargne de l'Etat Luxembourg*; BIC BCEELULL, account IBAN LU90 0019 3455 9164 5000, ref. "EU macro financial assistance for Montenegro" or to such other account as the Lender may communicate by written notice prior to the relevant Due Date.
- (4) If the Borrower shall pay an amount in relation to any of the Instalments which is less than the total amount due and payable under this Agreement, the Borrower hereby waives any rights it may have to make any appropriation of the amount so paid as to the amounts due.

The amount so paid under an Instalment shall be applied in or towards satisfaction of payments due under such Instalment in the following sequence:

- (a) *first* against any fees, expenses and indemnities;
- (b) *second* against any interest for late payments as determined under Clause 6(3);
- (c) *third* against interest; and

(d) *fourth* against principal,

provided that these amounts are due or overdue for payment on that date.

(5) Any calculation and determination by the Lender under this Agreement:

(a) shall be made in a commercially reasonable manner; and

(b) shall, absent manifest error, be binding on the Lender and the Borrower.

(6) Business Day Convention as communicated in the Confirmation Notice shall apply.

9. EVENTS OF DEFAULT

(1) The Lender may by written notice to the Borrower cancel the Facility and/or declare the outstanding principal amount of the Loan to be immediately due and payable, together with accrued interest, if:

(a) the Borrower shall fail to pay any amount of principal or interest under any Instalment or any other amounts due under this Agreement on its Due Date, whether in whole or in part, in the manner as agreed in this Agreement;

(b) the Borrower shall default in the performance of any obligation under this Agreement other than that referred to in Clause 9(1)(a) (including the obligation set out in Clause 2(3) to use the Loan in accordance with the terms of the MoU, but excluding any other obligations under the MoU), and such default shall continue for a period of one month after written notice thereof shall have been given to the Borrower by the Lender; or

(c) the Lender sends the Borrower a declaration of default in circumstances where the Borrower's obligations under this Agreement are declared by a court of competent jurisdiction not to be binding on or enforceable against the Borrower or are declared by a court of competent jurisdiction to be illegal; or

(d) the Lender sends the Borrower a declaration of default in circumstances where (i) it has been established that in relation to this Agreement or the MoU, the Borrower has engaged in any act of fraud or corruption, or any other illegal activity detrimental to the financial interests of the Lender or (ii) any representation or warranty made by the Borrower under this Agreement is inaccurate, untrue or misleading and which in the opinion of the Lender, after consultation with the Borrower, could have a negative impact on the capacity of the Borrower to fulfil its obligations under this Agreement or on the rights of the Lender under it; or

(e) any previous loan agreement between the Borrower and the Lender or any EU institution, regardless of the amount, is subject of a declaration of default or there is a default on any payment obligation of any kind towards the Lender or any EU institution by the Borrower which gives rise to a declaration of default; or

(f) External Indebtedness of the Borrower having an aggregate principal amount in excess of EUR 50 million is the subject of a declaration of default as defined in any instrument governing or evidencing such indebtedness and as a result of

such a declaration of default there is an acceleration of such indebtedness or a *de facto* moratorium on payments; or

- (g) the Borrower does not make timely repurchases from the IMF in relation to the IMF Arrangement and is subject of a declaration of default; or
 - (h) the Borrower does not pay a substantial portion of its External Indebtedness as it falls due or declares or imposes a moratorium on the payment of its External Indebtedness or of External Indebtedness assumed or guaranteed by it.
- (2) The Lender may, but is not obliged to, exercise its rights under this Clause and may also exercise them only in part without prejudice to the future exercise of such rights.
 - (3) The Borrower shall reimburse all costs, expenses and fees payable by the Lender as a consequence of an early repayment of any Instalment under this Clause, including interest until the original maturity date. In addition, the Borrower shall pay default interest, as provided in Clause 6(3) above, which shall accrue as from the date when the outstanding principal amount of the Loan has been declared immediately due and payable, until the date of actual payment in full.

10. INFORMATION UNDERTAKINGS

- (1) With effect from the submission of the first Request for Funds, the Borrower shall promptly supply to the Lender:
 - (a) any information regarding its fiscal and economic condition, as the Lender may reasonably request in line with the MoU;
 - (b) any information pertaining to any event which could reasonably be expected to cause an Event of Default to occur (and the steps, if any, being taken to remedy it).
- (2) The Borrower undertakes to inform the Lender promptly if any event occurs that would render incorrect any statement made in the Borrower's legal opinion set out in Annex 4.
- (3) The Borrower undertakes to inform the Lender within one month from each disbursement date, based on the declaration set out in Annex 3, of the transfer of the loan instalments to the account of the State Treasury Service and of the related entries in the public accounts.
- (4) The Lender shall be entitled to withhold the release of an instalment in case the Borrower has not made the declaration of Annex 3 with regard to the previous instalment.

11. UNDERTAKINGS RELATING TO INSPECTIONS, FRAUD PREVENTION AND AUDITS

- (1) During the implementation of the Union's macro-financial assistance, the Commission shall have the right to monitor the soundness of the Borrower's financial arrangements, the administrative procedures, and the internal and external control mechanisms which are relevant to the assistance.

- (2) In conformity with its financial regulations, the Lender, including the European Anti-Fraud Office, and the European Court of Auditors and the European Public Prosecutor's Office shall have the right to send their own agents or duly authorised representatives to carry out any technical or financial controls, including on-the-spot checks and inspections (including digital forensic operations and interviews), and audits (including document audits and on-the-spot audits), and investigations that they consider necessary in relation to the management of this Loan during the Availability Period or thereafter in order to protect the Lender's financial interests.
- (3) The Borrower shall supply relevant information and documents which may be requested for the purpose of such assessments, controls or audits, and take all suitable measures to facilitate the work of persons instructed to carry them out, including granting the persons referred to in Paragraph 2 access to sites and premises where the relevant information and documents are kept.
- (4) The Borrower shall regularly check that financing provided by the Lender has been properly used and shall ensure investigation and satisfactory treatment of any suspected and actual cases of fraud, corruption or any other illegal activity in relation to the management of the Loan, detrimental to the EU's financial interests. All such cases as well as measures related thereto taken by national competent authorities, including legal actions to recover any funds provided under this Agreement, shall be reported to the Lender without delay.

12. NOTICES

- (1) All notices in relation to this Agreement shall be validly given if in writing and sent to the addressees listed in Annex 5. Each Party will update addressees and notify it to the other Party hereto upon the same being amended from time to time.
- (2) Notices become effective on the date of receipt of the e-mail or letter by which they are delivered.
- (3) All documents, information and materials to be furnished under this Agreement shall be in the English language.
- (4) Each Party to this Agreement will notify to the other the list and specimen signatures of the persons authorised to act on its behalf under this Agreement, promptly upon its signature of this Agreement. Likewise, each Party will update such list and notify the other Party hereto upon the same being amended from time to time.

13. MISCELLANEOUS

- (1) If any one or more of the provisions contained in this Agreement should be or become fully or in part invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby. Provisions which are fully or in part invalid, illegal or unenforceable shall be interpreted and thus implemented according to the spirit and purpose of this Agreement.
- (2) The Preamble and the Annexes to this Agreement do and shall hereafter form an integral part of this Agreement. This Agreement incorporates by reference the terms of the MoU.

- (3) The Lender may in its full discretion resort to Financial Transactions that fund also instalments under other loan agreements. Should this be the case, the financial terms of such Borrowing Contracts apply to the Borrower only *pro rata* to its Instalments.
- (4) The purpose of this Agreement is to set up the conditions under which the Lender makes available to the Borrower the proceeds of the corresponding Financial Transactions arranged by the Lender to this effect. As a consequence, the Borrower and the Lender accept that their rights and obligations, unless otherwise stated in this Agreement, are defined and interpreted by reference to the corresponding borrowing documentation. In particular, the terms of the Borrowing Contracts shall be applicable to the Agreement. However, if there is any conflict between the terms of this Agreement and any Borrowing Contract, the terms of this Agreement shall prevail.
- (5) The Borrower shall not have any right to assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Lender.

14. GOVERNING LAW AND JURISDICTION

- (1) This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and shall be construed in accordance with European Union law, supplemented where necessary by Luxembourgish law. The Borrowing Contracts will be governed by Luxembourgish law.
- (2) The Parties undertake to submit any dispute which may arise relating to the legality, validity, interpretation or performance of this Agreement to the exclusive jurisdiction of the Court of Justice of the European Union in accordance with Article 272 of the Treaty on the functioning of the European Union.
- (3) Judgements of the Court of Justice of the European Union shall be fully binding on and enforceable by the Parties.
- (4) The Lender may enforce any judgement obtained from the Court of Justice of the European Union, or other rights against the Borrower in the courts of the country of the Borrower.
- (5) The Borrower hereby irrevocably and unconditionally waives all immunity to which it is or may become entitled, in respect of itself or its assets, from legal proceedings in relation to this Agreement, including, without limitation, immunity from suit, judgement or other order, from attachment, arrest or injunction prior to judgement, and from execution and enforcement against its assets, to the extent not prohibited by mandatory law.

15. ENTRY INTO FORCE

- (1) Following its signature by all Parties, this Agreement shall enter into force on the date on which the Lender has received the official notification in the form of the Legal Opinion (Annex 4 to this Agreement) by the Borrower that all constitutional and legal requirements for the entry into force of this Agreement and the valid and irrevocable commitment of the Borrower to all obligations under this Agreement have been fulfilled.

