Screening report

Montenegro

Chapter 6 – Company Law

Date of screening meetings:
Explanatory meeting: 2 October 2012
Bilateral meeting: 22 November 2012

I. CHAPTER CONTENT

The chapter includes harmonised rules in the field of company law, including financial reporting requirements, intended to facilitate the exercise of the right of establishment.

In the field of **company law**, the Directive on coordination of safeguards which are required of companies for the protection of the interests of members and third parties (2009/101/EC – former First Company Law Directive) includes safeguards providing for mandatory disclosure requirements, limiting the grounds for invalidity of the obligations entered into by companies, as well as limiting the grounds for nullity of public and private limited liability companies. The Eleventh Company Law Directive (89/666/EEEC) similarly provides for disclosure requirements in respect of branches opened in a Member State governed by the law of another State. The Second Company Law Directive (2012/30/EU, recast of 77/91/EEC) contains rules on the formation of public limited liability companies and the maintenance and alteration of their capital. The Twelfth Company Law Directive (2009/102/EC) requires Member States to ensure that their domestic law recognises single-member limited liability companies. The Transparency Directive (Directive 2004/109/EC) requires harmonisation of transparency requirements related to listed companies.

The Third Company Law Directive (78/855/EEC) and the Sixth Company Law Directive (82/891/EEC) harmonise national rules for the protection of shareholders and of creditors in the context of domestic mergers and divisions of public limited liability companies. Directive 2009/109/EC introduces simplified reporting and documentation requirements in the case of mergers and divisions. Directive 2005/56/EC on cross-border mergers provides for rules and procedures to facilitate cross-border mergers of public and private limited liability companies. Directive 2004/25/EC on takeover bids lays down harmonised rules to facilitate cross-border takeovers within the EU as well as improving transparency and protecting minority shareholders in the context of such takeovers. Directive 2012/17/EU on the interconnection of central, commercial and companies registers prescribes the establishment of the system of interconnection of business registers, comprising a European central platform, the national business registers and the e-Justice portal.

The *acquis* also provides for certain European legal forms, *i.e*. the European Economic Interest Grouping - EEIG (Regulation 2137/85) and the European Company - *Societas Europaea* or SE (Regulation 2157/2001), while leaving several aspect of their internal structure and operation to be regulated through the domestic law of Member States.

The shareholders' rights Directive 2007/36/EC introduces minimum standards for the exercise of certain rights of shareholders in the listed companies. Four Commission recommendations (2004/913/EC, 2005/162/EC, 2009/385/EC, and 2009/384/EC) address corporate governance principles about the remuneration of directors and remuneration in financial institutions, about the independence of non-executive directors and about board committees.

In the field of **accounting and auditing**, the *acquis* includes valuation rules and layouts for balance sheets and profit & loss accounts for annual (Fourth Company Law Directive 78/660/EEC) and consolidated (Seventh Company Law Directive 83/349/EEC) accounts of public and private limited liability companies. These directives also set out audit requirements, as well as disclosure and publication obligations.

In addition, Regulation (EC) No 1606/2002 on the application of international accounting standards requires EU companies listed on a regulated market to draw up their consolidated accounts in accordance with international accounting standards which have been endorsed by the Commission. Under this Regulation, Member States may also decide to apply International Financial Reporting Standards to the individual and/or consolidated accounts of companies. Regulation No 1569/2007 establishes a mechanism to determine which third country accounting rules are equivalent to those of the EU. Decision 2008/961/EC and Regulation (EC) No 1289/2008 identify accounting standards of certain countries as equivalent to International Financial Reporting Standards for use within the EU.

Finally, the Eighth Company Law Directive (2006/43/EC) on statutory audits harmonises rules including *inter alia* the approval and registration of statutory auditors, external quality assurance, public oversight, auditor independence and the application of international standards of audit.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Montenegro and the discussion at the screening meetings. Montenegro indicated that it can accept the *acquis* regarding company law and that it does not expect any difficulties to implement the *acquis* by accession.

