

## ESI Evaluation Montenegro

### Explanation:

In its 18 May 2009 assessments of progress in roadmap implementation by the five Western Balkan countries, the European Commission used six distinct phrases to describe progress with regard to meeting the requirement in each of the four blocks (document security; illegal migration; public order and security; external relations and fundamental rights). ESI has allocated numbers from 1 to 3, as well as colours (green, yellow, red), to these phrases and applied them to individual requirements:

Commission's assessment per block: "meets the benchmarks" and "generally meets the benchmarks", applied to an individual requirement:

"meets the benchmark" and "generally meets the benchmarks" ("1" and colour green)

Commission's assessment per block: "meets a large majority of the benchmarks" and "meets the majority of the benchmarks", applied to an individual requirement:

"meets a large majority of the various aspects of the benchmark" and "meets a majority of the various aspects of the benchmark" ("2" and colour yellow)

Commission's assessment per block: "on the right track, but..." and "does not yet fully meet

"on the right track, but..." and "does not yet fully meet the benchmark" ("3" and colour red)

### Sources and abbreviations:

- The main source for ESI's evaluation was the 18 May 2009 assessment by the European Commission (the "Commission") of Montenegro. All sentences below the title "**Commission Assessment**" are direct quotes from the 18 May 2009 assessment; the quotes are otherwise not marked and no quotation marks are used.
- On occasion the European Commission's first assessment of Montenegro's progress from 24 November 2008 has been quoted. These quotes are identified as "**2008 Commission Report**".
- Especially in cases where Montenegro received particularly critical evaluations by the Commission, or where particularly important visa roadmap requirements were examined, the reports of the EU National Experts were considered. Again, all information used from these reports is direct quotes and they are identified as follows: "**EU National Experts**". There is one EU expert report on Montenegro's performance regarding the requirements from *block 1* of the roadmap, three reports regarding different requirements from *block 2*, three reports regarding the country's performance regarding *block 3* requirements, and one meeting report on *block 4* requirements (abbreviated in the table as "**Block 4 Meeting Report**"). While the EU experts examined the state-of-affairs as regards Blocks 1 to 3 on the ground, the Block 4 requirements were discussed in a meeting.
- In order to make reading easier, ESI has marked critical remarks by the Commission or by EU National Experts as follows: "[**criticism:**]" Sections where the reports *explicitly* requested further action from BiH are marked as: "**To do**".
- ESI has summarised its own evaluation regarding individual requirements under the heading: "**ESI evaluation**".
- In the column on the right, we estimate the time it will take to fully implement the requirement, provided the political will and resources are there:
  - Short-term** = until approx. autumn 2009
  - Mid-term** = early 2010
  - Long-term** = mid-2010 and later

No.	Roadmap requirement	Assessments	ESI's mark	Time to implement
<b>I. Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements</b>				
	<b>A. Readmission Agreement:</b> Montenegro has to take the necessary measures ensuring effective implementation of the Community Readmission Agreement	<b>Commission Assessment:</b> <ul style="list-style-type: none"> <li>• “The readmission agreement with the European Community is being implemented smoothly.”</li> </ul>	<b>1</b>	
	<b>B Visa Facilitation Agreement:</b> Montenegro shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement	<ul style="list-style-type: none"> <li>• Not assessed.</li> </ul>		
<b>II. Requirements on Document Security, Illegal Migration, Public Order and Security and External Relations</b>				
<b>1</b>	<b>BLOCK 1: Document Security</b>	<b>Commission Assessment:</b> <ul style="list-style-type: none"> <li>• “Montenegro has made <b>very good progress towards the fulfilment of the block 1 benchmarks</b> in the last year.”</li> <li>• “It appears that Montenegro <u>meets the benchmarks</u> set under Block 1 of the roadmap.”</li> </ul>	<b>1+</b>	
1.1	Montenegro should: Issue machine readable biometric travel documents in compliance with ICAO and EC standards and introduce	<b>Commission Assessment:</b> <ul style="list-style-type: none"> <li>• “Law on Travel Documents is effective since May 5th 2008.”</li> <li>• “From May 2008 until beginning of May 2009, more than 100,952 new biometric passports, 163,583 ID cards and 75,181 driving licences have been issued.”</li> <li>• “Passport is in compliance with ICAO and EC standards. Issuance of new biometric passports and</li> </ul>	<b>2+</b>	<b>Medium</b>

	<p>biometric data, including photo and fingerprints</p>	<p>identity documents is continuing smoothly.”</p> <ul style="list-style-type: none"> <li>• “Between May 2008 and beginning of May 2009, 100,952 biometric passports, 163,583 ID cards and 75,181 driving licenses have been issued.”</li> <li>• “Security specifications [for passports and ID cards] ... in line with EU and ICAO standards.</li> <li>• “EAC (Extended Access Control) for fingerprints is not yet integrated but is under consideration pending experience gained using this system in the EU.”</li> <li>• <b>[criticism:]</b> “Only a minority BCPs possess the equipment and access to the data network required for gathering data from biometric chips.”</li> <li>• <b>[criticism:]</b> “legal limitations for systematically checking chip data in passports.”</li> </ul> <ul style="list-style-type: none"> <li>• <b>To do:</b> “Further progress should be made by installing necessary equipment for reading biometric data at all BCPs and”</li> <li>• <b>To do:</b> “by providing the legal possibility for systematically reading and using chip data in passports.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro has made significant progress, but more needs to be done; also certain legal amendments are still necessary; the trajectory is, however, generally positive.</li> </ul>		
1.2	<p>Adopt and implement administrative measures ensuring the integrity and security of the personalization and distribution process;</p>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The integrity and security of the personalisation and distribution procedure for passports is in line with EU standards.”</li> <li>• [The security measures include:] “Presence of applicants ... for the application process, recorded data is registered and transferred from regional to central level using a secure central electronic database. “Personalisation is centralised within the Department for Information Technologies of the MoIPA in Podgorica.” [Process is automated and] “under video surveillance ... divided into different security zones. ... [there is an] electronic access system ... Blank documents are stored in the personalisation centre and access is based on the 'four eyes' principle.”</li> <li>• [Distribution of documents is well secured.]</li> <li>• “All staff involved in the issuing of documents is carefully selected and receive special training on the systems used in the personalisation procedure.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The security measures are comprehensive. Montenegro fulfils necessary requirements.</li> </ul>	1	