- (2) The entry into force shall not be later than 6 months after signature of the Agreement. If the Agreement has not entered into force by that date, the Parties to the Agreement shall no longer be bound by it.

16. EXECUTION OF THE AGREEMENT

This Agreement shall be executed by each Party in four originals in the English language, each of which shall constitute an original instrument.

17. ANNEXES

The Annexes to this Agreement shall constitute an integral part thereof:

1. Form of Request for Funds
2. Form of Confirmation Notice
3. Form of Declaration on the use of loan instalments
4. Form of Legal Opinion
5. List of Contacts

Done in Podgorica on ____/____/2020 and in Brussels on ____/____/2020 in four copies.

MONTENEGRO

as Borrower

Represented by

Minister of Finance

CENTRAL BANK OF MONTENEGRO

Represented by

Governor

EUROPEAN UNION

as Lender

Represented by

EUROPEAN COMMISSION

Represented by

ANNEX 1

FORM OF REQUEST FOR FUNDS

[on letterhead of the Borrower]

European Commission
Directorate-General for the Budget
Unit E-3: Borrowing and Lending
Attn.: Head of Unit
L-2920 Luxembourg

**Subject: European Union Macro-Financial Assistance
Request for Funds for the [•] Instalment**

Dear Sirs,

We refer to the Loan Facility Agreement dated [•] between the European Union as Lender and Montenegro as Borrower and the Central Bank of Montenegro as financial agent to the Borrower (the "**Agreement**"). Terms defined in the Agreement shall have the same meaning herein.

1. We hereby irrevocably request that an Instalment of the Loan be disbursed under and in accordance with the Agreement upon the following terms:
 - a. Principal amount of the Instalment: EUR [•].
 - b. The Net Disbursement Amount of the Instalment to be at least [•] % of the principal amount.
 - c. The fixed nominal Interest Rate of the Instalment shall not be higher than [•] % per annum.
 - d. The disbursement under this Instalment shall be carried out before: [•].
 - e. The principal repayment of the Instalment shall be in [year].
2. We acknowledge and agree that the disbursement of each Instalment shall be in accordance with and subject to
 - a. the Lender being satisfied at all times that the corresponding funds are available to it from a counterparty in the international capital markets on terms and conditions that are acceptable to it and that are consistent with the terms set out in this Request for Funds;
 - b. the Lender carrying out one or several Financial Transactions to obtain the proceeds requested in this Request for Funds. We irrevocably undertake to pay any fees, costs and expenses, including if applicable breakage costs and cost of carry, resulting from

any Financial Transactions undertaken by the Lender, regardless of whether the disbursement of an Instalment will ultimately take place;

c. the issue by the Lender, in due course, of a Confirmation Notice.

3. We confirm that:

- a. The list of authorised signatories sent on behalf of the Borrower by the Minister of Finance on [date] remains valid and applicable.
- b. No event has occurred that would render incorrect any statement made in the legal opinion issued by the Minister of Justice dated [date].
- c. No Event of Default has occurred.

[authorised signature]

Copy to the Central Bank of Montenegro
Bulevar Sv. Petra Cetinjskog 6
81000 Podgorica

ANNEX 2

FORM OF CONFIRMATION NOTICE



EUROPEAN COMMISSION

DIRECTORATE GENERAL

BUDGET

Asset and financial risk management

Borrowing and Lending

[Insert Borrower's contact details]

**Subject: European Union Macro-Financial Assistance
Disbursement of the [•] Instalment**

Dear Sir or Madam,

We refer to the Loan Facility Agreement dated [•] between the European Union as Lender, Montenegro as Borrower and the Central Bank of Montenegro as financial agent to the Borrower of a maximum amount of EUR 60 million (the "**Agreement**"). Terms defined in the Agreement shall have the same meaning herein.

In line with the Request for Funds dated [•], the terms of the Financial Transaction which the European Union has undertaken to fund the [•] Instalment are as follows:

Nominal amount	EUR [•]
Issue price	EUR [•]
Bank fees	EUR [•]
Net proceeds	EUR [•]
Transaction cost recovery	EUR [•]
Net Disbursement Amount	EUR [•]
Disbursement Date	[•]
Maturity Date	[•]
Interest Rate (Coupon)	[•] % p.a.
Interest payment dates	Annually on [•]
First interest payment date	[•]
(Short/Long) first interest payment	EUR [•]

The applicable Day Count Convention is [•].

Please find the payment schedule of the loan attached.

Yours faithfully,

EUROPEAN UNION

represented by

EUROPEAN COMMISSION

[•]

[•]

Annex: Loan payment schedule

Copy: Central Bank of Montenegro

ANNEX 3

DECLARATION ON THE USE OF LOAN INSTALMENTS

[on letterhead of the Borrower]

European Commission
Directorate-General for the Budget
Unit E-3: Borrowing and Lending
Attn.: Head of Unit
L-2920 Luxembourg

Subject: European Union macro financial assistance
Declaration with regard to the protection of the EU's financial interests

Dear Sir or Madam,

We refer to the Loan Facility Agreement dated [insert date] between the European Union as Lender and Montenegro as Borrower and the Central Bank of Montenegro as financial agent to the Borrower (the "**Agreement**"). Terms defined in the Agreement shall have the same meaning herein.

We hereby confirm that:

1. The first/second [delete as appropriate] loan instalment disbursed on [insert date] has been transferred to the account of the State Treasury Service at the Central Bank of Montenegro.
2. The first/second loan instalment [delete as appropriate] has been accounted for as "External Financing" in the public accounts for the year [insert year].

The relevant accounting documents of the Central Bank of Montenegro and of the Ministry of Finance are available upon request.

Minister of Finance

Copy to the Central Bank of Montenegro

ANNEX 4

FORM OF LEGAL OPINION

MINISTRY OF JUSTICE

(to be issued on official letterhead of the Ministry of Justice)

[place, date]

European Commission
Directorate General for the Budget
Unit E-3 – Borrowing and Lending
L-2920 Luxembourg

Re: Loan Facility Agreement between the European Union (as Lender) and Montenegro (as Borrower) and the Central Bank of Montenegro (as financial agent to the Borrower) for a maximum amount of EUR 60 million

Dear Sirs,

In my capacity as the Minister of Justice, I refer to the above referenced Loan Facility Agreement dated [date] and its Annexes which constitute an integral part thereof (hereinafter together referred to as the "**Agreement**") between the European Union (hereinafter referred to as the "**Lender**") and Montenegro (hereinafter referred to as the "**Borrower**") and the Central Bank of Montenegro as financial agent to the Borrower for a maximum amount of EUR 60 million. I also refer to the Memorandum of Understanding dated [date] between the European Union and Montenegro (hereinafter referred to as the "**MoU**").

I warrant that I am fully competent to issue this legal opinion in connection with the Agreement on behalf of the Borrower.

I have examined originals or copies of the execution versions of the Agreement and of the MoU. I have also examined the relevant provisions of national and international law applicable to the Borrower and the Central Bank of Montenegro, the powers of signatories

and such other documents as I have deemed necessary or appropriate. Furthermore, I have made such other investigations and reviewed such matters of law as I have considered relevant to the opinion expressed herein.

I have assumed (i) the genuineness of all signatures (except the Borrower and the Central Bank of Montenegro) and the conformity of all copies to originals, (ii) the capacity and power to enter into the Agreement of, and their valid authorisation and signing by, each Party other than the Borrower and Central Bank of Montenegro and (iii) the validity, binding effect and enforceability of the Agreement on each Party under Union law.

Terms used and not defined in this opinion shall have the meaning set out in the Agreement and in the MoU.

This opinion is limited to Montenegro law as it stands at the date of this opinion.

Subject to the foregoing, I am of the opinion that:

1. With respect to the laws, regulations and legally binding decisions currently in force in Montenegro, the Borrower is by the execution of the Agreement by *[insert name]*, validly and irrevocably committed to fulfil all of its obligations under it.
2. The Borrower's execution, delivery and performance of the Agreement and the MoU: (i) have been duly authorised by all necessary consents, actions, approvals and authorisations; and (ii) do not violate any applicable regulation or ruling of any competent authority or any international agreement or treaty binding on it.
3. Nothing in this Agreement contravenes or limits the rights of the Borrower to make punctual and effective payment of any sum due for the principal, interest or other charges under the Agreement.
4. The Agreement and the MoU are in proper legal form under Montenegro law for enforcement against the Borrower. The enforcement of the Agreement would not be contrary to mandatory provisions of Montenegro law, to the ordre public of Montenegro, to international treaties or to generally accepted principles of international law binding on the Borrower.
5. It is not necessary in order to ensure the legality, validity or enforceability of the Agreement and the MoU that they be filed, recorded, or enrolled with any court or authority in Montenegro.
6. No taxes, duties, fees or other charges imposed by Montenegro or any taxing authority thereof or therein are payable in connection with the execution and delivery of the Agreement and with any payment or transfer of principal, interest, commissions and other sums due under the Agreement.
7. No exchange control authorisations are required and no fees or other commission are to be paid on the transfer of any sum due under the Agreement.
8. The signature of the Agreement and the MoU by *[insert name]*, Governor of the Central Bank of Montenegro, legally and validly binds the Central Bank of Montenegro.

