



Ministry of Public
Administration,
Digital Society and Media



ASSESSMENT OF THE DIGITAL GOVERNANCE FRAMEWORK IN MONTENEGRO

*Analysis of Montenegro's Digital
Government Legal Framework*

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List of abbreviations and acronyms	
DT	Digital transformation
UNDP	United Nations Development Programme
MNE	Montenegro
ED	Electronic document
ES	Electronic signature
ESe	Electronic seal
Ei	Electronic identification
EU	European Union
EG	Electronic government
EGDI	E-Government Development Index
eIDAS	EU Regulation on Electronic Identification
QES	Qualified electronic signature
SES	Safe electronic signature
SEDES	Single Electronic Data Exchange System
EUR	Euro

Chapter 1 Introduction

Introductory remarks

The process of public administration digital transformation commenced in Montenegro more than a decade ago, with preparation and adoption of the first legislation

in the field of information security and electronic documents. Those legal approaches were an introduction to a complex, long-term process and laid the foundation for reforms that are taking place simultaneously with Montenegro's efforts and activities to join the European Union. Throughout this process, significant steps have been made. Legislation has been improved several times and aligned with the European, so today it can be deemed highly developed.

On the other hand, there has been different progress as regards implementation of the legislation in different areas. Thus, there are areas today in which the digital government institute has been fully implemented, while there are some areas that are lagging behind. One of the objectives of this document is precisely to identify areas and regulations with significant room for improvement in terms of digital transformation.

The assessment of Montenegro's digital government legal framework is carried out within the Digital Governance Acceleration project, under the auspices of UNDP. The fundamental goal of this project is to support the digital government transformation in Montenegro so as to improve institutional resilience and boost trust in institutions. The main objective of this activity is to support the transition of public administration in Montenegro towards adaptive, efficient and open government that puts human development at the core of digital transformation.

The digital transformation (DT) process involves a set of numerous changes that cover virtually all areas of the society: legal and political order, social and economic structures, culture and others. A process like this implies also major activities in the domain of legal framework adaptation. Implementation of DT in practice unfolds through adoption of management models that are based on digital technologies used to provide improved forms of existing and new services, both in the public and private sectors. The key feature of DT, therefore, is the substitution of non-digital (paper or manual) management methods or outdated digital technologies with newer, modern technologies with much better performance in terms of cost-effectiveness, reliability and efficiency.

This document is a snapshot analysis of the process of legal adaptation to DT in Montenegro. It seeks to analyse legislation, from a relatively narrow perspective, as well as the level of development of individual digital services that together with digital infrastructure serve as a basis for public administration transformation. The analysis also includes a methodology that can be used as a basis for legal analysis of any other regulatory framework segment, which may not have been covered by this analysis. The mentioned methodology is presented in Chapter 2. It lists specific actions within legal analysis of each piece of legislation, i.e. the method used to identify barriers and define appropriate measures with the aim to ensure provision of digital services in practice.

The purpose of this document reflects the need to govern the process of identifying room for improvement of some legislative approaches to digital government and introduction of new digital services for citizens, businesses and public administration in a single and

comprehensive manner using solutions that are verified by the best international practice. Quality preparation of the digital government legal framework is an indispensable segment of public administration development, and consequently a prerequisite in the reforms that accompany that process.

Used sources

The document builds on the Public Administration Reform Strategy of the Government of Montenegro and the Action Plan 2018-2020 for implementation of the Public Administration Reform Strategy in Montenegro 2016-2020, which is a document that is no longer in force but contains significant inputs related to the digital transformation. The new Public Administration Reform Strategy in Montenegro 2021-2025 is expected to include guidelines for introduction of major improvements, especially in the field of public administration digital transformation, whose role and importance was particularly obvious in the context of the coronavirus pandemic. The aim of this document, therefore, is to serve as a complementary tool in the process of preparation of the new Public Administration Reform Strategy of the Government of Montenegro, but also a source of information while defining specific goals, principles and approaches of public authorities.

The Montenegrin state administration system was viewed, within the methodology applied, as a single system consisting of: goals, functions, and operation and management mechanisms, integrated into the wholeness of legislative and executive roles of public authorities. Resources were viewed as human, financial, IT, and intellectual and innovative.

The applicable laws and bylaws were used as basic sources of information about legislation, as well as EU directives, regulations and other acts, sources of similar pieces of legislation from other countries, but also official documents submitted through direct communication with representatives of users. As a fundamental source of information about current legal framework in Montenegro and positive legislation that directly or indirectly relates to the digital management processes, we used all available databases and sources of legislation, especially the Official Gazette of Montenegro, which is a basic medium offering an insight into the current legislation in a simple and coherent way.

As for operational information and internal documents used as a basis for analysis and preparation of this document, the project team relied on information received in meetings held with authorized representatives of the Ministry of Public Administration, Digital Society and Media and UNDP.

Within the study conducted under the auspices of the United Nations called E-Government Survey 2020, Digital Government in the Decade of Action for Sustainable Development (with addendum on COVID-19 Response)¹, Montenegro received positive

¹ E-Government Survey 2020, Digital Government in the Decade of Action for Sustainable Development with addendum on COVID-19 Response [https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20\(Full%20Report\).pdf](https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20(Full%20Report).pdf)

assessment and was ranked 75th on the list of 170 countries and regions, and the key indicator, the so-called EGDI E-Government Development Index selected for Montenegro, places it in the category of "highly ranked".

The study measures the effectiveness of e-government in providing public services and identifies patterns in the e-government development and performance, as well as countries and regions where the potential of information and communication technologies and e-government has not been fully exploited and where capacity development support could be useful.

The OSI component of EGDI shows that there is room for improvement. This component is a relatively complex indicator that measures the use of information and communication technology to provide public services at the national level. The study assesses technical features of national websites, as well as e-government policies and strategies that are applied in general and in specific service sectors. The results are provided in tables and presented as a set of standardized index values on a scale from 0 to 1, with 1 indicating the highest rating for online service provision and 0 the lowest. OSI values, such as EGDI values, are not designed as absolute measurements. Instead, they record and compare network performances of different countries at a given time. According to this indicator, Montenegro is at the level of "medium developed countries", which is a decent result, but at the same time indicates that there is room for improvement.

Chapter 2 Description of applied methodology

General approach

A legal analysis of two groups of legislation is presented in this report.

The first group consists of so-called special legislation. Here, through a legal analysis of the provisions of four pieces of legislation and accompanying secondary legislation, we assessed the current legal framework governing matters of relevance for the digital governance context in a narrower sense, i.e. legislation that specifies fundamental instruments and rules and define processes for implementation of different services.

Results of the analysis of individual legal approaches are presented in the main body of the document, while detailed legal analysis of the above-mentioned regulations is given in Annex 1, which is an integral part of this document.

The following regulations were analysed and reviewed:

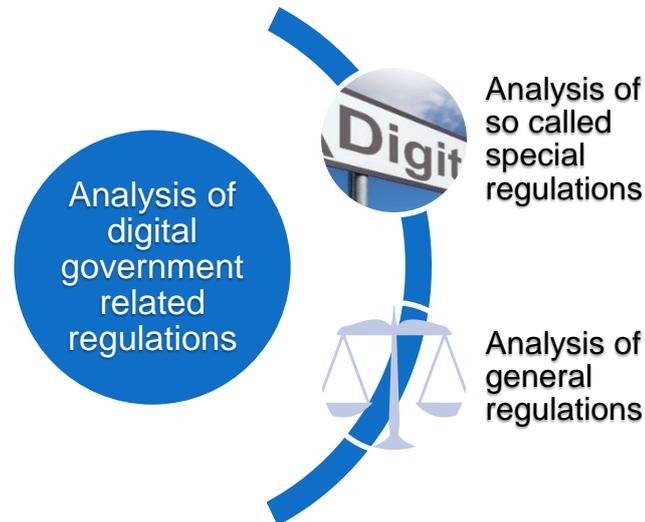
1. Law on Electronic Identification and Electronic Signature (Official Gazette of Montenegro nos. 31/2017 and 72/2019),
2. Rulebook on detailed conditions for qualified electronic trust service providers (Official Gazette of Montenegro no. 20/2020),
3. Rulebook on detailed requirements for qualified electronic registered delivery service (Official Gazette of Montenegro no. 20/2020),
4. Rulebook on the detailed content and method of keeping record of electronic trust service providers and the register of qualified electronic trust service providers (Official Gazette of Montenegro no. 20/2020),
5. Rulebook on minimum technical standards and accompanying procedures for determining the electronic identification system security level (Official Gazette of Montenegro nos. 53/2018 and 20/2020),
6. Rulebook on measures and activities to protect certificates for electronic signatures and electronic seals (Official Gazette of Montenegro nos. 53/2018 and 20/2020),
7. Rulebook on the method of assessing the conformity of qualified means used to make electronic signatures and electronic seals, and the content of the list of certified qualified means used to make electronic signatures and electronic seals (Official Gazette of Montenegro nos. 53/2018 and 20/2020),
8. Rulebook on the method of verification and provision of the service of safekeeping a qualified electronic signature and qualified electronic seal (Official Gazette of Montenegro no. 53/2018),
9. Rulebook on the method of providing electronic trust services and qualified electronic trust services to state administration bodies (Official Gazette of Montenegro no. 20/2020),
10. Rulebook on technical and operational requirements for a hub - the point of connection of the electronic identification system, and for the process of establishing the interoperability framework for the electronic identification system (Official Gazette of Montenegro no. 20/2020),

- 11.** Regulation on the method of determination of the identification number (Official Gazette of Montenegro no. 11/2020),
- 12.** Law on Electronic Document (Official Gazette of Montenegro nos. 5/2008 and 40/2011 - other law),
- 13.** Proposed Amendments to the Law on Electronic Document (Official Gazette of Montenegro nos. 5/2008 and 40/2011 - other law),
- 14.** Law on Electronic Government (Official Gazette of Montenegro no. 72/2019),
- 15.** Rulebook on the layout and content of forms for submitting data on electronic registers and information systems, as well as on the content and method of keeping the meta-register (Official Gazette of Montenegro 111/2020),
- 16.** Rulebook on the method of granting single licenses (Official Gazette of Montenegro no. 110/2020),
- 17.** Rulebook on the method of opening, suspending and cancelling accounts in the active directory and a single official address for electronic communication of the state administration bodies (Official Gazette of Montenegro no. 106/2020),
- 18.** Rulebook on the content and layout of the application form for getting approval of the concept design, i.e. project documentation for the establishment or improvement of the information system at a state administration body (Official Gazette of Montenegro no. 111/2020),
- 19.** Rulebook on accessibility standards (Official Gazette of Montenegro no. 105/2020),
- 20.** Rulebook on technical conditions and security standards for access to the single system for electronic data exchange (Official Gazette of Montenegro no. 108/2020),
- 21.** Rulebook on conditions that must be met by facilities or premises for installation and operation of computer and communication equipment (Official Gazette of Montenegro no. 104/2020),
- 22.** Regulation on the administration and other matters of relevance for the operation of the Single Electronic Data Exchange System (Official Gazette of Montenegro 113/2020),
- 23.** Law on Information Technology Security (Official Gazette of Montenegro 14/2010 and 40/2016),
- 24.** Rulebook on Information Technology Security Standards (Official Gazette of Montenegro 19/2013),
- 25.** Regulation on Information Technology Security Measures (Official Gazette of Montenegro 58/2010 and 55/2015),
- 26.** Law on Administrative Procedure (Official Gazette of Montenegro 56/2014, 20/2015, 40/2016 and 37/2017).

This set of legal documents represents a sort of digital government legal infrastructure, and all other legal instruments, analysed later in this study, build on directly or indirectly or must build on these regulations as a basis for implementation of digital institutes.

In Annex 1, we provided a standard form of legal analysis (fundamental analysis), with a detailed assessment and elaboration of key legal institutes, fully aware that the efficiency of digital transformation depends on their implementation and alignment. Efforts were made to identify inconsistencies of those regulations with best practice and to offer

recommendations for overcoming any identified gaps. Accordingly, we included a special reference to the Law on Administrative Procedure in the analysis, as an essential procedural law that governs procedures between the state in a broader sense and a wide range of entities involved in administrative matters.



Specific approach

The second group of analysed regulations includes so-called "general legislation". Through an analysis of forty-five carefully selected regulations (laws and secondary legislation), we assessed the most relevant ones, i.e. those pieces of legislation whose implementation and alignment affect the efficiency of the digital transformation process. Priority was given to the legislation that the business community identified as a barrier to quality digital government. A model for overcoming the identified gaps was considered, based on the inputs received within the project implementation.

We analysed key provisions from the national legislation that directly affect the digitalization of public administration services. This was done in an effort to identify legislation with procedures and obligations in provision of these services and to make recommendations to overcome the gaps and thus contribute to the improvement of digital government and creation of more efficient electronic services.

Finally, a number of recommendations were given regarding adoption of non-existent or amendments to the existing provisions, which should be enacted in the forthcoming period, especially those required for further alignment of the legal framework with EU regulations.

