

DRAFT Assessment of the implementation by Montenegro of the roadmap for visa liberalisation

BLOCK 1 Document Security

General Assessment of block 1:

Montenegro has made very good progress in the field of document security. The legislative framework required for the introduction and issuance of machine-readable biometric travel documents was put into place in May 2008, and between 5 May and 8 October 2008, 55.339 passports were issued under the new system. Montenegro has demonstrated the political will to complete the task of ensuring that all travel documents comply with ICAO and EC standards.

The country's readiness report provides detailed information regarding the issuance of new passports and ID documents. However in order to have a complete picture of the current situation, additional information is needed on certain specific issues, as requested below per policy area. Furthermore, in order to verify that policies are being correctly implemented, the organisation of one or more field missions is required covering the following areas:

- security and issuance procedure for breeder documents;
- security and issuance procedures for new passports and identification documents.

Detailed comments on block 1 by policy area:

Passports/travel documents, ID cards and breeder documents (benchmarks 1-5)

According to the Law on Travel Documents, the replacement of the old passport will be completed by the end of 2009. Problems or other difficulties during the first period of implementation of the new system have not been reported. In its additional report submitted in October 2008, Montenegro provided specific information on the issuance of diplomatic and services passports [120 diplomatic and 20 official passports were issued], which follows procedures proscribed by the Law on Travel Documents and the Decree on Persons Entitled to Issuance of Diplomatic and Official Passports. Details are provided on persons eligible for the diplomatic passports.

Information was provided on the security specifications of the new biometric passport (two finger prints taken, inscription in a chip, collection of data), as well as on the administrative procedure in place for the personalisation and distribution process (issuing system, distribution, storage of blank documents, central and regional units involved in the process). The personalisation process is centralised within the Department for information technologies of the Ministry of Interior and Public Administration (MoIPA).

Regarding training programmes, officials dealing with visas and passports are made aware of the Ethical Code of the State Administration Employees and Civil Servants, which contains provisions on issues such as political neutrality, abuse of office and confidentiality. However, additional anti-corruption training programmes with a stronger focus on specific elements are required.

It was reported that several instructions for human resources, defining procedures to be followed in the personalisation and distribution of new biometric passports and ID cards, have been developed. However, no mention is made of trainings held to ensure that officials possess the required competences to complete these tasks.

A reporting system with Interpol has been successfully established, with data on lost and stolen travel documents communicated electronically to the Interpol national Bureau in Podgorica.

Good efforts have been made to improve the level of security of ID cards and breeder documents. Issuance of breeder documents is governed by the Law on Travel Documents and the Law on Identity Cards, which require citizens to produce a citizenship certificate, a birth certificate or a marriage certificate with ID card applications. Local self-government bodies are responsible for issuing these certificates as they manage the Record of Montenegrin citizens under the supervision of the Ministry of Interior and Public Administration. Attention should be paid to ensuring that all information contained in relevant databases is authentic.

The Law on Citizenship was adopted in February 2008. This law establishes a central electronic register on Montenegrin citizens which will be created from data held in citizen books by local self-government bodies. Responsibility for creating and managing this register is with the regional units of the Ministry of Interior and Public Administration.

Further information is requested on:

- administrative procedure for personalisation and distribution of passports, in particular fingerprinting procedure;
- procedures and facilities regarding breeding documents: storage facilities, security standards, and issuance procedures, in particular on methods in place for verifying that all personal data entered into relevant databases is authentic;
- the setting up of a central electronic register of Montenegrin citizens, in particular financial resources and human resources of competent units and their ability to ensure the efficient functioning of the system;
- content and frequency of current trainings on the Ethical Code, the profile of persons conducting trainings, and the number of participating officials (central and regional level);
- trainings held on implementation of measures introducing new biometric passports and ID cards to ensure that human resources possess required competence;
- statistical data on number of new biometric passports issued in Podgorica and other locations.

