Mission timeframe:
from 26 to 29 September 2022

REPORT

TAIEX Peer review Mission on

Consumer Protection in Montenegro – Fulfilment of Closing Benchmark for Chapter 28

Mission location
Podgorica, Montenegro

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Disclaimer

The views articulated and expressed in this report are purely those of the authors and may not in any circumstances be regarded as stating an official position of the European Commission.

Date of the report: 21 October 2023

Contents

Abbreviations

ADA	Administrative Dispute Act
AEC	Agency for Electronic Communication (former)
AECPS	Agency for Electronic Communication and Postal Services (present)
AIA	Administration for Inspection Affairs
AIS	Agency for Insurance Supervision
APA	Administrative Procedure Act
CA	Courts Act
CBMN	Central Bank of Montenegro
CBMNA	Central Bank of Montenegro Act
CBMS	Coordination Body for Market Surveillance
CCA	Consumer Credits Act
CEZAP	Centre for Consumer Protection
COA	Civil Obligations Act
CISCP	Central Information System for Consumer Protection
CJ EU	Court of Justice of the European Union
CPA	Consumer Protection Act
CPO	Consumer Protection Office (of the MEDT)
EA	Energetics Act
ECA	Electronic Communications Act
EU	European Union
EUPU	End Users Protection Unit (of CBMN)
GPSA	General Product Safety Act
IA	Insurance Act
ISA	Inspection Surveillance Act
MEDT	Ministry of Economic Development and Tourism
MSPA	Market Surveillance of Products Act
NGO	Non-Governmental Organisation
OCCDRC	Out-of-Court Dispute Resolution Committee

PSA	Postal Services Act
REGAGEN	Regulatory Agency for Energy and Regulated Communal Services
ReSPA	Regional School for Public Administration
THA	Tourism and Hospitality Act
TRPCAA	Technical Requirements for Products and Conformity Assessment Act
UIIS	Unified Inspection Informational System (of AIA)

1. Background

Based on the Confirmation Letter of 21 September 2022, we have attended Peer Review Mission on Chapter 28 – Consumer and Health Protection, held in Podgorica/Montenegro from 26 to 29 September 2022. The event was organised by the European Commission’s DG Neighbourhood and Enlargement Negotiations, within the framework of TAIEX instrument. Peer Review covered two aspects of consumer protection: protection of consumers’ economic interests, being responsibility of Mr Baretić, and product safety, being a responsibility of Mr Fister.

The first draft of this Report was submitted to the Commission in April 2023. In July 2023, we have received a feedback form the Commission, also containing comments from Montenegro. In order to address some of the Commission’s comments, in consultations with the Commission, we have requested from Montenegro some additional information. After having received additional information from the Montenegrin Ministry of Economic Development and Tourism, in October 2023 we have prepared this final version of the Report.

2. Introduction

2.1 Mission’s Objective

The objective of the peer-review mission was to provide the European Commission and Montenegro **with an assessment** of Montenegro's level of preparation with respect to the **closing benchmark** of EU Acquis chapter 28 – **Consumer** and Health **Protection.**

The scope of peer review is **comprehensive assessment** of the state of play of the consumer protection system and its functioning so to access **adequacy of administrative structures and enforcement capacity**, in both subareas (protection of economic interest of consumers and product safety) **which are to be in place to implement the legislation correctly by the time of accession.**

2.2 Methodology of Evaluation

In the course of evaluation, three principal methods were used:

a) analysis of written materials prepared by relevant institutions of Montenegrin Government, other relevant public entities, and NGO’s;

b) in-person interviews with the representatives of the relevant institutions;

c) on-site inspections.

During our mission we have interviewed representatives of the following institutions responsible for enforcement in the area of consumer protection:

- Ministry of Economic Development and Tourism, Directorate for Consumer Protection,
- Administration for Inspection Affairs,

- Administration for Inspection Affairs - Market Inspectorate,
- Customs Authority,
- Administration for Inspection Affairs - Health and Sanitary Inspectorate,
- Working Group for Negotiations with the EU in Chapter 28 – Consumer Protection and Health,
- Central Bank of Montenegro,
- Agency for Insurance Supervision,
- Agency for Electronic Communication,
- Regulatory Agency for Energy and Regulated Communal Activities,
- Out-of-Court Consumer Dispute Resolution Committee,
- CEZAP – Centre for Consumer Protection of Montenegro.

On-site inspections were witnessed by observing the work of the Market Inspectorate, Health and Sanitary Inspectorate and the Customs Authority.

The list of materials used in the course of making this report is contained below in Annex 1.

The list of meetings held and the persons met in the course of making this report is contained below in Annex 2.

3. Executive Summary

Montenegro has developed a comprehensive administrative structure responsible for consumer protection, which includes institutions responsible for strategic planning and policy development, and institutions responsible for enforcement of consumer protection laws.

This structure is with regard to protection of economic interests of consumers supplemented by a small, but effective NGO scene, as well as by specific non-governmental institutions developed by or attached to the entrepreneurs' associations, such as the Out-of-Court Dispute Resolution Board attached to the Chamber of Economy of Montenegro.

The system is well coordinated through a strong and competent Administration for Inspection Affairs and a well-balanced approach of proactive and reactive market surveillance has been introduced and maintained.

Legal system is aligned to the EU acquis to a high degree and there is dedication to fill-up all the existing lacunae in the near future. In this respect, and bearing in mind that consumer protection in the EU is an area in constant development, a number of new generation EU Directives still awaits to be transposed into Montenegrin law, like Directive (EU) 2019/2161, Directive 2014/17/EU, Directive (EU) 2019/770, Directive (EU) 2019/771, Directive (EU) 2020/1828, Directive (EU) 2015/2302. Also, the new Regulation (EU) 2019/1020 on "market surveillance of products" has to be mentioned in this regard.

According to the representatives of the Montenegrin institutions we interviewed during our mission, transposition of these EU Directives/Regulations is well under way. However, it seems necessary to accelerate the legislative process and process of inter-institutional consultations and approval of harmonised draft legislation in order to catch-up with the delays in harmonisation process in Chapter 28.

Montenegrin Institutions responsible for enforcement of consumer protection laws are generally sufficiently equipped, both in terms of personnel and material resources. Notwithstanding the foregoing, further efforts should be made in order to adequately staff some of the responsible institutions since information obtained during our mission suggests that a number of institutions responsible for consumer protection experience staff shortage. Even though the Montenegrin Institutions emphasised that they manage to overcome this problem through ad-hoc internal staff redistribution, such situation is not sustainable in the long run. In this respect Montenegrin Government should devote additional funding for the purposes of adequate number of skilled employees and to speed up procedures for hiring new staff.

Montenegrin Institutions responsible for consumer protection devote significant attention to permanent education of their personnel, consumers, business community and public in general. In this respect, Montenegrin Institutions made a good use of different EU programs in order to organise and fund numerous trainings in the field of consumer protection. These events are generally well-organised and well-attended.

In the course of application of domestic legislation transposing EU consumer acquis, Montenegrin Institution devote a significant attention to EU-conformant interpretation of domestic legislation. In doing so, Montenegrin institutions frequently rely on the CJ EU's decisions as well as different non-binding documents issued from time to time from different EU institutions.

Montenegro devoted a considerable effort in coordinating activities of different administrative bodies and other non-governmental stakeholders responsible for consumer protection. In the course of these efforts, Montenegrin Network of Competent Authorities was created with the aim of making implementation of consumer protection more efficient and transparent. A significant part of this network is fully functional online platform – Central Information System for Consumer Protection, linked to every institution responsible for consumer protection, which enables every consumer an easy access to complaints mechanisms available under Montenegrin consumer protection legislation.

Notwithstanding the foregoing, it seems that satisfactory level of mutual cooperation between different governmental bodies is still not attained. This is especially attributable to an ongoing problem that was addressed on a number of occasions during our visit, consisting in some institutions which take part in the process of preparing legislation transposing the EU law, notably the so-called Secretariat for Legislation, an organizational unit of the Government responsible for nomotechnical issues, frequently intervening into the draft laws prepared by other Governmental units or Ministries, thus calling into question the level of harmonisation of the Montenegrin law with the acquis. Based on the information we gathered during our mission, we cannot assess whether this is a structural problem or something related to consumer protection field specifically. In any case, since correct and complete transposition of the EU acquis is of paramount importance for the proper functioning of consumer protection regime, and for assessing Montenegro to be prepared to temporarily close the chapter 28, it is crucial for the Government of Montenegro to assure that all internal organisational units of the Government respect basic rules of acquis transposition so not to impede the correct and complete transposition of the EU law into Montenegrin law.

Even though Montenegro developed fully functional organisation of consumer protection, some challenges still remain in this domain. Besides issues of staff shortage and still not satisfactory level of inter-institutional cooperation, generally low level of financial contribution to non-governmental sector, non-existence of counselling centres for consumers, low level of activity of local communities in consumer protection as well as difficult contact with citizens in rural areas are seen by the Montenegrin institutions as a challenge.

Mentioned challenges are something that Montenegrin institutions may wish to tackle in the near future. However, they do not call into question our general assessment that Montenegrin institutions are capable, sufficiently equipped and motivated to implement consumer protection law and policy in a satisfactory, EU acquis-conformant manner.

Based on our assessment of the relevant findings, with respect to protection of economic interests of consumers, Montenegrin institutions are primarily advised to accelerate the legislative process aimed at transposing Directive (EU) 2019/2161, Directive 2014/17/EU, Directive (EU) 2019/770, Directive (EU) 2019/771, Directive (EU) 2020/1828, Directive (EU) 2015/2302; to make further efforts in order to adequately staff some of the responsible institutions; to continue developing education and training programs in the field of consumer protection and find additional financial resources for that purpose; to strengthen financial and logistical support to non-governmental organisations and out-of-court mechanisms; and to make an additional effort to engage more local governments in consumer protection, especially by including them in the Central Information System for Consumer Protection.

In the field of product safety, Montenegrin institutions are primarily advised to take care of timely transposition and implementation of Regulation (EU) 2019/1020, to strengthen administrative capacities of market surveillance authorities according to strategic documents and to establish the Single Liaison Office in Administration for Inspection Affairs based on existing legislation until the Regulation (EU) 2019/1020 is applied.

4. Findings

4.1 Protection of Economic Interests of Consumers

4.1.1 Legal Framework for Protection of Economic Interests of Consumers

Preparing for the membership in the EU, Montenegro is developing its consumer protection legislation since 2012, by harmonising Montenegrin legal system to the relevant EU legislation. Contemporary Montenegrin consumer protection legislation is a comprehensive structure, comprising of a number of legal acts, aimed at transposing relevant EU Directives. According to the representatives of Montenegrin institutions we interviewed during our mission, over 50 laws regulate consumer protection in Montenegro.

The principal legal source of substantive provisions aimed at protection of economic interests of consumers is the Consumer Protection Act (CPA, Official Gazette of Montenegro No 2/2014, 6/2014, 43/2015, 70/2017, 67/2019, 146/21 in Montenegrin: *Zakon o zaštiti potrošača*), transposing the following EU Directives: Directive 98/6/EC on indication of prices, Directive 1999/44/EC on certain aspects of sale of consumer goods and associated guarantees, Directive 2011/83 on consumer rights, Directive 2002/65/EC on distance marketing of consumer financial services, Directive 2008/122/EC on timeshare, long-term holiday product, resale and exchange contracts, Directive 1993/13/EEC on unfair contract terms in consumer contracts, Directive 2005/29/EC on unfair commercial practice, Directive 2009/22/EC on injunctions, and Directive 2013/11/EU on consumer ADR.

Consumer economic interests are further protected in the Consumer Credits Act (CCA, Official Gazette of Montenegro No 35/2013, 73/2017, 72/2019, in Montenegrin: *Zakon o potrošačkim kreditima*), transposing Directive 2008/48/EC on consumer credits, the Tourism and Hospitality Act (THA, Official Gazette of Montenegro No 2/2018, 4/2018, 13/2018, 25/2019, 67/2019, 76/2020, in Montenegrin: *Zakon o turizmu i ugostiteljstvu*), transposing Directive 90/314/EC on package travel, the Civil Obligations Act (COA, Official Gazette of Montenegro No 47/2008, 4/2011, 22/2017, in Montenegrin: *Zakon o obligacionim odnosima*), transposing Directive 85/374/EEC on liability for defective products.

Further substantive provisions aimed at protection of consumers can be found in a numerous sectoral regulation, like the Electronic Communications Act (ECA, Official Gazette of Montenegro No 40/2013, 56/2013, 2/2017, in Montenegrin: *Zakon o elektronskim komunikacijama*), the Energetics Act (EA, Official Gazette of Montenegro No 5/2016, 51/2017, 82/2020), in Montenegrin: *Zakon o energetici*), The Insurance Act (IA, Official Gazette of Montenegro No 78/2006, 19/2007, 53/2009, 73/2010, 40/2011, 45/2012, 06/2013).

This peer-review did not include a detailed analysis of the level of transposition of the consumer acquis in Montenegro. Therefore, we cannot confirm whether transposition of the said EU consumer acquis into Montenegrin law is full and correct. However, based on information gathered during this peer- review, a couple of general observations can be made.

A number of new generation EU Directives still awaits to be transposed into Montenegrin law, like Directive (EU) 2019/2161 amending Directives 93/13/EEC, 98/6/EC, 2005/29/EC and 2011/83/EC (omnibus directive), Directive 2014/17/EU on credit agreements relating to residential immovable property, Directive (EU) 2019/770 on certain aspects concerning contracts for the supply of digital content and digital services, Directive (EU) 2019/771 on certain aspects concerning the sale of goods, Directive (EU) 2020/1828 on representative actions for protection of collective interests of consumers, Directive (EU) 2015/2302 on package travel and linked travel arrangements. Furthermore, in the course of our mission, we were not able to detect what is the status of Regulation (EU) 524/2013 on online dispute resolution for consumer disputes in Montenegrin law. According to the comments to this Report made by the Montenegrin officials, as agreed with the EU during the negotiations process, this Regulation will be directly applicable as from the date of accession of Montenegro to the EU and no transposition until then is needed.

According to the representatives of the Montenegrin institutions we interviewed during our mission, relevant Ministries of the Montenegrin Government have either prepared or are currently preparing a number of amendment acts aimed at transposing some of the above Directives which are currently not transposed. Thus, the Act Amending the CPA, aimed at transposing Directive (EU) 2019/2161, Directive 2019/770 and Directive (EU) 2019/771 is currently drafted within the competent Ministry. The Act Amending the CCA, aimed at transposing Directive 2014/17/EU was drafted by the relevant Ministry and sent some time ago to further parliamentary procedure. The Act Amending the THA, aimed at transposing Directive (EU) 2015/2302 is currently being drafted by the competent Ministry. Amendments to the Inspection Surveillance Act and the Misdemeanours Act are prepared with a view to fully harmonise Montenegrin law with the requirements of Regulation 2017/2394. Finally, a new Act aimed at transposing Directive (EU) 2020/1828 on representative actions is being drafted.

In this respect, on a number of occasions during our mission our attention was particularly drawn to the problem of some Governmental units, notably the so-called Secretariat for Legislation, frequently intervening into the draft laws prepared by other Governmental units or Ministries, thus calling into question the already achieved level of harmonisation of the Montenegrin law with the acquis and creating considerable delays in transposition of the relevant new EU directives. Thus, for example, we have been informed that the Act Amending the CCA, aimed at transposing Directive 2014/17/EU, is being scrutinised by the Secretariat for Legislation for more than a year, and that Secretariat considerably intervened into the proposed text, thus in some cases calling into question full and correct transposition of Directive 2017/17/EU. Based on the information we gathered during our mission, we cannot assess whether this is a structural problem or something related to consumer protection field specifically.

Furthermore, as stated by some of the governmental officials we interviewed, in some cases issues regulated by some of the laws aimed at transposing certain EU Directives are regulated in parallel in the domestic legislation not necessarily aligned with the relevant EU acquis, which calls into question Directive-conformant application of domestic law. Thus, for example, the Council of the Central bank of Montenegro issued on 1 October 2015 a document named “Information on problems in application of the Consumer Protection Act - users of financial services” in which the Council of the Central Bank of Montenegro emphasised the problem of simultaneous coexistence of two legal acts aimed at protecting users of financial services, notably, the CCA and the Consumer Protection Act – Users of Financial Services (Official Gazette of Montenegro No 43/2015, *in Montenegrin: Zakon o zaštiti potrošača – korisnika finansijskih usluga*). Since CCA is fully harmonised with Directive 2008/48/EC, and the Consumer Protection Act – Users of Financial Services is not, simultaneous coexistence of these two pieces of legislation creates legal uncertainty and calls into question Directive-conformant application of domestic law. For this reason, the Council of Central Bank of Montenegro suggested in the document that the Governor should be empowered to inform the President of the Parliament of Montenegro and competent ministries of this problem.

Rules on market surveillance with respect to protection of economic interests of consumers is distributed on a number of legislative acts. Each of the above-mentioned laws regulating particular aspects of protection of consumers' economic interests defines bodies responsible for market surveillance in a particular field. Furthermore, the Inspection Surveillance Act (ISA, Official Gazette of Montenegro No 39/2003, 76/2009, 57/2011, 18/2014, 11/2015, 52/2016, *in Montenegrin: Zakon o inspekcijskom nadzoru*), defines powers of inspectorates in the course of market surveillance.