9. The choice of Union law as governing law for the Agreement is a valid choice of law binding the Borrower and the Central Bank of Montenegro in accordance with Montenegro law.
10. The Borrower has legally, effectively and irrevocably submitted to the exclusive jurisdiction of the Court of Justice of the European Union in connection with the Agreement and any judgement of this court would be conclusive and enforceable in Montenegro.
11. Neither the Borrower nor any of its property are immune on the grounds of sovereignty or otherwise from jurisdiction, attachment – whether before or after judgement – or execution in respect of any action or proceeding relating to the Agreement.
12. The Agreement and the MoU on execution comply with all domestic constitutional requirements for the Agreement and the MoU to be operative as a matter of Montenegro law and binding on Montenegro and the Central Bank of Montenegro and have been made in accordance with Montenegro legislation.
13. The Agreement and the MoU are fully valid and do not need to be ratified.
14. In conclusion, the Agreement and the MoU have been duly executed on behalf of the Borrower and all the Borrower's obligations in relation to the Agreement and the MoU are valid, binding and enforceable in accordance with their terms and nothing further is required to give effect to the same.

Minister of Justice

ANNEX 5

LIST OF CONTACTS

For the Lender:

European Commission
Directorate-General for the Budget –
Unit E-3 "Borrowing and Lending"
Attn: Head of Unit
L-2920 Luxembourg
Tel.: (+352) 4301 30070

For the Borrower:

Ministry of Finance

With copy to:

Central Bank of Montenegro

MAKROFINANSIJSKA POMOĆ

CRNOJ GORI

UGOVOR O KREDITU

između

EVROPSKE UNIJE

kao Zajmodavca

i

CRNE GORE

kao Zajmoprimca

i

CENTRALNE BANKE CRNE GORE

Kao Agenta Zajmoprimca

2020

Ovaj Ugovor o kreditu je sačinjen od strane i između

Evropske unije, koju predstavlja Evropska komisija,

kao Zajmodavac,

i

Crne Gore, koju predstavlja ministar finansija, kao

Zajmoprimac,

i

Centralne banke Crne Gore, koja istupa kao agent Zajmoprimca, koju predstavlja guverner Centralne banke Crne Gore,

u nastavku zajednički označeni kao “Strane” a pojedinačno kao “Strana”.

PREAMBULA

S obzirom:

- (1) Da je u aprilu 2020. godine, Crna Gora zahtijevala makroekonomsku pomoć od Evropske unije u svjetlu pandemije COVID-19;
- (2) Da su Evropski parlament i Savjet, Odlukom (EU) 2020/701 od 25. maja 2020. godine o pružanju makrofinansijske pomoći partnerima iz kruga proširenja i susjedstva u kontekstu pandemije COVID-19¹, odlučili da Crnoj Gori pruže makrofinansijsku pomoć u maksimalnom iznosu od 60 miliona EUR u vidu zajmova;
- (3) Da se makrofinansijska pomoć dodjeljuje u vezi sa pomoću Međunarodnog monetarnog fonda, koji je u junu 2020. godine odobrio Rapidni finansijski instrument (RFI) za Crnu Goru od 75 miliona EUR;
- (4) Da su uslovi ekonomske politike koje treba ispuniti da bi Crna Gora imala pravo na korišćenje Instrumenta kredita predviđeni Memorandumom o razumijevanju koji su potpisali Evropska unija i Crna Gora na dan ili oko datuma potpisivanja ovog ugovora i narednim (Dodatnim) memorandumima o razumijevanju, ako ih ima;

¹ OJ L 165, 27.5.2020, str. 31.

(5) Da će tranše kredita finansirati Evropska komisija na tržištu kapitala. Komisija će blagovremeno pokrenuti, u ime EU i nakon što dobije pisani zahtjev Zajmprimca kojim se predviđaju glavni uslovi tranše koji su utvrđeni u nastavku ovog Ugovora, izdavanje obveznica ili bilo koju drugu odgovarajuću finansijsku transakciju za finansiranje, čiji će se prihodom dalje kreditirati Zajmoprimac;

(6) Da će odgovarajuće mjere u vezi sa sprječavanjem i borbom protiv pronevjere, korupcije i drugih nepravilnosti koje se tiču Kredita obezbijediti organi Zajmoprimca.

Shodno tome, sada se Strane ovim saglašavaju kako slijedi:

1. DEFINICIJE

U ovom Ugovoru (uključujući preambulu) sljedeći izrazi imaju sljedeća značenja:

- (1) **"Ugovor"** znači ovaj Ugovor o kreditu.
- (2) **"Period raspoloživosti"** znači period od 12 mjeseci koji počinje prvog dana nakon stupanja na snagu memoranduma o razumijevanju (MoU).
- (3) **"Zajmoprimac"** znači Crna Gora.
- (4) **"Ugovor o zaduživanju"** znači aranžman u koji Zajmodavac stupa kako bi finansirao Tranšu. Uslovi Tranše u isti kao i oni koji su utvrđeni u odgovarajućem Ugovoru o pozajmici, pod uslovom da su ti uslovi isti kao i oni navedeni u relevantnom Zahtjevu za uplatu sredstava.
- (5) **"Radni dan"** znači dan na koji je platni sistem TARGET2 otvoren za poslovanje.
- (6) **"Komisija"** znači Evropska komisija.
- (7) **"Obavještenje o potvrdi"** znači pisano obavještenje Zajmodavca Zajmoprimcu u obrascu iz Aneksa 2 u kome se navode konačni uslovi Tranše.
- (8) **"Odluka"** znači Odluka (EU) 2020/701 Evropskog parlamenta i Savjeta od 25. maja 2020. godine o pružanju makrofinansijske pomoći partnerima iz kruga proširenja i susjedstva u kontekstu pandemije COVID-19.
- (9) **"Datum isplate"** znači, u odnosu na svaku Tranšu, datum transfera Neto iznosa za isplatu na račun Zajmoprimca kod Centralne banke Crne Gore.
- (10) **"Datum uplate"** znači bilo koji dan na koji je uplata od strane Zajmprimca Zajmodavcu dospjela po ovom Ugovoru.
- (11) **"Slučaj neispunjenja obaveza"** znači slučaj definisan u klauzuli 9(1).
- (12) **"EU"** znači Evropska unija.
- (13) **"Spoljni dug"** znači ukupnu zaduženost Zajmoprimca (i) koja je izražena ili plativa u valuti koja nije zakonita valuta Zajmoprimca

i (ii) koja nije prvobitno nastala ili preuzeta shodno sporazumu sa kreditorima ili instrumentu izdatom kreditorima, koji su u suštini rezidenti u Crnoj Gori ili su subjekti čije je sjedište ili glavno mjesto poslovanja unutar teritorije Crne Gore.

- (14) **"Kreditna linija"** znači zbir Tranši koje Zajmodavac stavlja na raspolaganje Zajmoprimcu u ukupnom iznosu glavnice do 60 miliona EUR po ovom Ugovoru.
- (15) **"Finansijska transakcija"** znači emitovanje obveznica ili bilo koja druga finansijska transakcija za finansiranje iznosa Tranše.
- (16) **"MMF"** znači Međunarodni monetarni fond.
- (17) **"Aranžman MMF-a"** znači bilo koji sporazum, program instrument ili drugi finansijski aranžman između Zajmoprimca i MMF.
- (18) **"Tranša"** znači dio Kredita u skladu sa klauzulom 2(2).
- (19) **"Kamatni period"** znači, u odnosu na bilo koju Tranšu, prvi Kamatni period i svaki konsekutivni dvanaestomjesečni period nakon njega do Datuma dospjeća.
- (20) **"Kamatna stopa"** znači godišnju kamatnu stopu koja se primjenjuje na Tranšu tokom Kamatnog perioda.
- (21) **"Zajmodavac"** znači Evropska unija.
- (22) **"Kredit"** znači kolektivno sve isplate izvršene ili koje će se izvršiti prema Zajmoprimcu u skladu sa Kreditnom linijom ili ukupni nepodmireni iznos njegove glavnice.
- (23) **"Datum dospjeća"** znači određeni datum za punu otplatu glavnice Tranše, kako je definisano u Obavještenju o potvrđivanju.
- (24) **"MoU"** znači Memorandum o razumijevanju koji je potpisan na datum ili oko datuma ovog Ugovora između Evropske unije i Crne Gore i svaki naknadni (Dodatni) memorandum o razumijevanju ili njihov Dodatak.
- (25) **"Neto iznos za isplatu"** znači prihod od Finansijske transakcije umanjen za zbirni iznos bilo koje provizije, naknade ili troškova koji se odnose na takvu Finansijsku transakciju i njenu pripremu i izvršenje, kako je navedeno u klauzuli 6(4), u odnosu na svaku Tranšu.
- (26) **"Zahtjev za uplatu sredstava"** znači Zajmoprimčev zahtjev za uplatu sredstava u vidu obrasca iz Aneksa 1, kojim se neopozivo prihvataju glavni uslovi njime iskazani u skladu sa klauzulom 4(2).

2. KREDIT

- (1) Zajmodavac stavlja na raspolaganje Zajmoprimcu kredit u eurima u zbirnom iznosu glavnice od 60 miliona EUR, podložno uslovima MoU i ovog Ugovora.
- (2) Kreditna linija se isplaćuje u dvije jednake tranše. Kredit će biti isplaćen. Isplata druge tranše neće se izvršiti prije nego što isteknu tri mjeseca od puštanja prethodne tranše.
- (3) Zajmoprimac će koristiti sve iznose koje je pozajmio po Kreditnoj liniji, u skladu sa svojim obavezama iz MoU.
- (4) Centralna banka Crne Gore postupa kao finansijski agent Zajmoprimca i neće biti odgovorna za bilo kakve finansijske obaveze Zajmoprimca po ovom Ugovoru.