BLOCK 2 Illegal migration, including readmission

General assessment of block 2:

Good progress has been made in the fields of border management, asylum and migration management. In the area of border management, Montenegro is making progress in establishing the general legal and administrative framework for completing the relevant criteria of the visa dialogue, although further efforts in several areas are required to make an integrated border management system fully operational. The legislative framework should be completed during the coming months. Montenegro should then take all necessary administrative measures to ensure correct and efficient implementation of the legislation. In particular, the necessary human resources and infrastructure should be provided. IT systems should be upgraded in order to prepare the connection of all Border Crossing Points (BCPs) with the data communication network and central database. Furthermore, strategic and operational coordination between all services involved in border management should be improved.

In the area of asylum, overall, Montenegro has started to address its priorities. Secondary legislation in this area has been adopted and an Office for Asylum as well as a State Asylum Appeal Commission have been established. The number of asylum seekers is remarkably low, with 3 claims made in 2007 and 5 in the first half of 2008.

Significant progress has been made in the area of migration management. Steps were taken to put in place the required legislation in this field, with the Law on the Registry of Temporary and Permanent Residence of Citizens and the Law on Employment and Work of Foreigners adopted in March and February 2008 respectively. The Strategy for Integrated Migration management for the period 2008-2013 has also been approved recently. Adoption of the Law on Foreigners is planned for November 2008. With the adoption and efficient implementation of these strategic texts Montenegro will have the necessary legal framework and administrative structure in place for a sustainable management of migration.

In some areas the country's readiness report does not provide a complete picture of the situation, in particular regarding the implementation of policies, results, priorities and timing for their implementation as well as structures and responsibilities. In order to assess the existing and planned measures in more detail, a request for further information is made (see below the information per policy area) and organisation of (a) field mission(s) is planned covering the following policy areas:

- border management.
- migration management issues including asylum.

Detailed comments on block 2 by policy area:

Border management (benchmarks 6- 9)

The Law on State Border Surveillance was adopted in 2005 and introduced a legal framework in the field of border management, which was inspired by the Community acquis on border management. However further harmonisation with EU standards in this area (in particular the Schengen Border Code) is required. In order to introduce necessary changes, amendments to the law are planned by the end of 2008, and in addition, a new Law on State Border Surveillance may be drafted and adopted in 2009.

The adoption of amendments to the Law on police with relevance to border management is envisaged by the end of 2008. Plans also exist to adopt by-laws sending police officers abroad as liaison officers.

The Police Administration was established by the Decision on Organisation and Work of the State Administration in 2005. The Border Police is established under the Police Administration in accordance with the Rulebook on Internal Organization and Systematization, and comprises four departments. There are 7 land border police branches and one marine branch. The Border Police employs 1470 officers, and its current staffing level is around 91%.

In order to secure the borders at rivers and lakes and on the sea, the Border Maritime Police was established as a separate section within the Border Police. Its tasks, which are laid down in the Law on Surveillance of the State Border and Law on Police, include prevention and detection of criminal acts, protection of the lives and security of citizens, and border surveillance. Detailed information was provided on the system in place for the management of blue borders.

An Integrated Border Management (IBM) strategy and Action Plan was adopted which are currently being implemented by various administrative bodies. A Cross-Sectorial Commission was established in January 2008 to oversee implementation while the Integrated border and border-crossing administration is the responsibility of the MoIAP. In addition, regional IBM centres are being established to coordinate and synchronise border-related activities of the Border Police, the general police, customs etc.

Montenegro should ensure that coordination between the various administrative bodies involved in border management functions efficiently by strengthening inter-agency cooperation in this area. The current "mechanisms of co-operation among national agencies" are based on intensive informal co-operation among all state bodies that execute their tasks on border crossings and along border lines. This cooperation should be formalised through protocols, memoranda of understanding or agreements.

Measures regarding the improvement of infrastructure, equipment and IT technology are foreseen. In this context, the integration of all BCPs into the data communication network of the Police Administration is a priority. However, currently only eight BCPs are connected, and although Montenegro reported in October 2008 that this number will rise to 10 by the end of 2008, it also noted that problems persist with extending the data communication network to additional BCPs such as Sitnica. Furthermore, it needs to be ensured that sufficient funding is provided to meet priorities regarding infrastructure, equipment and IT technology as defined in the IBM strategy and Action Plan.

Several border management cooperation protocols have been signed with neighbouring countries. Conclusion of a Working Arrangement regulating mutual cooperation between FRONTEX and the competent authorities is planned in the period to come.