II.a. Company law

Company Law in Montenegro is governed primarily by the Law on Business Organizations (Official Gazette No 08/02/2002 and No 40/11), the Law on Takeover of Joint Stock Companies (Official Gazette No 18/11), the Law on Accounting and Auditing (Official Gazette No 69/05, No 80/08 and 32/11), the Law on Securities (Official Gazette No 59/00 and No 40/11), the Law on Investment Funds (Official Gazette 2011/11), the Labour Law (Official Gazette No 49/08), the Law on the Prevention of Conflict of Interests (Official Gazette No 01/09), and the Banking Act (Official Gazette No 17/08).

The Montenegrin law recognises the following main legal forms of business entities: individual entrepreneur, general partnerships, limited partnership, limited liability company, joint stock company, and foreign company branch.

The Montenegrin law refers to a public limited liability company as a "joint stock company" and to a private limited liability company as a "limited liability company".

The following table shows the number of main types of business entities registered in Montenegro as of 31 October 2012.

Organisational form	**Number of entities**
Individual entrepreneur	17,078
General partnership	422
Limited partnership	58
Limited liability company	26,782
Joint stock company	341
Foreign company branch	436

Montenegro stated that the **disclosure requirements in respect of companies, validity of obligations and grounds for nullity** for limited liability and joint stock companies are regulated by the Law on Business Organizations, the Law on Securities and the Law on Investment Funds.

Montenegrin law requires all business entities to register in the Central Registry of commercial entities, a body established as part of the Tax Administration. The information is stored in electronic form and on paper. Montenegro indicated that the Register is open to the public. Any person may examine the contents of the Register for free via the website of the Central Registry (www.crps.me). Access to hard copies is granted after filing a written request and paying a fee. Information on the establishment of companies is published in the Official Gazette. The registration procedure is done simultaneously in the Business Register (registration of business entity), Tax Administration (basic tax registration) and Customs (customs number).

Letters and documents of a limited liability and joint stock company must specify the name of the Central Registry, the number of the company in the Central Registry, the legal form of the company, its name, and its registered office as well as information that the company is being liquidated, if relevant.

The Montenegrin law regulates the validity of obligations entered by or on behalf of the company. A company submits to the Central Registry for publication the data of persons authorized to represent it and information whether these persons may represent the company jointly or alone. The power of representation, if disclosed according to the Law, may be relied on against third parties. Other limits of the powers of the company's bodies cannot be asserted as a defence against third parties, even if disclosed.

The nullity of a joint stock company may be declared only by the Commercial Court. An application seeking the declaration of nullity may be submitted within three years from the day of the registration of the company. By declaring the nullity of the company, the shareholders become, without limit, liable for the obligations of the company. Contracts concluded prior to declaring the nullity shall remain in force.

Montenegro stated that it has a low level of alignment with the acquis relating to the harmonization of transparency requirements in listed companies.

Regarding **disclosure requirements in respect of branches**, the legal framework described above for disclosure in respect of limited liability companies and joint stock companies applies. Foreign companies establishing a foreign company branch in Montenegro are obliged to register in the Central Registry within 30 days from the day of the establishment of the branch. Montenegro applies the same disclosure requirements to branches established by all third countries.

The Law on Business Organisations provides that a limited liability and joint stock company may be a **single-member company.** Such company may be set up by formation or acquisition of all shares. Montenegro indicated that it has not used an option left to Member States, allowing them to lay down special provisions or sanctions for cases where a natural person is the sole member of several companies or a single-member company or any other legal person is the sole member of a company.

Montenegro indicated that the sole member exercises the powers of the general meeting; his decisions are taken in writing or recorded in the books of the company. Contracts, other than daily business transactions at customary terms, between the sole member and the limited liability company are also recorded in the books of the company. There is no such provision as regards a single-member joint stock company.

The area of **capital formation, maintenance and alteration of public limited liability companies** is governed by the Law on Business Organisations and the Law on Securities. As regards formation of joint stock companies, Montenegrin law provides for the minimum content of the foundation agreement and a charter.