As is the case in many Members States of the EU, also in Montenegro market surveillance is entrusted to different bodies, responsible for different aspects of consumer protection, and active in different industrial or economy sectors. Such a dispersion of powers in market surveillance could potentially create conflict of competence between different bodies. In order to avoid such conflicts, the Government of Montenegro issued the Decision on Determining the List of Organs Competent for Inspection Surveillance Over Laws Which Contain Consumer Protection Rules (Decision on Competent Organs, Official Gazette of Montenegro No 53/2021, *in Montenegrin: Odluka o utvrđivanju liste organa nadležnih za inspekcijski nadzor nad sprovođenjem zakona koji sadrže odredbe o zaštiti potrošača*), which enumerates in detail laws which provide for market surveillance competences in certain areas of consumer protection and state bodies and organs responsible for market surveillance in each of those areas. Decision on Competent Organs is adopted based on the CPA and it is in accordance with Regulation (EU) 2017/2394 on cooperation of national authorities responsible for the enforcement of the consumer protection laws and repealing Regulation (EU) 2006/2004. In this respect, Administration for Inspection Affairs is designated to play the role of single liaison office, within the meaning of Article 5 of Regulation (EU) 2006/2004.

According to the Montenegrin officials, in the course of drafting this Decision, a number of mutually conflicting provisions and collisions of competences have been found, both between different laws, and occasionally within the same law. Based on this exercise, conclusions have been drafted containing recommendations for measures which should be adopted to avoid said conflicts and collisions. Ministry for Economic Development and Tourism is responsible for implementation of these conclusions, and up until now, some changes have been made in this respect.

Finally, in order not to endanger already achieved level of harmonisation with the EU law, each ministry of other body which drafts new laws or drafts amendments to the existing laws relating to consumer protection is obligated to contact Administration for Inspection Affairs, which assists those ministries and organs in order to make sure that new laws or amendments to the existing laws are conformant to the relevant EU legislation.

4.1.2. Administrative Bodies, Public Entities and Non-governmental Organisations Involved in Protection of Economic Interests of Consumers

4.1.2.1. In General

System of protection of economic interests of consumers in Montenegro is implemented on a number of levels and instances; level of policy making, level of market surveillance, level of realisation and protection of consumer's rights before the competent bodies, level of self-protection of consumers.

4.1.2.2. Policy Making – The Ministry of Economic Development and Tourism

Pursuant to Article 158 of the CPA, the Ministry of Economic Development and Tourism (MEDT, in Montenegrin: *Ministarstvo ekonomskog razvoja i turizma*) is responsible to protect rights and interests of consumers, in cooperation with other stakeholders in the area of consumer protection. In this respect, MEDT is competent to: monitor enforcement of the CPA and other laws containing consumer protection provisions; give legislative proposals aimed at promotion and development of consumer protection; draft National program for consumer protection, monitor its enforcement and deliver to the Government and the Parliament annual report on enforcement of the National program; cooperate with other stakeholders in the area of consumer protection; cooperate with bodies responsible for consumer protection in other countries and with international organisations for consumer protection; cooperate with the European Consumer Centre networks and competent organs of the European Economic Area; perform other tasks in accordance with law.

Based on the foregoing, MEDT plays a pivotal role in creating policy of consumer protection in Montenegro. In this respect, MEDT is responsible for drafting laws in the area of consumer protection, it plays a role of a contact point in cooperation with the EU and its Member States, drafts and delivers National program.

4.1.2.2.1. Organisation and Resources

Pursuant to the Rulebook on Internal Systematization and Organization of Posts in the Ministry of Economic Development and Tourism of February 2021, (Rulebook on Posts; in Montenegrin: *Pravilnik o unutrašnjoj sistematizaciji i organizaciji radnih mjesta u Ministarstvu ekonomskog razvoja i turizma*), consumer protection is in competence of Consumer Protection Office (CPO, in Montenegrin: *Direkcija za zaštitu potrošača*), which forms a part of the Directorate for internal market and competition (in Montenegrin: *Direktorat za unutrašnje tržište i konkurenciju*).

Pursuant to the Rulebook on Posts, CPO is responsible for: providing professional assistance in drafting laws in the area of consumer protection; drafting National program and monitoring its enforcement; facilitating work of the Consumer Protection Council; cooperation with state organs, administration organs, local governments, other entities responsible for consumer protection and consumer protection associations; taking part in activities of harmonising domestic law with EU acquis; monitoring practice and standards of consumer protection in the EU; continuing coordination with organs and entities responsible for consumer protection in the EU and its Member States; record keeping of consumer protection associations.

The Rulebook on Posts provides for one managerial post (head of office), and four official positions (two senior and two junior). Currently, managerial post and three official positions are taken, with one official position vacant. The Rulebook on Posts defines precisely the scope of work and responsibilities of each particular position. According to the analysis of the current state of play in National program 2022-2024, existing human resources in CPO are insufficient in comparison to the CPO's workload.[1]

According to the Heald of CPO, situation in the CPO is satisfactory as to the material resources; the CPO operates in the premises of MEDT, and it is sufficiently equipped with material resources, IT and communication equipment necessary for their daily activities.

4.1.2.2.2. Activities

MEDT is particularly active in five areas: drafting law proposals in the area of consumer protection; drafting National program of consumer protection and monitoring its enforcement; informing and educating consumers and traders; making an effort to engage all stakeholders in the process of consumer protection; supporting and financing consumer associations.

In the legislative field, MEDT is responsible for drafting existing CPA, CCA, THA, and other laws in the area of consumer protection. MEDT continuously takes care of further harmonisation of the Montenegrin law with the acquis. According to MEDT's officials, currently the new THA is in the procedure with the view to transpose Directive (EU) 2015/2302 on package travel and linked travel arrangements. According to MEDT's officials, the draft of the new THA was already sent to the European Commission, who gave positive reaction. MEDT also drafted amendments to the CPA with a view to transpose Directive (EU) 2019/2161, Directive (EU) 2019/770 and Directive (EU) 2019/771, and amendments to the CCA with a view to transpose Directive 2014/17/EU on credit agreements relating to residential immovable property, which is waiting for more than a year now in the Secretariat for legislation. Finally, MEDT is currently in the process of drafting a new law transposing Directive (EU) 2020/1828 on representative actions for protection of collective interests of consumers.

Since 2008, MEDT is responsible for drafting National programs for consumer protection, and currently National program for the period 2022-2024 is active. In keeping with the EU New Consumer Agenda, National program 2022-2024 focuses on better legislative environment for consumers and better enforcement of the consumer acquis, especially in digital environment, with special attention to the needs of certain groups of consumers.[2] Part of each National program is the Action plan in which specific activities aimed at realisation of the National program are provided for, as well as bodies responsible for each activity, and the timeframe in which particular activity should be carried out. Judging from the National program 2022-2024, the rate of successful performance of actions provided for in National program and Action plan is quite high. Thus, for example, out of 85 activities provided for in the National program 2019-2021, 70 activities (82%) are fully implemented, 13 (15%) are partially implemented and only 2 activities (3%) are not implemented.[3]

With a view to engage all the stakeholders in the field if consumer protection, MEDT committed itself to form Consumer Protection Council, an advisory body to the Government (previously to MEDT) composed of the representatives of all stakeholders in the area of

[1] National Program 2022-2024, p. 58.
[2] National Program 2022-2024, p. 7.
[3] National Program 2022-2024, p. 31.

consumer protection, which was first formed in 2007. In 2022, new composition of the Council is formed. However, judging from findings from National program 2022-2024, the level of involvement of the Council's members so far has been regarded insufficient.[4]

Within its role in supporting activities of consumer protection associations, MEDT adopted in 2022 Sectoral Analysis determining proposals for priority sectors of public interest and resources needed for financing the projects and programs from the budged of Montenegro in 2023 (Sectoral Analysis).[5] Based on Sectoral Analysis, in 2023 MEDT allocated EUR 40,000 for programs for priority activities in the consumer protection area such as: providing information and advice to consumers, keeping record of consumers' complaints, giving suggestions and remarks in the course of drafting legislation, and preparing National program.[6] In April 2022, MEDT issued a public tender for allocation of financial resources to non-governmental sector in 2022 in the field of consumer protection.[7] Allocating resources to non-governmental organisations in the field of consumer protection is a continuous activity. Thus, in 2021, MEDT issued the same public tender as in 2022.[8] According to the Report on financing projects/programs of non-governmental organisations in 2021, EUR 27,300 were allocated to four projects aimed at enhancing the level of information of consumers.[9]

In the course of performing its activities of coordination with entities responsible for consumer protection in the EU and its Member States, MEDT recently initiated an International Agreement between the European Union and Montenegro to be signed enabling Montenegro to take part in EU program "Single Market programme 2021-2027", which will enable Montenegrin bodies responsible for market surveillance cooperation with the EU bodies and the Member States' bodies in the field of consumer protection (protection of economic interests and product safety) through sharing information and best practices and through taking part in joint market surveillance actions.[10]

4.1.2.3. Market Surveillance

Organisational structure of market surveillance authorities in the field of protection of economic interests of consumer in Montenegro is comprehensive, consisting of numerous authorities competent in different areas of consumer protection and in different

[4] National Program 2022-2024.
[5] Sectoral Analysis No 012-328/22-9889/4 of 29.8.2022.
[6] Sectoral Analysis, p. 6.
[7] Public tender for allocation of resources to non-governmental organisations for projects in 2021 in the field of consumer protection "Strengthening consumer protection in Montenegro in 2022" No 012-328/22-2166/11 of 28 April 2022.
[8] Public tender for allocation of resources to non-governmental organisations for projects in 2021 in the field of consumer protection "Strengthening consumer protection in Montenegro" NO 012-328/21-7564/3, of 3 November 2021.
[9] Report on financing projects/programs of non-governmental organisations in 2021 No 012-328/21-7564/40 of 1 September 2022.
[10] Information on entering into International Agreement between the European Union and Montenegro on participation of Montenegro in the Union program „Single Market Programme 2021-2027, EU Program on single Market with a draft Agreement.

economy/industry sectors. In the area of economic interests of consumers, the following administrative bodies and independent regulators take part in market surveillance activities: Administration for Inspection Affairs, Central Bank of Montenegro, Agency for Insurance Supervision, Agency for Electronic Communication, and Regulatory Agency for Energy and Regulated Communal Activities.

According to the of MEDT which, upon our request, additionally provided us with further detailed information regarding the powers of market surveillance authorities, all Montenegrin authorities involved in market surveillance have a number of investigative and executive powers defined and enumerated in Article 9 of Regulation 2017/2394. These powers are vested to the competent authorities by virtue of general, horizontal regulation of inspection procedure, namely the Inspection Surveillance Act, but also by virtue of the general Administrative Procedure Act, and the Misdemeanours Act, which are subsidiarily applied. The same powers are said to be given to the competent authorities by virtue of the Consumer Protection Act and other special, sectoral laws by which different consumer protection Directives, enumerated in Annex I of Regulation 2017/2394, are transposed.

More precisely, inspectors are empowered to access relevant documents, data and information; they submit requests for their delivery, conduct on-site inspections, adopt temporary measures, issue written orders, impose sanctions, etc. (e.g. prohibition of activities performance, confiscation of goods...), submit requests for initiation of misdemeanour proceedings, as well as lodge criminal complaints.

However, the MEDT informed us that, at this moment, Montenegrin laws do not allow inspectors to perform purchases under a secret identity (mystery shopping), and Montenegro is currently in the process of amending the Inspection Surveillance Act with a view to introduce these powers into the national legal order, thus ensuring the effective implementation of EU law in Montenegro.

Furthermore, the MEDT informed us that, at this moment, inspectors do not have powers to carry out inspections in residential premises, even when there are clear indications that violations are being committed there. Namely, in practice it sometimes happens that there is a suspicion of educational programs for young children being organized illegally in some residential premises, which is why the inspectors send the initiative to the prosecutors' offices to submit a request to the competent court to issue an order to search private premises. So far, the basic courts have been rejecting such requests as unfounded, based on Article 75, paragraph 1 of the Criminal Procedure Act. Therefore, for the time being, inspectors are not able to carry out inspections in apartments (and other private spaces), where the largest number of unregistered activities are carried out (trade, crafts, health, preschool education...), without the owner’s permission.

The MEDT informed us that they recently initiated amendments to the Inspection Surveillance Act and the Misdemeanours Act with a view to allowing inspectors to initiate before the relevant court the procedure for issuing a permit for the search of private premises. According to the initiated amendments, the inspectorate would submit a written proposal for the issuance of an order to perform an inspection in the residential premises (also possibly containing a request to issue a permit to search and inspect the residential area and things in it) to the Misdemeanours courts, which would be obligated to decide on the request in an urgent procedure (at the latest within 48 hours from the day of submission of the complete proposal).[11]

4.1.2.3.1. Administration for Inspection Affairs

Administration for Inspection Affairs (AIA, Administration, in Montenegrin: *Uprava za inspekcijske poslove*) is a principal body for market surveillance in the area of protection of economic interests of consumers, responsible for approximately 85% of all market surveillance activities in the field. Administration's competence in market surveillance activities aimed at protecting economic interests of consumers is based on the CPA (Article 174), which gives Administration competences in all fields regulated in the CPA, including unfair commercial practices, unfair contract terms, indication of prices, services of public interest, conformity of products and services, contracts concluded away from business premises, distance marketing, distance marketing of financial services, timeshare contracts. Furthermore, based on Article 31 of the CCA, AIA is competent for market surveillance of creditors offering consumer credits, except for those who are authorised and supervised by the CNB. Pursuant to Article 118 of the THA, Administration has competence to supervise service provides in the touristic and hospitality sector, including those offering package travel contracts and other long-term holiday products.

4.1.2.3.1.1. Organisation and Resources

Administration has 24 inspectorates[12] and according to Montenegrin officials, 10 of them have competences in the field of consumer protection, namely: Market Inspectorate, Touristic Inspectorate, Metrology Inspectorate, Health Inspectorate, Sanitary Inspectorate, Electronic Communication and Postal Services Inspectorate, Services of Information Society Inspectorate, Thermo-energy Inspectorate, Electro-energetic Inspectorate, Housing Inspectorate.

These ten Inspectorates currently employ total of 129 employees, out of 163, foreseen by the current systematisation of workplaces, which means that currently 34 posts across different Inspectorates engaged in consumer protection are vacant.[13]

Market Inspectorate has the largest number of employees, 53, but also the largest number of vacant posts, total of 11. Touristic Inspectorate has 22 employees, with 7 vacant posts; Metrology Inspectorate 4 employees out of 4 foreseen by the current systematisation of workplaces. Health and sanitary inspectorates have 41 employees, with 7 vacant posts; Inspectorate for Electronic Communication and Postal Services Inspectorate 2 employees, with 2 vacant posts; Services of Information Society Inspectorate has 1 employee, with no

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[11] A document of MEDT, dated 21 August 2023, containing additional information regarding the status of Regulation 2017/2394 in the Montenegrin law.

[12] Annual Work Report of Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 7.

[13] Power Point Presentation of Ms Rada Marković, Chief of the Montenegrin Working Group 28, from the Introductory Meeting held on 26 September 2022.

vacant posts; Thermo-energy Inspect*orate has 1 employee, with 3 vacant posts, as well as Electro-energetic Inspectorate. Housing inspectorate has 4 employees with one vacant post.

Pursuant to the officials of AIA we interviewed, filling vacancies remains the biggest organisational challenge. In this respect, bodies approving hiring new staff should act more promptly and efficiently. Furthermore, even though approximately 70% of inspectors working for AIA is recently employed, the problem of generation gap is still present, given the fact that there are still number of older inspectors, who will soon have to be replaced. In order to train recently employed inspectors, the system of mentoring is introduced, which should help younger inspectors to acquire needed skills as soon as possible.

Inspectorates within the AIA are territorially divided in three sectors: north, central part and south. According to the officials of AIA we interviewed, such territorial division allows the territory of the whole Montenegro to be appropriately covered with inspections. Furthermore, Chief Inspector is empowered to temporarily redistribute some of the staff, if needed. This sort of temporary redistribution of staff is especially common with respect to southern (costal) part of the Country, where in the summer high season, an increased number of inspectors is needed.

Since inspectors from different Inspectorates are engaged not only in the field of consumer protection, but in other areas as well, the problem of overload is sometimes present. In this respect, in order to use available human and material resources efficiently, the Administration unifies supervision from different Inspections.

AIA does not have their own premises, instead it uses premises of other public bodies or leased from private entities, and only in Podgorica, Administration is located in five different locations. In 5 towns (Cetinje, Nikšić, Kolašin, Bijelo Polje, Rožaje), Administration operates from leased premises, and in 8 towns (Budva, Tivat, Kotor, Bar, Ulcinj, Berane, Mojkovac, Plav), Administration uses premises owned by the State or local authorities. Administration uses 142 cars.[14]

According to the representatives of AIA we interviewed, AIA is sufficiently equipped with material resources, IT and communication technologies. In fact, in the course of modernisation of activities of Administration, the so-called Unified Inspection Informational System (UIIS) is implemented in 2022, which should enable not only sharing documents within the Administration, but also making it possible to analyse risks, and to plan inspection surveillance actions. During 2022, more than 600 trainings were performed for the purposes of introducing all AIA employees to the system.[15]

The overall budget for the entire AIA in 2021 was EUR 4,981,064.97, which is considered insufficient for carrying out all activities placed under the jurisdiction of AIA. In particular, AIA lack sufficient resources to secure satisfactory level of presents of inspectors on the field.[16]

[14] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 6.
[15] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 6.
[16] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 7.