Further information is requested on:

- plans for adoption and implementation of the amendments to the current Law on State Border Surveillance and plans for adoption of a new Law;
- the functioning of the border police, in particular its human resources and training programmes, plans to fill vacancies, development and implementation of Standard Operational Procedures, risk analysis and exchange of information, and anti-corruption measures;
- implementation and plans to update the Strategy on Integrated Border Management, including priorities, planned activities, , competent bodies and deadlines;
- plans on establishment and coordinating activities of regional teams for border control and IBM centres;
- plans to integrate all BCPs in the country with the data communication network and central database of the Police Administration;

Asylum (benchmarks 11-12)

The establishment of the legal framework in the field of asylum made some progress with the adoption of secondary legislation in 2007 complementing the Asylum Law which entered into force in 2006. This secondary legislation includes measures related to the interview procedure for asylum seekers, as well as procedures and methods for taking photos, fingerprints and signatures of asylum seekers.

Since August 2008 UNHCR has been working with the MoIPA in order to elaborate legislative amendments to improve the legal status of refugees and IDPs. To this end UNHCR proposed on 14 October 2008 to the Ministry of Interior and Public Administration draft texts to be included in the Law on Foreigners under a special Chapter on the integration of Displaced Persons. The texts seek to ensure access to all rights (economic, social, political, civil and cultural). The proposal contains texts concerning also "refugees with continuous international protection needs" that go beyond the scope of the relevant provisions in the current Law on Asylum (Art. 75/2).

The Office on Asylum and the State Asylum Appeal Commission, which decide in first and second instance on asylum requests, were established and staffed. However, it appears that the State Asylum Appeal Commission is an administrative body and no judicial remedy exists to its decisions.

Regarding the provision of adequate infrastructure, the tasks of providing accommodation to persons seeking asylum are carried out by the Bureau for Refugee Care. Montenegro reports that this authority is obliged to provide assistance to all asylum seekers during inspection of their claims by providing accommodation, education and healthcare, as well as ensuring that basic socioeconomic rights such as the right to work are respected.

As regards the access of asylum seekers to accommodation, an Asylum Seekers Centre has been under construction and suspended for lack of funds. Under an IPA 2009 project EU

funds are envisaged for the finalisation of its construction as well as national co-financing for necessary equipment and connecting the building to utilities.

Further information is requested on:

- legislative and administrative measures implementing the Asylum Law;
- functioning of the Asylum Office and the existence of an independent judicial appeal body, in particular on whether the Administrative Tribunal has the status of a judicial body and on whether a judicial recourse is available against decisions of the State Asylum Commission;
- Bureau for Refugee Care, in particular regarding resources allocated to ensure its proper functioning and its overall capacity, and the functioning of the reception centre for asylum requests;
- data on types of decisions on asylum requests, length of procedures, actual exercise of rights by asylum seekers and refugees;
- financial support and basic socio-economic benefits accorded to asylum seekers.

Migration management (benchmarks 10, 13-17)

The new draft Law on Foreigners is due to be adopted in the near future. The draft law contains provisions on the rights of third-country nationals such as access to the territory, residence rights, and issuance of travel documents, as well as regulations on the visa regime, return policy, data collection on migration, carriers' liability and authorities responsible for migration management. The adoption of this law is therefore a priority for the future development of a comprehensive migration policy. Information was submitted on the Strategy for Integrated Migration Management for the period 2008-2013 together with its action plan listing priority activities for the period 2008-2009. A special body, the Council for Implementation of the Strategy for Integrated Migration Management is to be established to coordinate and monitor implementation of this strategy.

Regarding additional administrative structures responsible for migration management, Migration, Visa and Readmission Departments have been established under the Ministry of Interior and Public Administration and another Department for Foreigners and Fighting Illegal Migration has been created under the Police Administration. The registers of temporary and permanent residence of foreigners are managed by both of the aforementioned administrations, while a further register of foreigners residing with a work permit is managed by the Employment Agency. While the establishment of such registers is welcomed, there is a need to ensure efficient communication between the different administrations in order to ensure that the data can be used for risk analysis and monitoring of third-country nationals.