1.3	Set up training programs and draft ethical codes on anti-corruption targeting the officials of any public authority that deal with visas or passports;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Anti-corruption measures for staff engaged in travel document issuance are adequate.”</li> <li>• “strict sanctions for violating the code of ethics.”</li> <li>• “Clear division of responsibilities and duties in official instructions and strong supervision and monitoring of officials provide additional barriers against corruption.”</li> <li>• “No cases of corruption in the services of issuing travel or citizenship documents have been reported.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Requirement is adequately fulfilled.</li> </ul>	1	
1.4	Report to Interpol/LASP data base on lost and stolen passports;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The system for reporting data on lost and stolen passports to Interpol functions smoothly and efficiently.”</li> <li>• “Following the introduction of new travel documents, 78 cases of lost or stolen passports have been reported by May 2009.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro fulfils this requirement.</li> </ul>	1	
1.5	ensure a high level of security of breeder documents and ID cards and define and define strict procedures surrounding their issuance;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Regarding breeder documents, the registry procedure, and storage and issuance of certificates are secure, efficient and <b>in accordance with the European and international standards.</b>”</li> <li>• “Entries in registers can only be made by specially authorised and well-trained registrars in local authorities.”</li> <li>• “A unique PIN number is allocated to all citizens and recorded in registries.”</li> <li>• “Completion of the electronic register on Montenegrin citizens is foreseen for July 2009, and is supervised by a central governmental team (the Project Council).”</li> <li>• “Currently, all certificates submitted with applications for new passport and ID card are being scanned and electronically archived in this electronic registry.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p>	1	

		<ul style="list-style-type: none"><li>• Montenegro fulfils this requirement.</li></ul>		
--	--	--	--	--

2	<b>BLOCK 2: Illegal migration, including readmission</b>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Montenegro has made significant progress in the fields of border management, asylum and migration.”</li> <li>• “It appears that Montenegro <u>meets a large majority of the benchmarks</u> set under Block 2 of the roadmap.”</li> <li>• “Further verification is necessary on the implementation of the Law on Foreigners and additional information on a possible sustainable solution in the near future regarding displaced persons and IDPs.”</li> </ul>	2+	
2.1	<b>Border management</b>			
2.1.1	adopt legislation governing the movement of persons at the external borders, as well as the organization of the border authorities and their functions in accordance with the Action Plan on the implementation of the Strategy on Integrated Border Management, which was adopted in December 2006	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “A new draft Law on State Border Control ... is currently being finalised and will be adopted by [middle] of 2009.”</li> <li>• “It will further harmonise the country's legislation in this field with the Schengen Border Code.”</li> <li>• <b>To do:</b> [Further harmonisation of legal framework is necessary.]</li> <li>• <b>To do:</b> “The necessary implementing measures should be adopted as a matter of priority.”</li> </ul> <p><b><u>EU National Expert (Rytkonen):</u></b></p> <ul style="list-style-type: none"> <li>• “Law on State Border Control adopted in 2005. This is not sufficient. ... Now the updated law is supposed to proceed into Parliament in the second quarter of 2009. The new law proposal is drafted taking into account requirements of Schengen borders code.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Improvements have been made. The requirement is, however, not yet fulfilled and implementation measures will need to be taken.</li> </ul>	2	<b>Medium</b>
2.1.2	take necessary budgetary and other administrative measures ensuring efficient infrastructure, equipment, IT technology at the external borders, and stating priorities	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The Montenegrin Border Police is centralised and clearly structured.”</li> <li>• “The planning system is satisfactory”</li> <li>• “inter-agency cooperation, agreements are now in place formally regulating cooperation between the Border Police and other national authorities”</li> </ul>	2	<b>Medium to long</b> (the list is rather long; it also includes measures the

	in relation to these	<ul style="list-style-type: none"> <li>• “Regional IBM centres have been established and coordinate inter-agency cooperation at this level.”</li> <li>• “Available human resources are sufficient, and the staffing level is 96%.”</li> <li>• “Border police staff is highly motivated, professional and generally well-informed of their tasks. “</li> <li>• “The risk analysis system is functional and is based on an efficient reporting system [but] ... no special situational centres at any level.”</li> <li>• “Regarding border surveillance, tactics employed at both green and blue borders are adequate”</li> <li>• “Plans to open a modern maritime surveillance system are underway.”</li>   <li>• <b>To do:</b> “training curricula at the Police Academy for border police officers are currently inadequate. ... [it is] too general and does not focus sufficiently on key basic competences”</li> <li>• <b>To do:</b> “there is a need to organise more specialised and advanced training on risk analysis, detection of persons hiding in vehicles etc on the basis of a strategic training programme.”</li> <li>• <b>To do:</b> “Risk analysis should however be further improved.”</li> <li>• <b>To do:</b> “The number of trained intelligence staff should be increased at all levels and”</li> <li>• <b>To do:</b> “electronic exchange of information should be facilitated”</li> <li>• <b>To do:</b> “Regarding border surveillance ... there is an overall need for improved and modern equipment such as alarm systems, vehicles.....”</li> <li>• <b>To do:</b> “Further improvements of the infrastructure and equipment at all BCPs (28) are also required.”</li> <li>• <b>To do:</b> “Premises at some of the smallest BCPs require modernisation,”</li> <li>• <b>To do:</b> “Regarding equipment, the number and selection of devices used in border checks are inadequate.”</li> <li>• <b>To do:</b> “Sniffer dogs should be trained and used for inspection of vehicles.” ... “a strong need to integrate all BCPs into the data communication network as only a limited number of the BCPs have live access to national databases ... and ... only three can access INTERPOL databases.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• A clear tendency towards improvement is visible and reform goals appear to be within reach! However, the list of outstanding improvements is still long and some further reforms are also necessary.</li> </ul>		implementation of which takes a long time)
2.1.3	Establish training programs and adopt ethical codes on anti-corruption targeting the	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Significant steps have been taken.”</li> </ul>	1	