With the above-mentioned approach, we identified 45 pieces of legislation in total, which were then analysed. They include:

1. Business Organisations Law, Official Gazette of Montenegro no. 65/2020 of 3 July 2020,

2. Rulebook on the registration procedure, detailed content and method of keeping the Central Register of Business Entities, Official Gazette of Montenegro nos. 98/2020 and 115/2020,
3. Law on Agriculture and Rural Development, Official Gazette of Montenegro nos. 56/2009, 18/2011 - other law, 40/2011 - other law, 34/2014, 1/2015, 30/2017 and 51/2017 - other law,
4. Rulebook on the form and method of keeping the register of entities and the register of agricultural holdings, Official Gazette of Montenegro 16/2014 and 37/2018 - other regulation,
5. Regulation on the implementation and use of funds from the Instrument for Pre-accession Assistance of the European Union (IPARD II programme), Official Gazette of Montenegro nos. 16/2016, 4/2018, 11/2018, 46/2019, 8/2020, 19/2020, 43/2021 and 60/2021,
6. Decision on detailed conditions and procedure for payment of old-age allowance, Official Gazette of the Republic of Montenegro nos. 52/2015, 4/2016 and 21/2017,
7. Rulebook on detailed content and method of establishing records of agricultural land plots, Official Gazette of Montenegro no. 37/2018,
8. Law on Tourist Organizations, Official Gazette of the Republic of Montenegro nos. 11/2004, 46/2007, 40/2011 - other law, 45/2014, 42/2017 and 27/2019,
9. Law on Tourism and Hospitality, Official Gazette of Montenegro nos. 2/2018, 4/2018, 13/2018, 25/2019, 67/2019 - other law, and 76/2020,
10. Regulation on the form, content, and method of keeping and using the single record of tourist traffic, Official Gazette of Montenegro no. 8/2012 and 38/2014,
11. Law on Pension and Disability Insurance, Official Gazette of the Republic of Montenegro nos. 54/2003, 39/2004, 61/2004 - other law, 79/2004, 81/2004 - corrigendum, 29/2005 - other law, 12/2007 - other law, 13/2007 - other law, 14/2007 - Decision of the CC of the Republic of Montenegro, 47/2007 and the Official Gazette of Montenegro 79/2008, 7/2010 - Decision of the CC of Montenegro 14/2010, 78/2010, 34/2011, 40/2011 - other law, 66/2012, 36/2013 - other law, 38/2013, 61/2013, 6/2014 - corrigendum, 60/2014-I, 60/2014-II, 10/2015, 44/2015 - Decision of the CC of Montenegro 42/2016, 55/2016 and 80/2020,
12. Internal Trade Law, Official Gazette of Montenegro nos. 49/2008, 40/2011 - other law and 38/2019,
13. Electronic Commerce Law, Official Gazette of the Republic of Montenegro no. 80/2004 and Official Gazette of Montenegro no. 41/2010 and 56/2013,
14. Civil Registers Law, Official Gazette of Montenegro nos. 47/2008, 41/2010, 40/2011 - other law, and 55/2016,
15. Identity Card Law, Official Gazette of Montenegro nos. 12/2007, 73/2010, 28/2011, 50/2012, 10/2014 and 18/2019,
16. Rulebook on the method of issuance of ID card and the cost of the ID card form, Official Gazette of Montenegro no. 28/2008 of 30 April 2008,
17. Foreign Nationals Law, Official Gazette of Montenegro nos. 12/2018 and 3/2019,
18. Law on Notaries, Official Gazette of the Republic of Montenegro 68/2005 and Official Gazette of Montenegro nos. 49/2008, 55/2016 and 84/2018,

19. Law on Personal Data Protection, Official Gazette of Montenegro nos. 79/2008, 70/2009, 44/2012 and 22/2017,
20. Law on National Survey and Real Estate Cadastre, Official Gazette of the Republic of Montenegro no. 29/07 and Official Gazette of Montenegro nos. 32/2011, 40/2011 - other law, 43/2015, 37/2017 - other regulation, nos. 37/2017-I and 17/2018,
21. Law on State Administration, Official Gazette of Montenegro 78/2018,
22. Law on Electronic Government, Official Gazette of Montenegro 72/2019,
23. Law on Administrative Fees, Official Gazette of Montenegro no. 18/2019,
24. Regulation on detailed conditions and method of electronic payment of administrative fees, Official Gazette of Montenegro no. 68/2020,
25. Law on Civil Servants and State Employees, Official Gazette of Montenegro 2/2018, 34/2019 and 8/2021,
26. Law on Local Self-Government, Official Gazette of Montenegro nos. 2/2018, 34/2019 and 38/2020,
27. Law on Public Procurement, Official Gazette of Montenegro no. 74/2019,
28. Labour Law, Official Gazette of Montenegro nos. 74/2019 and 8/2021,
29. Law on Occupational Health and Safety, Official Gazette of Montenegro 3 nos. 4/2014 and 44/2018,
30. Law on Health Care, Official Gazette of Montenegro nos. 3/2016, 39/2016, 2/2017, 44/2018, 24/2019 - other law, 24/2019 - other law, 82/2020 and 8/2021,
31. Rulebook on organization, method of taking and content of professional exams for health workers and health assistants, as well as on membership and work of examination commissions, Official Gazette of Montenegro nos. 23/2017, 34/2017, 62/2018 and 112/2020,
32. Rulebook on specializations, Official Gazette of Montenegro no. 17/2014,
33. Rulebook on detailed conditions for receiving the title of a doctor primarius, Official Gazette of Montenegro no. 60/2016,
34. Law on Credit Institutions, Official Gazette of Montenegro nos. 72/2019, 82/2020 - corrigendum and 8/2021,
35. Law on Payment Operations, Official Gazette of Montenegro no. 62/2013 of 31 December 2013 and 6/2014,
36. Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of Montenegro nos. 33/2014 and 44/2018 and 73/2019,
37. Law on Consumer Protection - users of financial services, Official Gazette of Montenegro no. 43/2015,
38. General Law on Education, Official Gazette of the Republic of Montenegro nos. 64/2002, 31/2005, 49/2007, 4/2008 - other law, 21/2009 - other law, 45/2010, 40/2011 - other law, 45/2011, 36/2013 - Decision of the CC of Montenegro, 39/2013 and 44/2013 and 47/2017,
39. Law on Spatial Planning and Construction of Buildings, Official Gazette of Montenegro nos. 64/2017, 44/2018, 63/2018, 11/2019 - corrigendum and 82/2020,
40. Law on Non-Governmental Organizations, Official Gazette of Montenegro nos. 39/2011 and 37/2017,
41. Civil Procedure Code, Official Gazette of the Republic of Montenegro nos. 22/2004, 28/2005 - Decision of the CC of the Republic of Montenegro, 76/2006 and Official Gazette

of Montenegro no. 47/2015 - other law, 48/2015 (Articles 84 and 85 are not included in the consolidated text), 51/2017, 75/2017 - Decision of the CC of Montenegro, 62/2018 - Decision of the CC of Montenegro, 19/2019 - Decision of the CC of Montenegro, 34/2019, 42/2019 - corrigendum and 76/2020,

42. Law on Interns in Courts and the Public Prosecution Service and on the Bar Exam, Official Gazette of Montenegro nos. 55/2016 and 57/2016 - corrigendum,
43. Law on Court Fees, Official Gazette of the Republic of Montenegro nos. 76/2005, 39/2007 - Decision of the CC of the Republic of Montenegro and 40/2010 - other law,
44. Law on Authentication of Signatures, Manuscripts and Transcripts, Official Gazette of Montenegro no. 85/2018,
45. Law on Archives, Official Gazette of Montenegro no. 9/2010. See: Art. 30 of the Law - 40/2011-1.

Annex 2 includes a tabular overview of the analysis of general regulations. This analysis identifies the type of a legal instrument. Within the hierarchy of legal instruments, we also analysed the presence of related legal instruments of greater or lesser legal force.

To allow the possibility of viewing the analysis's results from several different perspectives, the institutions responsible for implementation of each regulation were identified². As a next step, individual state administration services prescribed by the analysed legal instrument were identified, too. Those are services that can be implemented in practice in a digital format, with special reference to those services that have specific examples of their application in such a format in comparative practice.

Then, we identified and defined the names of corresponding digital services. As a basis for this segment of the analysis, we relied on inputs from users, i.e. the business community. Several digital services were thus proposed:

- **e-business.** A service to support legal entities to register their business, report modifications and in other status-related matters in the CRBE, and in obtaining necessary documents to be able to exercise rights in special procedures (public procurement procedures, getting permits and licenses, etc.),
- **e-farmer.** A service that allows citizens to register an agricultural farm online. It would also allow automation of the processes related to agricultural subsidies, benefits and support provided by IPARD and the Ministry of Agriculture,
- **e-tourism.** A service that allows service providers in the tourism and hospitality sector to complete registration activities online, and to obtain permits, approvals and other documents they need to perform their basic activities,
- **e-contributions.** A online service that allows citizens and businesses to complete necessary actions related to their pension and disability insurance entitlements,

² Identification of the line authority was performed both at the level of organization of responsibilities within the Government of Montenegro, based on the Decree on the organization and method of work of the state administration (Official Gazette of Montenegro 118/2020, 121/2020, 1/2021, 2/2021, 29/2021, 34/2021 and 41/2021), as well as at the next level in the organizational structure of the state administration, where relevant (at the level of an administration, agencies, departments, etc.).

- **e-commerce.** A service that allows providers of trade and e-commerce services to get permits, approvals and other document necessary for regular performance of their basic activities online,
- **e-register.** A service that allows citizens to check their data from the Central Register of Population online and file requests for modifications of the data kept in the register,
- **e-ID documents.** A service that allows citizens to apply for the issuance and/or renewal of ID cards, passports and other identification documents, that allows also payment of fees electronically, as well as provision of proactive services with notification about the expiration of ID card and passport validity dates,
- **e-cadastre.** A service that allows legal entities and natural persons to have a direct access to the real estate cadastre online and file applications for modifications of the data kept in the real estate cadastre,
- **e-payments.** A service that allows online payment of administrative fees for all administrative procedures in which fees are charged, as well as automation of the process to confirm settlement of obligations by the payer,
- **e-examination.** A service that allows citizens to apply for professional exams online (for jobs in national higher education institutions, secondary education institutions; as trainers; as auditors; diplomats; notaries, etc.) as well as the option to pay fees electronically,
- **e-public procurement.** A service that allows participants in public procurement processes to exchange data and documents in the public procurement process: full digitalization of public procurement,
- **e-health.** A service that allows health service providers and users to file applications to get permits and licenses online, or to initiate other public services,
- **e-NGO.** A service that allows online registration of an NGO, without the need to visit public institutions, as well as the option to pay fees electronically,
- **e-government,** a portal that consolidates different e-services in one place.

While analysing regulations, we identified individual digital services, i.e. we defined the names of those services prescribed by a specific regulation. Then, the quality and scope of the existing digital service, in terms of their functionalities and features, was studied in detail in relation to those described above.

In cases of complete absence of some of the listed digital services in the analysed legislation, those findings were noted and a recommendation was given to amend the mentioned regulation. If an individual digital service, as such, is defined by the analysed legislation (partially or completely), we identified the provisions that govern it.

As regards other features of certain services, we categorized them according to the type of legislation that is adopted within a legal procedure. The basic criterion we used was the legal nature of the document that is created or adopted within activities that are part of service. Accordingly, we categorized them into "constitutive", i.e. those procedures that create, change or revoke a legal situation (for example, decision to enter a status change into a register, issuance of a license, etc.), and "declarative", which only note, i.e. something

about a legal situation (for example, when a certificate, statement or similar document is obtained).

After reviewing fully how a certain digital service is governed by legislation, we identified the institutes in special legislation (Law on Electronic Identification and Electronic Signature, Law on Electronic Government, Law on Electronic Document, Law on Information Technology Security) whose implementation within a specific digital service is relevant. This segment is described as a link with special legislation.

Finally, we provided a qualitative assessment regarding necessary harmonization, i.e. amendments to the analysed regulation, so as to achieve an appropriate level of legislation, implementation of which in practice would help achieve the objective of described digital service.

If legal gaps and lack of provisions governing existence and implementation of a digital service are recognized, recommendations are given to overcome the identified gaps.

In the conclusions of the given legal analysis of "special legislation", we pointed out that the quality of "special legislation" as well as its degree of compliance with best practice are at a very high level. These pieces of legislation constitute a solid basis for implementation of the public administration digital transformation process in Montenegro.

As we highlighted several times, the main challenge and barrier to accelerate the digital transformation process refers to the need to improve the quality of legal links among "special legislation" and other relevant general pieces of legislation, which govern the provision of different types of services that could certainly be provided in a digital form.

Therefore, this report offers a set of recommendations for adoption of legal provisions that are currently missing or improvement of existing ones, which should be adopted in the next planning period, especially those needed for further alignment of the legal framework with EU regulations.

Chapter 3 Analysis of the digital government legal framework

Law on Electronic Identification and Electronic Signature

The Law on Electronic Identification and Electronic Signature (hereinafter: the Law) is one of the fundamental pillars in the digital transformation process, as it governs the conditions and method of using essential digital management tools: electronic signature, electronic stamp, electronic time stamp and electronic registered delivery services in legal transactions, administrative, judicial and other procedures, tools that are certified for website authentication, the electronic identification system, and it governs the conditions for recognition of electronic identification tools of other countries.

The Law introduces **the principle of equivalence** into the legal system of Montenegro, i.e. the rule that a government authority or a legal entity **cannot refuse an electronic document with an electronic signature or a safe electronic signature just because it is in electronic form**³. This concept is a major step in the digital transformation process and serves as an undeniable argument in any discussion about a particular service provided by public administration when there is the interpretation that a service can only be provided in a non-digital way.

The Law also introduces **the principle of signature equivalence, which refers to a qualified electronic signature**, and prescribes that QES has the same legal effect as a handwritten signature or a handwritten signature and a stamp concerning data in print, and is acceptable as evidence in proceedings before state bodies, state administration bodies, local self-government and local administration bodies and legal entities exercising public authority.

In practice, however, there have been cases of discrepancy in application of the equivalence principle, i.e. situations in which users of public administration services are required to provide handwritten signatures, or in which the option of signing things electronically is excluded⁴. Specific cases are described in the analysis of general legislation.

The applicable law, which was last improved with amendments in 2019, is fully aligned with EU eIDAS regulation, and thus is in line with best practice.