The Strategy for Permanent Solution of the Issues of Refugees and Internally Displaced Persons was adopted in March 2008. Montenegro states that returnees enjoy the same rights as nationals in areas such as employment, healthcare and social support and provides accommodation during their initial period of stay. However, as returnees are in a particularly vulnerable situation, which requires not only that they enjoy the same rights as all the population; proactive assistance in order to facilitate their reintegration within society is also essential. As part of the reintegration strategy measures on issuance of documentation, restitution of property, schooling, social welfare, employment etc. for returnees need to be adopted. These should be based on legal or operational instruments.

Due to its geographical position, Montenegro is also a country of transit for illegal migration flows. In order to strengthen capacities to tackle illegal immigration, measures in this area such as the Strategy for fighting against trafficking in human beings are being developed and implemented. These are further analysed under block 3.

Return decisions and expulsions have to be carried out in accordance with the Law on movement and residence of foreigners. A full assessment of the extent to which an integrated return management policy is however not possible with the limited information provided. Implementation of the Readmission Agreement between the European Community and Montenegro is now underway and further bilateral readmission agreements are envisaged with the main neighbouring countries of transit.

Further information is requested on:

- the Law on Foreigners, once adopted, and the administrative and legislative measures foreseen for its implementation;
- progress regarding the adoption of relevant legislation on carriers' liability;
- administrative capacity in the migration field, in particular human resources assigned to the Council for Implementation of the Strategy for Integrated Migration Management and its mandated activities;
- methods used by competent authorities in collecting and producing statistics on migration flows;
- reintegration measures and assistance for returnees (including for persons re-admitted under the EC-Montenegro re-admission agreement), including their legal basis, period during which assistance is offered, and statistics on beneficiaries;
- assessment of Action Plan for fighting trafficking in human beings, and content of future plan which will be adopted by the end of 2008;
- human resources dedicated to the fight against illegal migration and organised smuggling of human beings, division of competences between law enforcement agencies in charge of inland detection, and administrative methodology for detection and investigation of illegal immigration;
- policy for returning third country nationals illegally staying in Montenegro to countries of origin or transit, in particular on administrative bodies involved in the return procedure and their resources and capacity, conditions in detention facilities, maximum length of detention as part of return procedures and length of the entry ban;
- cooperation on readmission with countries of origin and transit of illegal immigrants;
- statistics concerning the relation between return decisions taken and removals carried out.

BLOCK 3 Public order and security

General assessment of block 3:

Montenegro is aware of its European and international responsibilities in the different areas within the field of public order and security. Policy strategies and action plans are already in place and implemented in key areas such as organised crime, corruption and drugs. As regards trafficking of human beings and money-laundering, there is progress in setting up their general legal and institutional frameworks. The process of improving legislation and implementation as regards corruption and organised crime is to be pursued further as well as continued alignment with international and European legal instruments and standards

In general, insufficient inter-agency cooperation and operational and investigative capacity remain obstacles to effective law enforcement. The personnel, financial and technical capacity of responsible authorities in most policy areas, including the application of special investigative techniques, is not fully ensured and substantial efforts are required to enhance them. Considerable work is still needed in the areas of personal data protection and confiscation of criminal assets. Little progress has been achieved so far in prosecuting crimes related to organised crime, trafficking in human beings, drugs and money-laundering.

In order to have a clearer assessment of the existing and planned measures, further information is requested (see below under each individual policy area) and organisation of a mission on law enforcement issues is suggested, in particular on

- *organised crime* (including law enforcement cooperation at national, regional and international level, trafficking in human beings, drugs and confiscation of criminal assets) and *anti-corruption policy*.

Detailed comments on block 3 by policy area:

General/Overall policy on preventing and fighting organised crime and terrorism

(benchmark 18)

The Strategy to fight organised crime and corruption is implemented since 2005 and its action plan since 2006. The action plan is regularly monitored and updated by a National Commission set-up in 2007 and entrusted with that task. The third implementing report was issued in July 2008. The action plan is a detailed document setting measures to fight organised crime and corruption, though very often it focuses on trainings and awareness-raising activities. The action plan contains concrete deadlines for implementation by the responsible institutions. Progress has been achieved so far in terms of quantity of activities implemented or being implemented. However, in terms of impact, the results are not fully convincing. The priorities ahead are not clearly formulated and information on the human and financial resources used or additionally planned in this policy area is missing. Special departments in high courts have been recently created and in parallel, the competences of the special prosecutor for organised crime were extended to cover wider aspects of the organised crime policy. The statistics reported indicate a decrease in the number of unresolved cases in 2008 compared to previous years though convictions are not reported on.