	officials of border police, customs and other authorities involved in border administration	<ul style="list-style-type: none"> <li>• “Anti-corruption trainings are continuing in 2009 with a 'train the trainer' programme”</li> <li>• “The code of conduct is well-known by border police officers and copies of it are available at all BCPs.”</li> <li>• “Hidden cameras exist at BCPs in order to detect cases of corruption.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The requirement is fulfilled.</li> </ul>		
2.1.4	Conclude a working arrangement with FRONTEX	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “in practice cross-border cooperation functions smoothly and efficiently.”</li> <li>• “The Working Agreement with FRONTEX is agreed and will be signed in June 2009”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro fulfils the requirement.</li> </ul>	<b>1</b>	
<b>2.2</b>	<b><i>Carriers' responsibility</i></b>			
2.2.1	Adopt and implement a legal framework (including sanctions for offences) regarding carriers' responsibility;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>To do:</b> “Further efforts are required to ensure clear legal provisions on carriers' liability.”</li> </ul> <p><b><u>EU National Expert (Rytkonen):</u></b></p> <ul style="list-style-type: none"> <li>• “Carriers liability has been widen [sic.] and now it concerns all transporting companies regardless if their use air, sea, railway or road transportation routes.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Due to contradictory information this requirement cannot be evaluated.</li> </ul>	<b>Unclear</b>	<b>Short to medium</b> (comparing the EU National Expert report and the commission report, it is not clear what Montenegro needs to do)
<b>2.3</b>	<b><i>Asylum policy</i></b>			
2.3.1	Adopt and implement legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol), and the EU	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The legislative framework on asylum is relatively advanced, and the Law on Asylum takes into account EU standards. Efforts should now continue to ensure effective implementation on the rights and obligations of asylum seekers.”</li> <li>• “The State Asylum Appeal Commission (SAAC) is the only second instance decision body. ... no</li> </ul>	<b>2</b>	<b>Short-term</b>

	legal framework and standards	<p>full judicial review is foreseen”</p> <ul style="list-style-type: none"> <li>• <b>ESI evaluation:</b> the legislative framework is in place, but is apparently not perfect; implementation, however, still requires more work (see also next section).</li> </ul>		
2.3.2	Provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedure and reception of asylum seekers	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The necessary state bodies for the asylum system are functional;”</li> <li>• “The State Asylum Appeal Commission (SAAC) is the only second instance decision body. ... no full judicial review is foreseen”</li> <li>• “Bureau for Refugee Care is functioning and adequately staffed.”</li> <li>• “The reception centre [for refugees] is still not operational, and should open in 2010.”</li> <li>• “Refugees and beneficiaries of subsidiary protection recognised under the Law on Asylum enjoy under the law a large number of rights”</li> </ul> <ul style="list-style-type: none"> <li>• <b>To do:</b> “Efforts should now continue to ensure effective implementation on the rights and obligations of asylum seekers.”</li> <li>• <b>To do:</b> “The Asylum Office: “further training of case handlers is required.”</li> <li>• <b>To do:</b> “Further training of members of the SAAC is required.”</li> <li>• <b>To do:</b> “Further efforts are however required to strengthen reception conditions for asylum seekers.”</li> <li>• <b>To do:</b> “Further efforts are required to facilitate beneficiaries' [Refugees and beneficiaries of subsidiary protection] access to these rights [given to them by Montenegro law], in particular by building the capacity of the Bureau for the Care of Refugees” etc.</li> <li>• <b>To do:</b> “Concerns remain over the status of displaced persons (DPs) and internally displaced persons (IDPs). There is a continuing need for the authorities to properly address this issue, including by granting full access to rights to this group.”</li> </ul> <p><b><u>Block 4 Meeting Report:</u></b></p> <ul style="list-style-type: none"> <li>• <b>IDPs:</b> “At present 16,250 with the status of IDPs reside in MNE (originating from Kosovo).”</li> <li>• “there is a significant number of mainly Roma IDPs that are neither registered, nor have access to any documents and hence have no access to the labour market, to health, social or education services.”</li> <li>• <b>DPs [ESI Comment:</b> it is not entirely clear what is precisely meant by DPs as opposed to IDPs; it would appear that DP refers to refugees] At present, according to MNE data, 7,439 DPs (from BiH, Croatia) all registered and provided with (new) identity documents (many of those maintain</li> </ul>	2-	

		<p>documents from their countries of origin, authorities feel that these displaced persons are abusing the protection afforded to them by MNE, since they already have the protection of their own countries).</p> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>The development is positive, the trajectory is good; but Montenegro still needs to undertake further efforts to fulfil this requirement. A lot remains to be done, in particular regarding the implementation of relevant laws and capacity building.</li> </ul>		
<b>2.4</b>	<b><i>Migration management</i></b>			
2.4.1	<p>Set up and start to apply a mechanism for the monitoring of migration flows, [Human resources for collecting and analyzing of available data] define a regularly updated migration profile for Montenegro, with data both on illegal and legal migration, and establish bodies responsible for collection and analysis of data on migration stocks and flows</p>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>“Data collection forms on legal migration are unified and are in line with EU standards (Regulation 862/2007).”</li> <li>“Data on illegal migration is collected and analysed by the Border Police, which has the experience and capacity required to fulfil this task both at local and central level.”</li> <li>“All data on foreigners is forwarded from the Police and MoIPA to the Statistical Office (MONSTAT) on a monthly basis, and”</li> <li>“MONSTAT plans to submit statistics on 2009 to EUROSTAT.”</li> <li><b><u>[criticism:]</u></b> “However, it currently lacks the human resources required to efficiently process and analyse migration statistics.”</li> <li><b>To do:</b> “Further efforts are required to improve the data collection and migration monitoring systems.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>Montenegro is to a large degree compliant with this requirement; but some human resource issues still need to be solved.</li> </ul>	<b>2</b>	<b>Short to medium</b>
2.4.2	<p>Take measures to ensure reintegration of returnees, including sustainable financial and social support</p>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li><b>2008 report:</b> “Strategy for permanent Solution for the Issues of Refugees Internally Displaced Persons was adopted in March 2008.”</li> <li>“A more proactive approach is required both towards legally residing third country nationals and returnees to ensure they benefit from financial and social support to which they are entitled by relevant laws.”</li> </ul>	<b>2</b>	<b>Short to medium</b>