3. DOSPIJELOST

Prosječna dospelost Kredita neće prevazići 15 godina.

4. POVLAČENJE, PRETHODNI USLOVI I ISPLATA

- (1) Podložno uslovima ovog Ugovora i MoU, Zajmoprimac može, nakon konsultacija sa Zajmodavcem, zahtijevati isplatu Tranše Kredita putem dostave Zajmodavcu propisno popunjenog Zahtjeva za isplatu sredstava. Zajmoprimac je neopozivo obavezan uslovima Zahtjeva za isplatu sredstava, osim ako Zajmodavac nije dostavio obavještenje u kome se ukazuje da EU nije u mogućnosti da zaključi Finansijsku transakciju pod uslovima navedenim u predmetnom Zahtjevu za isplatu sredstava.
- (2) Zahtjev za isplatu sredstava neće se smatrati propisno popunjenim osim ako se u njemu kao minimum ne navedu podaci predviđeni u Aneksu 1.
- (3) Nakon podnošenja Zahtjeva za isplatu sredstava od strane Zajmoprimca u vezi sa Tranšom, obaveza Zajmodavca da isplati Neto iznos za isplatu Zajmoprimcu po ovom Ugovoru zavisi od sljedećih uslova:
 - (a) da nije nastao slučaj koji bi učinio netačnim bilo koju izjavu navedenu u Pravnom mišljenju koje je izdalo Ministarstvo pravde Zajmoprimca, u formi predviđenoj u Aneksu 4;
 - (b) da je Zajmodavac primio od ministra finansija Zajmoprimca zvanični dokument u kojem se navode lica ovlašćena da potpišu Zahtjev za isplatu sredstava (i time na validan način obavezuju Zajmoprimca) i koji sadrži primjer potpisa ovih osoba;
 - (c) da je Zajmodavac primio od ministra finansija, prije prve Tranše, zvanični dokument u kojem se identifikuje: i) račun u eurima Centralne banke Crne Gore na koji će Zajmodavac prenijeti Neto iznos za isplatu Tranše na Datum isplate, i (ii) račun Službe državnog trezora kod Centralne banke Crne Gore na koji će Zajmoprimac prenijeti Neto iznos za isplatu;
 - (d) da je Zajmodavac usvojio odluku o puštanju Tranše kojom se potvrđuje da je

Zajmoprimac ispunio uslove iz MoU;

- (e) da su Zajmodavac sa jedne strane i banka ili sindikat banaka sa druge strane potpisali Ugovore o zaduživanju na osnovu odluke Komisije o zaduživanju i da je on na Dan isplate primio neto prihod od Finansijske transakcije od banke ili sindikata banaka;
 - (f) da nije došlo do negativne materijalne promjene od datuma potpisivanja ovog Ugovora koji bi, po mišljenju Zajmodavca nakon konsultacije sa Zajmoprimcem, vjerovatno materijalno prejudicirao sposobnost Zajmoprimca da ispuní svoje obaveze plaćanja po ovom Ugovoru, tj. da servisira bilo koju Tranšu koja se finansira i da je otplati; i
 - (h) da nije nastupio Slučaj neispunjenja obaveze koji nije riješen na način prihvatljiv Zajmodavcu.
- (4) U zavisnosti od gorenavedenih uslova, Zajmodavac će po sopstvenom nahođenju pokrenuti emitovanje obveznica ili drugu Finansijsku transakciju radi finansiranja iznosa Tranše.
 - (5) Nakon zaključenja Finansijske transakcije, Zajmodavac će Zajmoprimcu izdati Obavještenje o potvrdi kojim se utvrđuju konačni finansijski uslovi Tranše. Smatraće se da je Zajmoprimac unaprijed prihvatio uslove Tranše navedene u Obavještenju o potvrdi, pod uslovom da su takvi uslovi u skladu sa uslovima koje je naveo Zajmoprimac u važećem Zahtjevu za isplatu sredstava. Radi izbjegavanja nedoumica, Zajmodavac nema nikakvu obavezu da povoljno razmotri bilo koji eventualni zahtjev Zajmoprimca u bilo koje vrijeme da se promijeni bilo koji od finansijskih uslova Tranše.
 - (6) Zajmodavac će prenijeti Neto iznos za isplatu Tranše na Datum isplate na račun u eurima Centralne banke Crne Gore po obavještenju u skladu sa klauzulom 4(3)(c).
 - (7) Isplata Tranše ne obavezuje u bil kojim okolnostima bilo koju stranu da nastavi sa pozajmljivanjem i zaduživanjem bilo koje dalje Tranše.
 - (8) Pravo Zajmoprimca da primi Tranše po ovom Ugovoru ističe na kraju Perioda raspoloživosti, nakon čega će se smatrati da je svaki neisplaćeni iznos Instrumenta automatski otkazan, osim za bilo koju Tranšu za koju je Komisija usvojila odluku o puštanju i odluku o zaduživanju prije tog datuma i za koju se isplata nakon toga izvrši.

5. IZJAVE, GARANCIJE I OBAVEZE

(1) Izjave

Zajmoprimac izjavljuje i garantuje Zajmodavcu na datum sklapanja ovog Ugovora i na svaki Datum isplate sljedeće:

- (a) da svaka Tranša predstavlja neobezbijedenu, direktnu, bezuslovnu, nesubordiniranu i opštu obavezu Zajmoprimca i da će biti najmanje ravnopravna sa svim ostalim sadašnjim i budućim neobezbijedanim i nesubordiniranim kreditima i obavezama Zajmoprimca koji nastaju iz njegovog

sadašnjeg ili budućeg Spoljnog duga, pod uslovom, međutim, da Zajmoprimac neće imati nikakvu obavezu da izvrši jednako ili srazmjerno plaćanje(a) i u bilo koje vrijeme u odnosu na bilo koji takav Spoljni dug, i naročito, da neće imati nikakvu obavezu da plati ostali Spoljni dug u isto vrijeme ili kao uslov plaćanja iznosa dospjelih po Kreditu i vice-versa; i

- (b) da je pravno mišljenje Ministarstva pravde, obezbijeđeno u skladu sa Aneksom 4, tačno i ispravno.

(2) Obaveze

Zajmoprimac se obavezuje, do vremena do kojeg se cijela glavnica po ovom Ugovoru izmiri, a cjelokupna kamata i dodatni iznosi, ako ih ima, dospjeli po ovom Ugovoru u cjelosti isplate:

- (a) da koristi Neto iznos za isplatu svake Tranše u skladu sa Odlukama i u skladu sa MoU, koje važe u vrijeme izdavanja Zahtjeva za isplatu sredstava za Tranšu;
- (b) da pribavi i održava na snazi i pravnom dejstvu sva ovlašćenja neophodna da bi ispunio svoje obaveze po ovom Ugovoru;
- (c) da poštuje u svakom pogledu važeće zakone koji mogu uticati na njegovu sposobnost da sprovodi ovaj Ugovor;
- (d) Da plati bilo koju naknadu, troškove i izdatke, uključujući ako je primjenljivo troškove štete i troškove sprovođenja, koji su nastali kao rezultat bilo koje Finansijske transakcije koju je Zajmodavac možda preduzeo po ovom Ugovoru nakon prijema Zahtjeva za isplatu sredstava, bez obzira da li će isplata Tranše na kraju biti izvršena;
- (e) u odnosu na Spoljni dug da prizna da Zajmodavac ima istovjetan pravni kapacitet, imunitete i privilegije kakvi se dodjeljuju međunarodnim finansijskim institucijama.
- (f) Sa izuzetkom ovih tereta nabrojanih u podstavovima od (1) do (7) u nastavku:
 - (i) Da neće obezbjeđivati hipotekom, zalogom ili bilo kojim drugim teretom na svoja sredstva ili prihode bilo koji sadašnji ili budući Spoljni dug i bilo koju garanciju ili obeštećenja datu u vezi sa njima, osim sim ukoliko i sam Kredit ne učestvuje ravnopravno i srazmjerno u takvom obezbjeđenju; i
 - (ii) da neće dodijeliti bilo kom drugom kreditoru ili imaocu njegovog suverenog duga bilo kakav prioritet nad Zajmodavcem.