There is a good strategic framework on prevention and fight against organised crime. However a more focused and priority-oriented approach in assessing the concrete results achieved and their impact on the policy is required. The lack of information on the human and financial resources used/planned, in particular with regard to the law enforcement authorities, prevents an assessment on the administrative capacity available for implementation.

Further information is requested on:

- provide analyses of the main results achieved in the framework of the strategy and action plan on organised crime, outline the next main priorities;
- report on the national implementation measures of the UN Convention on Transnational Organised Crime and its Protocol against the Illicit Manufacturing and Trafficking in Firearms;
- organigrammes reflecting the institutional set-up as regards the fight against organised crime (MoIPA, judiciary, etc.), including for each specific policy area (trafficking, economic crime, drugs, anti-corruption) providing details also on the number of allocated and filled posts;
- provide data on trends (covering 2006-2008) broken down against type of crime, including number of convictions.

Policy on preventing and fighting trafficking in human beings (benchmark 19)

The general legal and institutional framework for implementing the policy on prevention and fight against trafficking in human beings is largely in place. The strategy for fighting trafficking in human beings has been implemented since 2003. The current action plan is planned to be updated by the end of 2008 and will be supplemented by an action plan on trafficking in children. Legislation and procedures on victims' protection are as a whole established. Legal provisions aiming to help foreign victims who face hardships in other countries have been drafted but not yet adopted. A National coordinator is appointed and is engaged with regional cooperation initiatives, awareness raising and training activities, including assistance to victims. Cooperation with NGOs and international organisations is established. However, Montenegro needs to further update and reinforce its legal and

institutional framework in the area of trafficking in human beings, especially to implement the provisions of the recently ratified Council of Europe Convention on trafficking in human beings. Significant efforts are required to build up appropriate capacity to identify and assist victims of trafficking, including by providing specialised training to competent law enforcement and judicial authorities. The statistical data show a limited number of investigations on trafficking in human beings and no convictions.

Further information is requested on:

- analysis of the main results achieved in the framework of the present strategy and action plan and provide the final report on their implementation;
- update of the Strategy for trafficking in human beings and an outline its main priorities;
- national implementation measures of the Council of Europe Convention;
- the division of responsibilities between the responsible bodies;
- details on training for governmental bodies with responsibility in anti-trafficking.

Policy on preventing and fighting financial crimes (money-laundering, terrorist financing, confiscation of assets) (benchmark 20)

The legal framework and procedures in the area of anti-money laundering are in the process of development and consolidation. The new Law on prevention of money-laundering and financing of terrorism, adopted in November 2007, is a step ahead towards alignment with European and international standards. The administrative structure for implementing anti-money laundering legislation has been set up but it is not sufficiently staffed and trained. There is a lack of well-established and efficient inter-agency cooperation mechanisms. The data provided show a significant decrease in the last two years in the number of suspicious transactions reported and the cases submitted for investigation to police and prosecution authorities. It appears that there have been no convictions for money-laundering until now. Efforts to impose stricter control over funds invested in construction and real estate industry remain weak.

Overall, Montenegro needs to continue its efforts towards further harmonisation with European and international requirements in the field of money laundering. By-laws need to be adopted and the related Council of Europe Convention needs to be transposed into national law and implemented. The current weak enforcement of legislation requires the enhancement and strengthening of the administrative capacities of all responsible bodies, in particular that of the competent Administration for the prevention of money-laundering and terrorist financing that functions as a Financial Intelligence Unit (FIU).

The Law on management of the temporarily and permanently confiscated property has been recently adopted. Major changes are expected with regard to the foreseen adoption of a new Criminal Procedure Code (CPC), which envisages introducing, among others, the *reverse burden of proof*. The draft CPC has not yet entered the parliamentary procedure. Montenegro has not yet fully established the necessary legal and administrative framework for the confiscation of criminal assets. The CPC and other relevant legislation should be further examined once adopted. Sufficient human and financial resources are required to ensure proper implementation of the envisaged legislation.