It is also important to draw attention to the delayed effect of certain provisions from the Law. Some provisions of the Law (Article 10 paragraph 3, Articles 22, 36, Article 40 paragraphs 2 and 6, Article 43, Article 45 paragraph 4, Article 58 paragraphs 4 and 6, and Articles 62 to 67) will namely be implemented from the day Montenegro joins the European Union, **which is a logical solution, as otherwise they would not make sense or would not be fully implemented**. This delay refers to: recognition of a safe electronic signature issued in an EU member state, notification to the European Commission, legal effect of qualified certificates issued in another country and delay of other matters with an international element until Montenegro joins the European Union.

A detailed legal analysis of this law is presented in Annex 1, which is an integral part of this report.

GENERAL ASSESSMENT OF THIS LEGISLATION: As no legal gaps, ambiguities or similar shortcomings were identified in the legislation, no special proposals for

³ Article 13.

⁴ Article 19, Rulebook on notary activities.

amendments were made either. The current legal framework on electronic identification and electronic signature provides a valid basis to enhance the digital transformation process in Montenegro.

This legislation is not a barrier to further digital transformation of public administration in Montenegro.

Law on Electronic Document

The subject matter of the Law on Electronic Document is fully complementary to the Law on Electronic Identification and Electronic Signature and governs the use of electronic documents in legal transactions, administrative, court and other proceedings, as well as the rights, obligations and responsibilities of companies, entrepreneurs, legal entities and natural persons, state bodies, state administration bodies, bodies of local self-government units and bodies and organizations exercising public authority in connection with electronic documents.

Legal qualification of an electronic document is a very important segment of the legislation's subject matter and the Law **clearly specifies the conditions under which an electronic document has the same legal validity as a document produced in print**. The law sets four basic legal validity criteria: 1) that it is made, sent, received, kept and stored by using available information technology, 2) that it fully meets the set of prescribed technical requirements, 3) that it is structured properly, and that 4) it may be presented in a form consistent with the form specified by the law.

Article 4 of the Law specifies that a legal entity or a natural person may use and circulate an electronic document **only based on explicit and freely expressed willingness to accept the use of that electronic document** for personal and business needs and other relations. What is missing in the legislation, and opens space for different interpretations of this provision, is the method and form of expression of willingness, which should certainly be in a form of a concluding action, and not a special or explicit statement of willingness in oral or written form. This provision reflects the legislator's conservative approach to the use of an electronic document and does not contribute to the digital transformation process.

Recommendation to improve the legislation: adopt amendments to the Law and delete the disputed Article 4, so that the mandatory expression of natural person's willingness is eliminated as a precondition to use of an electronic document.

As for other provisions, particularly with regard to technical conditions, electronic document structure and layout of an electronic document, the law is fully aligned with best practice examples.

Although the subject matter of this law is to govern the institute of electronic document in general, in its special part it touches on some other areas of law, such as accounting and auditing, and procedural law. **In that regard, the Law clearly prescribes the possibility that all bookkeeping and auditing activities may be based entirely on electronic documents, unless otherwise provided for by special legislation. Also, the Law introduces the principle of using electronic documents as evidence.**

The topic of storing electronic documents is of special importance for reasons of harmonization of this law with the existing regulations governing archives. The Law prescribes that legal entities, natural persons and competent authorities are required to store electronic documents in their original format in the information system or on media that support electronic record's durability during its storage period, in line with the law or legal business.

The law introduces the term electronic archive, defines basic conditions that it has to meet and prescribes that:

- a. Electronic documents have to be stored in the format in which they were created, sent, received and saved and which does not change the content of those documents substantially;
- b. Electronic documents have to be available in a readable format to any person with the right to access those documents for the entire period of their storage;
- c. Data on electronic signatures with which electronic documents are signed have to be stored, as well as data used to authenticate those electronic signatures;
- d. Electronic documents have to be stored in a format and by using technology and procedures that, with embedded electronic signatures, offer a reasonable guarantee of their authenticity and integrity for the entire period of their storage and cannot be altered and deleted without authorization within the period set by law and legal business;
- e. For each electronic document, it has to be possible to authentically identify its origin, creator, time, method and format in which it was received to be stored in the system;
- f. Procedures for maintenance and replacement of electronic document storage media cannot harm the integrity and inviolability of electronic documents.

This Law also introduces the term "information technology intermediary for storing electronic documents", and prescribes that legal entities and natural persons may delegate the storage of electronic documents in their original format to an information technology intermediary. This intermediary is required to perform delegated duties in accordance with the Law and agreed legal arrangement. The matters of authorizations, method of work, responsibility and quality of technological procedures and equipment are governed by the Law in principle only.

While analysing the applicable version of the law, we also reviewed the draft Law Amending the Law on Electronic Document, prepared by the line ministry. The draft contains proposals for improving the existing framework, as well as proposals for alignment of this piece of legislation with the existing Law on Electronic Identification and Electronic Signature (Official Gazette of Montenegro nos. 31/2017 and 72/2019).

Proposed amendments refer to:

1. Expansion of positive enumeration of entities subject to the Law and consequently elimination of the possibility of different interpretations by the entities that the Law applies to,

2. Further enhancement of the wording related to the principle of equivalence of an electronic document to a document in non-digital, "paper" format, which once again highlights the need for digital transformation in practice,
3. Addition of four new terms to the legal terminology: electronic seal, conversion, digitization and digitized document, as well as definition of rules how to use them and method of their safekeeping, represents a qualitative improvement of the Law and broadens its implementation to new institutes,
4. Deletion of the disputed provision from Article 4, to eliminate required expression of willingness to accept an electronic document; instead, an improved legal approach should be used in which presence of such willingness is not set as a requirement (or is assumed),
5. Elimination of the requirement to name the recipient, as an important element within the general part of the electronic document, if that document is to be sent,
6. Introduction of digitization and certification of the digitized document,
7. Regulation of the method and rules for delivery of electronic documents between competent authorities and parties involved, with clear definition of electronic mail as a form of communication for exchange of electronic documents
8. Improvement of the inspection method carried out by the inspection office for information society services.

A detailed legal analysis of this law is presented in Annex 1, which is an integral part of this report.

GENERAL ASSESSMENT OF THIS LEGISLATION: The analysis identified some shortcomings in the legislation. However, the process of improvement with amendments is underway.

Qualitative amendments have been proposed. The most important one is the proposal to abolish the requirement of expression of willingness to accept an electronic document, as it would represent a significant step in the process of eliminating barriers for digital transformation.

The implementation of these improvements will significantly enhance the legislation and the overall framework of the so-called "special legislation", and help speed up digital government processes through amendments of other regulations⁵.

Therefore, once the above-mentioned amendments are implemented, this legislation will not be a barrier to further digital transformation of public administration in Montenegro.

Law on Electronic Government

The Law on Electronic Government in Montenegro came into force in July 2020, during the coronavirus pandemic. It was exactly the pandemic that confirmed the importance and

⁵ Described in detail in the section about the analysis of specific pieces of legislation.

great advantages of the modern way of providing state administration services through electronic government institutes. The purpose and objective of this Law is to lay the foundations and to define fundamental legal institutes and rules that public authorities are required to comply with while performing tasks within their competence, especially when receiving, exchanging, processing, submitting and publishing data, submissions, acts and other documents and other forms of communication with citizens, companies, other legal entities and entrepreneurs, as well as in mutual communication.

The Law applies to a wide range of public authorities. It identifies two categories of users (entities bound by the law): the first, which it defines as "**bodies**", and refers to state bodies, state administration bodies, state agencies, state funds, and the second one defined by the Law as "**other entities**", which includes local self-government bodies, local administration bodies, special and public services of local self-governments, as well as other independent and regulatory bodies, legal entities and natural persons exercising public authority.

The basic premise is the obligation for public authorities to perform their activities using information and communication technologies described by the law, i.e. their fundamental form - **a single information system**, which is accessed through the body's **information and communication network** and through **electronic data exchange systems**.

The above-mentioned, very broad scope of entities bound by the Law is a very good solution as it eliminates the possibility of restrictive interpretations by individual entities, who could interpret the Law's provisions contrary to its essence, i.e. they could challenge their status of entities bound by the Law in practice.

Exemptions from the Law refer to the receipt, exchange, processing and publication of data and documents classified as secret, in line with the law governing data confidentiality, as well as to the information systems that are used to issue public documents based on which a person can be identified, that collect and process data in the procedure for international and temporary protection of foreign nationals, then data to ensure protection from natural and other disasters, perform police duties, data from intelligence and security-related activities and to conduct foreign affairs, perform defence-related tasks, prevent and detect money laundering and financing of terrorism, and facilitate international legal assistance.

A very broad legal wording of cases that are exempt from the law may be a barrier to the digital government services development in practice.

One such case in practice is a combination of implementation of this legislation and the Law on the Central Register of Population (Official Gazette of the Republic of Montenegro no. 49/2007 and Official Gazette of Montenegro no. 41/2010, 40/2011 - other law and 55/2016), which defines the content of the central register of population in Montenegro, exchange, management, maintenance, storage and use of data, designation and use of

personal identification number and governs other matters of importance for the central register of population. The mentioned piece of legislation (Article 18, paragraph 1) prescribes that "the competent authority shall deliver the data from the Central Register to public authorities and other users, **if they are authorized by law to use such data**".

The above combination of legislation in practice is a significant barrier to the development of some digital government services.

Provisions on the exemption from the Law on Electronic Government, together with a restrictive interpretation of Article 18 of the Law on Central Register of Population, in practice leads to situations in which bodies that are not explicitly authorized by law to get data from the Montenegrin central register of population cannot download the requested data, which makes the provision of some public administration services in a digital form impossible or significantly difficult.

Therefore, we made recommendations later in this chapter how to overcome this barrier.

The law pays particular attention to electronic registers and records and prescribes the obligation of bodies to keep them in electronic form and to exchange data from electronic registers and information systems through a **single electronic data exchange system**, for which they are required to provide technical conditions and security access standards. Other entities that maintain electronic registers and manage their information systems share a similar right; they can exchange data from electronic registers and information systems through a single electronic data exchange system if they fulfil technical requirements and security standards.

Provision of appropriate technical conditions and security standards for access to the single electronic data exchange system is mostly a factual or organizational, technical and financial matter, which was not particularly highlighted in the legislation analysis.

However, it is important to point out that the analysis of general legislation showed that most of the analysed pieces of legislation indicate situations in practice in which a public administration service can be implemented electronically, but there is a lack of proper human, technical, financial or other resources to implement it a digital format.

The formation of a working group of the Government of Montenegro was therefore supported. This group would provide assistance and coordination to service providers to create conditions for full implementation of the legislation.

The Law on Spatial Planning and Construction of Buildings (Official Gazette of Montenegro nos. 64/2017, 44/2018, 63/2018, 11/2019 - corrigendum and 82/2020) is the best example of such a piece of legislation in practice. Despite the detailed rules on the provision of services defined by the law in a digital format, there was no implementation in practice.

Date exchange between entities bound by the law is performed by using a single identifier. It is a tool containing data based on which data about system users, which are kept in electronic registers and information systems maintained by authorities or other entities, can be compared. The purpose of the single identifier is to determine, with certainty and at any point in time, who accessed the system, when they accessed the system, for what purpose, the legal grounds for accessing the data, and date and time of logging in and out of the system.

The administration of the Single Electronic Data Exchange System is governed in detail by the Regulation on the administration and other matters of relevance for the operation of the Single Electronic Data Exchange System (Official Gazette of Montenegro no. 113/2020). The Regulation sets detailed rules for organization and operation control of the Single Electronic Data Exchange System. The provisions of Article 8 paras. 3-6 of the Regulation play a crucial role as regards approvals to exchange information from the system, i.e. to allow data retrieval by certain entities, which is a key process for accelerating the development of various digital government electronic services.

According to these provisions, existence of legal grounds to use data from an authority's electronic register or information system is a precondition for approving exchange/retrieval of data. **Therefore, if they determine that there are no legal grounds to use the data from the authority's electronic register or information system, which is in practice interpreted as a provision of a positive piece of legislation that explicitly provides for the right of an authority to retrieve data from the register, the controller rejects the application for data retrieval in writing.**

After a detailed consideration of how this subject matter is governed, and bearing in mind the actual necessity to eliminate needless barriers in data exchange processes, we highlighted the need to pay additional attention to this issue, as it represents a real barrier to the introduction of digital services in practice. Therefore, the most optimal solution should be proposed and implemented. In practice, there are several available alternatives.

One of them involves systematic amendments to all regulations (laws and secondary legislation) governing or describing public administration services that are currently provided in non-digital ways and that could be fully digitized. However, one should bear in mind that this alternative implies an extensive legislative process.

The need to do this was especially highlighted by the AmCham Digital Transformation Committee within the public debate on improving the conditions for digital transformation in Montenegro.

An alternative way to improve this segment would be to implement appropriate improvements through a single piece of legislation, a *lex specialis*, which could be adopted as a standalone legislation or in the form of amendments to the Law on Electronic Government.

This legislation would govern two legal matters. First, it would provide the grounds, in clear legal writing, for designated public administration entities to use data from the electronic register. Second, it could include an overview of the specific type of data exchanged for each individual service provided within the public administration. The list of authorities and other entities, names of services provided digitally and type of data exchanged for each particular service would be defined by this legislation, and the responsibility to amend that list could be delegated to the government or other authority to avoid the need for frequent amendments through the legislative procedure.

The Law puts special focus on collection of administrative fees electronically, emphasizes the obligation of authorities and other entities to make it possible for a user to pay administrative fees through the system for electronic collection of administrative fees, which is an integral part of the single information system. This requirement has also hit significant barriers, i.e. issues of organizational, technical and financial nature or issues of resources available for development of some digital public administration services.

GENERAL ASSESSMENT OF THIS LEGISLATION: The analysis identified some shortcomings in the legislation, mostly related to the issues of efficiency of data exchange within the single information system.