		<p><b><u>Expert report (Grammatikopoulou and Kelenc):</u></b></p> <ul style="list-style-type: none"> <li>• [The] “approach of the Ministry of Health, Labour and Social Welfare seems to be that returnees are [ordinary] Montenegrin citizens who have travel documents, have no language barriers for the most part and return to their homes and families. When necessary, sufficient health assistance is provided. “</li> <li>• [The Bureau for the Care of Refugees charged with care for returnees has not received a single request for support for refugees]</li> <li>• [The capacity is there – should the official position change with regard support for returnees, it should be rapidly possible to establish functioning support system]</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The most basic measures have already been implemented, but there is much room for further improvement.</li> </ul>		
2.4.3	define and apply a methodology for inland detection and take measures improving the capacity to investigate cases of organised facilitated illegal migration; take measures improving the capacity to investigate cases of organized facilitated illegal migration	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The administrative capacity to fight against organised forms of illegal migration is sufficient, “</li> <li>• “legislation allows for heavy sanctions on organisers and accomplices.”</li> <li>• “Cross-border cooperation occurs with neighbouring countries <i>on an ad hoc basis.</i>”</li> <li>• “Statistics suggest however that existing capacity is not being efficiently used, as there is a decrease of the number of investigated cases of organised illegal migration (10 cases in 2007, and 4 in 2008).”</li> <li>• “Inland detection is conducted on the basis of intelligence reports and statistical analysis, and controls of illegal migration hotspots are regularly conducted.”</li> </ul> <ul style="list-style-type: none"> <li>• <b>To do:</b> [no explicit request is stated in the commission report – only an implied request: to verify reasons for dropping number of investigated cases of organised illegal migration]</li> </ul> <p><b><u>EU National Expert (Grammatikopolou and Kelenc):</u></b></p> <ul style="list-style-type: none"> <li>• [Within the] “Criminal Police, there is a unit dealing with organized crime groups on national and regional level. Within this group, one person is dealing specifically with organised facilitated illegal migration on national level”</li> <li>• [There is regular cooperation with border police]</li> <li>• “But the number of identified suspect in 2008 of four persons, compared with number of identified illegal crossings and attempts, <b>does not show a use of existing capacity in the field of combating</b></li> </ul>	<b>1-</b>	<b>Short to medium</b>

		<p><b>organised facilitated illegal migration.”</b></p> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>For some reason, efficiency of inland detection activities might have dropped recently, somewhat questioning Montenegro otherwise good achievement.</li> </ul>		
2.4.4	<p>adopt and implement a Law on Foreigners governing the admission and stay of third country nationals, define rights and obligations for the persons concerned (including family members of the third country national), and implement the Law on registers of permanent and temporary residence, including implementing of legislation</p>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>“Regarding the legislative framework for migration management, significant progress has been made. The new Law on Foreigners entered into force on 8 January 2009. The approach, structure and concepts used are in line with the EU acquis in this field.”</li> <li>“The bylaws required for the implementation of the Law on Foreigners are currently being drafted and are expected to be finalised in July 2009.”</li> <li>“The Law on Employment and Work of Aliens which is implemented since January 2009 complements the Law on Foreigners and ensures that employment of third country nationals is sufficiently regulated”</li> <li>“The new legislative framework significantly alters the organisational structure for migration management.” Affected are MoIPA, Police Administration and Employment Bureau”</li> <li>“Implementation of the new legislative framework cannot be fully assessed at this early stage.”</li> <li>“The recent establishment of the Council for Implementation of the Strategy for Integrated Migration Management 2008-2013 is a positive step forward”</li> <li>“<b>Further efforts are required to improve the data collection and migration monitoring systems.</b>”</li> <li>“Registers on foreigners currently remain paper-based and separated between different authorities.”</li> <li>“A centralised register for foreigners is currently missing but will be in operation from November 2009”</li> <li><b>To do:</b> “It should be ensured that functional, electronic access to this database [centralised register for foreigners] is available to all relevant central authorities and local offices of the Police and administration.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>Montenegro is almost fully compliant. Bylaws are being drafted; a centralised register is, however, still needed. The trajectory is clear and positive; with little effort Montenegro will fully comply with this requirement.</li> </ul>	1-	Short to medium

2.4.5	Ensure effective expulsion of illegally residing third country nationals from its territory	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Expulsion of illegally residing third country nationals is regulated by the new Law on Foreigners which ensures basic safeguards for migrants and is in line with European standards.”</li> <li>• “Practical cooperation on returns with the neighbouring countries from which the majority of illegal migrants originate is good.”</li> <li>• “The Readmission Agreement between the EC and Montenegro is being implemented efficiently.”</li> </ul> <p>• <b>To do:</b> “The timely completion of the detention facility for illegal migrants by the end of 2010 should be a priority.”</p> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro has fulfilled this requirement.</li> </ul>	1	
-------	---	--	---	--

3	<b>Block 3: Preventing and fighting organised crime and corruption</b>	<p><b>Commission Assessment:</b></p> <ul style="list-style-type: none"> <li>• “Montenegro has made substantial progress towards the fulfilment of the block 3 benchmarks.”</li> <li>• “The country has made a very good progress in establishing the legal framework ... continuing on further alignment with European and international standards.”</li> <li>• “Montenegro <b>has demonstrated political will</b> to continue the on-going implementation of policy strategies and action plans in key areas”</li> <li>• “It appears that Montenegro <u>meets the majority of benchmarks</u> set under block 3 of the roadmap.”</li> <li>• <b>To do:</b> “Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.”</li> </ul>	2-	
3.1	<i>General/Overall policy on preventing and fighting organised crime and terrorism</i>			
3.1.1	Ensure efficient implementation of the Action Plan of the Strategy to Fight Organized Crime and Corruption (with an emphasis on cross-border aspects), notably by strengthening the relevant law enforcement authorities with sufficient human and financial resources	<p><b>Commission Assessment:</b></p> <ul style="list-style-type: none"> <li>• “The implementation of the Strategy to fight organised crime and corruption and the action plan for 2009 has continued.”</li> <li>• “A good level of cooperation and coordination for monitoring the implementation is in place at both inter-ministerial and ministerial levels.”</li> <li>• “It is envisaged that a new strategy against organised crime and corruption will be developed in 2009.”</li> <li>• “Montenegro has <b>broadly</b> introduced the legal framework necessary for fighting organised crime.”</li> <li>• “The adoption of the new Criminal Procedure Code (CPC), which is currently in parliamentary procedure is expected to significantly enhance the investigative capacities of the competent national authorities.”</li> <li>• “The institutional and administrative capacities of the law-enforcement and judicial authorities ... have generally increased <i>but some deficiencies remain.</i>”</li> <li>• “Statistics ... [and] tracking of trends in organised crime and corruption [not good]. [In near future:] A tripartite body ... bringing together police, prosecutors and courts, and assigned with presenting comparable crime data, is expected to contribute to this end.”</li> <li>• <b>To do:</b> “Competent authorities [fighting organised crime] should be further strengthened by recruiting additional staff, in particular in certain police services, and providing specialised training and equipment.”</li> </ul>	2-	<b>Medium</b>