The minimum initial capital of a company is 25,000 EUR. Shares are issued, kept and transferred in an electronic form. Shares can be issued for cash or non-cash considerations. Upon the establishment of a company, shares must be paid in full. Shares may be issued at a price lower than their nominal value. A company may purchase its own shares under certain conditions.

The Law on Business Organisations provides guidance on the allocation of the profit or loss coverage.

The shares acquired, purchased and held by the company, as well as shares purchased by a person in his own name but for the account of the company, including also previously acquired shares, may not exceed 10 % of the share capital of the company. Own shares acquired by the company up to 10% of the share capital must be disposed within 12 months from their acquisition. Own shares acquired under special conditions, including reduction of capital or restructuring, and exceeding 10% of the share capital must be disposed within three years from their acquisition.

Montenegrin law allows for an increase and reduction in share capital. According to Montenegro, a company cannot reduce its capital if it does not offer additional guarantees for its liabilities to each creditor who demands them and whose claims were in force prior to the day of the publication of the decision to reduce the capital.

Domestic mergers of public limited liability companies are regulated by the Law on Business Organisations, which recognises merger by acquisition of one or more companies by another company and merger by formation of a new company. Montenegro stated that certain discrepancies with the acquis remain as regards merger when one or more of the companies involved in the merger are in liquidation.

A draft contract of merger is negotiated and signed by the respective management boards. Independent experts are appointed to examine the draft contract of merger.

Shareholders are entitled to access the merger documentation at least 30 days before the shareholders' meeting, free of charge. The contract of merger is valid when it is adopted by the general meetings of shareholders of the companies involved in merger and when all signatures in the contract are authenticated in accordance with the law. A merger is completed as of the day of its registration with the Central Registry, which publishes the contract of the merger in the Official Gazette. Montenegro stated that it would need to provide for a possibility to remove irregularities regarding the merger within a specified period prior to a court decision on the merger. Furthermore, certain discrepancies remain

as regards administrative and judicial review and the rights of the company which is overtaken.

Regarding protection of creditors, within three months from the day of publishing the contract of merger in the Official Gazette creditors may request the Court to cancel the merger, if creditors are not provided with adequate protection of their claims.

Special provisions apply in case the recipient company holds at least 90% of shares of the company which is taken over ("simplified merger").

Domestic divisions of public limited liability companies are regulated by the Law on Business Organisations, which recognises division by transferring assets and liabilities to two or more existing or newly formed companies. Montenegrin provisions on domestic divisions refer to joint stock companies. With the exception of a few special provisions on divisions, the provisions on mergers apply also to divisions.

In the case of transfer of assets and liabilities to two or more existing companies, the boards of directors of companies involved in the division must agree on a detailed draft contract regulating mutual relations. The Law specifies the contents of this document.

In the case of division to two or more newly founded companies, the board of directors prepares for the general meeting of shareholders a written proposal on the terms and the manner of the division. Montenegro indicated that the distribution of shares of companies formed by way of division is done proportionally to the ownership structure of the dividing company, unless there are specially stated reasons. Shareholders who are dissatisfied with the allocation may request a buyback of their shares.

There are no provisions on **cross-border mergers** in Montenegrin law. Montenegro stated that certain rules relating to cross-border mergers will be new to the corporate environment in Montenegro and that the alignment may therefore pose a challenge. They include: simplified rules on cross-border mergers via acquisition by a company which holds all the shares of the acquired company, scrutiny of the legality of the cross-border merger as well as employees' participation (to be dealt with under chapter 19 - Social policy and employment).

Take-over bids are regulated by the Law on Takeover of Joint Stock Companies, the Law on Securities, the Law on Business Organization, as well as by the Rules on Content, the Terms and Manner of Publication of Securities Issuers' Financial Statements and the Guidelines on publishing information on securities ownership by the Central Depository Agency.

Montenegrin law regulates the conditions, manner and procedure for the takeover of joint stock companies, the conditions for a public takeover bid, rights and obligations of the participants in the takeover procedure, and supervision over the takeover. The provisions concern mandatory and voluntary bids.