Approval of one of the proposed alternatives is therefore recommended to overcome identified shortcomings.

The implementation of these improvements will significantly enhance the legislation and enable more efficient data exchange within the single information system, which will create conditions for significant improvement of digital government services.

Law on Information Technology Security

The Law on Information Technology Security is a systemic law aimed at preserving the basic values of data confidentiality, integrity and availability that provide conditions for smooth and quality digital government. The Law clearly defines the terms of goods it protects.

As in the case of the Law on Electronic Government, this Law relatively broadly identifies categories of entities it applies to, namely: state bodies, state administration bodies, bodies of local self-government units, legal entities with public authority and other legal

entities and natural persons with access to data or that use data. The law does not apply to the data whose information technology security is provided in line with regulations governing classification of information.

The main focus of the Law is on "Information Technology Security Measures", which are defined as general rules that provide basic data protection at the physical, technical and organizational levels. In practice, these rules are manifested in security measures, such as: physical protection (protection of facilities, premises and devices), data protection (prevention and elimination of damage caused by loss, detection or unauthorized modification) and information system protection (protection of data that are processed, stored or transmitted in the information system, as well as protection of confidentiality, integrity and availability of the information system).

The social significance of the protected good is extremely high. The Law therefore prescribes that the responsibility for identification of information technology security measures is defined at the level of the Government of Montenegro, while a legal instrument of the ministry responsible for information society defines which information technology security standards are applied for implementation of measures.

A detailed legal analysis of this law is presented in Annex 1, which is an integral part of this report.

GENERAL ASSESSMENT OF THE LEGISLATION: As no legal gaps, ambiguities or similar shortcomings were identified in the legislation, no specific amendments were proposed. The current legal framework on information technology security provides a valid basis for improvement of the digital transformation process in Montenegro.

This legislation is not a barrier to further digital transformation of public administration in Montenegro.

Law on Administrative Procedure

The Law on Administrative Procedure is a systemic law. It governs the rules that state bodies, state administration bodies, local self-government bodies, local administration bodies, institutions and other entities that exercise public authority are required to comply with, in order to protect the rights and legal interests of natural persons, legal entities or other parties, as well as to protect public interest, and also when they make decisions and undertake other administrative activities in administrative matters by directly applying laws and regulations.

This piece of legislation is extremely relevant from the perspective of services provided by the state administration, as it sets the procedural basis and governs in detail the rules and institutes for provision of those services within the administrative procedure.

Therefore, the compliance of this legislation with the so-called special legislation on digital government, or four laws that are the subject of analysis within this chapter of the report, is of great importance. Given the scope of subject matter it covers, a review of the most relevant segments of this law from a perspective of digital transformation is given below.

First, we need to point out that the Law on Administrative Procedure (within the administrative procedure) lays the foundations for obtaining/exchanging data of various authorities and offices *ex officio*, and is complementary in that regard to the Law on Electronic Government and Regulation on the administration and other matters of relevance for the operation of the Single Electronic Data Exchange System. The legal definition in the Law, which says that, when deciding in an administrative procedure, a public authority checks, obtains and processes data from official records and registers kept by that public authority or other competent authority, unless access to such data is restricted in accordance with law, is an extremely good method of applying legal techniques in practice.

Data exchange between public authorities is thus provided for by the Law as an option, ex officio, unless it is explicitly prohibited by a special regulation.

As for the compliance with the special legislation, the Law on Administrative Procedure refers in several places to the application of the Law on Electronic Document, as well as to other laws in this field. Thus, in Article 22 paragraph 8, the Law mentions the option of issuing resolutions in administrative proceedings in electronic form.

It should be noted that there is room for improvement⁶ in the Law in this field, and therefore the possibility of accepting the following recommendations should be considered.

Adjust terminology and instead of "electronic form" use the legal term "electronic document" or "in the form of an electronic document" to reduce the risks of wrong or unreasonably restrictive interpretations.

Amend the Law to allow signing of resolutions in administrative proceedings also with "qualified electronic signature", as it represents a higher level of security.

The Law makes it possible for **a party to the proceedings to file a submission to a public authority in electronic form**, in accordance with the regulations on electronic government, and in that case the authority must electronically notify the party about the receipt of the submission. The Law also governs the case when a submission filed to a public authority in electronic form cannot be read for technical reasons, as well as the right of the

⁶ The Law was enacted prior to the Law on Electronic Signature.

party in the procedure to inspect the case file, and to do that it can file the application electronically.

The Law particularly governs the rules for submitting documents electronically, but only in cases when a party in the procedure requests it in the application and provides e-mail address, **or if a public authority has the technical capacities for such form of delivery.** Documents are delivered electronically to the e-mail address specified by the party in its submission. The document, sent electronically, is considered received on the day and at the time indicated in the confirmation of receipt of the electronic document, in line with the law governing electronic documents. If the document referred to above cannot be read for technical reasons, the party may ask the public authority to deliver it in some other appropriate format.

GENERAL ASSESSMENT OF THE LEGISLATION: Possibilities for further improvement of this legislation should be considered, as the method in which it describes and applies digital governance institutes does not seem to be sufficiently clear and detailed. Thorough revision of the Law is therefore recommended and inclusion of more detailed provisions on the method of conducting administrative proceedings electronically. Some of the proposed improvements include:

- a. Obligation of public administration authority to issue a resolution as an electronic document at the party's request,**
- b. Further improvement with respect to the rules on filing submissions as electronic documents, and cases of silence of the administration,**
- c. Further improvement with respect to the rules on party's access to case files in electronic form,**
- d. Further improvement with respect to the rules on communication with the parties through electronic means of communication.**

Chapter 4 Analysis of implementation of the digital government legal framework in key areas

Within our project activities, we analysed laws and secondary legislation, assessed by the Ministry, UNDP and the business community as the most relevant from the perspective of digital transformation and government. Special attention was paid to the legislation identified by the business community as a barrier to quality digital government. The following inputs were taken into consideration:

- 1. Ministry of Public Administration, Digital Society and Media sent a memo with proposed priorities, i.e. rlegislation that should be covered by the analysis,**
- 2. Data from the Association of Foreign Investors, which offered its opinion on key issues regarding improvement of digital governance in Montenegro,**

3. List of digital services, as well as the list of legislation governing selected services, delivered by users in preparation for this project,
4. Memo from the Council of Foreign Investors of Montenegro,
5. Data collected by the Secretariat of the Competition Council from representatives of the business community.

Within the process of selecting regulations to be analysed, the focus was on legislation whose implementation directly affects digitalization of public administration services. Many pieces of legislation that prescribe procedures and obligations in provision of these services were identified. Subsequently, recommendations for overcoming barriers were provided, which will hopefully contribute to the digital government improvement and creation of more efficient electronic services.

Business Organisations Law

Ministry responsible for implementation of the legislation: **Ministry of Finance and Social Welfare.**

Institution/body responsible for implementation and enforcement: **Revenue and Customs Administration, CRBE.**

Public administration services identified as governed by the regulation:

1. Delivery of the decision to open a branch office and on authorizations for persons designated to represent the branch,
2. Resolutions of the Capital Market Commission to record issuance of shares,
3. Approval of the initial issue of shares from the Capital Market Commission,
4. Resolution on successfulness of the initial issue of shares from the Capital Market Commission,
5. Delivery of applications and data to the CCDS and the Capital Market Commission (for example, notification of cancellation of own shares, application for suspension of trading in a company's shares, etc.),
6. Certificate that it has filed the application to the Capital Market Commission to suspend trading in shares,
7. Resolution on registration/rejection of the registration application,
8. Assignment of tax identification number,
9. Assignment of VAT registration number,
10. Assignment of customs number,
11. Access to the data from the CRPS.

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-business**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Specific recommendations:

- **Article 321: allow delivery of all resolutions (including the resolutions on rejection of registration application) electronically,**
- **Article 321: align this legislation with the regulations governing the procedures for assigning PIN, VAT registration number and customs number.**

Good business practice examples:

Estonia, which is a country with highly developed digital services, has designed a single online platform/register (so-called E-Business). It is connected to the official database of all business entities in real time. The platform enables submission of electronic applications, documentation, annual reports, company registration, etc.

This approach, in which all services are provided electronically using only a unique ID card (a unique identification document), allows citizens to start a business in 18 minutes.

Secondary legislation: Rulebook on the registration procedure, detailed content and method of keeping the Central Register of Business Entities

Public administration services identified as governed by the regulation:

1. Submission of an application for registration in the CRPS,
2. Submission of an application to register company information modifications,
3. Submission of an application to terminate activities/delete the company,
4. Submission of an application to initiate the voluntary liquidation procedure, start bankruptcy proceedings and court liquidation and other actions that need to be registered in the CRPS,
5. Application to enter and publish an annotation,
6. Delivery of notification on completed correction and other documents to the business entity,
7. Issuance of statements, certificates, reports as public documents, allowing access to documentation, and data download and exchange with competent state institutions.

Does the legislation make digital provision of services possible?

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

This legislation allows for a possibility of electronic provision of the described services.

Law on Agriculture and Rural Development

Ministry responsible for implementation: **Ministry of Agriculture, forestry and Water Management.**

Public administration services identified as governed by the regulation:

1. Application for incentives from programmes implemented by the Ministry,
2. Resolution on awarded incentives/rejection to pay incentives,
3. Order to repay unjustifiably awarded funds,
4. Application for approval of establishments in which small quantities of agricultural products are produced,
5. Resolution on approval of establishments in which small quantities of agricultural products are produced,
6. Application to perform additional agricultural activity,
7. Approval to perform additional agricultural activity,
8. Submission of data on prices and quantities of agricultural products, which are entered in the Agricultural Marketing Information System,
9. Exchange of documentation required by the law among different state administration bodies (annual implementation report, reports about rural development support submitted by a local self-government to the Ministry, etc.).

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-farmer**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Specific recommendations: The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 32, 33, 48, 51, 67, 7, 20.

In addition, the law specifies that the Agricultural budget sets the conditions and methods of implementing measures for various incentives. The Agricultural budget is enacted for each calendar year and is a separate piece of legislation. As it prescribes procedures and methods to provide various services, and in order to create a more transparent legal framework, these procedures can be defined in a separate piece of secondary legislation, while application requirements and amounts of incentives would be defined by the Agricultural budget each year.

Secondary legislation: Rulebook on the form and method of keeping the register of entities and the register of agricultural holdings

Public administration services identified as governed by the regulation:

1. Application for registration in the Register of Agricultural Holdings
2. Resolution on registration in the Register of Agricultural Holdings
3. Collection of data on animals from the records of the administrative body responsible for veterinary affairs
4. Collection of data from the records of the administrative body responsible for real estate cadastre
5. Reporting modifications of data

Does the legislation make digital provision of services possible?

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro. However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Secondary legislation: Regulation on the implementation and use of funds from the Instrument for Pre-accession Assistance of the European Union (IPARD II programme)

Public administration services identified as governed by the regulation:

1. Application to receive support
2. Resolution on allocation of support funds/rejection of the application to receive support
3. Allocation of support contract
4. Public call for bids for procurement of goods or works necessary for completion of the investment
5. Application for payment of support funds
6. Resolution on payment of support funds/rejection of the application for payment of support funds

Does the legislation make digital provision of services possible?

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Assessment of this legislation:

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro. However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Secondary legislation: Decision on detailed conditions and procedure for payment of old-age allowance

Public administration services identified as governed by the regulation:

1. Application for payment of old-age allowance
2. Resolution on entitlement to old-age allowance

Does the legislation make digital provision of services possible?

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro. However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Secondary legislation: Rulebook on detailed content and method of establishing records of agricultural land plots

Public administration services identified as governed by the regulation:

1. Statement of the agricultural holding owner
2. Report on data entered into the SIZEP system
3. Application to modify data in the SIZEP system
4. Notification about modified data

Does the legislation make digital provision of services possible?

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro. However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Law on Tourist Organisations

Ministry responsible for implementation: **Ministry of Economic Development**

Public administration services identified as governed by the regulation:

1. Application for registration of a tourist organisation in the Central Tourist Register
2. Resolution on registration of a tourist organisation in the Central Tourist Register
3. Consent of the National Tourist Organisation/local self-government regarding local tourist organization documents
4. Decision of the Ministry banning operations of a tourist organization
5. Application for membership in a local tourist organization for other legal entities and natural persons
6. Report on operating revenues minus the amount of operating expenses, separately for each organisational unit in which the tourist, hospitality and/or an activity directly related to tourism are performed
7. Approval of the Government of Montenegro to introduce the excursion charge for some tourist sites
8. Delivery of reports on the number of visitors and the amount of collected excursion charge

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-tourism**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Specific recommendations: The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 18, 19, 28, 21, 24, 38, 42a i 42d.

Tourism and Hospitality Law

Ministry responsible for implementation: **Ministry of Economic Development**

Public administration services identified as governed by the regulation:

1. Request/application for issuance of approvals and licenses to perform tourist and hospitality activities and provide tourist services
2. License issuance to a travel agency
3. Issuance of a resolution/approval confirming fulfilment of conditions to perform a tourist or hospitality activity, provide tourist services, or issuance of a resolution for registration in the Central Tourist Register
4. Application for registration in the Central Tourist Register
5. Proof of registration in the Central Register of Business Entities
6. Notification about modification of data based on which a license/approval was issued
7. Resolution on modification of data
8. Application for revocation of license
9. Resolution on revocation/deletion of travel agency's license
10. Application for issuance of the ID card for a tourist guide, tourist companion and tourist animator
11. Issuance of a resolution confirming the fulfilment of requirements for the ID card for a tourist guide, tourist companion and tourist animator
12. Issuance of the ID card for a tourist guide, tourist companion and tourist animator
13. Resolution to revoke tourist guide's ID
14. Submission of legally required documentation to the competent authority (notification about commencement of activities, notification about temporary or permanent termination of hospitality activities, representation agreement, completed form, etc.)
15. Application for categorization of hospitality facilities
16. Issuance of the resolution on hospitality facility categorization
17. Application to change hospitality facility category
18. Issuance of a resolution allowing hospitality facility category change
19. Application for a hospitality facility special standard
20. Issuance of the resolution for hospitality facility special standard

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-tourism**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 15, 48, 51, 55, 57, 60, 62, 63, 74, 104, 16, 59, 75, 44, 76, 93, 84, 85 i 88.