4.1.2.3.1.2. Activities

In the field of consumer protection, inspections are carried out on a regular basis, based on the supervision plan, and ad-hoc, on the basis of consumers' complaints. Despite strained resources, Administration manages to sufficiently survey the market. In 2021, Market Inspection, as part of Administration most involved in protection of economic interests of consumers, has completed 8,424 inspections based on the CPA, 7,551 as a regular inspection, according to the supervision plan, and 873 inspections based on consumers' complaints. In these inspections, 2.015 irregularities were found, and Market Inspectorate issued 271 warning measures, 1,744 rulings ordering certain measures to be undertaken by the traders, and 3,378 misdemeanour orders in an amount of EUR 693,200.[17] Market Inspectorate also carried out 28 inspections based on the CCA and found no irregularities. In the period between 11.10.2021 and 13.07.2022, Touristic Inspectorate received 18 complaints by consumers, 14 of which have been resolved, in 8 cases the complaint was sustained and the trader (tourist agency) complied with the inspector's order, in one case the complained is partially sustained, in one case the case is dismissed as unfounded on the merits, and in four cases consumers withdrew their complaint.[18]

Beside regular and ad-hoc inspections, Administration is considerably involved in advising consumers and traders, either over their web-pages (www.ti.gv.me) or over the Central Information System for Consumer Protection (www.potrosac.me).[19] According to the officials of Administration, no consumer is left without appropriate answer or instruction. In 2021, Administration received 1,404 inquiries and initiatives from consumers, 1,230 are resolved by the Market Inspectorate, 94 were forwarded to other competent bodies, and in 80 cases consumers withdrew their initiative.[20]

In order to streamline record-keeping of consumers' complaints, AIA introduced the Rulebook on the Contents of Records on Supervision Data and of Records on Consumers' Appeals and Resolution Thereof (National Gazette of Montenegro No 34/2015, 28/2021, in Montenegrin: *Pravilnik o sadržaju evidencije o podacima iz nadzora i evidencije o žalbama potrošača i njihovom rješavanju*). Moreover, in order to facilitate the handling of consumers' complaints, in 2022 AIA issued a document named: Internal Procedure for Handling Consumers' Complaints/Inquiries/Initiatives (in Montenegrin: *Interna procedura za postupanje po žalbama/pitanjima/inicijativama potrošača*).[21]

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[17] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, pp. 19-20.
[18] Document named: Data from Touristic Inspection.
[19] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 20.
[20] Annual Work Report of the Administration for Inspection Affairs of Montenegro for 2021, March 2022, p. 29.
[21] Power-point Presentation of Ms Rada Marković.

4.1.2.3.2. Central Bank of Montenegro

Pursuant to the Central Bank of Montenegro Act (CBMNA, Official Gazette of Montenegro No 40/2010, 46/2010, 6/2013, 70/2017, *in Montenegrin: Zakon o Centralnoj Banci Crne Gore*) Central Bank of Montenegro (CBMN, *in Montenegrin: Centralna Banka Crne Gore*) is an intendent entity responsible for encouraging and preserving the stability of the financial system of Montenegro, including encouraging and maintaining a sound banking system and safe and efficient banking transactions (Articles 1 and 7 of the CBMNA). Among other responsibilities, CBMN is entrusted with the task of regulating activities or financial institutions, issuing permits and approvals for work to credit institutions, performing tasks of protecting rights and interests of users of consumer credits, users of payment services and holders of electronic money (Article 14 of the CBMNA). In its role of a “protector” of users of consumer credits, CBMN is entrusted by the CCA with responsibility to monitor the observance of provisions of CCA by financial institutions whom it issued a working permit (Article 31 of the CCA). Hence, responsibility for monitoring application of the CCA is divided between AIA and CBMN.[22]

4.1.2.3.2.1. Organisation and Resources

Consumer protection is a responsibility of End Users Protection Unit (EUPU), which is an organisational unit of the Directorate for Supervision in the Field of Prevention of Money Laundering and Financing of Terrorism and Protection of Users of Financial Services, responsible directly to the Governor of the CBMN. EUPU supervises banks and other legal persons providing other financial services, like leasing providers, factoring providers, etc.[23]

EUPU has three employees (Head of unit and two senior controllers) with another two posts vacant. EUPU is planning to fill vacancies in the near future.

According to the CBMN officials we interviewed, current number of employees in EUPU is sufficient for performing tasks entrusted to the EUPU. Unit is sufficiently equipped with material resources, including necessary IT and communication resources.

4.1.2.3.2.2. Activities

Process of market surveillance carried out by EUPU is strictly regulated in Work Procedures. EUPU undertakes two types of supervision: direct and indirect. Direct supervision is carried out in accordance with yearly Work Plan of EUPU. Indirect supervision is initiated on the basis of a complaint lodged by a consumer or based on information obtained elsewhere, including through advertising and media. Both procedures are precisely defined in the Work Procedures, with regard to the steps to be taken in the course of each type of supervision, and the measures taken. Supervision covers all aspects of the relationship between a financial institution and consumers, including precontractual information and European information form, content of contract including unfair contract terms, contract performance, unfair commercial practices. In evaluating financial institutions’ activities, EUPU considerably relies

[22] See above under 4.1.2.3.1.

[23] Work Procedures of End Users Protection Unit (Work Procedures, *in Montenegrin: Procedure o radu Službe za zaštitu korisnika finansijskih usluga*) of 7 June 2019.

on judgments of the Court of Justice of the European union (CJ EU). When particular irregularity is found at one financial institution, EUPU informs all other financial institutions of the irregularity found requesting them to make necessary changes in order to remove that irregularity should it also appear with other financial institutions.

In 2020, a direct supervision was undertaken over five financial institutions, with only one controller active. In 2021, four financial institutions were subject to direct supervision, and in 2022, six direct supervision were undertaken by two controllers. In 2023, three controllers are engaged in direct supervision, and therefore considerably large number of direct supervisions in planed.

In 2020, EUPU received and responded to 126 complaints and petitions by consumers (indirect control), in 2021 – 121 consumers' complaints and petitions and in 2022 – 189 consumers' complaints and petitions. EUPU has a special e-mail address designated to receiving consumers' complaints and petitions, and consumers can also approach EUPU, over the Central Information System for Consumer Protection (www.potrosac.me), via telephone or in a written form.

Based on direct[24] and indirect supervision, in 2020 EUPU issued 1 prohibition of performing activities until irregularities are corrected,[25] 7 warnings ordering correction of irregularities,[26] 3 requests for initiation of misdemeanour proceedings,[27] 5 preventive warnings.[28] In 2021,

[24] See, for example, Supervision Report (*in Montenegrin: Izvještaj o kontroli*) (anonymized name of the bank) No. „P" 18-142-3/2019 of 31 July 2019; Supervision Report (anonymized name of the bank) No. „P" 18-372-43/2019 of 31 July 2019; Supervision Report (anonymized name of the bank) No. „P" 17-355-1/2022 of 5 July 2022; Minutes from Supervision (*in Montenegrin: Zapisnik o kontroli*) (anonymized name of the bank) No. „P" 18-114-6/2020 of 31 December2020.

[25] See Decision on prohibition of providing credits (*in Montenegrin: Rješenje o zabrani kreditiranja*) (anonymized name of the bank) No. „P" 18-129-3/2020 of 25 February 2020.

[26] See, for example, Warning (*in Montenegrin: Upozorenje*) (anonymized name of the bank) No. „P" 18-142-6/2019 of 31 December 2021; Warning (anonymized name of the bank) No. „P" 18-41-6/2022 of 16 February 2022; Warning (anonymized name of the bank) No. „P" 17-89-7/2022 of 8 April 2022; Warning (anonymized name of the bank) No. „P" 18-506-5/2021 of 17 December 2021; Warning (anonymized name of the bank) No. „P" 18-506-5/2021 of 17 December 2021; Warning (anonymized name of the bank) No. „P" 18-31-6/2021 of 11 June 2021; Warning (anonymized name of the bank) No. „P" 18-130-4/2021 of 31 May 202; Warning (anonymized name of the bank) No. „P" 18-147-4/2021 of 31 May 2021.

[27] See, for example, Request for institution of misdemeanour proceedings (*in Montenegrin: Zahtjev za pokretanje prekršajnog postupka*) (anonymized name of the bank) No. P" 18-41-8/2022 of 16 February 2022; Decision of the Misdemeanour Court in Podgorica (*in Montenegrin: Rješenje Suda za prekršaje u Podgorici*) No. 17800/18-26 of 21 January 2020 based on a request for initiation of misdemeanour proceedings lodged by the Central Bank of Montenegro No. „P" 17-170-1/2018 of 22 November 2018; Decision of the Misdemeanour Court in Podgorica (*in Montenegrin: Rješenje Suda za prekršaje u Podgorici*) No. 490/16-4 of 10 October 2016 on request for initiation of misdemeanour proceedings lodged by the Central Bank of Montenegro No. „P" 0102-7472/1 of 13 January 2016.

[28] See, for example, Preventive warning to all creditors (*in Montenegrin: Preventivno upozorenje svim kreditorima*) No „P" 18-503-1/2021 of 23 November 2021; Preventive warning to all creditors No „P" 18-451-2/2019 of 24 December 2019; Preventive warning to all creditors No „P" 17-456-2/2022 of 1

EUPU issued 8 warnings ordering correction of irregularities, 3 requests for initiation of misdemeanour proceedings, 21 preventive warnings. In 2022, EUPU issued 2 warnings ordering correction of irregularities, 2 requests for initiation of misdemeanour proceedings, 20 preventive warnings.

A substantive part of EUPU's activities are aimed at education of both consumers and financial institutions. In this respect, regular and irregular supervision is often used to educate financial institutions on appropriate interpretation and application of relevant laws. Furthermore, EUPU reacts on decisions of other competent bodies if they concern financial institutions. For example, recently in collective proceedings initiated against one bank in Montenegro, courts have found the bank's contract term providing for payment of a fee for early termination of credit contract to represent unfair contract term. Based on courts' judgment, EUPU warrened other banks to remove such contract term from their credit contracts, should this type of contract term be present in their general contract terms.

Finally, CBMN often closely collaborates with the Government of Montenegro and other governmental entities in creating programs for education of consumers. Thus, for example, the Government of Montenegro and CBMN issued the Program of Development of Financial Education in Montenegro in the period 2023-2027 (in Montenegrin: *Program razvoja finansijske edukacije u Crnoj Gori 2023-2027*), which defines priorities and strategic goals of financial education in Montenegro.

4.1.2.3.3. Agency for Insurance Supervision

Agency for Insurance Supervision (AIS, in Montenegrin: *Agencija za nadzor osiguranja*) is a regulatory agency formed in 2007 responsible for supervision of insurance providers and other natural and legal persons who provide services in the insurance sector.[29] Based on Article 177 of the IA, AIS is, among others, responsible for performing market surveillance in the insurance sector, issuing guidelines and instructions regarding good practices in the market sector, considering and resolving complaints and appeals of users of insurance.

4.1.2.3.3.1. Organisation and Resources

Consumers' complains are handled within AIS by the Sector for Surveillance of Insurance Market, which employs 14 persons. Even though this number of employers within the Sector is considered sufficient for the proper performance of the tasks intrusted to the Sector, during the interview, the representative of AIS stressed that Sector could make use of two or three additional employees. According to the representative of AIS we interviewed, AIS is sufficiently provided with material resources necessary for performance of their tasks.

September 2022, Preventive warning to all creditors No „P" 17-445-1/2022 of od 01 September 2022; Request for delivery of information addressed to every bank (in Montenegrin: *Zahtjev za dostavu informacije – naslovljen na svaku banku*) No P" 18-400-1/2021 of 13 September 2021.

[29] Web pages of AIS available at: https://www.ano.me/index.php?option=com_content&view=article&id=43&Itemid=404.

4.1.2.3.3.2. Activities

Sector for Surveillance of Insurance Market handles consumers' complaints for the last 14 years. In order to facilitate handling consumers' complaints, AIS introduced the Rulebook on the Procedure of Deciding on Complaints of the Insured Persons and Other Persons (AIS's Rulebook, National Gazette of Montenegro No 66/2020, 46/2021, In Montenegrin: *Pravilnik o postupku odlučivanja po prigovorima osiguranika i drugih lica*). Pursuant to AIS's Rulebook, a consumer is entitled to address their complaint to AIS only if they previously attempted to resolve their problem with the service provider in question. A complaint can be lodged in a written form, either via regular mail or e-mail or through the Central Information System for Consumer Protection. AIS shall forward the complaint to the service provider in question enabling them to respond. AIS must respond to the complaint within 30 days as of establishing all the relevant facts.

In the period between 11 October 2021 and 19 October 2022, AIS received total of 40 complaints, out of which 32 were resolved and 8 are still under consideration. Majority of cases (25) involved compulsory car insurance, 8 cases involved liability insurance, 3 cases life insurance, 2 cases health insurance, and 2 cases other types of insurance. On a yearly basis, AIS receives and resolves between 45 and 60 complaints.[30]

Up until recently, AIS has not been undertaking an independent control of insurer's contract terms and commercial practices. Only recently, within a horizontal action conducted in cooperation with the AIA in the period December 2022 – February 2023, AIS engaged in a comprehensive control of the insurers' web pages and the documentation contained therein, including control of general terms of contract, precontractual information, formats provided for consumers.[31] Although the action did not reveal any major deviations from statutory obligations, AIS decided to permanently engage in such horizontal checks.

4.1.2.3.4. Agency for Electronic Communication

Agency for Electronic Communication (AEC) was formed in 2001 as the first independent regulatory agency in Montenegro, responsible for market surveillance in the area of electronic communications. Since 2005, AEC gains competence in surveillance of postal services so the Agency changes its name into Agency for Electronic Communication and Postal Services (AECPS, in Montenegrin: *Agencija za elektronske komunikacije i poštansku djelatnost*).[32]

4.1.2.3.4.1. Organisation and Resources

AECPS has total of 68 employees, out of which 58 with a master's degree. Market surveillance regarding the end users, including consumers, is within the competence of three departments in the Legal Sector, namely Department for Regulation and Dispute Resolution, Department for End Users Protection, responsible for protection of end users in electronic

[30] Document named: Activities of Agency for Insurance Supervision.
[31] Document named: Activities of Agency for Insurance Supervision.
[32] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 2.

communications, and Department for Postal Services, responsible for protection of end users of postal services. Department for End Users Protection has 5 employees, and Department for Postal Services 2 employees.[33] According to the representative of AECPS we interviewed, AECPS is sufficiently provided with material resources necessary to perform their tasks.

4.1.2.3.4.2. Activities

In the field of consumer protection, AECPS performs two principal activities; it resolves complaints of the end users and it informs and educates consumers.

Pursuant to numerous laws, including the CPA, the ECA, Administrative Procedure Act (APA, Official Gazette of Montenegro No 56/2014, 20/2015, 40/2016, 37/2017, *in Montenegrin: Zakon o upravnom postupku*) and Administrative Dispute Act (ADA, Official Gazette of Montenegro No 54/2016, *in Montenegrin: Zakon o upravnom sporu*), AECPS is, among others, competent to resolve end users' complaints, considers end users' initiatives and determines the procedural rules for protection of rights and interests of end users.[34] In this respect, the procedure for resolution of disputes before the AECPS represents an out-of-court dispute resolution mechanism.

The ECA provides for procedure as well as deadline for the resolution of consumers' complaints. Before they lodge a complaint with the AECPS, consumers must first address their complaint to the operator. Complaint can concern quality of telecommunication service or the bill issued. Operator has 8 days to decide on the consumer's compliant. If the operator dismisses a consumer's complaint or fails to respond within 8 days, a consumer is entitled to lodge a complaint with the AECPS, within 15 days as of the day when the operator reached or ought to have reached a decision. The AECPS has 30 days to reach a decision.

Consumers can lodge a complaint with the AECPS in person, via regular post, via e-mail or through the Central Information System for Consumer Protection (CISCP). On their web-pages, the AECPS introduced a complaint form, which should help consumers to easily draft their complaint, although there is no obligation for the consumers to use this format of complaint.