		<ul style="list-style-type: none"> <li>• <b>To do:</b> [regarding implementation of strategy and action plan:] “further efforts should be pursued so as to ensure effective and timely realization of delayed measures.”</li> <li>• <b>To do:</b> “Statistics should be improved in order to allow for tracking of trends in organised crime and corruption.”</li> <li>• <b>To do:</b> “further develop data collection methods, providing analyses and interpretation of available statistics.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro shows an improving tendency, but still needs to do a lot to comply with requirement.</li> </ul>		
3.1.2	Implement the National Anti-Trafficking Strategy with allocation of sufficient human and financial resources for its implementation;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The new Action Plan for the implementation of the Strategy for the fight against trafficking in human beings for 2009, adopted in December 2008 builds on past achievements and follows up on partially completed actions.”</li> <li>• “Montenegro has established a legal framework in the field of trafficking in human beings which is generally in line with EU and international standards.”</li> <li>• “There is a good level of coordination and cooperation among relevant authorities.”</li> <li>• <b><u>[criticism:]</u></b> “However, the number of investigations remains low.”</li> <li>• <b><u>[positive:]</u></b> “prevention and public awareness-raising on anti-trafficking is done by the Office of the National Coordinator.”</li> <li>• “The protection shelters and victim assistance are run by NGOs and financed by the government. Their existing capacity is sufficient given the low number of victims of trafficking (4 persons in 2007, 3 persons in 2008).”</li> <li>• “The plan to establish a common database on victims of trafficking allowing an on-line access of the competent authorities is an important step towards providing better victim assistance.”</li> <li>• <b>To do:</b> “It remains important to further enhance the capacity of the responsible [investigative] authorities to identify potential victims.”</li> </ul> <p><b><u>EU National Expert (Prehn):</u></b></p> <ul style="list-style-type: none"> <li>• “Between 2006 and 2008 five cases with nine perpetrators were charged. These cases were except of the already mentioned trafficking cases, dealing with illegal migration on a large scale or organised manner. This is due to the legal situation also considered to be trafficking of human beings, even when the element of sexual exploitation is missing. <b>That makes it difficult to</b></li> </ul>	1-	

		<p><b>compare those statistics with the ones in other member countries.”</b></p> <ul style="list-style-type: none"> <li>• “Checks and raids in order to find potential victims are being carried out in cooperation with the police on the regional level and the Border Police.”</li> <li>• “In 2008 joint operations were carried out. ... no case of trafficking was revealed.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The framework is sufficient with minor improvements still being necessary. Especially investigations into concrete cases need to be enhanced and strengthened.</li> </ul>		
3.1.3	<p>Adopt and ensure efficient implementation of the legislation to combat money laundering and adequate monitoring of all financial transactions, including those related to real-estate, investments, strengthen the anti-money laundering directorate and its coordination with agencies for law enforcement; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects)</p>	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The legislation on money-laundering has been further developed by the adoption of a set of regulations in December 2008.”</li> <li>• “The implementation of the Law on prevention of money-laundering and financing of terrorism should further continue”</li> <li>• “The Montenegrin FIU is well-staffed and provided with sufficient budget and adequate legal framework for its operation.”</li> <li>• <b>[criticism:]</b> “However, <b>the number of suspicious transactions has been decreasing.</b> The record of <b>final successful convictions for money-laundering (one case in April 2009) remains very limited.</b>”</li> <li>• “Montenegro envisages the setting-up of an inter-agency intelligence centre (National Coordination Office) with the participation of all major law enforcement bodies, expected to be operational by early next year.”</li> <li>• “Proper implementation of the new Law on confiscated criminal assets of August 2008 will be in practice made possible by the adoption of the new Criminal Procedure Code, the new Law on the State Property Agency and the necessary changes to the Criminal Code.”</li> <li>• “The establishment of the State Property Agency which will be responsible for the managing of confiscated goods should now be ensured. Proper training should be provided for the efficient implementation of the new framework.”</li> </ul> <ul style="list-style-type: none"> <li>• <b>To do:</b> “Better application of appropriate investigative methods and improved cooperation among the relevant law-enforcement authorities are necessary.”</li> <li>• <b>To do:</b> “enacting the relevant implementing legislation. The necessary financial and human resources should be ensured on a sustainable basis to that effect.”</li> </ul>	2	<b>Medium to long</b>

		<p><b><u>EU National Expert (Chance):</u></b></p> <ul style="list-style-type: none"> <li>• “Other important developments in terms of legislation have included <b>the extension of the money laundering reporting requirement to now include not just banks but the stock exchange, brokers, the Central Depository Agency, merchants and intermediaries, the Customs Administration, insurance companies, law firms, clearing houses and auditors</b>, amongst others.”</li> <li>• “The December 2008 <b>Rulebooks include new provisions that standardise the reporting of suspicious transactions</b> from different reporting bodies (including via electronic reporting), defining the role, responsibilities and training of compliance officers within those bodies, and clarifying the data retention and data protection duties on reporting bodies.”</li> <li>• “It is still too early to comment on how successfully these new rules are being applied, but <b>the fact that suspicious transaction reports decreased over 2008 – despite the extended reporting requirements – does not bode well</b>. DPMLTF and the MoF suggest that this is due to the general economic downturn, and thus a reduction in financial transactions, as well as Montenegro losing its reputation as a money laundering hub because of a more robust regime. <b>However, it must be asked whether this instead reflects a lack of rigorous implementation.</b>”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro is generally very close to an adequate implementation of necessary measures; however, a number of disturbing deficiencies remain, most importantly with regard to investigations. The dropping number of suspicious transaction reports is difficult to comprehend.</li> </ul>		
3.1.4	adopt and implement National Drugs Strategy and National Action Plan for Drugs; make the information on drug seizures and persons involved accessible at border crossing points; further develop co-operation and information exchange with relevant international bodies in drug field;	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Steps have been taken to <b>establish a coordination mechanism for monitoring and evaluating ... implementation</b> of the anti-drug strategy and action plan.”</li> <li>• “<b>The fundamental legislative framework for fighting drug crime is in place, though it needs to be further developed</b>, for example by adopting the Law on precursors.”</li> <li>• “The existing institutional set up on tackling drug-smuggling cases is satisfactory.”</li> <li>• “International law enforcement cooperation on drug cases is at a good level.”</li> <li>• “The National Office for Drugs has been set-up and started its work. Its national Information Unit on Drugs will be the focal point for cooperation with EMCDDA.”</li> <li>• “Work on the establishment of EMCDDA-aligned information collection standards has continued.”</li> <li>• “The newly-opened modern Forensic Institute is expected to enhance the Montenegrin authorities’ capacity to work in all crime areas, including drug cases.”</li> <li>• “General and specialised training on drugs is provided to relevant authorities.”</li> </ul>	2	Medium to long