Secondary legislation: Regulation on the form, content, and method of keeping and using the single record of tourist traffic

Public administration services identified as governed by the regulation:

1. Maintain single record of tourist traffic

Does the legislation make digital provision of services possible?

GENERAL ASSESSMENT OF THIS LEGISLATION:

This legislation is not a barrier to further digital transformation of public administration in Montenegro.

This legislation allows for a possibility of electronic provision of the described services.

Law on Pension and Disability Insurance

Ministry responsible for implementation: **Ministry of Finance and Social Welfare.**

Institution/body responsible for implementation and enforcement: **Pension and Disability Insurance Fund of Montenegro.**

Public administration services identified as governed by the regulation:

1. Application for funeral expenses refund
2. Application for/deregistration from entitlements to the pension and disability insurance
3. Issuance of a certificate to confirm receipt of application for/deregistration from insurance
4. Resolution on failure to fulfil requirements for the status of an insured person
5. Application for extended insurance
6. Application for an old-age pension/family pension
7. Application for disability entitlements
8. Application for financial compensation for physical impairment
9. Application to determine pension-related length of service
10. Application in case of any changes in the disability status in relation to the final resolution/change in the degree of physical impairment
11. Resolution granting the entitlement to a disability pension
12. Report of any change that affects pension and disability insurance entitlements or their scope of use
13. Application for issuance of a certificate of data entered in the register of insured persons
14. Certificate of data entered in the register of insured persons
15. Application for issuance of the resolution on data on insurance, pension-related length of service, salaries, salary compensations, i.e. on insurance bases and the amount of paid contributions entered in the register
16. Resolution on data on insurance, pension-related length of service, salaries, salary compensations, i.e. on insurance bases and the amount of paid contributions entered in the register
17. Delivery of notifications, information and other documents between administrative bodies

Does the legislation make digital provision of services possible?

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of the e-service: **e-contributions**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 57, 78, 126, 131, 66, 82, 83, 88, 89, 99, 111, 138, 12, 36, 72, 85, 115, 116, 179.

Internal Trade Law

Ministry responsible for implementation: **Ministry of Economic Development**

Public administration services identified as governed by the regulation:

1. Notification about starting or ending a business activity or about modified data
2. Delivery of documentation to a state body/local self-government body

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of the e-service: **e-commerce**

Assessment of the legislation:

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending Article 33 of the Law.

Electronic Commerce Law

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media.**

Public administration services identified as governed by the regulation:

1. Application for initiation of measures restricting provision of services
2. Application for publication of a final court decision
3. Delivery of the decision on out-of-court settlement/out-of-court dispute resolution to the competent authority
4. Delivery of notifications to a state authority on illegal activities of service users

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-commerce**

Assessment of the legislation:

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Good business practice examples:

Finantsinspeksioon (Estonian Financial Supervision and Resolution Authority) is a financial supervisory and crisis management body with autonomous responsibilities and budget. It operates on behalf of the state of Estonia and is independent in decision-making. If a user of financial service provider has a suspicion that the provider has violated the law, he may notify the Finantsinspeksioon electronically. (<https://www.fi.ee/en>)

Civil Registers Law

Ministry responsible for implementation: **Ministry of Interior.**

Institution/body responsible for implementation and enforcement **Ministry of interior/Local administration body for marriage register**

Public administration services identified as governed by the regulation:

1. Application to register birth of a child
2. Application by adoptive parent of a child, whose parents are unknown, for registration in the birth register
3. Resolution of the guardianship authority following the application of adoptive parent of a child, whose parents are unknown, for registration in the birth register
4. Decision on divorce/decision on marriage annulment delivered by the court to the registrar
5. Application to register death of a person
6. Resolution to reject a registration application
7. Resolution to declare a missing person dead/resolution on determination of death
8. Application for issuance of certificates and statements from civil registers
9. Issuance of statements and certificates based on data kept in the civil registers
10. Application for modification, addition and deletion of data from the civil registers
11. Modification, addition and deletion of data from the civil registers

This legislation makes electronic provision of some services possible, while for other services it does not limit that possibility, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name for e-service: **e-register**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The application to register birth of a child at a maternity ward is submitted electronically, while the Law does not prescribe the option of electronic application if a child is born outside a health institution.

The application to register death of a person in a health institution, military facility, institution for placement of old people, and tourist facility is submitted electronically, while the Law does not prescribe the option of electronic application if a person dies outside these establishments.

Identity Card Law

Ministry responsible for implementation: **Ministry of Interior**

Public administration services identified as governed by the regulation:

1. Application for issuance of an identity card
2. Certificate confirming receipt of the application for issuance of an identity card
3. Resolution on expiration of ID card validity/announcement of ID card invalidity
4. Report of missing ID card
5. Application to ban the use of an identity card to cross the state border
6. Delivery of notification to the Ministry that reasons for banning the use of an identity card to cross the state border cease to apply
7. Resolution on banning the use of (and ending the ban to use) an identity card to cross the state border
8. Application for information on what data are collected, processed, stored and used, who processes them and for what purposes and on what grounds, as well as on users of personal data and grounds for using them/for modification of inaccurate or outdated data about a citizen and deletion of data kept in violation of the law
9. Notification about submitted application for information on what data are collected, processed, stored and used, who processes them and for what purposes and on what grounds, as well as on users of personal data and grounds for using them/for modification of inaccurate or outdated data about a citizen and deletion of data kept in violation of the law

Does the legislation make digital provision of services possible?

This legislation excludes the possibility of electronic provision of some services, while for other services it does not limit the possibility but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-ID document**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 10, 19, 20, 22, 23, 27.

Rulebook on the method of issuance of ID card and the cost of the ID card form

Ministry responsible for implementation: **Ministry of Interior**

Public administration services identified as governed by the regulation:

1. Payment of the charge for ID card form

Proposed name of e-service: **e-ID document**

This legislation excludes the possibility of electronic provision of some services, while for other services it does not limit the possibility but at the same time does not bind the service provider to make the electronic provision of services possible.

Assessment of the legislation:

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro. However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

Foreign Nationals Law

Ministry responsible for implementation: **Ministry of Internal Affairs**

Institution/agency responsible for implementation and enforcement: **Public administration authority responsible for police affairs**

Public administration services identified as governed by the regulation:

1. Visa application
2. Obtaining consent from the National Security Agency of Montenegro, Ministry of Internal Affairs, subject to national and internal security vetting
3. Visa issuance
4. Submission of information to the police and the National Security Agency required for issuance of a single-entry visa to a foreign national for a short stay at the invitation of a state authority, state administration authority or the head of a diplomatic and consular mission
5. Decision rejecting a foreign national's visa application
6. Application for visa extension
7. Resolution on application for visa extension
8. Application for visa cancellation at personal request
9. Resolution on visa annulment or cancellation
10. Visa application at a border crossing point
11. Resolution rejecting a visa application at a border crossing point
12. Application for temporary residence/temporary residence and work permit/permanent residence
13. Acknowledgment of receipt of application for a temporary residence permit / temporary residence and work permit
14. Request for an opinion of the National Security Agency and the police on any national or internal security related interference with the issuance of temporary residence / temporary residence and work permit / permanent residence
15. Opinion of the National Security Agency and the police on any national or internal security interference with the issuance of temporary residence / temporary residence and work permit / permanent residence
16. Temporary residence permit / temporary residence and work permit / permanent residence permit
17. Resolution rejecting the application for issuance of a temporary residence permit / temporary residence and work permit / permanent residence permit
18. Application for extension of a temporary residence permit / temporary residence and work permit / permanent residence permit
19. Ministry's notice on the reasons for expiry of a temporary residence permit / temporary residence and work permit
20. Decision on expiry of a temporary residence permit / temporary residence and work permit / permanent residence permit
21. Registration of foreign national's employment with a legal or physical person
22. Acknowledgment of employment registration
23. Registration of temporary residence of a foreign national who is issued with a long stay visa (D visa) or is staying in Montenegro for up to 90 days
24. Deregistration of temporary residence of a foreign national who is issued with a long stay visa (D visa) or is staying in Montenegro for up to 90 days

25. Registration of temporary residence in case a foreign national uses accommodation provider services
26. Deregistration of temporary residence in case a foreign national uses accommodation provider services
27. Order on deprivation of liberty/placement in a reception centre/shortening or extending the duration of stay at a reception centre/application of milder measures/ order for stricter police supervision
28. Application for a foreign national's emergency travel document / special travel document
29. Resolution rejecting a foreign national's application for emergency travel document / special travel document
30. Order on revocation of a foreign national's emergency travel document / special travel document
31. Application for replacement of a foreign national's identity document

Does the legislation allow for a digital provision of the services:

This legislation excludes the possibility of electronic provision of some services, for some services it explicitly allows for this possibility, while for other services it does not limit the possibility but at the same time does not bind the service provider to make the electronic provision of services possible

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 19, 27, 29, 28, 30, 31, 32, 61, 79, 89, 62, 80, 90, 85, 96, 124, 126, 132, 140, 142, 143, 144, 146.

Law on Notaries

The Ministry responsible for implementation: **Ministry of Justice, Human and Minority Rights**
Institution/body responsible for implementation and enforcement: **Chamber of Notaries of Montenegro**

Public administration services identified as governed by the regulation:

1. Application following a call for applications for appointment of notaries
2. Notification of the competent minister of a notary's resignation
3. Resolution by the competent minister on the deadline for termination of notarial services in case of resignation
4. Submission of report on assets and revenues
5. Notification of the competent chamber of a loss of seal, stamp, and embossed seal
6. Notification of the competent chamber of a detention order against a notary
7. Application for issuance of the original document
8. Delivery of decision on registration in public books or registers
9. Objection against a decision of the first instance disciplinary commission
10. Petition by a disciplinary prosecutor to open a disciplinary procedure
11. Notary's plea to allegations in a disciplinary procedure
12. Submission of notary's report to the competent chamber
13. Application for notarial examination
14. Issuance of notarial examination certificate

This legislation does not limit the possibility of provision of electronic services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of electronic services (where the type of service so allows) is defined more explicitly.

Examples of positive practice:

Estonia developed the e-notary portal intended for notaries and allowing for communication between the notary services as well as for their direct communication with state authorities. This portal gives notary services access to 16 different registers. Such a

system greatly contributed to the work of notary services, for example, it led to the following: reduced double entries, paperwork, and printing; shorter procedures; simpler procedures on the client's end before using a notarial service (there is no need for the client to produce all the documents in the paper format since notaries now have access to the registers via the e-notary portal). In Belgium, the first legislative initiative was adopted in early 2020 for amendments to a set of laws in the context of the coronavirus containment efforts. The proposed legislation amends the existing law on notary offices (of 1803) and offers the possibility of authenticating powers of attorney (including caretaker proxies (so called "Zorgvolmacht") – which by law must be enforced in the authentic form – electronically and remotely. However, when such a power of attorney is given remotely, additional requirements apply, namely all the parties involved must appear before the notary via a video conference, all the parties must be identified and electronically sign the power of attorney either using their electronic identity card or in some other way permitted by law, and the public notary signs the document using the electronic identity card.

Special commentary on the provisions of secondary legislation applying to drafting of notarial deeds

Article 19 of the Rulebook on Notarial Service „Official Gazette of MNE“, Nos. 30/2009, 36/2013, 13/2017, 19/2019 – another regulation and 65/2021, sets out that a notarial deed is drafted on an electronic or mechanical word processing device using **A4 paper whose quality guarantees durability of the notarial deed**. The same rulebook does not provide for notarisation alternatives using electronic means (electronic signature, seals, etc.).

This legislation is an obstacle to further digital transformation of services within the private sector in Montenegro.

Recommendation: amend this legislation to put prerequisites in place for electronic drafting of a notarial deed.

The digitisation of notarial services is a complex issue with multiple sides to it. Besides, the absence of a unified practice in the digital provision of notarial services within the EU indicates that it is a living process and points to a need for a separate analysis and a strategy for the transformation of notary services. Hence, this issue was not the subject of an in-depth analysis.

The countries that currently allow for remote signing of notarial deeds opted for qualified digital signatures. This is the case with Austria where a regulation sets out that signatures can be placed remotely on any notarial document or authentication using a qualified electronic signature (Article 36b (2) and (3) of the Notarial Code (*Notariatsordnung*). In case of Latvia, the legislation requires a safe electronic signature (Article 139.12 of the Notariate Law '*Notariata likums*').

Law on Personal Data Protection

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media**

Institution/body responsible for implementation and enforcement: **Personal Data Protection Agency**

Public administration services identified as governed by the regulation:

1. Issuance of consent for personal data processing
2. Request for deletion of personal data
3. Request for submission of personal data
4. Notification of personal data processing where data is not collected directly from the person that the data refers to
5. Obtaining consent from the supervision authority to data processing and disclosing
6. Request from the person the data refers to for any additions, modifications, or deletions
7. Notification of any personal data additions, modifications, or deletions
8. Request for the protection of rights
9. Order prohibiting personal data processing
10. Request for removal from office of the president of the Personal Data Protection Agency
11. Request of the Parliament for the report on the situation in personal data protection

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is explicitly defined. This could be achieved by amending the following articles of the Law: 10, 23,44, 17, 21, 43, 44, 28, 41, 44, 47, 55, 62.