In 2021, AECPS received total of 447 consumer's briefs, out of which 379 contained consumers' complaints. In 66 cases complaints were sustained, and in 94 cases complained is dismissed on formal grounds (for lack of jurisdiction). In 219 cases, proceedings were suspended, since the operators subsequently decided to revise their decision and to accept consumers' complaints, which is why consumers withdrew their complaints.[35] In the period between 1 January and 31 August 2022, a total of 217 complaints were lodged, 196 proceedings were initiated, in 16 cases consumers' complaints were sustained, in 72 cases

[33] Interview with Ms Ivana Đuranović-Sudar, General manager for consumer issues.
[34] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 6.
[35] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 9.

dismissed, and in 85 cases the proceedings were suspended for the reasons of operators revising their decisions by accepting the consumer's complaint.[36]

In the area of postal services, the procedure for resolution of consumers' complaints is provided for in the Postal Services Act (PSA, Official Gazette of Montenegro No 57/2011, 55/2016, 58/2018, in Montenegrin: *Zakon o poštanskim uslugama*). A consumer is entitled to lodge a complaint for non-delivery or late delivery of shipment, (other) non-fulfilment of service contract, damage to or deterioration of shipment. A complaint is first lodged with the postal operator who has 10 days in domestic traffic, and 60 days in international traffic to answer to a complaint. If a complaint is not sustained or if a postal operator fails to reply within the prescribed period, a consumer shall be entitled to lodge an appeal before the AECPS. If a consumer is not satisfied with the AECPS's decision, they can initiate administrative proceedings before the Administrative Court.[37]

In 2021, AECPS received 16 end users' complaints, and in the period between 1 January and 1 September 2022, 7 complaints. Besides by way of lodging complaints, end users also contacted AECPS for other purposes, including in order to obtain AECPS' professional opinions on the matters within ACEPS' competences.[38]

Apart on the basis of end users' complaints, AECPS also performs regular surveillance of the telecommunication operators' and the postal services providers' work in the form of regular and ad hoc checks. In 2021, total of 145 checks were conducted regarding telecommunications operators, 128 regular and 17 ad hoc checks. In the period between 1 January and 1 September 2022, total of 133 checks were conducted, 123 regular and 10 ad hoc.[39]

In 2021, total of 39 checks were conducted regarding operations of postal services operators, 26 regular and 13 ad hoc. In the period between 1 January and 1 September 2022, 15 regular checks and 1 ad hoc check were conducted.[40]

As mentioned, besides dealing with end users' complaints, AECPS is quite active in informing and educating consumers. To that end, AECPS is available to consumers via direct phone lines, e mail address: zastitakorisnika@ekip.me, web-page www.ekip.me, social networks and through personal visits of consumers to the Agency. Through these channels AECPS provides consumers with all necessary information needed for protection of their rights. Moreover, in order to inform consumers on specific issues, AECPS regularly issues various brochures on different topics, like for example, on protection of children on the internet, protection from electromagnetic ionisation, broadband internet access, measure of quality of broadband internet access, transfer of phone number, emergency calls. All these brochures can be found of AECPS' web pages. Finally, AECPS developed a number of applications aimed at educating

[36] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 10.
[37] Document named: Information on realisation of rights and protection of interests of postal services' users.
[38] Document named: Information on realisation of rights and protection of interests of postal services' users.
[39] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 10.
[40] Document named: Information on realisation of rights and protection of interests of postal services' users.

and informing consumers, like application for measuring the speed of internet connection, application “tariff calculator”, a service for blocking unsolicited messages.[41]

4.1.2.3.5. Regulatory Agency for Energy and Regulated Communal Activities

Regulatory Agency for Energy and Regulated Communal Activities (REGAGEN, in Montenegrin: *Regulatorna agencija za energetiku i regulisane komunalne djelatnosti*) commenced regulation and market surveillance in the energy sector in 2004, and regulation and market surveillance in the area of energy, public water supply and wastewaters regulation since 2017. REGAGEN issues licences for provision of regulated activities, observes licence holders’ activities, defines minimum requirements of quality in the regulated sector, informs on a yearly basis the Parliament of Montenegro on activities relating to regulated activities.[42]

4.1.2.3.5.1. Organisation and Resources

Market surveillance in the energy sector and the sector of regulated communal activities is conducted by the Legal Affairs Sector, which employs 9 persons. According to the representatives of AIS we interviewed, REGAGEN is sufficiently provided with material resources necessary to perform their tasks.

4.1.2.3.5.2. Activities

Within its competences in market surveillance, REGAGEN receives and resolves consumers’ complaints on minimum quality of supply and power cuts.. Acting as a second instance body, in 2021 REGAGEN received and resolved 54 complaints against the suppliers’ decisions regarding minimum quality of supply, accepting 21, and rejecting 33 complaints.[43]

In pursuing its role in protecting consumers, REGAGEN closely cooperates with other stakeholders. Thus in 2021, in cooperation with the AIA and other bodies competent for consumer protection REGAGEN launched a campaign aimed at raising awareness of the general public on the normative framework of consumer protection. In this capacity, REGAGEN requested from 58 entrepreneurs from the energy sector to visibly display stickers with QR code directing to www.potrosac.me web-page.[44]

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[41] Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues, p. 10-11.
[42] Report on Activities Related to Regulated Communal Activities in 2021, July 2022, p. 9.
[43] REGAGEN, Report on the state of energetic sector of Montenegro for 2021 (*in Montenegrin: Izvještaj o stanju energetskog sektora Crne Gore za 2021. godinu*), Podgorica, July 2022, available at: https://regagen.co.me/wp-content/uploads/2022/07/Izvjestaj-o-stanju-energetskog-sektora-Crne-Gore-za-2021.-godinu.pdf, p. 111.
[44] REGAGEN, Report on the state of energetic sector of Montenegro for 2021 (*in Montenegrin: Izvještaj o stanju energetskog sektora Crne Gore za 2021. godinu*), https://regagen.co.me/wp-content/uploads/2022/07/Izvjestaj-o-stanju-energetskog-sektora-Crne-Gore-za-2021.-godinu.pdf, p. 112.

4.1.2.4. Realisation of Consumers' Rights

Consumers whose rights are infringed will be able to avail themselves under the protection of regular courts or out-of-court mechanisms.

4.1.2.4.1. Courts

Infringed consumers' rights can be protected in two distinct types of court proceedings; individual proceedings in which individual consumers initiate an action against the specific trader who violated this consumer's rights, and collective proceedings, initiated by an authorised body for protection of the entire consumer population.

Pursuant to Article 14 of the Courts Act (CA, National Gazette of Montenegro No 11/2015, 76/2020, in Montenegrin: *Zakon o sudovima*), individual proceedings are initiated before the General Court (in Montenegrin: *Osnovni sud*). Even though we have no specific data on the number of consumers' actions resolved before the Montenegrin courts, and whether the Montenegrin courts interpret Montenegrin laws transposing the EU law in an acquis-conformant manner, during the interviews with the Montenegrin officials, we were assured that courts tend to interpret the law in an acquis-conformant manner, which is the result of numerous trainings in the EU law carried out over the past couple of years in cooperation with Association of Judges.

Collective proceedings are available based on Articles 118-130 of the CPA. Collective proceedings in consumer matters are first introduced by the CPA on the model of relevant EU Directives. Currently, only the so-called injunctive measures are available, and after Montenegro transposes Directive (EU) 2020/1828 on representative actions, both, injunctive and compensatory measures will be available. Collective action can be initiated by the competent Ministry or other body competent by law to protect consumers' rights and interests, consumers' associations and associations of traders (Art 119 CPA). After Montenegro enters the EU, responsible bodies from (other) EU Member States will also have a standing to sue (art 130 in relation to art 185 CPA). In the past couple of years, CEZAP - Organisation for consumer protection successfully initiated two collective proceedings against the bank for unfair terms in their general terms of contract. One of those cases is finally decided in favour of consumers,[45] and in the other case, the court of first instance reached a decision in favour of consumers[46] and currently the case is pending before the appeal court. What should be particularly noticed with respect to these two cases is that in reaching their decisions the courts of all levels significantly relied on the CJ EU's case-law. This goes to show that the concept of collective proceedings in consumer affairs in Montenegro is functional and acquis-conformant.

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[45] See Judgment of the General Court in Podgorica (*in Montenegrin: Osnovni sud u Podgorici*) No. P 709/20 of 14 January 2021; Judgment of the Higher Court in Podgorica (*in Montenegrin: Viši sud u Podgorici*) No Gž 1668/21 of 20 October 2021; Decision of the Supreme Court of Montenegro (*in Montenegrin: Rješenje Vrhovnog suda Crne Gore*) dismissing the defendant's revision No 55/22 of 27 October 2022.

[46] See Judgment of the General Court in Podgorica (*in Montenegrin: Osnovni sud u Podgorici*) No. P 4303/21 of 18 November 2022.

4.1.2.4.2. Out-of-Court Consumer Disputes Resolution Committee

Legal basis for constitution of the Out-of-Court Consumer Dispute Resolution Committee (OCCDRC, in Montenegrin: *Odbor za vansudsko rješavanje potrošačkih sporova*) is to be found in Articles 132a-132r CPA. OCCDRC is first founded in 2008, however it was non-functional until 2020, when a new composition of the Committee was elected. OCCDRC has 10 members, 5 appointed by the representatives of consumers, and 5 by the representatives of traders. Even though anyone is free to nominate candidates to the Committee, in reality only CEZAP-Association for Consumer Protection nominated their candidates. Administrative support for the OCCDRC's activities is provided by the Chamber of Economy of Montenegro, whose premises are used for the OCCDRC's activities. The Committee is financed from the State Budget and currently the budget of the OCCDRC's is EUR 5,000, which is sufficient to handle around 10 cases per year. Organisation and activities of OCCDRC's as well as procedure of dispute resolution before the Committee is provided for in the Rulebook on Closer Selection Criteria of Members of the Out-of-Court Consumer Disputes Resolution Committee (Official Gazette of Montenegro No 56/2020, in Montenegrin: *Pravilnik o bližim kriterijama za izbor članova Odbora za vansudsko rješavanje potrošačkih sporova*).

According to the representatives of OCCDRC we interviewed, in 2020 OCCDRC received and resolved five claims, in 2021 three claims and in 2022 one claim.

4.1.2.5. Consumers Self - Protection - Consumer Protection Associations

NGO scene in consumer protection area is rather small and in reality, it consists of only one operational consumer protection association, CEZAP – Centre for Consumer Protection of Montenegro (in Montenegrin: *Centar za zaštitu potrošača Crne Gore*), active since 1999. Even though it represents the only operational consumer protection association, over the years CEZAP grew into respectable, recognizable, persistent and very active association.

4.1.2.5.1. Organization and Resources

Currently, CEZAP has 90 members, and 3 permanently employed persons. It operates from the premises of 100 square meters, which is rented with the financial help of City of Podgorica. Financial resources needed for regular activities are usually acquired from the EU funds and other available funds, even though in the past two years CEZAP was financially assisted by the State, through project financing, i.e. financing of particular projects of public interest. However, as emphasised by the CEZAP president, CEZAP often operates on a pro bono basis.

4.1.2.5.2. Activities

CEZAP is active in different areas of consumer protection: assistance and help to consumers, education and information of consumers, development of legislation in the field of consumer protection, cooperation with other stakeholders in the area of consumer protection and networking with international organizations.

CEZAP is particularly active in advising and assisting consumers. Within this activity, CEZAP receives consumers' complaints, advises consumers in resolving their problems, directs consumers' complaints to competent authorities, mediates between consumers and traders with a view to resolve their dispute.[47] Consumers can reach CEZAP via their web-page, e-mail, regular mail, over the phone or in person, in their premises. In 2021, CEZAP received total of 2,903 consumer complaints; 689 in-person, 1162 over the phone, and 952 online. Complaints mainly concerned non-conformity of technical appliances (612 complaints), electric energy (512 complaints), telecommunication services (404 complaints), clothing and footwear (471 complaints), furniture (133 complaints), groceries shops (184 complaints), financial services (127 complaints), water supply (226 complaints), safety and quality of food (65 complaints), and other issues (169 complaints).[48] In 2022, CEZAP received total of 1147 consumer complaints; 225 in person, 531 over the phone, 391 online. Complaints mainly concerned non-conformity of goods and services (821 complaints), public services (267 complaints), banking sector (20 complaints), tourism (16 complaints), online trade (14 complaints), indication of prices (9 complaints).[49]

CEZAP was recently particularly successful in initiating collective proceedings for protection of consumers. In this respect CEZAP recently initiated two, and so far, the only collective proceedings ever initiated in Montenegro against one bank for unfair contract terms contained in the bank's general terms and conditions. As already stated, in one case, CEZAP's claim was fully sustained by final court's decision and in other case, CEZAP obtained the first instance decision in favour of consumers[50] and currently the case is pending before the second instance court upon the defendant's appeal.[51]

Educating consumers, CEZAP is particularly active in the media, regularly taking part in television and radio programs, carrying out advertising campaigns, regularly publishing press releases[52] and other publishing materials in the newspapers, and through informative and up-to-date web page, which we visited in the course of making this report. With respect to this activity, it is worth emphasizing that CAZAP made eight documentary promotional videos on the following subjects: public services, misleading advertising, non-conformity and guaranties, expert witnessing in consumer disputes, unfair contract terms, collective proceedings, out-of-court dispute resolution, medicaments accessibility, which can be approached on their web page.[53]

CEZAP regularly takes part in the working groups for drafting laws and by-laws in the area of consumer protection. CEZAP's representatives took part in the working group which drafted

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[47] CEZAP web-page, available at: https://cezap.me/.

[48] CEZAP, Work report for 2021.

[49] CEZAP, Work report for 2022

[50] See judgment of the General Court in Podgorica (in Montenegrin: *Osnovni sud u Podgorici*) No. P 709/20 of 14 January 2021, judgment of the Higher Court in Podgorica (in Montenegrin: *Viši sud u Podgorici*) No Gž 1668/21 of 20 October 2021, and Decision of the Supreme Court of Montenegro (*in Montenegrin: Rješenje Vrhovnog suda Crne Gore*) dismissing the defendant's revision No 55/22 of 27 October 2022; CEZAP Press Release: High Court Confirmed: CKB Bank violated collective rights of consumers in Montenegro.

[51] See Judgment of the General Court in Podgorica (in Montenegrin: *Osnovni sud u Podgorici*) No. P 4303/21 of 18 November 2022.

[52] See, for example, CEZAP Press Release: High Court Confirmed: CKB Bank violated collective rights of consumers in Montenegro.

[53] See at: https://cezap.me/dokumentaci-o-pravima-potrosaca/.

the CPA and all other amendments to this law, working group which drafted the CCA and its amendments, as well as other sectoral laws containing provisions on consumer protection. Besides that, CEZAP actively contributes to implementation of consumer protection policy, by taking part, as a regular member, in intersectoral governmental working group responsible for drafting and monitoring implementation of the National program on consumer protection, and by taking part in the work of the working group for negotiations with the EU in chapter 28 – consumer protection and health. CAZAP also nominated half of the members in the Out-of-Court Dispute Resolution Committee.[54] As emphasized during our meeting with the representatives of CEZAP, this organisation, as an interested stakeholder, particularly closely collaborates with the MEDT, AIA and other governmental bodies and regulatory agencies responsible for consumer protection.

Promoting consumers' rights, in 2021 CEZAP initiated cooperation with traders, launching an initiative "Fair to a consumer" (In Montenegrin: *Fer sa potrošačem*). This is a voluntary initiative to which interested traders can freely approach. Within this initiative, CEZAP created Codex "Fair to a consumer" in which traders' obligations are enumerated, and traders fulfilling conditions provided for in the Codex will be awarded a certificate "Fair to a consumer".[55] Codex is made based on the CPA and ISO standard 10001 on quality management and ISO standard 26000 on social responsibility.[56] This initiative is developed within the project "Development of partnership between civil society and business sector", in cooperation with Macedonian Consumer Protection Association, Serbian Consumer Protection Association and Swedish International Agency for Development and Cooperation.[57] According to the representatives of CEZAP, so far four traders (all from telecommunications sector) joined the initiative and earned "Fair to a consumer" certificate.

4.1.2.6. Network of Competent Authorities

Network of Competent Authorities (Network) is launched in 2021 with the aim of addressing several problems noticed in practice that were hindering efficient consumers protection: namely, consumers' low awareness of their rights, fragmentary system of complaints mechanism (each authority having their own mechanism), complex CP legal framework, which includes more than 50 laws dealing with consumers protection, as well as combat of competencies among authorities. Forming the Network is in line with Regulation (EU) 2017/2394.[58]

Members of the Network, apart from 10 inspectorates of the AIA (Market Inspectorate, Tourism Inspectorate, Metrological Inspectorate, Health and Sanitary Inspectorate, Inspectorate for Electronic Communications and Postal Activities, Inspectorate for Information Society Services, Electroenergetic Inspectorate, Thermoenergetic Inspectorate,

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[54] See at: https://cezap.me/o-nama/.
[55] See Codex of fair relationship with consumers – certificate „Fair with a consumer" (*in Montenegrin: Kodeks fer odnosa sa potrošačima sertifikata „Fer sa potrošačem"*).
[56] See Codex of fair relationship with consumers – certificate „Fair with a consumer".
[57] See at: https://cezap.me/o-sertifikatu/.
[58] Document named: Detailed Information of CISCP and Network of Competent Authorities.

Housing Inspectorate) are also following inspections and independent organizations/legal persons: Central Bank of Montenegro, Regulatory Agency for Energy and Regulated Communal Services, Insurance Supervision Agency, Agency for Electronic Communications and Postal Services, Agency for Electronic Media, Civil Aviation Agency, three (3) inspectorates for traffic (road, maritime and railway) of the Ministry of Capital Investments, three (3) inspectorates of the Food Safety Administration, City of Podgorica.[59]

Formation of the Network and functionalities of its constituent element – Central Information System for Consumer Protection enabled targeted joint market surveillance actions, involving all the participants in the Network. Thus, for example, the formation of Network and execution of Central Information System for Consumer Protection recently enabled a joint extensive action, undertaken by all members of the Network as a "systemic check" (sweeps), which was carried out in the period between 30 December 2021 and 15 March 2022. The action encompassed surveillance of web pages of 62 business entities operating in Montenegro in the following sectors: clothing and footwear, goods for household and professional purposes, electrical appliances, car spare parts, bicycles, services of online stores, hotel services, insurance services, energy and utility services. The action revealed that 38,46% of inspected websites does not respect basic consumer rights and that 48% of inspected websites does not properly inform consumers.[60]

4.1.2.6.1. Central Information System for Consumer Protection

An integral part of Network of Competent Authorities is Central Information System for Consumer Protection (CISCP), a unique *e-window*, which is through its public part (www.potrosac.me) available to all citizens and allows them to easily and efficiently exercise their consumer rights. The main objective of creating CISCP was to enhance consumer confidence through faster, more agile and consistent enforcement tool which will enable consumers a fast and consumer friendly one-point entry to any authority competent for consumer protection. This platform represents an e-window for any type of consumer complaint, their handling by competent authority on a national level and in any sector (e.g. regular or distance trade, financial services, any type of transportation, electronic communications, ecommerce, communal services (water supply, waste disposal, etc), energy services, etc.). The system will distribute consumers' complaints to a competent authority without a consumer's intervention. Hence, a consumer is not required to address his/her complaint to a competent authority (meaning, he/she is not required to know what authority is competent for resolving his/her complaint), but to enter his/her complaint into the System, and the System itself distributes the complaint to the competent authority.[61] The creation and implementation of CISCP financially supported by the relevant EU projects.