Further information is requested on:

- details on foreseen developments in anti-money laundering legislation (e.g. provisions of laws, timetable for drafting and/or adoption);
- developments related to the adoption of the new Criminal Procedure Code and other legislation relevant to confiscation of criminal assets (provide timeframe for adoption/implementation);
- state of implementation of Financial Action Task Force (FATF) standards;
- specific plans for implementing the new legalisation on confiscation of criminal assets (including administrative structures, human and financial resources available/planned; inter-agency cooperation established or to be established);
- monitoring mechanisms of financial transactions;
- existing/planned interagency coordination and co-operation mechanisms both for money-laundering and confiscation of criminal assets (e.g. exchange of information, joint actions);
- provide details on training activities on money-laundering and confiscation of criminal assets.

Anti-drug policy (benchmark 21)

The National strategic response to drugs 2008-2012 and the action plan for 2008-2009 were adopted in May 2008 and an action plan for 2010-2012 drafted. The strategy is in line with the EU approach to address both the demand for and supply of drugs. Coordination and monitoring of implementation will be entrusted with the National office for drugs once it is operational. The project currently being implemented with the EMCDDA is important for establishing standards of information collection. Data on drug seizures are not sufficient and reporting on trends and accessibility of drugs information at border crossing points is lacking.

As Montenegro has only recently started the setting up of a strategic framework of drug policy, considerable work is still needed to ensure its implementation, including training efforts. The institutional framework also remains to be completed and inter-agency cooperation, as well as international cooperation, need further strengthening. The alignment with EMCDDA information collection standards is important to build up assessment capacities. There are few results in the prosecution of transit and trafficking of drugs.

Further information is requested on:

- operational capacity (staff, budget, training, timetable for making operational the National office for drugs);
- examples of joint activities in the framework of international law-enforcement co-operation (databases, method for information exchange, number of joint operations/cases etc.);
- examples of international cooperation on reduction of drug demand (trainings, seminars, workshops, exchange of expertise and experience);
- statistics on number of investigations, indictments and convictions for drug trafficking.

Policy on preventing and fighting corruption (benchmark 22)

The implementation of the 2005 strategy to fight organised crime and corruption and its action plan is monitored and updated by the National commission which was set-up in 2007. Some progress has been attained in establishing the legislative framework for preventing and fighting corruption, but important laws, like the Law on prevention of conflict of interests, are not adopted yet. Also, some positive steps have been taken to tackle corruption at local level by introducing model programmes and plans for policy development, as well as raising public awareness.

Efforts are still needed to further align the national law to key international instruments and recommendations. The institutional framework in the anti-corruption policy area needs to be significantly improved. Enhanced expertise and capacity building activities for law enforcement agencies - in particular for the office of the special prosecutor and special police task force on anti-corruption – and the judiciary are important for conducting effective investigations. Inter-agency cooperation and coordination remain insufficient which undermines the fight against corruption. An annual breakdown of statistics on corruption cases, including high-level corruption, is lacking.

Further information is requested on:

- national implementation measures of the UN and Council of Europe Conventions;
- state of implementation of remaining GRECO recommendations;
- operational capacity (staff, budget, training);
- division of responsibilities between the responsible bodies;
- framework of inter-agency law enforcement cooperation in the anti-corruption area (databases, method for information exchange, joint operations etc.);
- annual statistics over several years (e.g. for the period 2006-2008), including high-level corruption cases.

Judicial co-operation in criminal matters (benchmarks 24-26)

Progress has been made in the field of judicial cooperation in criminal matters. Efforts to fully align with the remaining key international instruments, as well as to ensure their effective enforcement at national level should continue. Montenegro is party to the main European and international conventions in the field of extradition, mutual legal assistance and other forms of legal and judicial cooperation and has also concluded a significant number of bilateral agreements. A specific Law on international legal assistance in criminal matters has recently been adopted. Necessary arrangements and procedures for implementing requests for extradition, mutual legal assistance and transfer of sentenced persons are in place.