Law on National Survey and Real Estate Cadastre

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Institution/body responsible for implementation and enforcement: **Cadastre and state property administration**

Public administration services identified as governed by the regulation:

1. Application for registration of a right in real estate cadastre
2. Notification of circumstances relevant to the conduct of work and use of technical documentation
3. Application for cadastre classification
4. Registration of commencement of surveying work
5. Registration of change of a surveying organisation's seat, name, or any other change relevant to its work
6. Delivery of notice on incapacity to conduct surveying work
7. Request for access to and issuance of documents from real estate cadastre
8. Issuance of real estate cadastre documents
9. Request for development of real estate cadastre for part of cadastre municipality
10. Request for legalisation of structure which was not constructed in accordance with law, or was constructed on several parcels, or on third party's land
11. Request for dissolution of property community
12. Request for restoration of survey and real estate cadastre
13. Request for annotation, deletion, and restoration of annotation
14. Request for correction of errors in real estate cadastre
15. Order to remove imperfections/order to suspend further construction works
16. Registration of any changes in real estate and installations
17. Licensing applications for surveying organisations (license issuance, expiration, etc.)

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-cadastre**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible

The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Examples of positive practice:

Armenia developed the e-government platform partly supported by the „Transactional e-Governance Development in Armenia” (EuropeAid/131-445/L/SER/AM) project. Among other options, they developed the e-cadastre (<https://www.e-cadastre.am/en>), which also offers options for the digital/electronic provision of services (submission of applications, application tracking system, request for information, special section for surveying activities, etc).

Furthermore, Estonia’s e-Land Register allows one electronic access to land-register documents, granting powers of attorney to third parties for accessing documents, ordering different digital services, etc. (<https://www.rik.ee/en/e-land-register>). Besides, Article 16 of the Cadastre Act provides for electronic submission of documents by a surveyor (<https://www.riigiteataja.ee/en/eli/ee/517072018004/consolide>).

Law on State Administration

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media.**

Public administration services identified as governed by the regulation:

1. Submission of reports by local self-government/agency/state fund on the discharge of delegated/transferred affairs/public authority
2. Service of warnings, instructions, consents, etc. in the oversight of discharge of delegated/transferred affairs
3. Petitions by citizens and legal persons for the exercise of rights and discharge of duties
4. Assisting clients, including by processing proposals, objections, commendations, and complaints
5. Delivery of data to the Parliament and courts

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Examples of positive practice:

As of 2017, the European Interoperability Framework has been developed at the EU level to provide detailed guidelines on how to set up digital public administration (including 47 recommendations). The Framework is based on the following three main pillars:

1. interoperability principles (focus on the user, security and privacy, protection of information, accessibility, etc.),
2. interoperability layers (technical interoperability, organisational interoperability, legal interoperability, semantic interoperability, etc.), and

- 3. conceptual model (security and protection, open data, external information sources and services, internal information sources and services, etc.).**

Every pillar is assessed on a scale from one to four (one – low level of implementation, 4 – high level of implementation) and used to assess the level of digitisation an EU member state has achieved, and point to potential development trends.

Law on electronic government

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media**

Public administration services identified as governed by the regulation:

1. Request for assessment of compliance with eligibility requirements for using the unified information system
2. Issuance of consent to using the unified information system
3. Request for consent to independent information system establishment/upgrade
4. Consent to the conceptual design for information system establishment/upgrade, including project documents
5. Request to use the information-communication network
6. Consent to using the information-communication network
7. Request for assigning a subdomain
8. Request for assessment of fulfilment of technical requirements and security standards for access to the unified system for electronic data exchange
9. Resolution granting access to the unified system for electronic data exchange
10. Application for employee's access to the unified system for electronic data exchange
11. Request for termination of employee's access to the unified system for electronic data exchange
12. Submission of data on electronic registers and information systems as well as a change of electronic register data
13. Request for opening, change or cancellation of the unique official address for electronic communication between state administration bodies and an employee of that body
14. Delivery of the record of e-government services it provides (which includes the requirements for the provision of e-government services, method of submission of files and delivery of legal acts in the electronic format, as well as the method for payment of administrative fees)
15. Resolution by the competent minister on the conceptual design, as well as on the information system project documents in case of information system establishment or upgrades

Does this legislation allow for a digital provision of the services:

This legislation does not limit the possibility of electronic provision of services, but at the same time does not bind the service provider to make the electronic provision of services possible (save for the services under number 14.).

The proposed name of e-service: **e-government.**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Examples of positive practice:

Development of e-government is set as one of important initiatives at the EU level which should ensure the provision of fast and quality services to the clients, but also a higher level of citizens' trust in state administration (confirmed by such strategic documents as: Shaping Europe's Digital Future strategy, Strategy for a Sustainable and Digital Europe, etc.). To ensure a successful transition from ordinary state to digital administration, a large number of EU regulations had to be (and still have to be) transposed to the national regulatory framework. Some of the directives that are important for the setting up of digital state administration are as follows: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on Services in the Internal Market, Open Data Directive, Regulation Establishing a Single Digital Gateway, eID Regulation, Directive on security of network and information systems (the NIS Directive), etc.

Law on Administrative Fees

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Public administration services identified as governed by the regulation:

1. Resolution determining the value of the claim indicated in the filing or document
2. Government of Montenegro's consent to the administrative fee tariff within the competence of a municipality, the capital city, municipalities within the capital city and the royal capital
3. Payment of fee in case of statement of claim filed from abroad
4. Request for approval of payment of 50% of the prescribed fee in intellectual property disputes
5. Resolution allowing the payment of 50% of the prescribed fee in intellectual property disputes
6. Payer's request for reimbursement of administrative fee
7. Resolution on reimbursement of administrative fee

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

The proposed name of e-service: **e-payments**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 8, 3, 14, 19, 20.

Regulation on detailed conditions and method of electronic payment of administrative fees

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Public administration services identified as governed by the regulation:

1. Payment of administrative fees via information system (by payment cards or via e-services portal).

Proposed name of e-service: **e-payment**

Does the legislation allow for a digital provision of the services:

GENERAL ASSESSMENT OF THIS LEGISLATION:

This legislation is not a barrier to further digital transformation of public administration in Montenegro.

This legislation allows for a possibility of electronic provision of the described services.

Law on Civil Servants and Employees

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media**

Public administration services identified as governed by the regulation:

1. Application for state administration professional examination
2. Certificate of state administration professional examination
3. Decision starting the procedure to fill a vacancy
4. Confirmation of the funding secured for a vacancy
5. Filing of applications for internal/public call for applications and public competition
6. Decision withdrawing the call and suspending the procedure for filling a vacancy/correction of the call
7. Drafting of a candidate selection list
8. Decision on the selection of a civil servant
9. Delivery of notice on commencement of employment relationship or withdrawal of consent to keeping a record of personal data of the unselected candidates
10. Resolution on the commencement of employment/assignment/making one available
11. Resolution on evaluation of civil servant's trial work/work
12. Proposal to dismiss the head of an administrative body
13. Resolution on (permanent/temporary) deployment
14. Reporting a potential conflict of interest
15. Decision on starting a disciplinary procedure
16. Submission of report on the work of Disciplinary committee/Complaints commission
17. Resolution on temporary restriction/ban on discharge of duties
18. Resolution on cessation of employment

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-exam**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles

of the Law: 36, 38, 39, 42, 50, 43, 47, 56, 57, 58, 59, 89, 48, 49, 51, 54, 81, 82, 83, 84, 60a, 63, 64, 65, 76, 97, 98, 99, 100, 101, 107, 144, 111, 112, 113, 122, 123, 124, 125, 132, 133.

Law on Local Self-government

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media**

Public administration services identified as governed by the regulation:

1. Application for registration with the local communities register
2. Filing the initiative with competent municipal bodies to consider and decide certain issues of interest to the local population
3. Filing of a complaint/petition
4. Providing explanations and information to citizens on the exercise of their rights and interests
5. Submission of objections or complaints against the work of bodies, or services, or against improper work of civil servants
6. Information by a local self-government on the measures the state bodies (and the other way round) are taking or plan on taking

Does the legislation allow for a digital provision of the services:

This legislation does not limit the possibility of electronic provision of services, but it does not explicitly state that a service can be provided electronically.

This legislation does not limit the possibility of electronic provision of services, but at the same time does not bind the service provider to make the electronic provision of services possible (save for the service under number 3 which may be provided in the digital format).

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 156, 159, 160, 164, 166, 165, 170, 172, 179, 180, 181, 182.

Law on Public Procurement

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Public administration services identified as governed by the regulation:

1. Exchange of data in public procurement procedures
2. Reporting corruption in public procurement
3. Signing a declaration on the absence of a conflict of interest
4. Request for exemption in case of a conflict of interest
5. Application for public procurement officer examination
6. Resolution allowing one to sit for a public procurement examination
7. Record and certificate of examination passed
8. Invitation to bid for a published public procurement
9. Submission of applications for a qualification
10. Publication of tender documents
11. Request for clarifications of tender documents
12. Clarification of tender documents
13. Declaration by a business undertaking on the fulfilment of eligibility requirements for participation in a public procurement procedure
14. Submission of a bid
15. Confirmation of receipt of a bid
16. Delivery of notification on exclusion
17. Decision on the selection of the best bid, or decision on the annulment of public procurement procedure
18. Request by an applicant for qualification or by a bidder for access to the public procurement documents
19. Conclusion of a public procurement agreement
20. Termination/Modification of a public procurement agreement

Proposed name of e-service: **e-public procurement**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation allows for a possibility of electronic provision of the described services (save for the services under number 5, 6 and 7).

Examples of positive practice:

Spain has developed a method for simplification of documents requested for participation in public procurement tenders so that as many companies as possible (especially small and medium sized companies) could apply (for procurement of goods and services within certain value thresholds).

Labour Law

Ministry responsible for implementation: **Ministry of Economic Development**

Public administration services identified as governed by the regulation:

1. Initiating procedure before the Agency for Peaceful Resolution of Labour Disputes or before the Centre for Alternative Dispute Resolution
2. Submission of data to the Employment Agency of Montenegro and to the Human Resources Management Authority on employees who have received severance pay
3. Registration of a vacancy with the Employment Agency
4. Request for publication of a vacancy
5. Notification of an administrative body of a record of an employment contract for the provision of services outside of the employer's premises
6. Application for issuance of the working permit to the agency for temporary assignment of employees
7. Working permit for the agency for temporary assignment of employees
8. Delivery of notification to the relevant inspection authority in case of introduction of overtime/night work/work on state and religious holidays
9. Request to the competent authority for review of temporary incapacity for work
10. Request to exercise the right to the payment of contributions to an employee working with an employer against whom bankruptcy proceedings have been initiated
11. Application for a refund in the amount of salary, for the duration of detention of employee and of contributions and taxes included in the salary
12. Delivery of notification to the Employment Agency of the consultations implemented in case the employer plans a collective lay off of minimum 20 employees for 90 days
13. Request for the protection of the right to payment of claims in case of termination of employment or cancellation of a labour contract

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so

that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 16, 140, 21, 24, 43, 53, 64, 70, 89, 90, 114, 157, 167, 179.

Law on Occupational Health and Safety

Ministry responsible for implementation: **Ministry of Economic Development**

Public administration services identified as governed by the regulation:

1. Application for the professional examination for the post of occupational health and safety coordinator
2. Resolution allowing one to sit for the professional examination for the post of occupational health and safety coordinator
3. Certificate showing the professional examination for the post of occupational health and safety coordinator has been passed
4. Notification of the commencement of works in cases where the employer plans the works lasting for longer than 30 workdays and engaging at the same time over 20 employees or the works engaging over 500 employees, and lasting for over 500 days
5. Consent of the state administration authority responsible for health affairs as to what duties are considered as duties with special working conditions, as well as special working conditions that an employee needs to fulfil to be able to work in such posts
6. Submission of notices to the labour inspection
7. Application for professional examination in occupational health and safety affairs
8. Resolution allowing one to sit for the professional examination in occupational health and safety
9. Certification showing the professional examination in occupational health and safety has been passed
10. Application for authorisation to conduct occupational health and safety duties with legal persons and entrepreneurs
11. Resolution assigning one to conduct occupational health and safety duties with legal persons and entrepreneurs
12. Authorisation issued to a legal person for occupational health and safety of its employees
13. Report of a lethal, collective, serious, or other occupational injury causing an employee's absence from work for longer than three workdays, as well as of a hazardous event that could jeopardise the health and safety of employees

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 9d, 10, 21, 33, 35, 39, 41, 49, 51.

Law on Health Care

Ministry responsible for implementation: **Ministry of Health**

Public administration services identified as governed by the regulation:

1. Application for issuance of a certification that one meets the requirements for the provision of health care and health care services
2. Certification that one meets the requirements for the provision of health care and health care services issued by the Ministry of Health
3. Notification of the Ministry of Health of any change of requirements for the provision of health care /cessation of provision of health care
4. Resolution of the Ministry of Health that one no longer meets the prescribed requirements for the provision of health care
5. Approval for special requirements for the provision of health care in terms of human resources, accommodation, care and time
6. Request for recognition of internship or part of internship done abroad
7. Application by a health professional for license issuance/renewal
8. Issuance of license (by the competent chamber)
9. Resolution on temporary license revocation
10. Request by a health care institution for an assessment of health technologies
11. Resolution on the use of a new health technology
12. Delivery of reports and other prescribed documents, information, and notifications to the Ministry of Health
13. Consent and approval by the Ministry of Health to the acts, plans and programmes and other requests filed by an applicant
14. Request for an extraordinary external quality assessment of professional work
15. Delivery of report based on the established facts following the request for an extraordinary external quality assessment of professional work
16. Resolution on termination of work of a health care institution, provision of certain activities in a healthcare institution or its part, as well as in other entity providing health care
17. Application for a healthcare institution accreditation
18. Issuance of a certificate of (temporary) accreditation
19. Resolution revoking the accreditation certificate
20. Application by a family to conduct burial ceremony before expiry of 24 hours, or after expiry of 48 hours following the time of death
21. Approval by a sanitary inspector for conduct of burial ceremony before expiry of 24 hours, or after expiry of 48 hours following the time of death

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-health**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 61, 62, 65, 67, 96, 111, 113, 117, 128, 75, 110a, 157, 17, 69, 73, 79, 84, 96, 104, 109, 121, 152, 153, 156, 157, 159, 166.