AIA is designated as authority responsible for maintaining CISCP and for that purpose, it employed one person responsible for CISCP, acting as a contact point for CISCP. The tasks of

[59] Document named: Detailed Information of CISCP and Network of Competent Authorities.
[60] Document named: Report on the 1st National sweeps implemented.
[61] Document named: Detailed Information of CISCP and Network of Competent Authorities.

this person include maintenance of the system and distribution of the consumers' complaints to competent authorities, including those who are not members of the Network, and preparing and delivering reports on the activities of CISCP.[62]

Facilitating application of CISCP, AIA organised a series of trainings, attended by more than 130 officers of the Members of Network.[63] Moreover, in order to promote the use of CISCP, AIA launched intensive promotion campaign which included appearances in the electronic media and broadcasting the video promoting CISCP on television programs at the national level. In addition, special stickers with QR code reference to www.potrosac.me were delivered to all major traders of goods and services (more than 2.000 stickers placed) in Montenegro, in cooperation with the Network, Montenegro Employers Federation and Chamber of Economy.[64]

In the period between 11 November 2021, when CISCP was launched and 13 July 2022, total of 1,367 consumers' entries were received through CISCP (626 complaints, 120 inquiries, 621 initiatives). From the total number of consumers' entries, 34 did not concern consumer protection and were sent to the competent authorities. From the remaining 1.333 entries, 1,130 (82,7%) concerned inspections under AIA. Out of 524 complaints addressed to the AIA's inspectorates, 87% were resolved by 13 July 2022, 60,7% in favour of consumers, 19,7% were dismissed as unfounded on the merits and consumers were instructed to attempt to resolve the problem before the competent courts. In 17,1% of cases consumers withdrew their complaints. Out of 80 inquiries addressed to AIA, by 13 July 2022 consumers received answers in 96,25% of cases.[65]

The efforts in creating and implementing CISCP were recently recognised internationally, when AIA won Public Administration Awards 2022 from ReSPA (Regional School for Public Administration), a joint initiative of OECD and the EU, as a best public administration authority in the region of Western Balkans. Even though the award reflected the entire work of AIA, a significant element contributing to wining this award was CISCP.[66]

4.1.3. Trainings

Within the EU funded AIM II project, AIA organised training for more than 130 officers of the Members of the Network. The training included:

- a three-day seminar, held on 6-8 September 2021 dedicated to conformity and associated guarantees, unfair commercial practices and unfair contract terms;
- a day-long seminar, held on 13 October 2021, on distance selling;
- a two-day seminar, held on 27 and 27 October, on distance selling;
- a day-long seminar, held on 4 November 2021, on expert witnessing in consumer issues;

[62] Document named: Information on CISCP Contact Person.
[63] See in more detail under 4.1.3.
[64] Document named: Detailed Information of CISCP and Network of Competent Authorities.
[65] Document named: Relevant Information on Trainings and Cases Concerning CISCP.
[66] Document named: Relevant Information on Trainings and Cases Concerning CISCP.

- a day-long seminar, held on 16.11 2021, on collective protection of consumers' interests;
- an additional training for entities interested in collective protection of consumers' interests, held on 23 February 2022;
- a three-day training concerning the IT aspects of using CISCP was held on 2, 5 and 8 July 2021;
- an additional training for entities interested in IT aspects of using CISP was held on 22 October 2021.[67]

Within TAIEX program, in 2022 Montenegro organised three trainings, namely;

- a two-day online training – bilateral assistance of the Republic of Croatia, held on 6 and 7 April 2022, concerning transposition of Directive 2019/2161, Directives 2019/770/EU and Directive 2910/771/EU;
- a five-days training, held between 5 and 7 September 2022, concerning the sale of goods and transposition of Directives 2019/2161/EU, Directive 2019/770/EU and Directive 2019/771/EU;
- a five-day training concerning transposition of Directive 2020/1828 on collective redress.[68]

Apart from regular trainings designed for public officials, Montenegrin Government devoted a considerable effort in developing and performing a number of educational activities specifically targeted at consumers.

According to the MEDT, educational activities for consumers are mostly conducted in cooperation with consumer protection organizations, other NGOs and other relevant institutions, or entirely entrusted to them. Namely, since improved knowledge and awareness of consumers and traders about their rights and obligations through informative and educational activities is one of the operational aims of the National Consumer Protection Programme 2022-2024, the yearly Action plans for realization of the Programme include educational activities from all relevant stakeholders that participate in its implementation.[69] In that regard, MEDT specifically mentioned few events as being particularly successful.

During 2022, as part of activities for the International Consumer Protection Day, MEDT organized educational classes for the students in the secondary economics school „Mirko Vesovic". Following the successful implementation of that event, on the same occasion in 2023, in cooperation with the Faculty of Economics, MEDT organized a lecture on consumer rights that gathered representatives of relevant institutions, and members of the Council for Consumer Protection. This event was said to be attended by large number of students who were actively participating in the discussion.

[67] Document named: Relevant Information on Trainings and Cases Concerning CISCP.
[68] Document named: Acquis 2019-2020 – Trainings of Special Importance for Public Officers.
[69] The Report on Realisation of the Action Plan for Implementation of the National Program for Consumer Protection 2022-2024, with the Action Plan for 2023.

As part of the activities in the said Action Plan that were entrusted to consumer organizations, in 2022 and 2023, CEZAP organized public campaign events „Consumer Caravan“ for citizens in different municipalities. In this activity, CEZAP members visited six cities, three in the north of the country (Bijelo Polje, Berane and Andrijevica) and three in the central region (Podgorica, Niksic and Cetinje). The events consisted of info days and round tables for consumers with educational materials disseminated to the general public. In July 2022, this organization held a training for NGOs from the north of the Country in Berane with the aim of establishing a counselling centre for consumers in that region.

In addition, all the institutions included in the implementation of the Action Plan produce and disseminate appropriate educational materials for consumers in their respective areas of competence. In addition, MEDT and consumer organizations often have guest appearances on TV and other media informing the public about consumer rights.

MEDT also added that it issues Public Call for Proposals for NGOs based on the Sectoral Analysis each year and supports projects or programmes for priority activities in the consumer protection area such as: providing information and advice to consumers, educational activities, keeping record of consumers' complaints etc., precisely for the purpose of educating consumers about their rights.

Finally, within the scope of AIM II Project, in November 2021, MEDT organized two one-day events (roundtables) in order to promote new CPA rules on distance sales and new CPA rules on ADR and opportunities for settling consumer disputes, as introduced by the 2019 CPA amendments, to all stakeholders and consumers. The roundtables were organized for consumers and journalists - users of distance sale rules, introducing the new ADR system in Montenegro on the first day and for the Public bodies and Business Community, users of distance sale rules and potential founders of new ADR bodies, on the second day.[70]

4.1.4. Assessment of Current State of Play

For more than ten years, Montenegro harmonises its legal system to relevant EU consumer protection acquis. In this respect, by adopting CPA, CCA, THA, COA, as well as numerous sectoral laws, like ECA, EA, IA, Montenegro managed to a considerable extent to align its legislative system with the EU. However, since consumer protection in the EU is an area in constant development, a number of new generation EU Directives still awaits to be transposed into Montenegrin law, like Directive (EU) 2019/2161, Directive 2014/17/EU, Directive (EU) 2019/770, Directive (EU) 2019/771, Directive (EU) 2020/1828, Directive (EU) 2015/2302. According to the representatives of the Montenegrin institutions we interviewed during our mission, transposition of these EU Directives is well under way. However, it seems necessary to accelerate the legislative process and process of inter-institutional consultations and approval of harmonised draft legislation in order to catch-up with the delays in harmonisation process in Chapter 28.

[70] A document of MEDT, dated 21 August 2023, containing additional information regarding the status of Regulation 2017/2394 in the Montenegrin law.

Montenegro developed a comprehensive administrative structure responsible for consumer protection, which includes institutions responsible for strategic planning and policy making, and institutions responsible for enforcement of consumer protection laws. This structure is supplemented by a small but efficient and proactive NGO scene, as well as by specific non-governmental institutions developed by or attached to the entrepreneurs' associations, such as the Out-of-Court Dispute Resolution Board attached to the Chamber of Economy of Montenegro.

Montenegrin Institutions responsible for enforcement of consumer protection laws are generally sufficiently equipped, both in terms of personnel and material resources. This especially goes to the AIA, institution responsible for enforcement of consumer protection laws in around 85 % of cases. In this respect, it is worth noting that in the past couple of years Montenegrin administration successfully underwent a change of generations, employing a substantive number of young professionals within their institutions responsible for consumer protection. Notwithstanding the foregoing, as is elaborated in this Report, further efforts should be made in order to adequately staff some of the responsible institutions since, at the moment, some institutions responsible for consumer protection do not reach the number of employees defined as necessary by their internal organisational structure. Indeed, information obtained during our mission suggests that a number of institutions responsible for consumer protection experience staff shortage. Thus, for example, National program on consumer protection for the period 2022-2024 noted that insufficient staff capacity of the CPO represents a challenge.[71] Likewise, presentation of organisation of different institutions active in consumer protection demonstrates that AIA and EUPU, an organisational unit of the CBMN responsible for consumer protection are not staffed as provided for in their internal systematizations.

Even though Montenegrin Institutions emphasised that they manage to overcome the problem of staff shortage through ad-hoc internal staff redistributions, such situation is not sustainable in a long run. In this respect additional funding should be foreseen for the purposes of hiring adequate number of skilled employees and to speed up procedures for hiring new staff.

Furthermore, given the wide-scale staff turnover in the public administration responsible for consumer protection, it is of crucial importance to retain already gained knowledge and know-how in EU accession matters. Based on the presentations we have attended during our mission, it seems that in the field of consumer protection this problem was successfully tackled in the previous period, especially through the system of mentorship and continued education of the public administration officers, and the same should continue in the future period. Finally, it is of crucial importance that in the course of recruitment of the new staff politically motivated appointments are avoided, and to recruit the new staff on the merit-based criteria, which in our area of assessment has been done to a high degree (e.g. actual head of the Market Inspectorate has been introduced there starting with the internship).

Montenegrin Institutions responsible for consumer protection devote significant attention to permanent education of their personnel, consumers, business community and public in

[71] National program, p. 58.

general. In this respect, Montenegrin Institutions made a good use of different EU programs in order to organise and fund numerous trainings in the field of consumer protection. These events are generally well-organised and well-attended. Montenegrin Institutions have already made certain steps aimed at ensuring ongoing financing of such permanent education programs once the project funding ceases, such as joining the EU Single Market Program 2021-2027, and are generally fully aware of the need for permanent education.

In the course of application of domestic legislation transposing EU consumer acquis, Montenegrin Institution devote a significant attention to EU-conformant interpretation of domestic legislation. In doing so, Montenegrin institutions frequently rely on the CJ EU's decisions as well as different non-binding documents issued from time to time from different EU institutions. By way of an example, with the financial support from an EU project, recently a consumer protection organisation lodged two collective actions against a bank operating on the Montenegrin market which were both sustained by the Montenegrin courts (one finally, and the other in the first stage). In the course of substantiating their decisions, Montenegrin courts significantly relied on relevant decisions of the CJ EU, thus demonstrating their willingness and ability to apply domestic law in an EU-conformant manner. The same approach can be noticed in actions of inspectors within the AIA and other institutions responsible for implementing consumer protection acquis, especially the Central Bank of Montenegro, and Agency for Electronic Communication. Finally, trainings relating to specific areas of the EU law transposed in Montenegro, that were carried out in the past, always included analysis of the relevant CJ EU's case-law.

Montenegro devoted a considerable effort in coordinating activities of different administrative bodies and other non-governmental stakeholders responsible for consumer protection. In the course of these efforts, Montenegrin Network of Competent Authorities was created with the aim of making implementation of consumer protection more efficient and transparent. A significant part of this network is a development of fully functional online platform - CISCP, linked to every institution responsible for consumer protection, which enables every consumer an easy access to complaints mechanisms available under Montenegrin consumer protection legislation. Although, due to a massive cyber-attack Montenegro was exposed to during our visit, we were not able to make an in-person check of the functionality of the system, the data presented to us during the meetings clearly demonstrate high level of operability and functionality of the system. Montenegro also devotes considerable efforts in cooperation with non-institutional entities involved in consumer protection. In this respect, synergy between state authorities and non-governmental sector seem to work particularly well. Forming the Network and creating CISCP made possible joint surveillance actions in the form of "systemic check" (sweeps), like to one that was carried out in the period between 30 December 2021 and 15 March 2022.

Notwithstanding the foregoing, it seems that satisfactory level of mutual cooperation between different governmental bodies is still not attained. Thus, for example, National program for consumer protection in the period 2022-2024 notes that low institutional cooperation aimed at joint action in implementation in the area of consumer protection still represents a challenge.[72]

In this respect, we emphasise that during the presentation of the state of play of Montenegrin consumer protection regime, Montenegrin Institutions repeatedly drew our attention to an ongoing problem in transposition of the EU law, which consists in some institutions which take part in the process of preparing legislation transposing the EU law, notably the so-called Secretariat for Legislation, an organizational unit of the Government responsible for nomotechnical issues, frequently intervening into the draft laws prepared by other Governmental units or Ministries, thus in some cases calling into question the level of harmonisation of the Montenegrin law with the acquis. Based on the information we gathered during our mission, we cannot assess whether this is a structural problem or something related to consumer protection field specifically. In any case, since correct and complete transposition of the EU acquis is of paramount importance for proper functioning of consumer protection regime, and for assessing Montenegro to be prepared to temporarily close the chapter 28, it is crucial for the Government of Montenegro to assure that all internal organisational units of the Government respect basic rules of acquis transposition so not to impede the correct and complete transposition of the EU law into Montenegrin law.

Even though Montenegro developed fully functional organisation of consumer protection, some challenges still remain in this domain. Besides already mentioned issues of staff shortage and still not satisfactory level of inter-institutional cooperation, low level of financial contribution to non-governmental sector, non-existence of counselling centres for consumers, low level of activity of local communities in consumer protection as well as difficult contact with citizens in rural areas are seen by the Montenegrin institutions as a challenge.[73] Furthermore, it is evident from this Report that so far, successful creation of consumer protection infrastructure in Montenegro, both in terms of building-up institutions and material resources as well as creating a critical number of well-trained personal, was primarily financed from the EU funds and projects. This has proved, on the one hand, high capability of Montenegro to absorb and make use of available EU founds for the benefit of their citizens and institutions. On the other hand, this has highlighted a need to find additional domestic sources which will enable the system to function properly even in the absence of outside funding.

Mentioned challenges are something that Montenegrin institutions may wish to tackle in the near future. However, they do not call into question our general assessment that Montenegrin institutions are capable, sufficiently equipped and motivated to implement consumer protection law and policy in a satisfactory, EU acquis-conformant manner.

[72] National program, p. 58.
[73] National program, p. 58.

4.2. Product Safety

4.2.1 Legal Framework for Safety and Compliance of Products

This area is regulated by the General Product Safety Act[74] (Official Gazette of Montenegro No 45/2014 and 13/2018), Market Surveillance of Products Act[75] (Official Gazette of Montenegro No 33/2014 and 43/2018), Technical Requirements for Products and Conformity Assessment Act (Official Gazette of Montenegro No 53/2011 and 33/2014), by its implementing acts – rulebooks – which transposed many of the EU directives/regulations on requirements for products. Apart from these framework laws there are also special laws (e.g. Chemicals Act, Medical Devices Act, Construction Products Act) which transposed more specific EU legislation, and by implementing acts adopted on their basis.

The products under market surveillance are regulated by harmonisation rules (transposed by national technical rules) as well as by national rules in areas where EU harmonisation has not taken place. According to the Montenegrin officials ("self-assessment") the alignment to the existing EU rules on product requirements and conformity assessment is at a very high level. But there are examples of non-aligned rules in the eco-design area as well in the area of chemicals.

The procedure for inspection surveillance is regulated by the ISA (Official Gazette of Montenegro No 39/2003, 76/2009, 57/2011, 18/2014, 11/2015, 52/2016), while the APA has subsidiary application (Official Gazette of Montenegro No 56/2014, 20/2015, 40/2016, 37/2017).

The Decree on the groups of products subject to market surveillance (Official Gazette of Montenegro 11/20), based on the Market Surveillance of Products Act, has specified the groups of products subject to surveillance and the inspectorates carrying out surveillance of those groups of products. Market surveillance of products is carried out by market surveillance authorities, namely, by the administration body in charge of inspection affairs (Administration for Inspection Affairs) and by other state administration bodies in charge of market surveillance of products.[76,77] Market Surveillance of Products Act is aligned to the Regulation (EC) 765/2008. The alignment to the superseding Regulation (EU) 2019/1020 has started in 2020 but the law is not yet in the parliamentary procedure.

Decree on the manner of operation of the system of rapid exchange of information on products presenting risks (Official Gazette of Montenegro No 57/2015 and 72/2018) is based on the provisions of EU Decision (EU) 2010/15 on guidelines for the management of the

[74] Partial transposition of the Directive 2001/95/EC and full transposition of the Directive 87/357/EEC. Both directives were repealed by the Regulation (EU) 2023/988 on general product safety from 23rd of May 2023. The Regulation will be applicable from December 2024 and will have to be duly transposed by Montenegro.

[75] Partial transposition of the Regulation (EC) 765/2008 and partial transposition of the Directive 2001/95/EC.