A natural or legal person that, either individually or with persons acting in concert with him, directly or indirectly, acquires shares that exceed 30% of the voting shares of the offeree company is obliged to announce a takeover bid for any further acquisition of shares of the offeree company. The Law specifies cases when the offeror is not obliged to carry out the takeover procedure. The Law determines the way of calculating the price of shares in a mandatory public takeover bid.

During carrying out a public takeover procedure, the offeror is obliged to provide a public takeover bid to all shareholders with voting rights without limitation of the number, i.e. the percentage of shares, with some exceptions specified by the law. The offeror is obliged to buy all shares offered upon completion of the bid. The offeror submits the request for approval of a public takeover bid to the Securities Commission. Following the approval, the offeror is obliged to announce a takeover prospectus (offer document). The Law specifies the minimum contents of this document.

If the offeror in a public takeover bid acquires shares of the offeree company so that altogether he holds more than 75% of voting shares of the offeree company, the owners of remaining voting shares have the right to offer shares for redemption to the offeror.

Montenegro stated that Montenegrin law does not contain provisions on the **Statute for a European Company** (*Societas Europaea*) or the **European Economic Interest Grouping** (EEIG). Montenegro indicated that it does not expect any problems to align with the relevant acquis.

Rights of shareholders in listed companies are regulated by the Law on Business Organisations. The Law contains provisions on convening a general meeting, quorum, the right to put items on the agenda of the general meeting and to table draft resolutions, participation and voting in the general meeting, participation in the general meeting by electronic means, the right to ask questions, voting by proxy and rules on determining and publishing voting results.

According to Montenegro, all shareholders are treated equally in the same circumstances. The notice on convening the general meeting of shareholders is submitted no later than 30 days prior to the meeting. To reach a quorum, shareholders having at least half of the total voting shares must be present, represented by authorized person or vote by proxy. If the required quorum is not reached, the general meeting of shareholders may be reconvened with the same agenda, provided that the notice of convening the meeting is published at least seven days (cf. 10 days required by the acquis) prior to holding the repeated general meeting.

The Law specifies the mandatory contents of the notice on convening the general meeting. The documents with proposals of decisions must be accessible to shareholders at least 20 days (cf. 21 days required by the acquis) before the general meeting. Shareholders holding no less than 5% of the share capital are entitled to include items on the agenda of the general meeting and proposals of decisions.

Montenegrin law allows shareholder participation in the general meeting by electronic means. Voting by proxy is also allowed.

Montenegro states that **the remuneration of directors, the independence of directors and the committees of the supervisory board** as well as **remuneration policies in the financial services sector** are regulated by the Law on Business Organisations, the Labour Law, the Banking Act, the Law on the Prevention of Conflict of Interests as well as two codes: the Corporate Governance Code and the Code of Business Ethics of the Chamber of Economy of Montenegro.

Under the Law on Business Organisations, only the general meeting of shareholders has the right to set the remuneration of the board of directors. Further guidance concerning

the remuneration of directors is given in the Corporate Governance Code, which is recommended to each listed company. The Code recommends that companies should adopt and implement a transparent, competitive, fair and accountable remuneration policy for members of the board of directors.

Montenegro stated that the Law on the Prevention of the Conflict of Interests prohibits public officials from being the president or member of a management body or supervisory body, or the executive director or member of management in a company.

II.b. Corporate accounting and auditing

Corporate accounting and auditing are regulated in Montenegro by the Law on Accounting and Auditing (Official Gazette No 69/05, No 80/08 and No 32/11), the Law on Business Organisations (Official Gazette No 06/02, No 17/07, No 80/08, No 40/10, and No 36/11), the Law on Securities (Official Gazette No 59/00 and No 40/11) as well as the following implementing legislation: the Decree on Entrusting of Affairs of Public Administration Bodies Competent for Accounting and Auditing (Official Gazette No 44/07and 33/10), the rulebook on form and content of forms of financial statements of companies and other legal entities (Official Gazette No 05/11) and the rulebook on financial statements of investment funds (Official Gazette No 32/12).