Dozvoljavanje sljedećih tereta neće predstavljati kršenje ove klauzule:

- (1) Terete na bilo kojoj imovini koji su ustanovljeni da bi se obezbijedila nabavna cijena takve imovine i svako obnavljanje ili produženje takvog tereta koje se ograničava na prvobitnu imovinu koja je njime pokrivena i koji obezbjeđuje bilo koje obnavljanje ili produženje prvobitno obezbijeđenog finansiranja; i

- (2) Terete na komercijalnoj robi koji proisteknu za vrijeme redovnih komercijalnih transakcija (i čije je maksimalno trajanje godinu dana poslije tog datuma) radi finansiranja uvoza ili izvoza takve robe u zemlju ili iz zemlje zajmoprimca; i
- (3) Terete kojima se osigurava ili obezbjeđuje plaćanje Spoljnog duga koji je nastao isključivo radi obezbjeđivanja finansijskih sredstava za konkretan investicioni projekt, pod uslovom da je imovina koja je predmet tereta takođe i imovina koja je predmet finansiranja projekta, ili koja predstavlja prihod ili potraživanja koja proističu iz projekta; i
- (4) Sve druge terete koji postoje na datum ovog Ugovora, pod uslovom da takvi tereti ostanu ograničeni na imovinu na koju se u ovom trenutku odnose ti tereti i imovinu na koju počinju da se odnose ti tereti po ugovorima koji su na snazi na dan potpisivanja ovog Ugovora ((uključujući, radi izbjegavanja sumnje, pretvaranje varijabilne naknade u fiksnu, koja je zaključena na datum ovog Ugovora) i pod dodatnim uslovom da takvi tereti osiguravaju ili obezbjeđuju plaćanje samo onih obaveza koje su na taj način osigurane ili obezbijeđene na datum ovog Ugovora ili refinansiranje takvih obaveza; i
- (5) Sve druge zakonske terete i privilegije čije je dejstvo isključivo po sili zakona i koje Zajmoprimac ne može razumno da izbjegne; i
- (6) bilo koji teret kojim se obezbjeđuju Zajmoprimčeve obaveze prema bilo kojem centralnom depozitaru hartija od vrijednosti, poput Euroclear-a, preuzete u uobičajenom toku poslovanja; i
- (7) bilo koji teret kojim se obezbjeđuje dug manji od 3 miliona EUR, pod uslovom da maksimalni ukupni iznos duga obezbijeđen takvim teretima ne prelazi 50 miliona EUR.

U smislu ove klauzule "finansiranje konkretnog investicionog projekta" znači svako finansiranje nabavke, izgradnje ili uređenje bilo koje imovine u vezi sa projektom, ukoliko se subjekt koji obezbjeđuje takvo finansiranje izričito saglasi da će na imovinu koja se finansira i na prihode koji nastanu korišćenjem te imovine, kao i njen gubitak ili oštećenje, gledati kao na osnovni izvor za vraćanje sredstava koja su isplaćena.

6. KAMATA, TROŠKOVI I IZDACI

- (1) U odnosu na svaku neizmirenu Tranšu, Zajmoprimac će prenijeti na račun naveden u klauzuli 8 (3) na svaki Datum isplate iznos kamate koji je do kraja Kamatnog perioda obračunata na iznos neizmirene glavnice te Tranše, a takav iznos će se koristiti za isplatu dospjele kamate po toj Tranši u odnosu na takav Kamatni period na Datum isplate. O Kamatnoj stopi i Datumima isplate za svaku Tranšu, biće obaviješten Zajmoprimac u Obavještenju o potvrdi za tu Tranšu.
- (2) Kamatna stopa, Kamatni periodi i Datumi isplate za plaćanje kamate biće isti kao oni utvrđeni u odgovarajućim Ugovorima o zaduživanju.

- (3) Bez prejudiciranja uslova iz klauzule 9, ako Zajmoprimac propusti da plati bilo koji plativi iznos po ovom Ugovoru na Datum isplate, Zajmoprimac će platiti dodatnu zateznu kamatu na takvu sumu (ili, zavisno od slučaja, njen iznos za vrijeme za koje je dospjela a neisplaćena) Zajmodavcu od Datuma isplate do datuma stvarne isplate u cjelosti, obračunatu upućivanjem na sukcesivne kamatne periode (svaki trajanja kakvo Zajmodavac može povremeno odabrati, pri čemu prvi period počinje na relevantni datum isplate i, kad god je to moguće, trajanje takvog perioda biće jedna sedmica) na takvu odocnjelu sumu po onome što bude veće između
- (a) godišnje stope koja je zbir:
- (i) 200 baznih bodova, i
- (ii) Stope EURIBOR rate for the relevant period selected by the Lender,
- i
- (b) 200 baznih bodova na Kamatnu stopu koja bi bila plativa da je odocnjeli iznos tokom perioda neplaćanja, činio Tranšu.

Sve dok propuštanje plaćanja traje, takva stopa biće ponovo određena u skladu sa odredbama ove klauzule 6 (3) na posljednji dan svakog takvog kamatnog perioda a neisplaćena kamata po ovoj klauzuli koja se tiče prethodnih kamatnih perioda biće dodata na iznos dospjele kamate na kraju svakog takvog kamatnog perioda. Zatezna kamata je dospjela i plativa odmah.

- (4) Zajmoprimac preuzima obavezu da plati sve troškove i izdatke koji nastanu i plativi su od strane Zajmodavca u vezi sa Finansijskom transakcijom i pripremom implementacije Ugovora o zaduživanju i druge troškove i izdatke koji nastanu i plativi su od strane Zajmodavca u vezi sa takvim Ugovorima o zaduživanju i sve povezane troškove i izdatke tokom trajanja Ugovora o zaduživanju. Ovi troškovi i izdaci koje će snositi Zajmoprimac mogu uključivati, inter alia, pravne troškove (poput troškova koji nastanu za pravna mišljenja), troškove rejtinga i provizija u vezi sa finansijskim servisiranjem Ugovora o zaduživanju, poreza, naknada za registraciju i troškova objavljivanja.
- (5) Zajmoprimac preuzima obavezu da plati Zajmodavcu cjelokupnu dodatnu kamatu i sve troškove i izdatke, uključujući advokatske troškove koji nastanu ili su plativi od strane Zajmodavca kao rezultat kršenja bilo koje obaveze po ovom Ugovoru od strane Zajmoprimca.
- (6) Ako Zajmodavac zbog preovlađujućih tržišnih uslova u vrijeme pokretanja emitovanja obveznica ili bilo koje druge finansijske transakcije nije u stanju da pribavi finansiranje po maksimalnoj Kamatnoj stopi koja je navedena u relevantnom Zahtjevu za isplatu sredstava ili po nižoj kamatnoj stopi od nje, onda Zajmodavac nema nikakvu obavezu da stavi Zajmoprimcu na raspolaganje Neto iznos za isplatu Tranše. Međutim, po zahtjevu Zajmoprimca, Zajmodavac može nakon konsultacije sa Zajmoprimcem predložiti izmijenjenu Kamatnu stopu u svjetlu tada preovlađujućih tržišnih uslova, u kojem slučaju Zajmoprimac može podnijeti izmijenjen Zahtjev za isplatu sredstava koji odražava takvu izmijenjenu kamatnu stopu.

7. OTPLATA, PRIJEVREMENA OTPLATA I OTKAZIVANJE

- (1) Zajmoprimac će otplatiti iznos glavnice svake Tranše na datum(e) i pod uslovima koji su utvrđeni u odgovarajućim Ugovorima o zaduživanju i onako kako je obaviješten od strane Zajmodavca na osnovu relevantnog Obavještenja o potvrdi.

Zajmoprimac će prenijeti dospjeli iznos glavnice na račun naveden u klauzuli 8 (3) na Datum isplate.

Bilo koji iznos glavnice koji je prenesen u svrhu otplate na račun naveden u klauzuli 8 (3) od strane Zajmoprimca ne može biti ponovo pozajmljen.

- (2) Uslovi Finansijske transakcije ne uključuju klauzulu prijevremene otplate.
- (3) Zajmodavac može suspendovati ili otkazati bilo koju nepovučenu Tranšu Kreditne linije u sljedećim slučajevima:
- (a) Ako se Zajmoprimčeve potrebe za finansiranjem fundamentalno smanje u odnosu na početne projekcije;
 - (b) Ako Zajmoprimac ne poštuje uslove iz MoU i Odluka; ili
 - (c) Ako MMF otkaže svoj Aranžman u cjelini ili djelimično bez postizanja sporazuma sa Zajmoprimcem o novom Aranžmanu MMF-a.

8. PLAĆANJA

- (1) Sva plaćanja koja vrši zajmoprimac biće izvršena bez prebijanja ili protivzajhtjeva, bez i očišćena od bilo kakvih poreza, provizija i drugih naknada, i bez odbitaka na ime i za njihov račun, tokom čitavog trajanja ovog Ugovora.
- (2) Zajmoprimac izjavljuje da nijedno plaćanje niti prenos po ovom sporazumu, kao ni sam Ugovor, ne podliježu plaćanju bilo kakvog poreza niti bilo kakvih drugih dažbina u zemlji Zajmoprimca i da im neće podlijezati tokom čitavog perioda važenja ovog Ugovora. Ukoliko bez obzira na to Zajmoprimac ima zakonsku obavezu da izvrši takve odbitke, Zajmoprimac će uplatiti odgovarajuće dodatne iznose tako da Zajmodavac dobije celokupne iznose koji su utvrđeni ovim Ugovorom.

Sva plaćanja Zajmoprimac će izvršiti u eurima na Datum dospelosti prije 11 sati ujutro po luksemburškom vremenu na euro račun Zajmodavca kod *Banque et Caisse d'Epargne de l'Etat Luxembourg*; BIC BCEELULL, account IBAN LU90 0019 3455 9164 5000, uz ref. "EU macro financial assistance for Montenegro" (Makrofinansijska pomoć za Crnu Goru) ili na drugi takav račun o kojem Zajmodavac može pisanim putem obavijestiti prije odgovarajućeg Datuma dospjeća.

- (3) Ako zajmoprimac plaća bilo koju sumu u vezi sa bilo kojom od Tranši koja je manja od ukupnog iznosa koji dopijeva za plaćanje prema ovom Ugovoru, Zajmoprimac se ovim odriče svakog prava koje eventualno ima u smislu bilo kog izdvojenog iznosa koji je na takav način plaćen u odnosu na iznose koji dopijevaju na plaćanje.