[76] For more information, please see the General Programme of Market Surveillance of Products for 2019 and the Report on the implementation of the General Programme of Market Surveillance of Products for 2019.

[77] As described in "Information on enforcement of the safety products policy in Montenegro (05.12.2019)" and as discussed during the mission.

Community Rapid Information System RAPEX. The alignment to the superseding Decision (EU) 2019/417 has started during the peer assessment mission.[78]

4.2.2 Organisation and Activities of Market Surveillance Authorities

Organisation and resources of AIA are covered by point 4.1.2.3.1. of this report. Market surveillance of products is carried out by 14 inspectorates, eight (8)[79] of which are in AIA, two (2) in the Administration for Food Safety, Veterinary and Phytosanitary Affairs, three (3) in the Ministry of Transport and Maritime Affairs and one (1) in the Ministry of Interior.

The activities of market surveillance of products are carried out through:

- *proactive surveillance*, in accordance with the General Programme of Market Surveillance of Products (annual), and in extended surveillance which is carried out under the programmes adopted in previous years, and

-*reactive surveillance*, upon notifications received from the RAPEX system, upon notifications received from the Regional Network, upon notifications received from the Customs Authority, upon notifications received from inspectors based on surveillance activities, upon notifications filed by consumers, upon notifications received from manufacturers, information from the media and other sources.

4.2.2.1 Coordination Body for Market Surveillance and Market Surveillance Strategy

In order to achieve cooperation and coordination between the numerous market surveillance authorities, the Government of Montenegro established **the Coordination Body for Market Surveillance *(*CBMS),** for the first time in 2010, in accordance with the Market Surveillance Strategy which was adopted in 2009. Following the adoption of the Market Surveillance of Products Act in 2014, the Government adopted new Decision establishing the Coordination Body for Market Surveillance, in its new composition, in 2015[80], which, besides more detailed composition and mandates, regulates also other questions of importance for its operations.

CBMS is composed of eight (8) members, four (4) of whom are representatives of AIA, one (1) is a representative of the competent inspectorate of the Ministry of Interior, one (1) is a representative of the competent inspectorate of the Ministry of Transport and Maritime Affairs, and the remaining two (2) are from the Customs Authority and the Ministry of Economy (the body in charge of quality infrastructure) which also have one representative each.

The Market Surveillance of Products Act sets out the obligations of CBMS (e.g. integrating sectoral programmes into one General Programme and monitoring its implementation,

[78] Before finalisation of this Report the beneficiaries informed the authors that the Government adopted amendments to the decree which was published in the OG MN 37/23 on 31 of March and entered into force on 8th of April 2023.

[79] The Electrical Energy Inspectorate and the Mining Inspectorate are not involved in carrying out market surveillance, until the national legislation is aligned with the ATEX Directive.

[80] Decision establishing the Coordination Body for Market Surveillance (Official Gazette of Montenegro No 32/2015).

monitoring situation regarding the safety of products on the market, initiating the adoption of legislation of interest to market surveillance of products, submitting a report on its work to the Government)[81].

The inspectors which are going to the field are being provided with instructions on various groups of products, forms of decisions to be taken, check-lists and forms of field reports on inspection control (see Annex C.3)

4.2.2.2 Annual Programmes and Reports

After the establishment of CBMS and adoption of the Market Surveillance of Products Act, Montenegro introduced the annual programming of market surveillance as well as annual reporting on executed market surveillance activities. Below are the summaries of the annual programmes for 2019 and 2020 and the annual report for 2019.[82] The summaries are given in order to show the systematic approach to market surveillance activities and reporting on them. The Annual Programmes have been devised also for 2021 and 2022 but have not been translated.

a) General Programme of Market Surveillance of Products for 2019

The Programme covered 30 products whose surveillance was to be carried out by 10 inspectorates:

- five inspectorates of the Administration for Inspection Affairs (Market Inspectorate, Inspectorate for Electronic Communications and Postal Services, Metrological Inspectorate, Health-Sanitary Inspectorate and Thermal Energy Inspectorate);

- Road Traffic Inspectorate (Ministry of Transport and Maritime Affairs),

- Inspectorate for Explosive Substances, Flammable Substances, Liquids and Gases (Ministry of Interior), and

- three inspectorates of the Food Safety Administration (Phytosanitary Inspectorate, Veterinary Inspectorate and Food Inspectorate).

The inspectorates covered products as follows:

- Market Inspectorate - seven;
- Inspectorate for Electronic Communications and Postal Services - three;
- Metrological Inspectorate - four;
- Health-Sanitary Inspectorate - six;
- Thermal Energy Inspectorate - two;
- Road Traffic Inspectorate - two;
- Inspectorate for Explosive Substances, Flammable Substances, Liquids and Gases - two;
- Phytosanitary Inspectorate - two;

[81] Report on the work of the Coordination Body for 2019.

[82] The expert read and discussed with the Montenegrin counterparts also documents dealing with 2021 and 2022 which have the same approach and structure as the previous ones but they are not translated into English.

- Veterinary Inspectorate - one;
- Food Inspectorate - one.

In the tabular overview of market surveillance of products there are given the legal base, chosen products, competent surveillance bodies, cooperation with customs and economic operators, priority levels and a mix of surveillance methods (proactive and reactive).

b) Report on the implementation of the General Programme of Market Surveillance of Products for 2019

It is stated in the introduction of the report that "In 2019, market surveillance was carried out in accordance with the General Programme of Market Surveillance of Products (proactive), and upon information on dangerous products on the markets of the EU (RAPEX system), region and Montenegro (reactive)". This means that the report is basically "the report on "implementation of market surveillance activities in 2019" whether or not the activities were planned in the programme for that year.

In this broader report it is stated that a total of 6,701 inspections have been carried out, of which 5,632 inspections were carried out as proactive surveillance (under the Programme – routine or extended[83]) and 1,069 inspections were carried out as reactive surveillance (802 inspections upon RAPEX notifications, 159 inspections upon information received from the Regional Network for the Exchange of Information on Dangerous Products, 95 inspections upon notifications received from inspectors based on surveillance activities, 2 inspections upon notification received from the Customs Administration, 11 inspections upon notifications filed by consumers).

Inspections have been carried out by administrative means (checking labelling and prescribed conformity documents), by physical examination and by sampling products for laboratory tests, including risk assessment for non-compliances found.

Dangerous products found on the market

In the reporting period, a total of 842 types of dangerous and non-compliant products in the total quantity of 39,902 items were found on the Montenegrin market (763 types in the total quantity of 27,975 items during proactive surveillance and 79 types in the total quantity of 11,927 items during reactive surveillance).

Out of those, 399 types in the quantity of 7,684 items were dangerous products posing a serious risk, 31 types in the total quantity of 24,547 items were non-compliant products, while 412 types in the total quantity of 7,671 items were dangerous products not posing a serious risk.

Measures undertaken when dangerous products have been detected on the market

In order to prevent the circulation of dangerous products on the market, the inspectors undertook the following measures (excerpt):

- **Withdrawal from the market and permanent ban on trade in dangerous products posing a serious risk -** 399 types in the quantity of 7,684 items (buoyant aids for

[83] Extended inspection – programmed in previous years, but executed in 2019 as an extension of the still needed activities.

swimming instruction, mobile phone chargers, fan, extension power cords, extension power cord subassembly, lighting chains, children’s lamps, hairdryer, laser pointers, children's clothing, electric hot plate, electric multi-plug, children’s sunglasses, protective gloves, angle grinder, toys).

- **Withdrawal from the market and permanent ban on trade in dangerous products not posing a serious risk -** 4 types in the quantity of 154 items (helmet for pedal cyclists, ceramic tiles), because they have not been brought into compliance within the set period.
- **Withdrawal from the market and permanent ban on trade in non-compliant products** that have not been brought into compliance **-** 23 types in the quantity of 6,313 items (fan, laser pointers, air conditioners, light bulbs, LPG tank).

Recall from end users was ordered for 45 types of dangerous products in the quantity of 9,367 items (laser pointers – 2 types – 2,927 items, children's clothing – 4 types – 20 items, children's sunglasses – 1 type – 130 items, toys – 38 types – 6,290 items). The consumers were informed of recalls in daily newspapers or by posting such information at a visible place in the respective premises.

The most common risks according to the risk type and origin of dangerous products found

The risks most frequently identified in dangerous products found, according to the risk type, were the following:

- electric shock, burns and fire hazard,
- choking and strangulation hazard,
- injury hazard and
- chemical risk.

By summing up and analysing the results of proactive and reactive surveillance in 2019, it has been established that most products dangerous to consumers originate from China (65.68% - 553 types), Turkey (8.55% - 72 types), Serbia (5.82% - 49 types), Italy (1.9% - 16 types), Bangladesh (1.53% - 13 types), USA (1.31% - 11 types), Denmark (0.94% - 8 types), Bosnia and Herzegovina (0.82% - 7 types), Hungary (0.59% - 5 types), Greece (0.59% - 5 types), Lithuania (0.48% - 4 types), Poland (0.48% - 4 types), Bulgaria (0.36% - 3 types), Germany (0.24% - 2 types), Cambodia (0.24% - 2 types), Croatia (0.24% - 2 types), Portugal (0.24% - 2 types), United Kingdom (0.24% - 2 types), Taiwan (0.24% - 2 types), Vietnam (0.12% - 1 type), Belgium (0.12% - 1 type), France (0.12% - 1 type), Slovenia (0.12% - 1 type), Spain (0.12% - 1 type), Indonesia (0.12% - 1 type), Montenegro (0.12% - 1 type), India (0.12% - 1 type), Slovakia (0.12% - 1 type), unknown origin (8.43% - 71 types).

Assessment of the situation (in the Report)

By analysing the activities planned under the General Programme of Market Surveillance of Products it has been established that the inspectorates successfully implemented the market surveillance activities.

The indicators resulting from the surveillance with regard to the number of found dangerous products posing a serious risk and non-compliant products, as well as the number of implemented measures of ban on trade in the goods concerned, destroyed goods, goods returned to the manufacturer/supplier, and of filed petitions to initiate misdemeanour proceedings point out a higher level of protection of consumers and other users from dangerous products. It should also be mentioned that the implementation of these activities benefits fair competition on the market while also ensuring free flow of goods.

Within the projects of support, inspectors enhanced their knowledge relating to the competences of their respective inspectorates, in accordance with the standards and good European practice in this field.

In accordance with the principle of transparency, the information concerning health and safety risks that is available to the surveillance bodies has been published continuously on the website www.potrosac.me and on the websites of the Administration for Inspection Affairs and of the Market Inspectorate.

c) General Programme of Market Surveillance of Products for 2020

The Programme covered a total of 29 products or groups of products whose surveillance was to be carried out by 8 inspectorates:

- five inspectorates of the Administration for Inspection Affairs (Market Inspectorate, Inspectorate for Electronic Communications and Postal Services, Thermal Energy Inspectorate, Health-Sanitary Inspectorate and Metrological Inspectorate);
- Road Traffic Inspectorate (Ministry of Transport and Maritime Affairs),
- Inspectorate for Explosive Substances, Flammable Substances, Liquids and Gases (Ministry of Interior) and
- Phytosanitary Inspectorate (Food Safety Administration).

The inspectorates covered number of products as follows:

- Market Inspectorate - seven;
- Inspectorate for Electronic Communications and Postal Services - three;
- Health-Sanitary Inspectorate - six;
- Thermal Energy Inspectorate - two;
- Metrological Inspectorate - five;
- Road Traffic Inspectorate - two;
- Inspectorate for Explosive Substances, Flammable Substances, Liquids and Gases - two;
- Phytosanitary Inspectorate - two.

In the tabular overview of market surveillance of products there was given the legal base, chosen products, competent surveillance bodies, cooperation with customs and economic operators, priority levels and a mix of surveillance methods (proactive and reactive).

4.2.2.3. Witnessing On-Site Activity During Peer Assessment – Market Inspectorate and Health-Sanitary Inspectorate

4.2.2.3.1 Market Inspectorate

Two Market Inspectorate inspectors and two representatives from the economic operator were present at Extra Shopping Centre Podgorica, Kidzone shop, retail of "goods of mass consumption" at 10.30 a.m. on 28 September.

"Extended surveillance" without prior notification as it had been assessed that it would weaken the effectiveness of the activity – ISA.

Legal base for surveillance – the Technical Requirements for Products and Conformity Assessment Act. According to the ISA, the head of retail was asked to inform the "authorized person" of the start of inspection visit. After checking the required registration of the selling premises, the staff was informed on their obligations and rights during the inspection visit - the right to give the statement on the minutes and comment on the procedure and findings.

The subject of the surveillance was compliance of a product "ventilator heater/calorifer"– according to mandatory regulatory requirements (transposed LVD and EMC directives) as well as specifications as given in the national standard MEST EN 60335-2-81:2010. A Foot-warmer was controlled – retail price 24,99 euros with the customs declaration and entry invoice at 11,50 issued by EDCO Eindhoven VBV from the Netherlands (manufactured in China). Out of 30 imported products, 18 were found in the premises.

The administrative check established that on each product there is the name of manufacturer as well as all the required data of the product on the package. There was a warning "Do not cover" with an additional pictogram. There was a visible CE marking (which is not mandatory in Montenegro). But not all of the packages had a mandatory translated instruction for use as required by the law to be checked by the distributor. The declaration of conformity was also not available at the premises (has to be provided by the distributer in due course in order to check the compliance).

By a visual check it was established that the contact points of the cord are firm and without any faults as well as that the insulation of the cord is firm enough and that points under voltage are not accessible and there are no sharp parts that could harm the insulation.

The seller was given 10 days to correct the established violation (user instruction) and to provide the declaration of conformity. The minutes were signed by the retail manager without any comments.

4.2.2.3.2 Health – Sanitary Inspectorate

Field action on 28.09.2022 starting at 12.30 a.m. in a shop "Kids Land Megastore" in Podgorica. Two Health-Sanitary inspectors and the retail director of the premises from the economic operator are present. The authorized person was not available though they had been informed about the planned visit.

Legal base for surveillance in Rulebook on Safety of Toys (transposed EU directive). According to the ISA, after checking the required registration of the selling premises the inspection action continued.

The subject of the surveillance was compliance of toys – according to mandatory regulatory requirements as well as specifications as given in the national standards MEST EN 71 - parts 1, 2 and 3. A few types of toys were visually and physically checked: electrical toys, trotinettes (scooters), toy-guns, slimes, chemical toys (cosmetics), furry toys and dolls. Markings and labels were checked as were the warnings which have to be applied on certain toys (age restrictions under 3 and 8 years respectively). Visibility, legibility and indelibility were checked. All the information was there (check-lists used) as also CE marking. The exception was an electric toy where the (indicative) CE marking was not in a visible place.

As the next step the inspectors looked into a declaration of conformity and a technical file in regard of a doll-toy "Queens". It was supplied from Serbia in 2022 with China as the country of origin. Declaration of conformity stated that the toy fulfilled the requirements of the Toys directive and the harmonized standards which give the presumption of conformity. The technical file showed that the doll had been tested for the presence of phthalates, poly-cycles of aromatic compounds, azo-colours and heavy metals. All the elements were within the prescribed levels.

Another doll-toy "Steffi", which was supplied from Serbia with China as the country of origin, was sampled (three sealed samples) for testing on presence of phthalates (softer plastic used for the doll as an indication that phthalates might be used). The testing was to be done in the Centre for eco-toxicology testing in Podgorica. The costs were going to be borne by the state budget if the phthalates are within the limits.

The minutes, with the attached check-lists, were signed by the staff person of the economic operator with no comments.

4.2.3 Administrative Capacities of the Bodies Carrying Out Inspection Surveillance of Product Safety

It is important to state that approximately 75% of all activities regarding the market surveillance of products safety are implemented by the Market inspectorate. The second most important market surveillance authority in this area is the Health-Sanitary Inspectorate.

4.2.3.1. Market Inspectorate

In the Administration for Inspection Affairs – the Market Inspectorate (53 inspectors employed in total), a special *group of technical surveillance activities* was provided for by the act on systematisation of work posts. It was foreseen that this group of activities will be carried out by 11 inspectors, but only four (4) inspectors have been employed.

The reason for vacant posts of inspectors in this group is a lack of qualified human resources (engineers) on the labour market, so that the market surveillance activities falling within the competence of this inspectorate are, where necessary, carried out by other ten (10) market inspectors (trained for market surveillance) who also conduct inspections in other areas falling within the competence of this inspectorate. Therefore, out of a total of 53 market inspectors, market surveillance activities are carried out by a total of 14 inspectors (four of them carry out only market surveillance activities related to product safety).

4.2.3.2. Other inspectorates

There are six (6) health inspectors and 21 sanitary inspectors in the Health-Sanitary Inspectorate, three (3) inspectors in the Metrological Inspectorate, one (1) inspector in the Thermal Energy Inspectorate and one (1) inspector in the Inspectorate for Electronic Communications and Postal Services. In addition to market surveillance of products, all these inspectors carry out surveillance in other areas for which they are competent as well.

The number of inspectors in the inspectorates of the Administration for Food Safety, Veterinary and Phytosanitary Affairs is 34 (18 veterinary inspectors and 16 phytosanitary inspectors), nine in the inspectorates of the Ministry of Transport and Maritime Affairs (for road traffic– four, for railway traffic – two and navigation safety – three), five inspectors in the inspectorate of the Ministry of Interior. These inspectors also carry out surveillance in other areas for which they are competent in addition to market surveillance.

As for available financial resources, Information delivered after the peer review mission, stated that the budget line of AIA which includes also the costs to analyse product samples contained 20,480.60 € in 2022.