		<ul style="list-style-type: none"> <li>• <b>To do:</b> “The ongoing efforts to strengthen coordination and cooperation among national law enforcement agencies should <b>continue</b>.”</li> <li>• <b>To do:</b> “Further improvements at the borders, including intensification of the activities of border police and customs <b>authorities</b>, are essential for preventing drug smuggling.”</li> <li>• <b>To do:</b> “An efficient network to monitor precursors should be also <b>established</b>.”</li> <li>• <b>To do:</b> “Further upgrading of technical equipment [of Forensic Institute], in <b>particular</b> for the purposes of detecting drugs at the borders should be envisaged.”</li> <li>• <b>To do:</b> “Investigation <b>and</b> prosecution of cases on drug trafficking should be further pursued.”</li> </ul> <p><b>ESI Evaluation:</b></p> <ul style="list-style-type: none"> <li>• The general framework is there; implementation is <b>however</b> not fully satisfactory. Further upgrading of capacities and institutional structure is still also necessary.</li> </ul>		
3.1.5	Adopt and implement legislation on preventing and fighting corruption in accordance with the Action Plan on fight against corruption	<p><b>Commission Assessment:</b></p> <ul style="list-style-type: none"> <li>• “The <b>legal and administrative framework</b> in the area of preventing corruption <b>has to a large extent been created and has become operational</b> (Directorate for Anti-Corruption Initiative, public campaigns, Codes of Ethics for different state authorities).”</li> <li>• “<b>Internal control</b> activities in all law enforcement agencies have been created and are functioning <b>at a satisfactory level</b>.”</li> <li>• “The <b>adoption of the Law on the Prevention of Conflicts of Interest in December 2008</b> has been a positive step.”</li> <li>• <b>[criticism:]</b> “Final convictions for corruption are still limited, compared to the number of opened investigations <b>and</b> also to the public perception of the phenomenon.”</li> <li>• “... the intended creation of an inter-agency intelligence centre (National Coordination Office), should contribute <b>to</b> improvement of investigations and prosecutions.”</li> <li>• “Extensive educational, training and public awareness work is being done across all sectors by the Directorate for the Anti-Corruption Initiative.”</li> <li>• “Ethics and integrity is part of basic training for new Customs officers. Certain developments of anti-corruption training within the police have also taken place,”</li> <li>• “In terms of investigation and prosecution, close working relations have been established amongst the different authorities <b>responsible</b> for fighting corruption.”</li> <li>• <b>To do:</b> “The implementation of the innovations incorporated in the <b>legislation</b> should be pursued,</li> </ul>	2-	Medium to long

		<p>including by <b>reinforcing the Commission for the Prevention of Conflicts of Interest.</b>”</p> <ul style="list-style-type: none"> <li>• <b>To do:</b> “Efforts should be maintained to complete all remaining [GRECO] actions.”</li> <li>• <b>To do:</b> “Human resources and expertise should be further improved, in particular within specialised police departments, the special prosecutor and specialised court <b>departments</b> in anti-corruption.”</li> <li>• <b>To do:</b> “The exchange of <b>intelligence</b> between competent authorities (including tax authorities, Customs, FIU) should be further improved.”</li> <li>• <b>To do:</b> “The new Criminal Procedure Code, introducing, inter alia, the use of special investigative techniques in corruption <b>cases</b> should be adopted and proper training of relevant staff is carried out.”</li> <li>• <b>To do:</b> “however, introduction of regular training [on ethics and integrity] in the <b>Police</b> Academy should be considered.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The development is clearly positive, but a lot still remains to be done; once again the general framework is <i>mostly, but not completely</i> there, but institutional and human resources capacities are still insufficient and implementation (partly related to the lower capacities) remains a problem. The number of successful prosecutions and convictions is low.</li> </ul>		
3.1.6	Implement relevant UN and Council of Europe conventions, as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “The process of implementing GRECO <b>recommendations</b> and international conventions continued.”</li> <li>• <b>To do:</b> “<b>Efforts</b> should be maintained to complete all remaining actions.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro is obviously still in the process of implementation. There is no information on when full implementation can be expected.</li> </ul>	2	
<b>3.2</b>	<b><i>Judicial cooperation on criminal matters</i></b>			
.3.2.1	Implement international conventions concerning judicial co-operation in criminal matters (in particular Council of Europe Conventions)	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “In February 2009 the 2n Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters entered into force. The new Criminal Procedure Code is expected to further improve and facilitate the implementation of judicial cooperation by additionally specifying the provisions on the use of special investigative techniques.”</li> </ul>	1-	

		<p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>Montenegro has made significant progress: the legal framework is adopted or will be adopted in the near future and also further outstanding issues have been addressed or will be addressed soon; Montenegro is compliant.</li> </ul>		
3.2.2	take measures aimed at improving the efficiency of judicial cooperation in criminal matters of judges and prosecutors with the EU member states and with countries in the region	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>“There is a <b>good level of international judicial cooperation</b> with priority given to international requests for legal assistance and extradition, <b>on the basis of Council of Europe Conventions</b> and some <b>bilateral agreements.</b>”</li> <li>“Work is under way for further bilateral agreements with neighbouring countries to be concluded.”</li> <li>“<b>Coordination at national level ... is primarily based on an informal basis.</b> Preparations are under way to introduce clear, written provisions to regulate existing cooperation among the Ministry of Justice, Ministry of Interior, the Prosecutor’s Office and the Courts.”</li> <li>“A Manual on judicial cooperation in criminal matters is planned to be produced in 2009 which will be a useful tool for practitioners.”</li> <li><b>[criticism:]</b> “The shortage of human resources as well as the specialised training needs should be addressed to help, amongst others, reducing the average period for complying with rogatory letters and extradition procedures.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>International and national cooperation are good, even though it is mostly based on informal connections; this is clearly not sufficient; Moreover, there is lack of sufficient human resources and need for some further trainings.</li> </ul>	2	
3.2.3	develop working relations with Eurojust and mainly through a Eurojust contact point	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>“A contact person for Eurojust has been appointed and negotiations on cooperation agreement are ongoing.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>Montenegro complies with this requirement.</li> </ul>	1	
3.3	<i>Law enforcement cooperation among national agencies</i>			