Montenegrin law on accounting and auditing covers all legal entities engaged in economic activities and parts of foreign companies. According to the Law on Business Organization, those are joint stock companies and limited liability companies, and according to other laws, provisions of the Law on Accounting and Auditing also apply to limited partnership (Law on Tax on profit of Legal Entities), partnerships and entrepreneurs (Law on Personal Income Tax). Montenegrin law addresses both **annual and consolidated financial statements**.

Legal persons prepare financial statements in compliance with **International Accounting Standards (IAS), or International Financial Reporting Standards (IFRS)**, as promulgated by the International Accounting Standards Board (IASB). The Institute of Certified Accountants of Montenegro, as the holder of consortium, has been entrusted by Decree to translate, adopt and publish these international standards. The Institute accepts and uses the translations of the consortium partner, the Association of Accountants and Auditors of Serbia, authorized by the International Federation of Accountants (IFAC) to translate and publish IAS/IFRS for Montenegro, Serbia, and Bosnia and Herzegovina.

Montenegrin law requires a true and fair presentation of financial information. The financial reporting includes a statement on financial position/a balance sheet, an income statement, a cash-flow statement, a statement on changes in equity, accounting policies, notes and additional information. The rulebook on financial statements prescribes a model of forms of financial statements. The contents of financial statements is harmonised with the IAS/IFRS.

There is no explicit requirement as regards the preparation, contents, consistency check and publication of an annual (i.e. “management”) report. Currently, the Montenegrin law provides only certain rules for the reporting of annual performance of joint stock companies. This refers to the report on the performance of such company, as a single economic unit, while the law does not define “economic unit”. Montenegro stated that the statutory auditor, where one has been appointed, does not need to check the consistency

of the management report with the annual financial statements or provide an opinion on the report in addition to the opinion on the financial statements of the company.

The criteria for defining small, medium-sized and large enterprises differ from the acquis on accounting as regards the ceilings of total revenue and total assets. Montenegro confirmed its intentions to align with the relevant directive in this respect.

A large and medium-size legal entity as well as parent entities compiling consolidated financial statements, and those issuing securities and other financial instruments traded on an organized market, are obliged to submit financial statements to the Tax Administration. The Law provides for the electronic submission of financial statements, but it is not applied yet, as the Law on Electronic Signatures is still not fully implemented. The statistical processing of financial statements is not conducted by the Tax Administration but the Central Bank. Data on foreign companies' investments is submitted to the Central Bank, and the Central Bank controls the accuracy by comparing the data with financial statements. Financial statements are still not published on the website of the Tax Administration, although it is provided by the Law.

A small legal entity submits to the Tax Administration its financial statement containing the balance sheet, the income statement, and the statistical annex.

A joint stock company, other entity issuing securities and other financial instruments traded on an organized market, as well as a parent entity compiling consolidated financial statements, are obliged to submit to the Securities Commission the annual and quarterly financial statements. Such a company is not required to prepare a corporate governance statement. The Securities Commission publishes the financial statements on its website. Montenegro stated that there are no records or control if all the entities required to prepare consolidated financial statements actually follow this procedure.

Montenegro indicated that medium-size enterprises are not subject to compulsory audit. The audit of financial statements is obligatory for joint stock companies, large entities, and parent legal entities that jointly with its subsidiaries meet the requirements to be classified as large legal entities. The audit of financial statements is also obligatory for insurance companies, banks, and other financial institutions, the Central Depositary Agency (CDA), authorized participants on the securities markets, investment funds, and other collective investment schemes. A report on the audit with an opinion on the financial statement is submitted to the Tax Administration.

The Council for Accounting and Auditing, established in 2009, provides advice and expertise to the Government on the development and improvement of the accounting and auditing practice in Montenegro. The Council has seven members appointed from among experts in the field of accounting, finances, and auditing. The Council is composed of representatives of the Institute of Certified Accountants of Montenegro, Ministry of Finance, Securities Commission, Insurance Supervision Agency, Central Bank, Commercial Court and Ministry of Economy.