Examples of positive practice:

Most EU member states have already implemented or have committed to introduce within a short period of time a patient's electronic health record, which will include important information on patient's health (such as information on allergies, medication taken, previous illnesses, surgeries, etc.) which makes part of the electronic/digital record. A patient's electronic health record will allow doctors to get important information in their own language about a patient who comes from another state and who may speak a different language.

Over time, across the EU, there will be an exchange of medical imaging, laboratory tests and discharge letters, and later maybe even of entire health records.

On the other hand, some jurisdictions have introduced the possibility of digital provision of doctor registration and licensing services, while some EU countries (e.g. Hungary and Belgium) have provided for an automatic registration and licensing procedures (i.e. there is no need for any requests to be submitted).

Rulebook on organisation, method of examination and content of professional examinations for health workers and health assistants, as well as on the membership and work of examination commissions

Ministry responsible for implementation: **Ministry of Health**

Public administration services identified as governed by the regulation:

1. Application for professional examination
2. Resolution confirming eligibility for professional examination (resolution confirming eligibility requirements have been met)
3. Request seeking to postpone professional examination
4. Certificate of professional examination

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-health**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the possibility of electronic provision of services, but a restrictive interpretation remains possible.

The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Rulebook on Specialisations

Ministry responsible for implementation: **Ministry of Health**

Public administration services identified as governed by the regulation:

1. Consent by the Ministry of Health for enrolment in a health related faculty for the purpose of residency
2. Resolution by the Ministry of Health on the termination of residency (temporary incapacitation for reason of pregnancy maintenance, illness, parental leave, etc.)
3. Keeping of a specialisation index
4. Application for approval to take specialisation examination
5. Approval to take specialisation examination
6. Diploma of specialisation examination

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-health**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible.

The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Rulebook on detailed conditions for receiving the title of a doctor primarius

Ministry responsible for implementation: **Ministry of Health**

Public administration services identified as governed by the regulation:

1. Application for the title of doctor primarius
2. Obtaining the opinion of the competent chamber on the application submitted by a health professional
3. Resolution awarding the title of doctor primarius
4. Decision stating a health professional does not meet the requirements to be awarded the title of doctor primarius

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-health**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible.

The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Law on Credit Institutions

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Institution/body responsible for implementation and enforcement: **Central Bank of Montenegro**

Public administration services identified as governed by the regulation:

1. Application filed with the Central Bank for obtaining or increasing a qualified share
2. Confirmation of receipt of the application for obtaining or increasing a qualified share
3. Resolution approving/reducing/regaining a qualified share in a credit institution
4. Resolution temporarily banning the voting right to a person with a qualified share
5. Request for issuance of approval for granting/withdrawal of the post of a member of supervisory/managing board
6. Approval for discharging the function of a member/president of supervisory/managing board
7. Application for issuance of operating license to a credit institution
8. Resolution on the issuance of operating license to a credit institution
9. Application for issuance of approval
10. Approval of decisions on the operation of a third country credit institution branch office
11. Approval of establishment of a third country credit institution representative office
12. Operating license to a credit institution founded by merger
13. Approval for acquisition of one credit institution by another/for operation of credit institutions that are founded through division/for giving approval for separation of part of assets and liabilities into one or more credit institutions that are founded
14. Exchange of information with competent bodies of member states

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is

defined more explicitly. This could be achieved by amending the following articles of the Law: 23, 27, 34, 38, 37, 44, 45, 53, 66, 70, 72, 89, 90, 91, 96, 99, 100, 101, 102, 327.

Law on Payment Operations

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Institution/body responsible for implementation and enforcement: **Central Bank of Montenegro**

Public administration services identified as governed by the regulation:

1. Registration with the public register of payment services provider
2. Submission of information on the level of tariffs to the Central Bank and reporting on payment services
3. Request for issuance of approval for the provision of payment services
4. Notification to the Central Bank on the acquisition of a qualified share of a legal or physical person – investor in a payment institution
5. Resolution approving the provision of payment services/denying the application
6. Application for issuance of approval for the provision of additional payment services
7. Resolution on issuance of approval to a payment institution for the provision of additional payment services
8. Resolution withdrawing the approval to a payment institution for the provision of payment services
9. Request for registration of an agent in the register of payment institutions
10. Request for the provision of payment services via a branch in a third country
11. Request for issuance of operating license for a payment system
12. Resolution on the issuance and revocation of operating license for a payment system
13. Delivery of resolution to the Central Bank on the opening of insolvency procedure

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 19, 28, 55, 70, 72, 71, 73, 75 ,74, 76, 77, 88, 135, 135 – 139, 153.

Law on the Prevention of Money Laundering and Financing of Terrorism

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Public administration services identified as governed by the regulation:

1. Report on the results of the National Risk Assessment,
2. Submission of information, data, and documents to the financial intelligence unit,
3. Determination of the beneficial owner of a legal person, business entity or a foreign legal person,
4. Submission of data for registration with the Register of Beneficial Owners,
5. Preparation of the report of cash transactions of minimum 15,000 euro,
6. Submission of reports by notaries or attorney in case of reasonable doubt to believe a case is a case of money laundering and financing of terrorism,
7. Request for submission of data by reporting entity/attorney/notary in case it is established there is reasonable doubt to believe a case is a money laundering case and related predicate crimes or financing of terrorism,
8. Submission of data by a reporting entity/attorney/notary in case of reasonable doubt that there is a case of money laundering or related predicate crime or financing of terrorism
9. Request/order on temporary blocking of transactions
10. Request for continual oversight of a client's financial operations
11. Notification of a suspicious transaction by a financial intelligence unit to a competent body
12. Notification to a competent body by a financial intelligence unit in case that based on data, information, and documents there is reason to believe that there are other criminal offenses that are prosecuted ex officio
13. Letter rogatory to a competent body by a foreign state for submission of data and information.

This legislation does not limit the possibility of electronic provision of public administration services, but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

Assessment of the legislation:

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Examples of positive practice:

To improve anti-money laundering procedures, continuous work is needed on further improvements in this field through amendments to the legislation governing the prevention of money laundering and financing of terrorism. Also, the Financial Action Task Force (FATF) regularly publishes various instructions on improving risk assessment procedures, etc. For that purpose, there is a need to consider what legislative amendments will be necessary so as to ensure compliance with the current AML directives at the EU level (for example the Fifth AML Directive, which will include greater authority for financial intelligence units, establishment of automatic register to allow for data checks on bank owners and payment accounts, oversight of suspicious transactions with virtual currencies, etc.).

Special commentary on legal provisions on the identification of persons falling outside of the scope of public administration services

The scope of application of the Law on the Prevention of Money Laundering and Financing of Terrorism falls significantly beyond the scope of public administration services in the narrow sense and extends to a large number of reporting entities that carry out their activity in the private sector⁷.

Article 14 of the said legislation sets out the rules for establishing and checking the identity of physical persons, and stipulates that the identity of a client who is a physical person, or his legal representative, entrepreneur or a physical person who carries out the activity must be established and checked by having access to his personal identity document **along with his personal presence** and the necessary data obtained. The Law also provides for the duty of a reporting entity to obtain during the procedure for establishing client's identity a photocopy of an identity document (e.g. personal identity card, passport, driving license or another document with the photograph of the person whose identity is being established or checked), on which he shall enter the date, time and name of the person who had access to the document and which he shall store in accordance with law. The same principles also apply to the identification of persons authorised to represent legal persons (legal representatives, directors, procurators, etc).

⁷ Article 4 sets out the reporting entities under this law and list a wide range of entities which are under duty to take activities and measures to detect and prevent money laundering and financing of terrorism. Such measures must be taken by the following: banks and other credit institutions and banks' branch offices, financial institutions engaged in purchasing liabilities, financial leasing, safekeeping, factoring, issuance of guarantees and other warranties, crediting and credit intermediation, foreign exchange, provision of payment services and institutions for electronic money with their seat in Montenegro, Montenegro Postal Service, investment fund managing societies, branch officers of foreign investment fund managing societies, and companies from the European Union member states which are authorized for direct management of investment funds in the territory of Montenegro, companies for pension fund management, investment companies and branch offices of foreign investment companies whose business is regulated by legislation governing capital market, life insurance companies and branch officers of foreign life insurance companies, mediation companies, companies for representation and intermediaries and agents in insurance business in issues relating to life insurance, companies organizing lottery and other games of chance as well as games of chance via the internet, or other telecommunication means, pawn shops, legal entities, companies and physical persons engaged in the business relating to issuance and management of virtual currencies, including the services of exchanging virtual currencies to conventional currencies and vice versa, and other companies, legal persons, entrepreneurs and physical persons engaged in specific activities.

The Law, therefore, implies that it is only the hard copy of documents and personal presence that are requested when establishing the identity of a person.

On the other hand, an issue which is still open to interpretation is what is considered “personal presence”, as well as the question of whether personal presence is possible only by physical presence of the person on the reporting entity’s business premises or whether the requirement for a personal presence can be met in an alternative way instead.

During the public consultations organised, the Secretariat of the Competition Council highlighted the contested provision of Article 14 of the Law as well as its negative implications relating to the possibility of providing a service of opening a bank account, or taking all other actions relating to banking operations electronically.

GENERAL ASSESSMENT OF THE LEGISLATION BEYOND THE SCOPE OF PUBLIC ADMINISTRATION: This legislation is a barrier to further digital transformation of services within the private sector in Montenegro.

Recommendation: amend the legislation so that prerequisites are in place for the challenging personal presence to alternatively be exercised also by means of electronic identification based on modern communication audio-visual identification means.

Law on Protection of Consumers – Users of Financial Services

Ministry responsible for implementation: **Ministry of Finance and Social Care**

Public administration services identified as governed by the regulation:

1. Report of the criminal offense of counterfeiting signature, misuse of personal data and misuse of office
2. Reporting to the banking Ombudsman on the received and resolved complaints
3. Complaints filed with the banking Ombudsman in case where the provider of financial services does not submit a reply within the prescribed term or where the complainant is not satisfied with the decision
4. Request for a statement of the financial institution on the allegations stated in the complaint
5. Referral of case to the Central Bank of Montenegro

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Ireland, Sweden, Estonia, and the United Kingdom have introduced the option of electronic filing a complaint with the Ombudsman for financial services.

General Law on Education

Ministry responsible for implementation: **Ministry of Education, Science, Culture and Sports**

Public administration services identified as governed by the regulation:

1. National Council's proposal for the adoption of curriculum/terms and standards for the establishment of educational institutions
2. Application for institution licensing
3. Resolution on licensing
4. Resolution banning the work of an institution
5. Issuance of consent by the competent ministry on the legal acts of a public institution
6. Submission of documents to the competent ministry by a public institution
7. Application for professional teacher's examination
8. Resolution determining whether a teacher meets the requirements to take professional examination for teachers
9. Certification that a teacher passed a professional examination for teachers
10. Request for issuance/renewal of a teacher's license
11. Issuance of a teacher's license

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Law on Spatial Planning and Building Construction

Ministry responsible for implementation: **Ministry of Ecology, Spatial Planning and Urbanism**
Institution/body responsible for implementation and enforcement: **Cadastre and state property administration**

Public administration services identified as governed by the regulation:

1. Assignment of layer copies and development plans
2. Request by a competent ministry for data on overground and underground lines, together with associated devices and installations
3. Exchange of data, opinions, consent, and other documents between state administration bodies
4. Request for parcelling
5. Resolution on the formation of cadastre plots making up an urban plot
6. Resolution on the development fee
7. Resolution on the level of urban annuities
8. Registration of reconstruction works
9. Registration of construction works
10. Notification of a change of contractor/investor
11. Notification of commencement of the receipt of works at a construction phase
12. Resolution on trial work
13. Request for structure removal
14. Order on the removal of a structure
15. Application for professional examination for the work of designing technical documents and for building construction
16. Resolution confirming eligibility for professional examination for the work of designing technical documents and for building construction
17. Certificate of professional examination for the work of designing technical documents and for building construction
18. Application for license issuance
19. Notification of the Ministry on any changes in the eligibility requirements serving as basis of license issuance
20. Request for voluntary license suspension
21. Proposed license cancellation
22. Order cancelling a license
23. Application for legalisation of illegal structures
24. Application for transfer of ownership rights over land with illegal structures on it
25. Resolution on legalisation
26. Registration of the commencement of works on a complex engineering facility
27. Application for user permit

Does the law allow for a digital provision of the services:
The law allows for electronic provision of services.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

Law on Non-governmental Organisations

Ministry responsible for implementation: **Ministry of Public Administration, Digital Society and Media**

Public administration services identified as governed by the regulation:

1. Application for registration of a non-governmental organisation with the register of non-governmental organisations
2. Resolution on the registration with the register of non-governmental organisations
3. Resolution rejecting registration with the register
4. Registration of any alterations of the facts and data entered in the register
5. Application for registration of a representative office of a foreign organisation
6. Application for a public call for distribution of funds for financing NGO projects and programmes
7. Delivery of decision on distribution of funds
8. Delivery of decision on deletion/cessation of work of an organisation, association, or a representative office
9. Request for deletion of association

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-NGO**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 15, 18, 18a, 19, 20, 32g, 32z, 38, 39.