3.3.1	Take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers, as well as co-operation with the judicial authorities	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Cooperation agreements between the Police Directorate and the Tax and Customs Administrations have been concluded, while an agreement with the Prosecutor’s Office is due to be signed.”</li> <li>• <b>To do:</b> “The measures taken to formalise the existing informal inter-agency cooperation and exchange of information, including at border crossing points, <b>should be further followed-up and accelerated.</b>”</li> <li>• <b>To do:</b> “The establishment of the <b>National Coordination Office</b> which will bring together relevant law-enforcement agencies, thus allowing for effective and efficient cooperation and intelligence exchange <b>should be given priority</b> (planned to be completed by early next year).”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro is making progress in fulfilling this requirement, but further institutional measures are still necessary for compliance.</li> </ul>	2-	Short to Medium
3.3.2	Improve exchange of information between national agencies by setting up by setting up an adequate coordination mechanism	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>To do:</b> “The establishment of the National Coordination Office which will bring together relevant law-enforcement agencies, thus allowing for effective and efficient cooperation and intelligence exchange should be given priority (planned to be completed by early next year).”</li> <li>• “The implementation of an intelligence-led law enforcement project for 2008-2010 is ongoing. Once implemented at country-wide level, it is expected to lead to better investigations in all crime areas.”</li> <li>• <b>To do:</b> “It should however, be supported by appropriate budget and training activities.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro is certainly making progress in fulfilling this requirement. However, the new National Coordination Office is still not operational. The implementation of the intelligence led enforcement project is ongoing. This is positive, but budgetary and training support is still not appropriate.</li> </ul>	2	Short to medium
3.3.3	Reinforce regional law enforcement cooperation and implement bilateral and multilateral operational cooperation agreements, including by sharing online	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>To do:</b> “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.”</li> </ul>	2-	Medium to long

	relevant information with competent law enforcement authorities of EU member states	<p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• There is still a lot to do for Montenegro to comply with this requirement.</li> </ul>		
3.3.4	Improve operational and specialized investigation capacities of departments for enforcement of the Law for the purpose of more efficient dealing with cross-border criminal[ity]	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>[criticism:]</u></b> “The operational and investigative capacities of the law-enforcement bodies need further development and improvement.”</li> <li>• “The new Criminal Procedure Code will improve the framework of the use of special investigative techniques.”</li> <li>• “An instruction book on informant handling has been adopted.”</li> <li>• “Specific plans exist to develop and adopt (in 2009) a number of practical tools for law enforcement practitioners (e.g. Manual on the application of special investigative techniques, Manual on intelligence led policing).”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The legal framework is there (Criminal Procedure Code), but needs to be adequately implemented. Efforts are being made to react to previous criticism and improve operational capacities. These efforts are, however, still in their beginning (or in the middle).</li> </ul>	2-	Medium to long
3.3.5	Take necessary steps for conclusion of an <u>operational cooperation agreement</u> with EUROPOL, with special emphasis on data protection	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “In September 2008, a strategic cooperation agreement with Europol was signed.”</li> <li>• <b>To do:</b> “Montenegro should proceed with the ratification of the strategic cooperation agreement with Europol and ensure its effective implementation.”</li> <li>• <b>To do:</b> “The administrative capacity of the bodies in charge of international law-enforcement cooperation should be strengthened, in particular of the Directorate of International Police Cooperation.”</li> <li>• <b>To do:</b> “Shortages of staff and technical equipment, as well as working procedures should be addressed as these remain essential for enhancing law-enforcement capacities to effectively fight all forms of crime, as well as for cooperating at international level.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Some improvements are visible, significant issues remain however: the strategic cooperation agreement is signed but not ratified; administrative and capacity building measures also need to be implemented.</li> </ul>	2-	Medium

<b>3.3</b>	<b>Data protection</b>			
3.4.1	Adopt necessary legislation on the protection of personal data and implement its provisions and ensure the independence of a supervisory body for data protection	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Some progress has been noted in the area of personal data protection, primarily through the adoption of a new Law on the protection of personal data.”</li> <li>• <b>To do:</b> “Additional efforts are still required as this law should be further aligned with the acquis, and notably with Directive 95/46 EC”</li> <li>• <b>To do:</b> “independent National Agency for the Protection of Personal Data should be set up and made fully operational”</li> <li>• <b>To do:</b> “State sectors should now fully apply the new personal data protection law.”</li> </ul> <p><b><u>EU National Expert (Constantin):</u></b></p> <ul style="list-style-type: none"> <li>• “Establishing of a National Agency for the Protection of Personal Data, set up of working groups in order to review the regulations that needs further harmonisation with new Law on Personal Data Protection and preparation of subsidiary legislation are to be set up by the end of June 2009.</li> <li>• “Along with these measures, the Montenegrin authorities mentioned three more measures as follows: reviewing of all regulations regarding the obligation of keeping the register on personal data (deadline- February 2009), first amendment of the Law in order to further harmonise it with the Directive 95/46 EC (deadline- June 2010), prepare internal regulations regarding automated connection of the data collections (deadline- December 2009).”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Some progress has been made, though too much is still missing. The basic normative frame is in place. However, it should still be aligned with the acquis, and be implemented. The necessary institutional setup also needs to be established.</li> </ul>	2-	Medium
3.4.2	Sign, ratify and implement relevant international conventions, such as the Additional protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>2008 Commission Assessment:</b> “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 <b>not yet signed and ratified.</b>”</li> <li>• [2009 Commission Assessment does not mention the issue.]</li> </ul> <p><b><u>EU National Expert (Constantin):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Regarding cooperation with EUROJUST:</b> “The main steps are: implementing the law on data</li> </ul>	unclear	Short to medium