Parent entities that have control over one or more subsidiaries are obliged to compile, submit, and disclose consolidated financial statements, in line with the IAS/IFRS.

The provisions on the obligatory audit apply to the consolidated financial statements.

The Law on Accounting and Auditing states that the Central Bank (for banks) and the Insurance Supervision Agency (for insurance companies) publish quarterly and annual financial reports on their websites. The Law on Securities states that the Securities Commission publishes on its website consolidated financial statements for all legal entities which carry out consolidation as well as for all legal entities listed on the stock exchange.

Statutory audits are regulated by the Law on Accounting and Auditing and the Decree on entrusting of affairs of the public administration bodies competent for accounting and auditing. The Law defines conditions for conducting audits, the approval of statutory auditors and audit firms, the manner of conducting audits, and rules on revoking auditing licences.

Statutory audits may only be performed by certified auditors or auditing firms. The Ministry of Finance as the competent authority delegated powers to the Institute of Certified Accountants (ISRCG) to perform the certification of professional accountants. The holder of the title "certified accountant" acquires the right to become the authorized auditor after fulfilling further conditions. Nostrification is carried out in accordance with the Rulebook from 2011, according to which foreign nationals are obliged to take two exams: Tax System and Business Law, and are also obliged to be proficient in Montenegrin. A licence may be revoked from an authorised auditor if he carries out auditing activities in an unprofessional manner and incompliant with the International Standards on Auditing and the IFAC Code of Ethics, and if the certificate is taken by the parent association.

The Ministry of Finance maintains a register of auditors and a register of audit firms. Registers are published on the official website. There are currently 64 certified auditors and 26 audit firms in Montenegro. Audit firms are required to have a majority held by auditors, or an auditor, and members of the company can be natural and legal persons.

A large legal entity must have the auditing board of at least three members. Montenegro stated that the definition of the tasks of the auditing board is partially aligned with the acquis, in terms of the independence of the members of this board.

The Council for Accounting and Auditing has an advisory role in the area of auditing (see section on annual accounts). Audit reports are submitted to the Tax Administration. All the authorized participants in the securities market are obliged to submit their audit reports to the Securities Commission.

Montenegro stated that the Law on Accounting and Auditing does not contain provisions in respect of a body for public oversight of auditors but intends to incorporate this concept in its legislation.

Montenegro stated that it plans to amend the Law on Accounting and Auditing in 2013.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Montenegro has reached a good level of alignment with the acquis covered by this chapter. In the area of company law Montenegrin legislation has reached a high level of alignment with the acquis. The key aspect which remains to be aligned with is the concept of cross-border mergers. The legislation in the area of accounting and auditing is already broadly aligned but further alignment is needed in certain fields.

III.a. Company law

The Law on Business Organisations is broadly aligned with the First Company Law Directive related to **disclosure requirements, validity of obligations and grounds for nullity** of public and private limited liability companies. However, certain provisions concerning disclosure are not in line with the acquis. Montenegro also needs to align with the Transparency Directive.

The Law on Business Organisations is fully aligned with the Eleventh Company Law Directive concerning **disclosure in respect of branches**.

The Law on Business Organisations is largely aligned with the Twelfth Company Law Directive on **single-member companies**. Some adjustments will be necessary as regards the relations between the sole member and a single-member joint stock company.

The Law on Business Organisations is broadly aligned with the Second Company Law Directive as regards **capital formation, maintenance and alteration of public limited liability companies**. Certain adjustments will be necessary in particular concerning the price of issuing of shares, appointment of independent expert for the evaluation of contribution in kind, formalities applicable in case of acceptance of company's own shares as security, certain conditions relating to the acquisition of company's own shares and creditor protection in case of capital reduction.

The Law on Business Organisations is broadly aligned with the Third Company Law Directive regarding **domestic mergers** and with the Sixth Company Law Directive regarding **domestic divisions** of public limited liability companies. However, both for domestic mergers and domestic divisions further alignment is needed to ensure full alignment. Certain discrepancies remain in particular as regards a definition of the responsible body (board of directors), certain publication requirements, some rights of minority shareholders, the role of independent experts, documents available to shareholders prior to the decision on the merger/division, and the nullification procedures.