Civil Procedure Code

Ministry responsible for implementation: **Ministry of Justice, Human and Minority Rights**

1. Notification to the court of the actions taken in the territorial jurisdiction of another court
2. Resolution determining the value of claim
3. Issuance of power of attorney/revocation (or cancellation) of power of attorney
4. Service of submissions
5. Service of filings
6. Collection of judgment

Does the law allow for a digital provision of the services:

This legislation excludes the possibility of providing some services electronically (under number 7), provides for a possibility to provide some services electronically (under numbers 5 and 6), while in respect of other services it does not restrict the possibility of providing a service electronically, but at the same time does not bind the service provider to allow for electronic provision of services for its service users.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 27, 37, 95, 97, 341.

Law on Interns in Courts and State Prosecution Service and on Bar Examination

Ministry responsible for implementation: **Ministry of Justice, Human and Minority Rights**

Public administration services identified as governed by the regulation:

1. Registration for internship examination
2. Certificate of internship examination
3. Certificate of practical element of the internship professional development programme
4. Application for bar examination registration
5. Resolution on bar examination registration
6. Notification on the bar examination final assessment
7. Application for postponement of incomplete bar examination
8. Certificate of bar examination
9. Application for a public call for recruitment of interns

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **e-exam**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 10, 35, 16, 28, 35, 36, 43, 46, 48.

Law on Court Fees

Ministry responsible for implementation: **Ministry of Justice, Human and Minority Rights**

Institution/body responsible for implementation and enforcement:

Public administration services identified as governed by the regulation:

1. Tax payment receipt
2. Application for tax exemption
3. Resolution on tax exemption
4. Reminder tax payment notice
5. Application for tax refund
6. Resolution on tax refund

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly.

The EU has developed electronic order for payment of court fees (European order for payment, Form A/Form E).

https://e-justice.europa.eu/content_court_fees_concerning_european_payment_order_procedure-305-es-en.do

https://e-justice.europa.eu/content_court_fees_concerning_european_payment_order_procedure-305-ew-en.do

https://e-justice.europa.eu/content_order_for_payment_procedures-41-en.do

Law on Authentication of Signatures, Manuscripts and Transcripts

Ministry responsible for implementation: **Ministry of Justice, Human and Minority Rights**
Institution/body responsible for implementation and enforcement:

Public administration services identified as governed by the regulation:

1. Signature and manuscript authentication
2. Return delivery of a legal instrument with signature authentication subject to tax liabilities
3. Transcript authentication
4. Collection of stamp duty for signature, manuscript, and transcript authentication

Does the law allow for a digital provision of the services:

This legislation excludes the possibility of providing some services electronically (under numbers 1 and 3), while in respect of other services it does not restrict the possibility of providing a service electronically, but at the same time does not explicitly state that a service can be provided in that manner.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

The legislation does not exclude the electronic provision of service, but a restrictive interpretation remains possible. The relevant provisions need to be made more specific so that the possibility for the provision of e-services (where the type of service so allows) is defined more explicitly. This could be achieved by amending the following articles of the Law: 6, 14, 19, 17, 22.

Law on Archives

Ministry responsible for implementation: **Ministry of Education, Science, Culture and Sports**
Institution/body responsible for implementation and enforcement: **State Archives**

Public administration services identified as governed by the regulation:

1. Collection of archive records

This legislation does not limit the possibility of provision of e-services but at the same time does not bind the service provider to make the electronic provision of services possible.

Proposed name of e-service: **other e-services**

GENERAL ASSESSMENT OF THIS LEGISLATION: This legislation is not a barrier to further digital transformation of public administration in Montenegro.

However, the legislation identifies a considerable number of services that can be provided electronically but are still provided in practice solely in a „paper“ format.

Recommendation: Appropriate measures are needed to ensure electronic provision of these services in practice.

A partial non-alignment with special regulations has been identified as well as a need for further alignment of the Law with the electronic archive provision in the Law on Electronic Document so that the substantive provisions of this legislation also cover the electronic document archiving in line with the same principles as those that apply to documents in the paper format.

Estonia’s Archives Act applies to electronic documents just like to any other documents stored in other formats. The National Archives Strategy in Estonia 2021-2024 places a focus on further development of National Archives that operate as part of e-governance and information society. Accordingly, set as some of the objectives for the state and archives are the following: simpler digital storage processes; general principles for preservation of digital content in archives are based on Data Security Rules, General Regulation on Data Protection, ISO standards, etc.; Also, the Regulation on Archival Rules clearly defines the existence of digital services and digital documents as well as the ways in which they are to be handled in archival procedures.

Chapter 5 Commentary on the complaints from the business community

Law on Prevention of Money-Laundering and Financing of Terrorism

The Secretariat of the Competition Council points to the contested Article 14 of the Law and its negative implications relating to the possibility for the electronic provision of service of opening of a bank account, and carrying out other banking operations. As highlighted in the analysis of the Law on Prevention of Money-Laundering and Financing of Terrorism, this goes beyond the scope of public administration services and includes a large number of private sector entities that are under duty to comply with this legislation.

Chapter 4 of this document offers a detailed explanation of the contested legal provisions and finds them to act as a **barrier to further digital transformation of private sector services in Montenegro**. A number of recommendations are offered to amend the legislation in order to put conditions in place for the **challenging personal presence of a physical person** to be replaced by electronic identification, namely by audio-visual identification using modern communication methods.

Accordingly, amendments to this legislation are recommended in order to remove the barriers to digital transformation of the private sector services in Montenegro.

Law on Electronic Communications

The Ministry of Finance and Social Care, Union of Employers of Montenegro and the Chamber of Commerce of Montenegro point to a need to improve the provisions of the Law on Electronic Communication governing the conclusion and renewal of subscription contracts for electronic communication services.

The contested provision of Article 152 paragraph 5 provides for a duty of an electronic communications operator to inform its subscribers **in writing** within minimum 30 days before any change of terms from the subscription contract occurs in a clear, visible, and unambiguous way, as well as via SMS message, where possible. This is a way to protect consumers of electronic communications services and reduce the risk of having legal relations between the service user and service provider changed without the service user being adequately informed or having the opportunity to express their will.

Such provisions are an example of a **breach of principle of equivalence of electronic document** because aside from delivering a written document there is no possibility envisaged for delivering an electronic document, which leaves space for restrictive interpretations to exclude this possibility in practice.

Accordingly, a recommendation is made to amend this legislation so as to include under the term “in writing” also the electronic format of documents.

Chapter 6 Conclusions and recommendations

While the provisions of the Law on Electronic Identification and Electronic Signature, as well as the Law on Electronic Document may be seen as relatively aligned with eIDAS Regulation⁸, and therefore also as meeting the criteria of best practices, these laws should be assessed primarily from the point of view of their implementation in practice.

Four special regulations, together with accompanying secondary legislation, meet their primary objective of establishing the basic legislative infrastructure required for digital transformation and yet, each one in their own right, without a systematic approach of the entire legal system of Montenegro, their scope remains limited.

If amendments to the Law on Electronic Document were adopted, the said legislative framework would be additionally improved, with the full quality of the implemented amendments being visible only after those solutions have taken effect and after the new solutions have been tested in practice.

Overview of key recommendations:

Adoption of proposed amendments to the Law on Electronic Document (described in detail in Chapter 4, section on the Law on Electronic Document), which would additionally improve the legislative framework and align those provisions that are currently not in line with the Law on Electronic Identification and Electronic Signature.

Adopt proposed regulations to allow for a more efficient data exchange between individual entities within electronic governance (described in detail in Chapter 4, section on the Law on Electronic Government).

The adoption of proposed amendments to the Law on Administrative Procedure (described in detail in Chapter 4, section on the Law on Administrative Procedure), by which the administrative procedure in Montenegro would be additionally improved, in line with the recommendations provided.

A detailed legal analysis of a considerable number of legal instruments (laws and implementing regulations) and of specific legal fields identified a number of shortcomings and examples of non-compliance, manifested in practice in a number of ways.

There are rare situations in practice where a regulation **makes it impossible to provide a public service or ensure that a legal process is carried out electronically**. This is most often implemented in such a way that the description of the procedure itself involves a form which includes the obligation of a party to be present in a certain location or the obligation to submit certain documents or proof of payment in paper format.

⁸ The only exception is the provision of Article 4 of the Law on Electronic Document.

In a number of cases, such as the issuance of personal documents or fulfilment of certain security conditions (in the Law on Foreign Nationals), or in cases in the public interest, such an approach is justified.

In other cases, however, it makes meaningless the entire concept of digital transformation and the introduction of regulations governing this matter. Where appropriate, conclusions and recommendations were made on how to overcome such barriers.

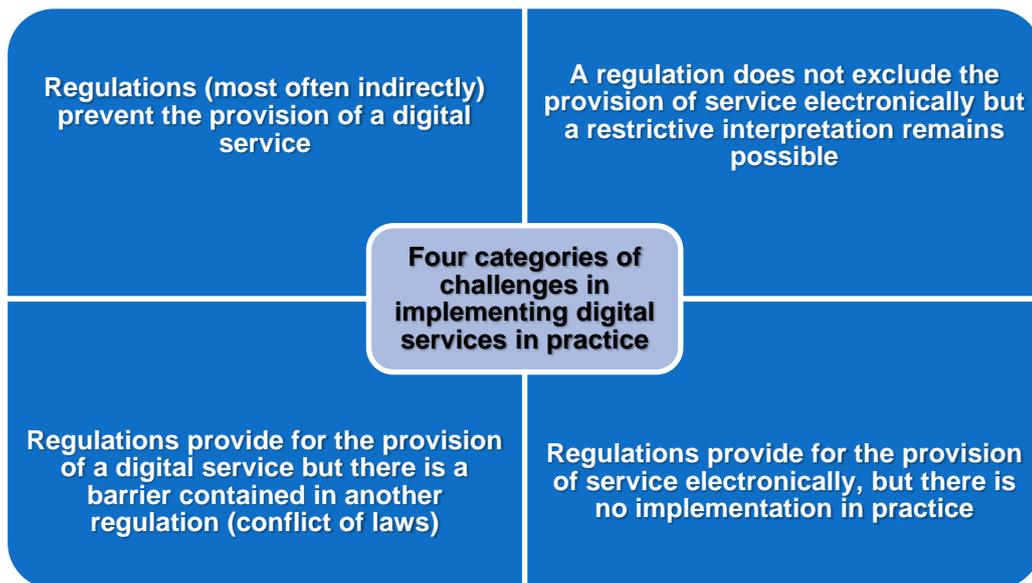
Also, the analysis identified some cases of services or procedures whose regulatory framework does not exclude the possibility of their electronic provision, and yet there is a restrictive approach in practice (most often as a result of interpretation by the relevant authorities) to the effect that these services or procedures cannot be implemented by using electronic identification, electronic documents, signature, or seal.

Restrictive interpretation is recognised as one of the key barriers in digital transformation. Making it impossible to provide certain public administration services digitally constitutes a violation of the principle of prohibition of discrimination against the electronic instrument, which has a negative impact on the development of digital government.

The recommendation made, therefore, focused on the application of digitalisation by implementing the existing legislation in practice. Exceptionally, in situations where progress is not possible, there is a need to consider introducing additional legislative amendments to target linguistic changes which would eliminate the restrictive interpretations.

A significant number of cases have been identified where a regulation provides for the electronic provision of some services and, **yet, there is another regulation in place which prevents this mode of provision** (most often, this concerns GtoG services and restrictive interpretation of personal protection legislation, data exchange and central population register, etc.).

And finally, a number of cases have been identified in practice where a service or procedure is directly defined by law as being “electronic”, whereas in practice **there is no adequate human, financial and other resources, and possibilities for it to be implemented within the digital model**. Such cases show a mismatch between practice and the legal framework, and the legal analysis does not address them as such. Instead, the competent institutions are expected to offer an accelerated implementation of the systems that would make it possible to provide a service in a manner set by law.



Overview of key recommendations:

1. With respect to those cases where specific legislation completely prevents the provision of a public service or the conduct of a legal transaction by using electronic means, **amendments were proposed to the relevant laws to lift such restrictions. This refers to specific public administration services governed by: Law on Identity Card, Foreign Nationals Law, Law on Notaries, Civil Procedure Code and Law on Authentication of Signatures, Manuscripts and Transcripts.**

A detailed commentary on these regulations is provided in Chapter 5 of this report.

2. In case of the services or procedures in respect of which the legislation governing them does not exclude the possibility of their implementation by using electronic means, whereas in practice, due to a restrictive interpretation or a narrow interpretation, these services or procedures are facing difficulties in their implementation with the use of electronic identification, electronic document, signature or seal, **proposals are also made for amendments to lift those restrictions.**

This applies to the majority of the laws analysed which is why a detailed description of those regulations is presented in Chapter 5 of the report.

3. In case of those regulations that prevent a digital provision of services as described by other regulations, amendments to such regulations are proposed **to reverse the disabling effect.**

The report has identified a few such cases including the Civil Procedure Code and the Law on Authentication of Signature, Manuscript and Transcript, but there may be

more of them in practice given that the analysis has covered a limited number of regulations only.

4. In respect of the cases where a service or procedure is directly defined by law as being “electronic”, while in practice there are inadequate human, technical, financial, or other resources for their implementation within the digital model, a proposal was made to set up a working body which would assist and coordinate service providers in their efforts to create conditions for a full implementation of the legal provisions. The best practical example of such a regulation is the Law on Spatial Planning and Building Construction “Official Gazette of Montenegro”, Nos. 64/2017, 44/2018, 63/2018, 11/2019 – corrigendum and 82/2020.

Chapter 7 Annexes

Annex 1: Detailed legal analysis of a set of laws known as “special regulations”

Annex 2: Table with a detailed analysis of 45 individual “general regulatory” instruments