4.2.4 Products Entering the Market - Cooperation with Customs Authority

The full official title of the customs authority in Montenegro is Revenue and Customs Authority (Customs Authority). The whole Authority has 1071 employees, of which 491 work in the Customs part. In the section on protection of intellectual property and surveillance of prohibitions and restrictions there are four (4) employees.

In order to ensure effective market surveillance, the Administration for Inspection Affairs and the Customs Authority concluded a Memorandum of Cooperation on 12 May 2014. A representative of the Customs Authority is one of the members of the Coordination Body for Market Surveillance. Pursuant to the Memorandum, the Market Inspectorate (Contact Point) has been granted access to a part of the Customs Administration's system, enabling thus preparation for market surveillance with regard to importers, types and quantity of imported goods.

According to the Market Surveillance of Products Act, the Customs Authority:

- shall temporarily suspend the release of goods for free circulation if it finds, during the inspection, that a product has characteristics that are reasonably suspected of presenting a serious risk, that a product is not accompanied by the prescribed documentation or that it is not properly labelled or that the mark of conformity is not affixed properly. The customs authority shall, without delay, inform thereof the surveillance bodies which are obliged to carry out surveillance and to notify, within three days, the customs authority of the measures taken.

-The Customs Authority shall authorise the release into free circulation of temporarily detained goods if it does not receive from the market surveillance body a notification of the measures taken, or if the market surveillance body finds that the product does not present a serious risk to the health and safety of users, property, environment, health and safety at work, as well as the free movement of goods, or that it complies with regulations.

Pursuant to the General Programme of Market Surveillance of Products, joint actions of intensified controls of certain types of goods are implemented in cooperation between the Customs Administration and the competent inspectorates[84]. To prepare for surveillance activities, the Market Inspectorate submits to the Customs Administration, on a regular basis, abbreviated check lists for products.

4.2.4.1. Statistics of Joint Activities and On-Site Presentation During Peer Review

In the last two years, there have been no cases of prohibiting the placing of products on the market by the market surveillance authorities.

In 2022, there were three cases of suspected dangerous product at the Customs terminal Podgorica:

- lights and lamps - 28 pieces,
- table and wall lamps -53 pieces,
- wall ventilator - 1 piece.

In the cases under the first two indents the Market Inspectorate has established that the products are not dangerous and that they comply with the rules and the release for free circulation was allowed.

In the case under the third indent the Market Inspectorate has established that the product is not dangerous but that the manual for use was not translated into Montenegrin. As it was a case of formal non-conformity which could be corrected before making available the product on the market, the release for free circulation was allowed.

From the beginning of 2022 there have been five joint actions of the Market Inspectorate and Customs authority as follows:

- consumer washing machines (21.02. to 21.03.2022),
- non-inverter (on/off) air conditioners (10.02. to 10.06.2022),
- ladders (10.05. to 20.06.2022),
- eyes and face protective equipment during welding (04.07. do 08.08.2022),
- ventilators (od 08.08. to 01.10.2022).

There are continuous strengthened controls of: children’s clothes, electric cookers, extension cords, children sun glasses, squishy toys and plastic dolls.

[84] According to presentation given by the Customs on September 27.

On-Site Presentation

The expert was shown the use of mobile vehicle scanner at the customs terminal in Podgorica. The vehicles (trucks) are directed toward the "scanner line" based on the risk analysis. During the field action the expert was told that more trainings for customs officials is needed where the work of MS customs authorities could be observed.

4.2.5. System of Exchange of Information on Dangerous Products

4.2.5.1. National System

The national System of Rapid Exchange of Information on Dangerous Products[85] has been established pursuant to the General Product Safety Act in 2010 and is now being operated on the basis of the Decree on the manner of operation of the system of rapid exchange of information on products posing a risk (Official Gazette of Montenegro No 57/2015, 72/2018). The (four) notification forms on dangerous products found on the Montenegrin market form an integral part of the Decree and are submitted through the System. Information on dangerous products is collected and exchanged by the Administration for Inspection Affairs through the Market Inspectorate as the Contact Point.

The exchange of information takes place between the market surveillance bodies and the Customs Administration, through the Contact Point, via an IT system. Among other sources of input information, the Contact Point each week accesses the database of the European RAPEX system, taking into account assessment of potential presence of such products on the domestic market when it chooses the information it distributes to the competent inspectors. The Contact point provides timely information to the public on dangerous products found on the market through the website "www.potrosac.me".

4.2.5.2. Regional System

The information on dangerous products is also exchanged at the regional level with the neighbouring countries through the Regional Network for the Exchange of Information on Dangerous Products (established in July 2013 within the regional GIZ project "Cooperation between the Market Surveillance Authorities of the South East Europe") which is composed of the representatives of Montenegro, Bosnia and Herzegovina, Serbia, North Macedonia, Kosovo and Albania.

The Market Inspectorate is the Montenegrin contact point of the Regional Network. The exchange of information at the regional level between the contact points of the countries of the region is carried out by e-mail. When a contact point receives from the Regional Network a notification on a dangerous product found on the market in a country in the region, it notifies the competent inspectorate which conducts further procedure in accordance with the Decree.

[85] The system at the EU level is known as "the RAPEX system". The system will be renamed "Safety Gate" in December 2024

In October 2022 Montenegro started the procedure of amending the "Decree on the manner of operation of the system of rapid exchange of information on products posing a risk" with the aim to align it to the EU Commission implementing the Decision 2019/427 laying down guidelines for the management of the European Union Rapid Information System 'RAPEX'.

The new Guidelines (important mainly for including also the risk assessment methodology) annexed to the Decision 2019/417 are already translated to Montenegrin and published on the website of the Administration for Inspection Affairs and the Market Inspectorate. General Programme of Market Surveillance of Products for 2020 besides consumer also covers professional products (e.g. hearing protector – ear muffs and slicing machines). The risk assessment takes into account the nature of the hazard, the probability of its occurrence and the severity of injury. Pursuant to the determined level of risk, measures are taken in accordance with Article 19 of the Market Surveillance of Products Act and with the provisions of the ISA.

4.2.6. Trainings

Montenegrin Institutions responsible for safety and compliance of products devote significant attention to permanent education of their personnel. In this respect, they are making good use of different EU programmes in order to organise and fund numerous trainings in the area of consumer protection.

4.2.6.1 Regulation (EU) 2019/1020

IBF project "Technical Assistance for Alignment and Implementation of the EU Internal Market acquis, Montenegro – EuropeAid/137978/IH/SER/ME

In total 8 w/d trainings for better enforcement and modernization of new Law on MS for AIA; MED members of the WG for New Law on MS.

1st January to 15 June 2021, **3 online workshops**, transposition of a new EU legislation framework (Regulation (EU) 2019/1020 on the market surveillance and compliance of products). Five inspectors participated in these workshops.

PTB SEE QI Project (Regional Consultancy Fund for Quality Infrastructure in South East Europe) implemented by Metrology Institute of Germany

- 17 – 18 March 2020, **one 2-day video-conference** was organized on the topic: "New EU regulation on market surveillance-horizontal components of the new EU Regulation 2019/1020 and Regulation 2019/515", where representatives of the Western Balkan countries, as well as the countries of the Eastern Partnership, participated (**seven representatives of Montenegro**, **AIA and MED**),
- 27-28.5.2020. **one 2-day** online workshop on the topic "New EU regulation on market surveillance - horizontal component of the new EU Regulation 2019/1020 and 2019/515 (7 participants),

- 9/6/2021 **one 1-day online workshop** on the topic "Transposition of Regulation 2019/1020" through the law on market surveillance of Montenegro and other countries" (10 participants),
- 17-18.3.2020. in Podgorica online conference on topic „New EU regulations on market surveillance - horizontal component of new EU Regulation 2019/1020 and Regulation 2019/515“ (100 participants from countries covered by the project).

4.2.6.2 Other Workshops within PTB Project

In the frame of PTB, SEE QI project (Regional consulting fond for quality infrastructure in SE Europe, implementied by PTB Germany) the folloing workshops were organized:

4-6.9.2019. in Podgorica workshop „Delivery position of SEE QI project on market surveillance“ (2 participants),

26 - 27.11.2019. in Tirana, Albania, workshop on topic “Implementation of requirements of Machinery Directive with emphasis on emerging products“ (3 participants),

15.7.2020. online workshop on topic “PPE used in Covid 19 pandemic“ (7 participants),

3 - 4.2.2021. online workshop on topic „PPE – reflecting vests” (7 participants),

31.3.2021. at the proposal of PTB project in organisation of IBF project Kosovo online workshop on topic Directive on Machinery (1 participant),

11.5.2021. online workshop on topic „Summation of test results on reflecting vests“ (... participants),

28-29.9.2021. online workshop na temu „Safety of machinery – electric drills“ (11 participants)

7.12.2021. Final online project conference (1 participant).

5. Recommendations

Based on the findings elaborated in detail above under heading 4. of this Report, Montenegro developed a comprehensive administrative structure responsible for consumer protection, which includes institutions responsible for strategic planning and policy making, and institutions responsible for enforcement of consumer protection laws, supplemented by a small but efficient and proactive NGO scene, and specific non-governmental institutions responsible for out-of-court dispute resolution. Even though the existing administrative structure responsible for protection of economic interests of consumers assures high level of protection of economic interests of consumers, some recommendations can be made with the aim of improving the existing system and maintaining some of the well-functioning features of the existing system in the future.

5.1. Timely Transposition and Implementation of Relevant EU Legislation

As mentioned on a couple of occasions in this Report, Montenegrin Institutions drew our attention to a persisting problem of delays in transposition of the relevant EU legislation attributable to some deficiencies in inter-institutional cooperation and coordination. In this respect, it seems to be of paramount importance to speed up legislative processes and to take more proactive approach in the process of consultations and approval of harmonised draft legislation.

In this respect, Montenegro should make sure that its consumer protection legislation is fully harmonised with Directive (EU) 2019/2161, Directive 2014/17/EU, Directive (EU) 2019/770, Directive (EU) 2019/771, Directive (EU) 2020/1828, Directive (EU) 2015/2302, and Regulation 2017/2394.

As to the safety of products, the existing Market Surveillance of Products Act of 2014 (amended in 2018) is primarily based on the Regulation (EC) 765/2008 with the aim at the time of adoption to align Montenegrin legal order to the best practices of EU in the area of market surveillance of products. The goal was fully achieved as the EU Commission did not have any comments on the level of alignment after the amendments were made in 2018.

In 2019 the part of the Regulation (EC) 765/2008 which addressees the market surveillance of products, was annulled by the Regulation (EU) 2019/1020. The Regulation provides a new content in comparison to the previous one. The content covered by the articles mentioned below (and which will need to be transposed if alignment is the goal in Montenegro) were not part of the Regulation 765:

- Tasks of economic operators … (art. 4),
- Authorised representative (art. 5),
- Distance sales (art. 6),
- Information to economic operators (art. 8),
- Joint activities to promote compliance (art. 9),
- Designation of … the single liaison office (art. 10),
- Activities of market surveillance authorities (art. 11),
- National market surveillance strategy (art. 13),
- Recovery of costs by market surveillance authorities (art. 15),
- Union testing activities (art. 21), and
- Information and communication system (art. 34).

Montenegro has started the alignment to the new regulation in 2020. The inter-institutional working group decided to prepare a new law (not the amendments to the existing law) in order to correctly and comprehensively encompass the changes in the EU rules. In this case, the Secretariat for Legislation second-guessed the inter-institutional working group, as they enforced a decision that amendments to the existing law are to be made. It therefore rejected the prepared draft law and as a consequence caused a delay in alignment.

It is recommended to the Montenegrin administration to revisit this topic and assess again the best way to proceed with the alignment. It is crucial to have procedural and methodological rules in the area of market surveillance aligned to the EU rules in order to deem them fit for purpose.

As already noted above, Montenegrin Institutions drew our attention to an ongoing problem in transposition of the EU law. It consists in some institutions which take part in the process of preparing legislation transposing the EU rules, notably the Secretariat for Legislation, frequently intervening into the draft laws prepared by other Governmental units, thus in some cases calling into question the level of harmonisation of the Montenegrin law with the acquis. As noted above, we cannot assess whether this is a structural problem or something related to consumer protection field specifically. In any case, since correct and complete transposition of the EU acquis is of paramount importance for proper functioning of consumer protection regime, and for assessing Montenegro to be prepared to temporarily close the chapter 28, it is crucial for the Government of Montenegro to assure that all internal organisational units of the Government respect basic rules of acquis transposition so not to impede the correct and complete transposition of the EU law into the Montenegrin legal order.

5.2. Strengthen Administrative Capacities of Market Surveillance and Policy Making Authorities

Even though Montenegrin institutions responsible for market surveillance and policy making in the consumer protection field are generally well equipped, both in terms of material resources and personal, further efforts should be made in order to adequately staff some of the responsible institutions since, at the moment, some institutions responsible for market surveillance and policy making in the field of protection o consumers' economic interests do not reach the number of employees required by the internal organisational structure.

This especially goes to the AIA, institution responsible for enforcement of consumer protection laws in around 85 % of cases. For example, the Market Inspectorate has the largest number of employees, 53, but also the largest number of vacant posts, total of 11. Health and Sanitary inspectorate have 41 employees, with 7 vacant posts. Thermo-energy Inspectorate has 1 employee, with 3 vacant posts.

According to the officials of AIA we interviewed, filling vacancies remains the biggest organisational challenge. In this respect, bodies approving hiring new staff should act more promptly and efficiently. Furthermore, even though approximately 70% of inspectors working for AIA is recently employed, the problem of generation gap is still present, given the fact that there are still number of older inspectors, who will soon have to be replaced. In order to train recently employed inspectors, the system of mentoring is introduced, which should help younger inspectors to acquire needed skills as soon as possible.

Even though the Montenegrin Institutions emphasised that they manage to overcome the problem of staff shortage through the ad hoc internal staff redistribution, such situation is not sustainable in the long run. In this respect Montenegrin government should devote additional funding for the purposes of adequate number of skilled employees and to speed up procedures for hiring new staff.

Given the wide-scale staff turnover in the public administration responsible for consumer protection, it is of crucial importance to retain already gained knowledge and know-how in EU accession matters. Also, it is of crucial importance that in the course of recruitment of the new staff politically motivated appointments are avoided, and to recruit the new staff on the merit-based criteria.

5.3. Continuation of the Process of Training and Education

Findings elaborated above, under subparagraphs 4.1.3. and 4.2.3., clearly demonstrate that Montenegrin institutions devote a considerable attention to appropriate education and training of officers of the governmental bodies, employees of regulators, NGO's and other entities engaged in consumer protection, including consumers As explained, efforts made in the field of education and training so far have primarily been funded from the external sources, especially available EU projects and funds.

Since consumer protection is ever-developing field, continuous education and training is of paramount importance. In this respect, Montenegrin Government should continue to develop education and training programs in the field of consumer protection and find additional financial resources for that purpose. Joining the EU Single Market Program 2021-2027, recently initiated by the Government of Montenegro, is certainly a move in the right direction. Montenegrin Government should therefore continue to look for similar opportunities and, depending on available sources, allocate appropriate own funds for the purposes of continuous training and education in the field of consumer protection.

5. 4. Strengthen the Support to Non-Governmental Sector and Out-of-Court Dispute Resolution Mechanisms

Non-governmental sector and alternative dispute resolution mechanisms are considered to be some of the most important elements of successful consumer protection in the EU. Even though Montenegrin NGO scene in consumer protection field comes down to a single consumer protection association, over the years CEZAP proved to be a resilient and very active promotor and protector of consumers' rights and interests, which can be best demonstrated by recent successes in two collective proceedings initiated by CEZAP against a bank operating in Montenegrin market. NGO sector in Montenegro mainly relies on external funding, in most cases coming from the EU. However, in the recent years one can notice a significant growth in the Government's financial and logistical support to NGO sector. Therefore, recognising the importance of the NGO sector in developing consumer protection, Montenegrin Government should continue to financially and logistically support NGO sector in the field of consumer protection.

Likewise, bearing in mind the importance of having fully functional out-of-court mechanisms in place, Montenegrin Government should intensify its financial and logistical support to the OCCDRC and similar initiatives. Even though relatively modest numbers of cases resolved before OCCDRC cannot be solely attributed to the lack of funding, an amount of EUR 5,000 per year allocated by the Government for the work OCCDRC does not allow OCCDRC to fully develop its potential.

5.5. Strengthen Engagement of Local Government in Consumer Protection

Consumer protection is best exercised at the level closest to the consumers, meaning the local level. For the moment, local governments in Montenegro are not particularly active in the field of consumer protection, which creates significant problems for consumers, especially those in rural, hard-to-reach areas of the Country. Therefore, Montenegrin Government should make an additional effort to engage more local governments in consumer protection, especially by including local governments in the CISCP.

5.6. Establish Single Liaison Office in Administration for Inspection Affairs Based on Existing Legislation

Appointment of the "single liaison office" is one of the central novelties of the Regulation (EU) 2019/1020. As Montenegro has not aligned its legislation to the new regulation, there is no explicit legal base for its appointment, and there is a realistic prospect that this will not happen in the near-term future.