Iznos koji je na takav način plaćen po Tranši koristiće se u cilju izvršavanja dospjelih obaveza po osnovu takve Tranše, i to sljedećim redoslijedom:

- (a) *prvo*, za sve naknade, troškove i obeštećenja;
- (b) *drugo* sve kamate za zakašnjele uplate u skladu sa utvrđenim u klauzuli 6(3);
- (c) *treće* po osnovu kamate; i
- (d) *četvrto* po osnovu glavnice,

pod uslovom da su ti iznosi dospjeli ili su u docnji za plaćanje na taj datum.

(4) Svaki obračun ili odluka Zajmodavca po ovom Ugovoru:

- (a) biće sačinjeni na komercijalno razuman način; i
- (b) u odsustvu očigledne greške, biće obavezujući za Zajmodavca i Zajmoprimca.

(5) Primjenjivaće se sporazum o Radnom danu onako kako je komunicirano u Obavještenju o potvrdi.

9. SLUČAJEVI NEISPUNJENJA OBAVEZE

(1) Zajmodavac može putem pisanog obavještenja Zajmoprimcu otkazati Kreditnu liniju i/ili proglasiti neisplaćeni iznos glavnice Kredita odmah dospjelim i plativim, zajedno sa naraslom kamatom ukoliko:

- (a) Zajmoprimac ne plati na njen Datum dospelja bilo koju uplatu glavnice ili kamate za bilo koju Tranšu, ili bilo koji drugi iznos dospio po ovom Ugovoru na svoj Datum dospelja, bilo u cjelosti ili djelimično, na način dogovoren ovim Ugovorom;
- (b) Zajmoprimac ne ispuni bilo koju drugu obavezu po ovom Ugovoru, osim obaveza navedenih u klauzuli 9(1)(a) (uključujući i obavezu navedenu u klauzuli 2 (3)) da se Kredit koristi u skladu sa uslovima MoU, ali isključujući svaku drugu obavezu po MoU), a takvo neispunjenje obaveze se nastavi na period od jednog mjeseca nakon što je Zajmodavac dao Zajmoprimcu pisano obavještenje o tome; ili
- (c) Zajmodavac dostavi Zajmoprimcu proglašenje neispunjenja obaveza u okolnostima kada su Zajmoprimčeve obaveze po ovom Ugovoru proglašene od strane suda nadležne jurisdikcije kao neobavezujuće ili neizvršive prema Zajmoprimcu ili ih je sud nadležne jurisdikcije proglasio nezakonitim; ili

(d) Zajmodavac dostavi Zajmoprimcu proglašenje neispunjenja obaveze u okolnostima kada je (i) utvrđeno da se u odnosu na ovaj Ugovor ili MoU, Zajmoprimac angažovao u bilo kojoj radnji pronevjere ili korupcije, ili drugoj nezakonitoj aktivnosti štetnoj po finansijske interese Zajmodavca ili (ii) da je bilo koja izjava ili garancija koju je učinio Zajmoprimac po ovom Ugovoru netačna, neistinita ili obmanjujuća a što po mišljenju Zajmodavca, nakon konsultacije sa Zajmoprimcem, može imati negativne posljedice po sposobnost Zajmoprimca da ispuni svoje obaveze po ovom Ugovoru ili na

prava Zajmodavca po njemu; ili

- (e) bilo koji raniji ugovor o kreditu između Zajmoprimca i Zajmodavca ili bilo koje institucije EU, bez obzira na iznos, bude predmet proglašenja neispunjenja bilo koje obaveze plaćanja bilo koje vrste prema Zajmodavcu ili bilo kojoj instituciji EU od strane Zajmoprimca, iz čega proističe proglašenje neispunjenja obaveze; ili
 - (f) Spoljni dug Zajmoprimca u ukupnom iznosu glavnice prevazilazi 50 miliona EUR, bude predmet proglašenja neispunjenja obaveza kako je definisano u bilo kojem instrumentu kojim se upravlja ili evidentira takav dug, a kao rezultat takvog proglašenja neispunjenja obaveza postoji povećanje takvog duga ili *de facto* moratorijum plaćanja; ili
 - (g) Zajmoprimac ne izvrši blagovremene reotkupe od MMF-a u vezi sa Aranžmanom MMF-a i predmet je proglašenja neispunjenja obaveza; ili
 - (h) Zajmoprimac ne plati značajan dio svog Spoljnog duga kada dospije ili proglasi ili nametne moratorijum na plaćanja svog Spoljnog duga ili Spoljnog duga koji je preuzeo ili garantovao.
- (2) Zajmodavac može, ali nije obavezan, ostvarivati svoja prava po ovoj klauzuli, a može ih i ostvarivati samo djelimično bez prejudiciranja budućeg ostvarivanja takvih prava.
- (3) Zajmoprimac će obešteti sve troškove, izdatke i naknade koji su plativi od strane Zajmodavca kao posljedica prijevremene otplate bilo koje od Tranši u skladu sa ovom klauzulom, uključujući kamatu do prvobitnog datuma dospjeća. Pored toga, Zajmoprimac će platiti zateznu kamatu, kako je predviđeno u gornjoj klauzuli 6 (3), koja se obračunava od datuma kada je neisplaćeni iznos glavnice Kredita proglašen odmah dospjelim i plativim, do datuma stvarnog plaćanja u cjelosti.

10. OBAVEZE INFORMISANJA

- (1) Sa pravnom snagom od podnošenja prvog Zahtjeva za isplatu sredstava, Zajmoprimac će odmah dostaviti Zajmodavcu:
- (a) svaku informaciju koja se tiče njegove fiskalne i ekonomske situacije, koju Zajmodavac može razumno tražiti u skladu sa MoU;
 - (b) svaku informaciju koja se tiče kojeg slučaja za koji se razumno može očekivati da izaziva nastanak Slučaja neispunjenja obaveza (i koraka, ako ih ima, koji se preduzimaju da se on riješi).
- (2) Zajmoprimac preuzima obavezu da odmah obavijesti Zajmodavca ako nastupi bilo koji događaj koji bi učinio netačnim bilo koju izjavu učinjenu u Zajmoprimčevom pravnom mišljenju predviđenom u Aneksu 4.
- (3) Zajmoprimac preuzima obavezu da obavijesti Zajmodavca u roku od jednog mjeseca od svakog datuma isplate, na osnovu izjave predviđene u Aneksu 3, o prenosu Tranše kredita na račun Službe državnog trezora i o relevantnim unosima u javne knjige.

- (4) Zajmodavac ima pravo da uskrati puštanje Tranše u slučaju da Zajmoprimac nije dao izjavu iz Aneksu 3 u vezi sa prethodnom Tranšom.

11. OBAVEZE U VEZI SA INSPEKCIJOM, SPJREČAVANJEM PRONEVJERA I REVIZIJOM

- (1) Tokom implementacije makrofinansijske pomoći Unije, Komisija ima pravo da prati solidnost Zajmoprimčevih finansijskih aranžmana, administrativnih procedura, i mehanizama interne i eksterne kontrole koji su relevantni za tu pomoć.
- (2) U skladu sa svojim finansijskim propisima, Zajmodavac, uključujući Evropski biro za borbu protiv pronevjere, i Evropski revizorski sud i Kancelarija evropskog javnog tužioca, ima pravo da pošalje sopstvene zastupnike ili propisno ovlašćene predstavnike da sprovedu bilo koju tehničku ili finansijsku kontrolu, uključujući terenske kontrole (uključujući digitalne forenzičke operacije i intervjuje) i revizije (uključujući reviziju dokumenata i terensku reviziju) i istrage koje smatraju neophodnim u vezi sa upravljanjem ovim Kreditom tokom Perioda raspoloživosti ili nakon njega u cilju zaštite finansijskih interesa Zajmodavca.
- (3) Zajmoprimac će dostaviti relevantne informacije i dokumente koji se mogu zahtijevati u svrhu takvih procjena, kontrola ili revizija, i preduzeti sve pogodne mjere da olakša rad lica kojima je naloženo da ih sprovedu, uključujući dozvoljavanje pristupa licima navedenim u stavu 2 lokacijama i prostorijama gdje se relevantne informacije i dokumenti čuvaju.
- (4) Zajmoprimac će redovno kontrolisati da li se finansiranje koje je obezbijedio Zajmodavac pravilno koristi i osiguraće istragu i zadovoljavajući tretman svih sumnjivih i stvarnih slučajeva pronevjere i bilo kojih drugih nezakonitih aktivnosti u vezi sa upravljanjem Kreditom, štetnim po finansijske interese EU. O svim takvim slučajevima kao i mjerama koje se odnose na njih koje preuzimaju nacionalni nadležni organi, uključujući pravne mjere za povraćaj bilo kojih sredstava koja su data po ovom Ugovoru, Zajmodavac će biti obaviješten bez odlaganja.

12. OBAVJEŠTENJA

- (1) Sva obavještenja u vezi sa ovim Ugovorom biće validno data ako su u pisanoj formi i poslata na adrese navedene u Aneksu 5. Svaka Strana ažuriraće adrese i o njima povremeno obavijestiti drugu Stranu po promjeni istih.
- (2) Obavještenja proizvode pravno dejstvo na dan prijema elektronske pošte ili pisma putem kojih su isporučeni.
- (3) Svi dokumenti, informacije i materijali koji se dostavljaju po ovom Ugovoru biće na engleskom jeziku.
- (4) Svaka Strana ovog Ugovora obavijestiće drugu o spisku lica ovlašćenih da postupaju u njeno ime po ovom Ugovoru i o primjerima potpisa, odmah nakon potpisivanja ovog Ugovora. Isto tako, svaka Strana će ažurirati takvu listu i o njoj obavijestiti drugu Stranu povremeno po izmjeni iste.