Regional and international cooperation, both at the level of the State Prosecutor's office and Ministry of Justice, is well developed. A number of memoranda of understanding and bilateral agreements have been signed with neighbouring countries.

Regular training on international and European judicial cooperation is provided to judges, prosecutors and officials from the Ministry of Justice. Training is delivered through the Judicial education center and the Agency for human resources managing, taking advantage of EU-financed projects.

A contact person for Eurojust has been appointed and negotiations on cooperation agreement are ongoing.

Further information is requested on:

- statistics on extradition, explaining also the number and grounds for refusal and legal bases utilized (bilateral, Council of Europe or UN conventions);
- detailed overview of the existing responsibilities and human resources of the central authorities dealing with judicial cooperation;
- existing and planned actions aiming at developing and improving direct international contacts with judicial authorities.

Law enforcement co-operation (benchmarks 27 - 31)

Cooperation between law enforcement agencies, including exchange of data and information is currently being carried out on an informal basis. A formal legal act is being prepared but not yet adopted. Preparations are under way for the establishment of a National coordination office to coordinate the cooperation and exchange of information among the police, customs administration, the public revenue office and the Anti-Money-Laundering Administration. Regional cooperation at operational level should be further enhanced. Cooperation, including exchange of information and joint operations with EU Member States is established. In September 2008, a strategic cooperation agreement with Europol was signed.

Overall, the arrangements for law enforcement cooperation at national level need substantial improvements. Montenegro should pursue its plans to establish an appropriate formal legal and institutional basis, as well as to build up sufficient administrative capacities.

The operational and special investigative capacity at the level of law enforcement bodies is not yet sufficient. Certain steps have been taken to establish an appropriate legal and institutional set up within the police administration for performing such activities both at national and regional level. Measures aimed at building up criminal analytical and operational capacities are being implemented with the support of EU Member States and other international donors. The need for specialised training, including on criminal analysis and special investigative techniques, and modern technical equipment should be properly addressed.

Further information is requested on:

- the present practice for inter-agency co-operation among the different national law enforcement authorities (existing databases, access to each others' information, results of joint actions etc.);
- measures planned to reinforce co-operation, including preparation of co-operation protocols/agreements (agencies/authorities to be covered, timeframe for drafting and adoption, coordination mechanisms etc.);
- details on the setting-up and functioning of the National Coordination Office (staff, budget, training etc.);
- results achieved in co-operation with third countries;
- legal framework and current practice on the use of special investigative techniques (type of techniques available, legal constraints on their use, access to databases with confidential information etc.);
- details on the projects to establish criminal intelligence units at central and local levels planned for 2009.

Protection of personal data (benchmark 32 -33)

Considerable efforts are still needed to make progress on protection of personal data. A new law on protection of personal data has not been adopted yet. Once adopted, the legislation needs to be checked for compliance with the *acquis communautaire* in this field. An independent and efficient data protection supervisory authority is still absent, which is also one of the requirements for the conclusion of operational agreements with Europol and Eurojust. However, the government has adopted a Strategy and an action plan on personal data protection. It includes measures and activities for setting up and ensuring the operation of that body but does not contain specific timelines. The Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and trans-border data flows (CETS No. 181) is not yet signed and ratified.

Further information is requested on:

- details and text of the new law on protection of personal data, and the set-up of the independent supervisory authority;
- details and text of the Strategy and an Action on personal data protection, including specific timelines;
- details on the application of the law on protection of personal data and supervision of the police;
- details and timelines on the signing and ratification of the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and trans-border data flows (CETS No. 181).

BLOCK 4 External relations and fundamental rights

General assessment of block 4:

Montenegro has broadly developed the legal framework ensuring the freedom of movement and access to identity documents. Efforts are needed to further develop the legislation in this field, in particular with regard to access to identity documents of refugees and IDPs.

The establishment of a legal and institutional framework for protection of minorities seems to be progressing well, though considerable efforts are still needed to ensure its proper functioning. The lack of reliable data of the Roma, Ashkaeli and Egyptian population is an impediment for the Montenegrin authorities in applying its integration policy towards these minority groups.

In some areas the country's readiness report does not provide a complete picture of the situation, in particular regarding certain procedures, policies, results, statistics as well as planning of improvements.