The need to promptly reconfigure the institutional set-up in the area of market surveillance of products is quite pressing in Montenegro. With the establishment of the Administration for Inspection Affairs in 2014 there is a new central player in consumer protection surveillance, safety of products included. Some of the activities which were previously allocated to the Market Inspectorate as an "independent" market surveillance authority, shall in the future be given to AIA. The example is the central role ("contact point") in the system of exchanging information on dangerous products. It was envisioned in the prepared new Market Surveillance of Products Act that the Single Liaison Office within AIA would also take over the role of the "contact point". Montenegrin state administration realizes the need for swift changes. In that vein, it is recommended to them that they analyse the existing rules on the institutional architecture (especially the ISA) to see if they can rearrange the tasks among different entities before the new Market Surveillance of Products Act is adopted and comes into operation. This would enable them to allocate properly the Single Liaison Office which could immediately take over the following activities:

a) represent the joint positions of the market surveillance authorities and the customs authority regarding carrying out of market surveillance of products, and inform the interested public and international organisations thereof and of the content of the market surveillance strategy;

b) participate in the international cooperation of the market surveillance authorities in accordance with the international agreements of Montenegro;

c) prepare materials and perform other administrative tasks necessary for the Coordination Body;

e) coordinate joint activities with economic operators and consumer organisations to promote product compliance;

f) maintain and update the information system based on ICSMS database;

g) consolidate and coordinate the exchange of information on dangerous products based on RAPEX.

5.7. Ascertain That the Amendments to a RAPEX Decree Cover All the Changed Elements of EU Decision

As already mentioned, the Decree on the manner of operation of the system of rapid exchange of information on products presenting risks (Official Gazette of Montenegro No 57/2015 and 72/2018) is based on the provisions EU Decision (EU) 2010/15 on guidelines for the management of the Community Rapid Information System RAPEX. The alignment to the superseding Decision (EU) 2019/417 has started during the peer assessment mission. The expert had a chance to see the prepared amendments to the existent decree. The first amendment is changing Article 3 paragraph 1 with the added text "including the internet checks". The second amendment is changing the content of forms no. 1, 2 and 4. Each of these forms has and added row in the part dealing with traceability with a question: "Is the product being sold (also) through internet".

In this regard, it could be helpful if Montenegrin authorities take into account some of the recitals of the new decision as it seems that the scope of the introduced changes are broader than the inclusion of the internet sales:

"In view of new developments and in order to ensure more efficient and effective notification procedures in line with best practice, a further update of the guidelines is required.

Terminology and references have become obsolete as has the means of communication between the Commission and the Member States authorities and between the authorities themselves.

New tools that have been developed over the last years for the proper functioning of RAPEX (interface between RAPEX and other market surveillance systems) have to be taken into consideration in the guidelines.

Criteria for the RAPEX notification, following the new developments, have become unclear and need to be clarified."

It is recommended that Montenegrin authorities look into the proposed amendments of the decree (as they stand now if the amended decree was not already adopted) and decide whether more substantial changes are needed.

6. Annexes

Annex 1 - List of documents provided before, during and after the mission (Economic Interests of Consumers and Product Safety)

Annex 2 – List of Meetings as organized during the mission (Economic Interests of Consumers and Product Safety)

Annex 1

List of documents provided before, during and after the mission
(Economic Interests of Consumers)

Consumer Protection Act (Official Gazette of Montenegro No 2/2014, 6/2014, 43/2015, 70/2017, 67/2019

Consumer Crediting Act (Official Gazette of Montenegro No 35/2013, 73/2017, 72/2019)

Tourism and Hospitality Act (Official Gazette of Montenegro No 2/2018, 4/2018, 13/2018, 25/2019, 67/2019, 76/2020)

Civil Obligations Act (Official Gazette of Montenegro No 47/2008, 4/2011, 22/2017)

Electronic Communications Act (Official Gazette of Montenegro No 40/2013, 56/2013, 2/2017)

Energetics Act (Official Gazette of Montenegro No 5/2016, 51/2017, 82/2020)

Insurance Act (Official Gazette of Montenegro No 78/2006, 19/2007, 53/2009, 73/2010, 40/2011, 45/2012, 06/2013)

Postal Services Act (Official Gazette of Montenegro No 57/2011, 55/2016 58/2018)

The Consumer Credits Act and the Consumer Protection Act – Users of Financial Services (Official Gazette of Montenegro No 43/2015)

The Inspection Surveillance Act (Official Gazette of Montenegro No 39/2003, 76/2009, 57/2011, 18/2014, 11/2015, 52/2016)

The Central Bank of Montenegro Act (Official Gazette of Montenegro No 40/2010, 46/2010, 6/2013, 70/2017)

Administrative Procedure Act (Official Gazette of Montenegro No 56/2014, 20/2015, 40/2016, 37/2017)

Administrative Dispute Act (Official Gazette of Montenegro No 54/2016)

Courts Act (National Gazette of Montenegro No 11/2015, 76/2020)

Decision on Determining the List of Organs Competent for Inspection Surveillance Over Laws Which Contain Consumer Protection Rules (Decision on Competent Organs, Official Gazette of Montenegro No 53/2021)

Rulebook on internal systematization and organization of posts in the Ministry of Economic Development and Tourism of February 2021

Rulebook on the Procedure of Deciding on Complaints of the Insured Persons and Other Persons (National Gazette of Montenegro No 6/2020, 46/2021)

Rulebook on Closer Selection Criteria of Members of the Out-of-Court Consumer Disputes Resolution Committee (Official Gazette of Montenegro No 56/2020, in Montenegrin: *Pravilnik o bližim kriterijama za izbor članova Odbora za vansudsko rješavanje potrošačkih sporova*)

Rulebook on the Contents of records on Supervision Data and of Records on Consumers' Appeals and resolution thereof (National Gazette of Montenegro No 34/2015, 28/2021, in Montenegrin: *Pravilnik o sadržaju evidencije o podacima iz nadzora i evidencije o žalbama potrošača i njihovom rješavanju*).

Document named: Internal Procedure for Handling Consumers' Complaints/Inquiries/Initiatives

Power Point Presentation of Ms Rada Marković, Chief of the Montenegrin Working Group 28, from the Introductory Meeting held on 26 September 2022.

National program for consumer protection for the period 2022-2024

The Report on Realisation of the Action Plan for Implementation of the National Program for Consumer Protection 2022-2024, with the Action Plan for 2023

Sectoral Analysis determining proposals for priority sectors of public interest and resources needed for financing the projects and programs from the budged of Montenegro in 2023

Public tender for allocation of resources to non-governmental organisations for projects in 2021 in the field of consumer protection "Strengthening consumer protection in Montenegro" NO 012-328/21-7564/3 of 3 November 2021

Public tender for allocation of resources to non-governmental organisations for projects in 2021 in the field of consumer protection "Strengthening consumer protection in Montenegro in 2022" No 012-328/22-2166/11 of 28 April 2022

Report on financing projects/programs of non-governmental organisations in 2021 No 012-328/21-7564/40 of 1 September 2022

Information on entering into International Agreement between the European Union and Montenegro on participation of Montenegro in the Union program „Single Market Programme 2021-2027", EU Program on single Market with a draft Agreement

Annual Work Report of Administration for Inspection Affairs of Montenegro for 2021, March 2022

Document named: Data from Touristic Inspection

Document named: Activities of Agency for Insurance Supervision

Document named: Expert Mission Visit – Chapter 28, September 2022, report from Ms Ivana Đuranović-Sudar, General manager for consumer issues

Document named: Information on realisation of rights and protection of interests of postal services' users

A document of MEDT, dated 21 August 2023, containing additional information regarding the status of Regulation 2017/2394 in the Montenegrin law

Report on Activities Related to Regulated Communal Activities in 2021, July 2022

REGAGEN, Report on the state of energetic sector of Montenegro for 2021, July 2022

Work procedures of End Users Protection Unit of 7 June 2019

Program of Development of Financial Education in Montenegro in the period 2023-2027

Council of the Central Bank of Montenegro, "Information on problems in application of the Consumer Protection Act - Users of Financial Services" of 1 October 2015

Supervision Report (anonymized name of the bank) No. „P" 18-142-3/2019 of 31 July 2019

Supervision Report (anonymized name of the bank) No. „P" 18-372-43/2019 of 31 July 2019

Supervision Report (anonymized name of the bank) No. „P" 17-355-1/2022 of 5 July 2022

Minutes from Supervision (anonymized name of the bank) No. „P" 18-114-6/2020 of 31 December2020

Preventive warning to all creditors No „P" 18-503-1/2021 of 23 November 2021

Decision on prohibition of providing credits (anonymized name of the bank) No. „P" 18-129-3/2020 of 25 February 2020.

Warning (anonymized name of the bank) No. „P" 18-142-6/2019 of 31 December 2021

Warning (anonymized name of the bank) No. „P" 18-41-6/2022 of 16 February 2022

Warning (anonymized name of the bank) No. „P" 17-89-7/2022 of 8 April 2022

Warning (anonymized name of the bank) No. „P" 18-506-5/2021 of 17 December 2021

Warning (anonymized name of the bank) No. „P" 18-506-5/2021 of 17 December 2021

Warning (anonymized name of the bank) No. „P" 18-31-6/2021 of 11 June 2021

Warning (anonymized name of the bank) No. „P" 18-130-4/2021 of 31 May 202

Warning (anonymized name of the bank) No. „P" 18-147-4/2021 of 31 May 2021.

Preventive warning to all creditors No „P" 18-451-2/2019 of 24 December 2019

Request for institution of misdemeanour proceedings (anonymized name of the bank) No. P" 18-41-8/2022 of 16 February 2022

Decision of the Misdemeanour Court in Podgorica No. 17800/18-26 of 21 January 2020 based on a request for initiation of misdemeanour proceedings lodged by the Central Bank of Montenegro No. „P" 17-170-1/2018 of 22 November 2018

Decision of the Misdemeanour Court in Podgorica No. 490/16-4 of 10 October 2016 on request for initiation of misdemeanour proceedings lodged by the Central Bank of Montenegro No. „P“ 0102-7472/1 of 13 January 2016

Preventive warning to all creditors No „P“ 17-456-2/2022 of 1 September 2022

Preventive warning to all creditors No „P“ 17-445-1/2022 of od 01 September 2022

Request for delivery of information addressed to all the banks operating in Montenegro No P“ 18-400-1/2021 of 13 September 2021.

CEZAP, Work report for 2021

CEZAP, Work report for 2022

Judgment of the General Court in Podgorica No. P 4303/21 of 18 November 2022

Judgment of the General Court in Podgorica No. P 709/20 of 14 January 2021

Judgment of the Higher Court in Podgorica No Gž 1668/21 of 20 October 2021

Decision of the Supreme Court of Montenegro dismissing the defendant’s revision No 55/22 of 27 October 2022

CEZAP Press Release: High Court Confirmed: CKB Bank violated collective rights of consumers in Montenegro

Codex of fair relationship with consumers – certificate „Fair with a consumer“

Document named: Detailed Information of CISCP and Network of Competent Authorities

Document named: Information on CISCP Contact Person

Document named: Relevant Information on Trainings and Cases Concerning CISCP

Document named: Report on the 1st National sweeps implemented

Document named: Acquis 2019-2020 – Trainings of Special Importance for Public Officers

List of documents provided before, during and after the mission (Product Safety)

General Product Safety Act (Official Gazette of Montenegro No 45/2014 and 13/2018)

Market Surveillance of Products Act (Official Gazette of Montenegro No 33/2014 and 43/2018)

Technical Requirements for Products and Conformity Assessment Act (Official Gazette of Montenegro No 53/2011 and 33/2014)

Decree on the manner of operation of the system of rapid exchange of information on products presenting risks (Official Gazette of Montenegro No 57/2015 and 72/2018)

(Draft) Decree on the amendments to a decree on the manner of operation of the system of rapid exchange of information on products presenting risks (after the mission)

Decree on the groups of products subject to market surveillance (Official Gazette of Montenegro No 11/2020)

Decision on establishment of Coordination Body for Market Surveillance (2015)

Response of the Ministry of Economy on Market Surveillance of Products Act and General Product Safety Act (20.04.2018)

Information on enforcement of the safety products policy in Montenegro (05.12.2019)

Information on exchange of information on dangerous products related to professional equipment (after the mission)

Information on exchange of information on dangerous products related to professional equipment (after the mission)

Power point presentation of Customs Authority on 27.08.2022 and additional answers

Minutes of Market Inspectorate field action on 28.09.2022

Minutes of Health-Sanitary Inspectorate field action on 28.09.2022

Trainings in 2020 and 2021 on Regulation (EU) 2019/1020

Report on work of Coordination Body for Market Surveillance in 2019

General Programme of Market Surveillance for 2019

Report on Implementation of General Programme of Market Surveillance for 2019

General Programme of Market Surveillance for 2020

List of Meetings (Economic Interests of Consumers)

Mission days	List of Meetings	Institution
Day 1 – Monday 26 September 2022	**15:00 – 18:00**	**Administration for Inspection Affairs** - Introductory meeting[86] Ms Rada Marković, Chief of WG 28 Mr Zvezdan Cadjenović, member of WG 18 Ms Jasna Vujović, Ministry or Economic Development and Tourism, Directorate for Consumer Protection Mr Luka Dedić, Ministry for European Integrations, Secretary of WG 28
Day 2 – Tuesday 27 September 2022	**8:00 – 9:00** **11:30 – 13:30** **14:30 – 15:30**	**Administration for Inspection Affairs** - Introduction to Inspection in CP Enforcement of CP legislation and administrative capacity[87] Ms Marina Radulović, Chief Market Inspector Ms Ana Vujošević, Acting Director of AIA Ms Marina Janković, Coordinator for technical supervision Ms Bojana Gličković, contact person in contact point Ms Milica Vukmirović, international cooperation **Ministry for Economic Development and Tourism, Directorate for Consumer Protection** Enforcement of CP legislation and administrative capacity Ms Jasna Vujović, Head of Directorate
Day 3– Wednesday 28 September 2022	**9:00 – 11:30**	**Central Bank of Montenegro** - Enforcement of CP legislation and administrative capacity

[86] Together with Expert 2
[87] Together with Expert 2

	11.30-12-30 13:00 – 14:30 15:00-16:00 16:00 – 17:00	Mr Radoje Žugić, the Governor of the Central Bank Ms Svetlana Đurović, Protection of Clients Administration Ms Gordana Kaladić, Money Laundering Administration **Agency for Insurance Supervision** - Enforcement of CP legislation and administrative capacity Ms Nataša Raičević **Agency for Electronic Communication and Postal Services** - Enforcement of CP legislation and administrative capacity Ms Ivana Đuranović-Sudar **Regulatory Agency for Energy and Regulated Communal Activities** - Enforcement of CP legislation and administrative capacity Ms Emilija Otašević Ms Milica Knežević Ms Ljubinka Vojinović Ms Danijela Vuković Ms Andreja Samardžić Mr Nikola Novaković Mr Radoslav Čović Mr Miloš Petrović **Out-of-Court Dispute Resolution Committee** -Resolving Consumer Protection Disputes Mr Bojan Jovović, Chamber of Economy of Montenegro Mr Spasoje Djurdjić, President of the Committee **CEZAP – Centre for Consumer Protection of Montenegro**

		- Consumer Protection Activities Ms Olga Nikčević, president of CEZAP Mr Željko Tomović, Legal Affairs
Day 4– Thursday 29 September 2022	**10:00 – 12:00**	**Administration for Inspection Affairs** - Summary of peer review mission[88]

[88] Together with Expert 2

List of Meetings (Product Safety)

Mission days	List of Meetings	Institution
Day 1 – Monday 26 September 2022	**15:00 – 18:00**	**Administration for Inspection Affairs** - Introductory meeting[89] Ms Rada Marković, Chief of WG 28 Mr Zvezdan Cadjenović, member of WG 18 Ms Jasna Vujović, Ministry or Economic Development and Tourism, Directorate for Consumer Protection Mr Luka Dedić, Ministry for European Integrations, Secretary of WG 28
Day 2 – Tuesday 27 September 2022	**8:00 – 9:00** **11:30 – 13:30** **14:30 – 15:30**	**Administration for Inspection Affairs** - Enforcement of CP legislation[90] Ms Rada Marković, Chief of WG 28 Ms Marina Radulović, Chief Market Inspector Ms Marina Janković, Coordinator for technical supervision - Administrative capacity – Network of competent authorities for product safety Ms Rada Marković, Chief of WG 28 Ms Marina Radulović, Chief Market Inspector Ms Marina Janković, Coordinator for technical supervision Ms Bojana Gličković, contact person in contact point **Customs Authority** - Role of Customs in product safety, cooperation with market surveillance authorities, enforcement record Ms Tatjana Vujisic, Head of Department Mr Milan Radovic, Customs Branch Official Mr Ljubovic, Customs Branch Official Mr Beciragic, Customs Branch Official
Day 3– Wednesday 28 September 2022	**9:00 – 10:00**	**Market Inspectorate Headquarters** Ms Marina Radulović, Chief Market Inspector

[89] Together with Expert 1
[90] Together with Expert 1

	10.15 – 11.15	Ms Marina Janković, Coordinator for technical supervision **Checking MS in action** (field activity – electric appliances, administrative checks) Ms Marina Janković, Coordinator for technical supervision Mr Dzenan Kalevic, Market Inspector
	11:30 – 13:30	**Customs Authority** - Checking MS in action (field activity –use of vehicle scanner at terminal)
	13:30 – 14:30	**Health and Sanitary Inspectorate** - Checking MS in action (field activity – safety of toys, administrative checks and sampling for laboratory testing) Ms Mersada Sutovic, Sanitary inspector Ms Zana Jevric Sahman, Sanitary inspector
Day 4– Thursday 29 September 2022	**10:00 – 12:00**	**Administration for Inspection Affairs** - Summary of peer review mission[91] Ms Rada Marković, Chief of WG 28 Mr Zvezdan Cadjenović, member of WG 18 Mr Luka Dedić, Ministry for European Integrations, Secretary of WG 28

[91] Together with Expert 1