Regarding divisions, contrary to the acquis which covers all companies, Montenegrin provisions on domestic divisions refer only to joint stock companies. There are also some discrepancies as regards the definition of domestic divisions, the contents of the terms of division and the contents of certain documents prepared by the board of directors. Further alignment will be also necessary as regards certain rights of creditors.

Montenegro will need to introduce provisions to align with the Tenth Company Law Directive regarding **cross-border mergers** of public limited liability companies.

The Montenegrin legislation, mainly the Law on Takeover of Joint Stock Companies, is highly aligned with the Thirteenth Company Law Directive on **take-over bids**. Certain adjustments will be necessary as regards the definitions, the control of employee share schemes where the control rights are not exercised directly by the employees, the contents of mandatory information on companies to be published, certain provisions on public bid as well as rules relating to information and consultation.

Montenegro will need to recognise the **statute for a European company** and the **European economic interest grouping**.

Montenegro has partly aligned with the acquis on the exercise of **shareholders' rights**. The discrepancies concern mainly different deadlines for the convocation of the general meeting and the record date, certain compulsory information in the convocation, formalities for the appointment of proxy, limitation of persons who can act as proxy as well as voting by correspondence and the removal of certain impediments to the effective exercise of voting rights.

The Montenegrin legislation provides for most principles foreseen in the Commission's Recommendations concerning the **remuneration of directors** and the **independence of directors and the committees of the supervisory board.** Montenegro has also introduced certain provisions aligning with the Commission recommendation on **remuneration policies in the financial services sector**.

III.b. Corporate accounting and auditing

Montenegrin legislation is broadly aligned with the Fourth Company Law Directive on **annual accounts** as well as with the Seventh Company Law Directive on **consolidated accounts**. Further alignment is needed in particular as regards the thresholds applicable to the definition of the size of companies and the extension of the accounting and auditing rules to companies which are *de facto* limited liability companies. Medium-sized entities will need to be subject to a statutory audit.

Montenegro will also need to ensure that companies prepare certain disclosures where the acquis goes beyond those required by International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS), both in individual and consolidated accounts. The contents of a balance sheet, income statement and notes is harmonised with the IAS/IFRS. These differ slightly from those prescribed by the acquis, however the latter provides for some leeway in case IAS/IFRS apply. Nevertheless, due to the interaction of the accounting directives with the IAS/IFRS, the acquis requires some additional information compared to that required by IAS/IFRS, mainly in the notes. Such information is currently not required by Montenegrin law.

Further efforts are needed in order to align with the acquis as regards the contents, the consistency check and the publication of a management report; the annual performance report prescribed for Montenegrin joint stock companies may represent a first step in this direction.

As required by the acquis, companies that have issued securities on a regulated market will need to prepare and publish a corporate governance statement. Montenegro needs to ensure that companies in the scope of the Montenegrin law on Accounting and Auditing publish their financial statements, the annual (i.e. "management") report, and the audit report thereon in the central register, commercial register or companies register according to Directive 2009/101/EC. The acquis foresees alleviations for micro and small companies.

Montenegrin law will need to require that a consolidated management report includes a review of the development, business performance, position of an entity along with the description of risks and expected uncertainties.

Montenegro applies **international accounting standards**

Montenegrin legislation is partially aligned with the Eighth Company Law Directive on **statutory audits**. Further alignment is necessary in particular as regards professional ethics, independence, objectivity, confidentiality and professional secrecy, audit fees, the specific requirements for statutory auditors and audit firms which carry out audits of public interest entities such as banks, insurance companies or listed companies. Montenegro will also need to align with the acquis as regards the establishment of an external quality assurance system, the independent public oversight for auditors, the cooperation and exchange of information with other regulatory and supervisory authorities; the regulation of third country auditors and audit firms as well as cooperation with competent authorities from third countries.