13. RAZNO

- (1) Ako jedna ili više odredbi sadržanih u ovom Ugovoru jeste ili postane u potpunosti ili djelimično nevažeća, nezakonita ili neizvršiva u bilo kom pogledu po bilo kojem važećem zakonu, važenje, zakonitost i sprovodivost preostalih odredbi sadržanih u ovom Ugovoru neće na bilo koji način biti time pogođeni ili narušeni. Odredbe koje su u potpunosti ili djelimično nevažeće, nezakonite ili nesprovodive interpretiraju se i tako primjenjuju u skladu sa duhom i svrhom ovog Ugovora.
- (2) Preambula i Aneksi ovog Ugovora predstavljaju i predstavljaju integralni dio ovog Ugovora. Ovim Ugovorom uslovi MoU inkorporiraju se upućivanjem na MoU.
- (3) Zajmodavac može po svom potpunom nahođenju posegnuti za Finansijskim transakcijama kojima se finansiraju i Tranše po drugim ugovorima o kreditu. Ako ovo bude slučaj, finansijski uslovi takvih Ugovora o zaduživanju primjenjuju se na Zajmoprimca samo srazmjerno njegovim Tranšama.
- (4) Svrha ovog Ugovora je da utvrdi uslove po kojima Zajmodavac stavlja na raspolaganje Zajmoprimcu prihode od korespondirajućih finansijskih transakcija koje je dogovorio Zajmodavac u tom cilju. Kao posljedica toga, Zajmoprimac i Zajmodavac prihvataju da su njihova prava i obaveze, osim ako je drugačije navedeno u ovom Ugovoru, definisana i interpretirana upućivanjem na odgovarajuću dokumentaciju o zaduživanju. Naročito, uslovi Ugovora o zaduživanju primjenljivi su na Ugovor. Međutim, ako postoji konflikt između uslova ovog Ugovora i bilo kojeg Ugovora o zaduživanju, uslovi ovog Ugovora imaju primat.
- (5) Zajmoprimac nema nikakvo pravo da dodijeli ili prenese bilo koje od svojih prava ili obaveza po ovom Ugovoru bez prethodne pisane saglasnosti Zajmoprimca.

14. MJERODAVNO PRAVO I JURISDIKCIJA

- (1) Za ovaj Ugovor i bilo koju neugovornu obavezu koja proističe ili je u vezi sa njim, biće mjerodavno pravom Evropske unije i tumačiće se u skladu sa njim, nadomješteno kada je to neophodno pravom Luksemburga. Za Ugovore o zaduživanju biće mjerodavno luksemburško pravo.
- (2) Strane preuzimaju obavezu da svaki spor koji može nastati u vezi sa zakonitošću, validnošću, tumačenjem ili sprovođenjem ovog Ugovora podvrgnu isključivoj nadležnosti Suda pravde Evropske unije u skladu sa članom 272 Ugovora o funkcionisanju Evropske unije.
- (3) Presude Suda pravde Evropske unije biće u cjelosti obavezujuće za Strane i izvršive od strane njih.
- (4) Zajmodavac može izvršiti svaku presudu koju dobije od Suda pravde Evropske unije ili drugo pravo protiv Zajmoprimca u sudovima zemlje Zajmoprimca.
- (5) Zajmoprimac se ovim neopozivo i bezuslovno odriče svakog imuniteta na koje ima ili može steći pravo, u odnosu na sebe i svoju imovinu, od pravnih postupaka u vezi sa ovim Ugovorom, uključujući, bez ograničenja, imunitet od tužbe, presude ili drugog naloga, od zapljene, zamrzavanja ili privremene mjere prije presude, i od sprovođenja i izvršenja na svojoj imovini, u mjeri u kojoj to nije zabranjeno obavezujućim zakonom.

15. STUPANJE NA SNAGU

- (1) Nakon što ga potpišu sve Strane, ovaj Ugovor stupa na snagu na dan na koji Zajmodavac primi zvanično obavještenje u formi Pravnog mišljenja (Aneks 4 ovog Ugovora) od strane Zajmoprimca da su svi konstitutivni i zakonski uslovi za stupanje na snagu ovog Ugovora i važeće i neopozivo preuzimanje Zajmoprimca svih obaveza po ovom Ugovoru, ispunjeni.
- (2) Stupanje na snagu biće najkasnije 6 mjeseci nakon potpisivanja Ugovora. Ako Ugovor nije stupio na snagu do tog datuma, Strane Ugovora više njime neće biti vezane.

16. POTPISIVANJE UGOVORA

Ovaj Ugovor potpišaće svaka Strana u 4 primjerka na engleskom jeziku, od kojih će svaki predstavljati originalni instrument.

17. ANEKSI

Aneksi ovog Ugovora predstavljaju njegov integralni dio:

1. Obrazac Zahtjeva za isplatu sredstava
2. Obrazac Obavještenja o potvrdi
3. Obrazac Izjave o upotrebi tranši kredita
4. Obrazac Pravnog mišljenja
5. Spisak kontakata

Sačinjeno u Podgorici dana __/__/2020 i u Briselu dana ____/____/2020 u četiri primjerka.

CRNA GORA

kao Zajmoprimac

koju predstavlja

Ministar finansija

CENTRALNA BANKA CRNE GORE

EVROPSKA UNIJA

kao Zajmodavaca

koju predstavlja

EVROPSKA KOMISIJA

koju predstavlja

koju predstavlja

Guverner

ANEKS 1

OBRAZAC ZAHTJEVA ZA ISPLATU SREDSTAVA

[na memorandumu Zajmoprimca]

Evropska komisija
Generalni direktorat za budžet
Jedinica E-3: Zaduživanje i
kreditiranje
N/r.: Rukovodilac Jedinice
L-2920 Luxembourg

Predmet: **Makrofinancijska pomoć Evropske unije**
 Zahtjev za isplatu sredstava za [•] Tranšu

Poštovana gospodo,

Upućujemo Vas na Ugovor o kreditu od [•] između Evropske unije kao Zajmodavca i Crne gore kao Zajmoprimca i Centralne banke Crne gore kao finansijskog agenta Zajmoprimca ("**Ugovor**"). Izrazi definisani u Ugovoru imaju isto značenje ovdje.

1. Ovim neopozivo zahtijevamo da se Tranša Kredita isplati prema i u skladu sa Ugovorom pod sljedećim uslovima:
 - a. Iznos glavnice Tranše: EUR [•].
 - b. Neto iznos za isplatu Tranše da bude najmanje [•] % of iznosa glavnice.
 - c. Fiksna nominalna kamatna stopa Tranše neće biti viša od [•] % godišnje.
 - d. Isplata po ovoj Tranši biće izvršena prije: [•].
 - e. Otplata glavnice Tranše biće [godina].
2. Prihvatamo i saglasni smo da će isplata svake Tranše biti u skladu sa i zavisno od sljedećih uslova :
 - a. da je Zajmodavac uvjeren u svako doba da su mu odgovarajuća sredstva od druge ugovorne strane na međunarodnom tržištu kapitala raspoloživa pod uslovima koji su mu prihvatljivi i koji su u skladu sa uslovima predviđenim u Zahtjevu za isplatu sredstava;
 - b. da Zajmodavac sprovodi jednu ili nekoliko Finansijskih transakcija kako bi pribavio prihode zahtijevane u ovom Zahtjevu za isplatu sredstava. Neopozivo

preuzimamo obavezu da platimo sve naknade, troškove i izdatke, uključujući ako je primjenjivo troškove štete i troškove sprovođenja, koji proisteknu iz bilo koje Finansijske transakcije koju je preduzeo Zajmodavac, bez obzira da li će se isplata Tranše na kraju izvršiti;

c. da je Zajmodavac blagovremeno izdao Obavještenje o potvrdi.

3. Potvrđujemo da:

- a. Spisak ovlašćenih potpisnika poslata u ime Zajmoprimca od strane Ministra finansija dana [datum] ostaje validna i primjenjljiva.
- b. Nije nastupio slučaj koji bi učinio nepravilnim bilo koju izjavu datu u pravnom mišljenju koje je izdao Ministar pravde dana [datum].
- c. Nije nastupio nijedan Slučaj neispunjenja obaveze.

[potpis ovlašćenog lica]

Dostaviti Centralnoj banci Crne Gore
Bulevar Sv. Petra Cetinjskog 6
81000 Podgorica

ANEKS 2

OBRAZAC OBAVJEŠTENJA O POTVRDI



EUROPEAN COMMISSION

DIRECTORATE GENERAL

BUDGET

Asset and financial risk management

Borrowing and Lending

[Unesite kontakt detalje Zajmoprimca]

**Predmet: Makrofinansijska pomoć Evropske unije
Isplata [•] Tranše**

Poštovana gospodo,

Upućujemo Vas na Ugovor o kreditu od [•] između Evropske unije kao Zajmodavca i Crne gore kao Zajmoprimca i Centralne banke Crne gore kao finansijskog agenta Zajmoprimca u maksimalnom iznosu od 60 miliona EUR ("**Ugovor**"). Izrazi definisani u Ugovoru imaju isto značenje ovdje.