In order to assess the existing and planned measures in more detail, a request for further information is made (see below the information per policy area) and organisation of a specific meeting on block 4 is planned.

Detailed comments on block 4 by policy area:

Freedom of movement and identity documents (benchmarks 34 – 36)

Montenegro has put in place legislation ensuring the freedom of movement, as well as legislation and procedures for issuing identity and travel documents. The right of free movement is guaranteed to every Montenegrin citizen by the Constitution and can be restricted only under certain circumstances like criminal prosecution or for security reasons. Discrimination on any ground is prohibited by the Constitution and also incriminated by the Criminal Code.

The Law on travel documents and the Law on identity cards set out the terms and conditions under which travel and identity documents can be issued. Montenegro has also introduced legal provisions aiming at facilitating certain minority and ethnic groups in completing the application forms for identity and travel documents in their own language (Serbian, Bosnian, Albanian and Croatian), including in Cyrillic writing. Refusals to issue travel documents can be appealed at two administrative instances. With regard to the issuance of documents, the country reports that there have been neither cases of discrimination reported nor particular difficulties for a specific group.

Identity cards for displaced persons are issued by the Ministry of Interior and Public Administration, while those for internally displaced persons are issued by the Office for Refugees. Legal provisions which will regulate the issuance of documents to asylum seekers, recognised refugees and persons who are granted subsidiary or temporary protection are planned to be adopted in November 2008. Information on the procedures for obtaining

identity documents for the above categories is lacking, as well as statistical data on the number of DPs and IDPs who have already been issued identity documents. It remains unclear whether at present recognised refugees have access to identity documents in the absence of legislation regulating their issuance.

There are no statistics on access to documents for any of the categories of persons.

Further information is requested on:

- procedure for issuing documents to DPs and IDPs;
- statistics on access to documents for DPs and IDPs (applications/documents issued);
- present access to identity and travel documents of recognised refugees;
- statistics on access to documents for refugees (applications/documents issued);
- adoption of legal provisions on the issuance of identity documents to asylum seekers and refugees.

Citizens' rights including protection of minorities (benchmarks 37 – 41)

Discrimination is currently prevented by the Constitution and provisions in the Criminal Code (sanctioning unequal treatment). In addition, laws on prohibition of discrimination and on protection of the disabled are being prepared.

Montenegro has established a broad legal and institutional framework regulating the rights and protection of national minorities. Further to the Constitutional provisions, a special Law on Minority Rights and Freedoms is adopted, as well as a Strategy on Minority Policy. The Ministry for Human and Minority Rights Protection is entrusted with supervising the respect of minority rights and freedoms.

Since November 2007, Montenegro has been implementing the Strategy for improving the status of the Roma, Ashkaeli and Egyptian population for the period 2007 – 2012. A specialised inter-agency commission which also includes representatives of Roma NGOs has been created. Some activities concerning the integration of the Roma population are reported, in particular regarding schooling and radio-broadcasting in Roma language. Detailed results covering also other areas like housing, health care and employment are not provided. Information regarding measures aimed at other minority groups and their integration in the society is missing. A fund for minorities has been set up but financing seems mainly limited to actions related to Roma.

Regarding investigation of ethnically motivated incidents, information on procedures is not sufficient. There are no cases, nor reports by the ombudsperson/NGOs reported.

The Laws on Montenegrin citizenship and on the registers of temporary and permanent residence were adopted in February 2008. The terms and conditions for acquiring Montenegrin citizenship are generally described. According to the law, dual citizenship is not permitted except in very limited cases like marriage with a Montenegrin national or possession of Montenegrin citizenship upon country's proclamation of independence. There are no explanations on actions taken to address the problems related to former Yugoslav citizenship, including on progress in negotiating dual citizenship agreements with relevant neighbouring countries.

Further information is requested on:

- progress with adopting anti-discriminatory legislation;
- procedures to investigate ethnically motivated incidents;
- activities related to other minority groups than Roma (Ashkaeli and Egyptians);
- results achieved in areas like housing, health care, employment etc;
- measures taken to tackle problems related to former Yugoslav citizenship;
- results in securing financing of actions to promote other minority groups besides Roma.