		<p>protection, establishing an independent supervisory body on data protection and <b>signing of a Protocol meant to implement the Convention on Personal Data Protection.</b>”</p> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"><li>• The requirement cannot be evaluated based on the Commission Assessment, as the 2009 Update does not mention the issue.</li></ul>		
--	--	---	--	--

4	<b>Block 4: External relations and fundamental human rights</b>	“It appears that Montenegro meets a <u>large majority of the benchmarks</u> set under Block 4 of the roadmap.”	2+	
4.1	<i>Freedom of movement</i>			
4.1.1	ensure that the freedom of movement of citizens of Montenegro is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation	<p><b><u>Commission :</u></b></p> <ul style="list-style-type: none"> <li>• “The established legal framework ensures freedom of movement and access to documents for all Montenegrin citizens.”</li> <li>• “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.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The fulfilment of this requirement appears to be satisfactory.</li> </ul>	1	
4.2	<i>Conditions and procedures for the issue of identity documents</i>			
4.2.1	ensure full and effective access for all all citizens of Montenegro including women, children, people with disabilities, people belonging to minorities and other vulnerable groups	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “With regard to the issuance of documents, the country reports there have been neither cases of discrimination reported nor particular difficulties for a specific group.”</li> <li>• “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.”</li> <li>• “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.”</li> <li>• “Refusals to issue travel documents can be appealed at two administrative instances.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• The situation appears to be satisfactory; though the commission report does not specifically mention</li> </ul>	1	

		implementation issues.		
4.2.2	ensure access to identity documents for displaced persons, internally displaced persons and refugees	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>2008 Commission Report:</b> “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.”</li> <li>• “As to the access to identity documents of displaced persons (DPs), internally displaced persons (IDPs) and refugees, in December 2008, displaced persons (DPs) were all registered and issued with new identity cards.”</li> <li>• “Under the Law on Asylum, the DPs being granted refugee status have the right to be issued refugee identity cards and refugee travel documents.”</li> <li>• “IDPs residing in Montenegro were registered with the Bureau for the Care of Refugees and issued with identification documents.”</li> <li>• <b><u>[criticism:]</u></b> “Nonetheless, concerns remain over some IDPs not being registered, and consequently, having no access to identity documents.”</li> <li>• <b>To do:</b> “Efforts to ensure the resolution of the status of displaced and internally displaced persons and the full and effective access to identity documents for these categories should be stepped up.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Montenegro is mostly compliant. Problems with the registration of refugees and IDPs still need to be addressed, for proper implementation of the relevant legislation.</li> </ul>	1-	Short to medium
4.3	<i>Citizens’ rights including protection of minorities</i>			
4.3.1	adopt legislation that ensures effective protection against discrimination	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>2008 Commission Report:</b> “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.”</li> <li>• “The draft Anti-discrimination . . . is planned to be adopted by mid 2009. The draft appears to broadly cover relevant EU standards in a wide range of sectors.”</li> <li>• “It will provide for the establishment of an antidiscrimination agency, either by granting new powers to the Ombudsman or by creating a new institution,”</li> </ul>	2	Medium

		<ul style="list-style-type: none"> <li>• “and will also provide for funds allotted for public awareness campaigns.”</li> <li>• “At present, discrimination complaints can be lodged with the Ombudsman. However, there is almost no track record of such instances.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Implementation of this requirement is close to completion.</li> </ul>		
4.3.2	Specify conditions for the acquisition of Montenegrin citizenship	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “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.”</li> <li>• “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.”</li> <li>• <b>[criticism:]</b> “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.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• A law is there; dual citizenship is very limited. The issue of dual citizenship is not clarified as regards former Yugoslav citizenship.</li> </ul>	1-	
4.3.3	Ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• [the 2008 Commission report requests more information] “regarding investigation of ethnically motivated incidents, information on procedures is not sufficient. There are no cases, nor reports by the ombudsperson/NGOs reported.”</li> <li>• <b>ESI comment:</b> there is no update in the final 2009 Commission Assessment.</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Due to a lack of information it is not possible to evaluate fulfilment of this requirement.</li> </ul>	unclear	
4.3.4	Ensure that constitutional provisions on protection of minority rights are observed	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• “Montenegro has established a broad legal and institutional framework regulating the rights and protection of national minorities”</li> </ul>	1	

		<ul style="list-style-type: none"> <li>• “the Constitutional provisions,…”</li> <li>• “...a special Law on Minority Rights and Freedoms is adopted ... a Strategy on Minority Policy...”</li> <li>• “The Ministry for Human and Minority Rights Protection is entrusted with supervising the respect of minority rights and freedoms.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• This requirement appears to be fulfilled.</li> </ul>		
4.3.5	Implement relevant policies regarding minorities, including Roma	<p><b><u>Commission Assessment:</u></b></p> <ul style="list-style-type: none"> <li>• <b>2008 Report:</b> “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.”</li> <li>• <b>2008 Report:</b> “Some activities concerning the integration of the Roma population are reported, in particular regarding schooling and radio-broadcasting in Roma language.”</li> <li>• “Montenegro is making good efforts in implementing its minority integration policies with some increase in activities and projects concerning the integration of the Roma population including education, social and health care and employment actions.”</li> <li>• “Minority Councils (elected by the minorities) have been set up and provided with financial support by the Government through a special Fund for Minorities.”</li> <li>• <b>[criticism]:</b> “However, overall progress in the improvement of minorities' conditions, especially the Roma, appears to be rather slow and not easily quantifiable, due to, inter alia, a lack of reliable data and a relatively limited budget.”</li> </ul> <p><b><u>ESI Evaluation:</u></b></p> <ul style="list-style-type: none"> <li>• Most legal and administrative measures are in place, but implementation appears to be slow.</li> </ul>	2	Short to medium but requires monitoring
	<b>Final remark</b>			
	[The Commission will inter alia take into account criteria such as] the visa refusal rate for visa applicants and the refusal rate of entry into the common Schengen area for nationals of Montenegro. In this context, the decreasing trend of the refusal rate,	<ul style="list-style-type: none"> <li>• Not mentioned in the Commission report.</li> </ul>		

	which should progress towards 3% for visas and 1000 persons per year refused for entry into the common Schengen area, will be used as an indicative reference.			
	Montenegro should also take the necessary measures to allow an efficient implementation of the EU joint actions on travel ban.	<ul style="list-style-type: none"> <li>• No mentioning</li> </ul>		