U skladu sa Zahtjevom za isplatu sredstava od [•], uslovi Finansijske transakcije koju je Evropska unija preduzela radi finansiranja [•] Tranše su kako slijedi:

Nominalni iznos	EU R [•]
Cijena emitovanja	EU R [•]
Bankarske naknade	EU R [•]
Neto prihod	EU R [•]
Nadoknada troškova transakcije	EU R

	[•]
Neto iznos za isplatu	EU R [•]
Datum isplate	[•]
Datum dospjeća	[•]
Kamatna stopa (Kupon)	[•] % p.a.
Datumi plaćanja kamates	An nua lly on [•]
Prvi datum plaćanja kamate	[•]
(Kratko/Dugo) prvo plaćanje kamate	EU R [•]

Primjenjiva KOnvencija Radnog dana je [•].

U prilogu je plan plaćanja kredita.

S poštovanjem,

EVROPSKA UNIJA

koju predstavlja

EVROPSKA KOMISIJA

[•]

[•]

Prilog: Plan plaćanja kredita

Dostaviti: Centralnoj banci Crne Gore

ANEKS 3

IZJAVA O KORIŠĆENJU TRANŠI KREDITA

[na memorandumu Zajmopromca]

Evropska komisija
Generalni direktorat za budžet
Jedinica E-3: Zaduživanje i
kreditiranje
N/r.: Rukovodilac Jedinice
L-2920 Luxembourg

**Predmet: Makrofinansijska pomoć Evropske unije
Izjava u vezi sa zaštitom finansijskih interesa EU**

Poštovana gospodo,

Upućujemo Vas na Ugovor o kreditu od[unijeti datum] između Evropske unije kao Zajmodavca i Crne gore kao Zajmoprimca i Centralne banke Crne gore kao finansijskog agenta Zajmoprimca ("**Ugovor**"). Izrazi definisani u Ugovoru imaju isto značenje ovdje.

Ovim potvrđujemo da je:

1. Prva/druga [izbrišite kako je adekvatno] tranša kredita isplaćena dana [unesite datum] prenesena na račun Službe državnog trezora kod Centralne banke Crne Gore.

2. Prva/druga [izbrišite kako je adekvatno] tranša kredita navedena "Spoljno finansiranje" u javnim knjigama za godinu [unesite godinu].

Relevantni računovodstveni dokumenti Centralne banke Crne Gore i Minisarstva finansija dostupni su na zahtjev.

Ministar finansija

Dostaviti: Centralnoj banci Crne Gore

ANEKS 4

OBRAZAC PRAVNOG MIŠLJENJA

MINISTARSTVO PRAVDE

(izdati na zvaničnom memorandumu Ministarstva pravde)

[mjesto, datum]

Evropska komisija
Generalni direktorat za budžet
Jedinica E-3: Zaduživanje i
kreditiranje
N/r.: Rukovodilac Jedinice
L-2920 Luxembourg

**Predmet: Ugovor o kreditu od između Evropske unije kao Zajmodavca i Crne Gore
kao Zajmoprimca i Centralne banke Crne Gore kao finansijskog agenta
Zajmoprimca u maksimalnom iznosu od 60 miliona EUR**

Poštovana gospodo,

U svom svojstvu ministra pravde, upućujem Vas na gorenavedeni Ugovor o kreditu od [datum] i njegove Anekse koji predstavljaju integralni dio tog Ugovora (u daljem tekstu zajedno označeno kao “**Ugovor**”) između Evropske unije (u daljem tekstu označeno kao “**Zajmodavac**”) i Crne Gore (u daljem tekstu označeno kao “**Zajmoprimac**”) i Centralne banke Crne Gore kao finansijskog agenta Zajmoprimca u maksimalnom iznosu od 60 miliona EUR. Takođe Vas upućujem i na Memorandum o razumijevanju od [datum] između Evropske unije i Crne Gore (u daljem tekstu označeno kao “**MoU**”).

Garantujem da sam u potpunosti nadležan da izdam ovo pravno mišljenje u vezi sa Ugovorom u ime Zajmoprimca.

Ispitao sam originale ili kopije potpisanih verzija Ugovora i MOU. Takođe sam ispitao relevantne odredbe domaćeg i međunarodnog prava primjenjivog na Zajmoprimca i Centralnu banku Crne Gore, ovlaštenja potpisnika i druge dokumente koje sam smatrao neophodnim ili odgovarajućim. Nadalje, sproveo sam druge istrage i razmotrio pravna pitanja koja sam smatrao relevantnim za ovdje izraženo mišljenje.

Pretpostavio sam (i) vjerodostojnost svih potpisa (osim Zajmoprimca i Centralne banke Crne Gore) i usklađenost svih kopija sa originalima, (ii) svojstvo i nadležnost za zaključenje Ugovora i njihovo validno ovlaštenje i potpisivanje od strane svake Strane osim Zajmoprimca i Centralne banke Crne Gore i (iii) valjanost, obavezujuću pravnu snagu i izvršivost Ugovora u odnosu na svaku Stranu po pravu Unije.

Izrazi koji su korišćeni a nisu definisani u ovom mišljenju imaju značenje predviđeno Ugovorom i MoU.

Ovo mišljenje je ograničeno na crnogorsko pravo koje važi na datum ovog mišljenja.

Shodno prethodno rečenom, mišljenja sam da:

1. U pogledu zakona, propisa i pravno obavezujućih odluka, trenutno na snazi u Crnoj Gori, Zajmoprimac je potpisivanjem Ugovora od strane [unijeti ime] valjano i neopozivo obavezan da ispuni sve svoje obaveze po njemu.
2. Zajmoprimčevo potpisivanje, isporuka i sprovođenje Ugovora i MOU: (i) propisno je ovlašćeno putem svih neophodnih saglasnosti, radnji, odobrenja i ovlašćenja; i (ii) ne krši nijedan primjenjivi propis ili odluku bilo kojeg nadležnog organa niti bilo koji međunarodni sporazum ili ugovor koji ga obavezuje.
3. Ništa u ovom Ugovoru nije u suprotnosti niti ograničava prava Zajmoprimca da izvrši pravovremeno i djelotvorno plaćanje bilo koje dospjele sume na ime glavnice, kamate ili drugih naknada po Ugovoru.
4. Ugovor i MOU su sačinjeni u propisanoj pravnoj formi po crnogorskom pravu za izvršenje nad zajmoprimcem. Izvršenje Ugovora ne bi bilo u suprotnosti sa obavezujućim odredbama crnogorskog prava, javnim poretom Crne Gore, međunarodnim ugovorima ili opšte prihvaćenim principima međunarodnog prava koji obavezuju zajmoprimca.
5. Da bi se obezbijedila zakonitost, valjanost ili izvršivost Ugovora i MOU nije neophodno da se oni podnesu, evidentiraju ili upišu kod bilo kojeg suda ili organa u Crnoj Gori.
6. Nijedan porez, dažbina, naknada niti druge naplate koje uvodi Crna Gora ili bilo koji poreski organ Crne Gore ili u njoj, nijesu plativi u vezi sa potpisivanjem i isporukom Ugovora niti sa bilo kojim plaćanjem ili prenosom glavnice, kamate, provizije ili druge sume dospjele po ovom Ugovoru.
7. Ne zahtijevaju se kontrolne autorizacije za razmjenu i ne plaćaju nikakve naknade niti druge provizije na prenos bilo koje sume dospjele po ovom Ugovoru.
8. Potpis Ugovora i MoU od strane [unesite ime], guvernera Centralne banke Crne Gore, zakonito i valjano obavezuje Centralnu banku Crne Gore.

9. Izbor prava Unije kao mjerodavnog prava za Ugovor je validan izbor prava koji je obavezujući za Zajmoprimca i Centralnu banku Crne Gore u skladu sa crnogorskim pravom.
10. Zajmoprimac je zakonito, djelotvorno i neopozivo podložan isključivoj nadležnosti Suda pravde Evropske unije u vezi sa Ugovorom i svaka presuda ovog suda bila bi konačna i izvršna u Crnoj Gori.
11. Ni Zajmoprimac ni bilo koja njegova imovina nemaju imunitet po osnovu suvereniteta ili po drugom osnovu od nadležnosti, pljenidbe - bilo prije ili nakon presude - ili izvršenja u pogledu bilo koje radnje ili postupka u vezi sa Ugovorom.
12. Ugovor i MoU su po potpisivanju u skladu sa svim domaćim konstitutivnim zahtjevima Ugovora i MoU kako bi bili funkcionalni kao pitanje crnogorskog prava i obavezujući za Crnu Goru i Centralnu banku Crne Gore i sačinjeni su u skladu sa crnogorskim zakonodavstvom.
13. Ugovor i MoU su u potpunosti valjani i ne treba ih ratifikovati.
14. Kao zaključak, Ugovor i MoU su propisno potpisani u ime Zajmoprimca i sve obaveze Zajmoprimca u vezi sa Ugovorom i MoU su valjane, obavezujuće i izvršive u skladu sa njihovim uslovima i ništa dodatno nije potrebno da bi isti proizvodili pravno dejstvo.

Ministar pravde

ANEKS 5

SPISAK KONTAKATA S

Za Zajmodavca:

Evropska komisija
Generalni direktorat za
budžet Jedinica E-3:
Zaduživanje i
kreditiranje
N/r.: Rukovodilac
Jedinice
L-2920 Luxembourg Tel.: (+352) 4301 30070

Za Zajmoprimca:

Ministarstvo finansija

Uz dostavljanje:

Centralnoj banci Crne Gore