



**Montenegro**  
**Ministry of Internal Affairs and Public Administration**

**UPDATED REPORT ON REALIZATION OF REMAINING  
OBLIGATIONS OF MONTENEGRO AS PROVIDED FOR IN THE  
ROAD MAP FOR LIBERALISATION OF VISA REGIME**

**Podgorica, September 2009**

## **BLOK I: PROTECTION OF DOCUMENTS**

### **1. Issuance of mechanically readable biometric identification documents. Installing the equipment necessary for reading biometric data at the border crossings and networking of border crossings with databases, including the Interpol database**

The Law on Travel Documents (Official Gazette of Montenegro number 21/08 and 25/08) and the Law on Personal Identification Document (Official Gazette of Montenegro number 12/07) are applicable as of May 5, 2008.

**In the period from 5 May 2008 to 17 September 2009, the total of 132.909 of new biometric passports, 204.736 personal identification cards and 95.732 of driving licenses have been issued to Montenegrin citizens. In this period the total of 433.377 of new identification documents has been issued.**

The Law on Travel Documents (Official Gazette of Montenegro number 21/08 and 25/08) stipulates that those travel documents which have been issued prior to the beginning of application of this Law (5 May 2008) are valid until their expiry date as noted in the relevant document, but not longer than 31 December 2009.

From 5 May 2008 passports, diplomatic and official's passports, personal identification cards and driving licenses are not issued on previously used forms.

**At all Montenegrin border crossings, information technology equipment has been installed**, namely: local computing network, working stations, printers, pre-voltage protection of computing equipment with backup power supply and active network equipment (Switch 100Mb/s).

Border crossings – Airport Podgorica, Airport Tivat, Port of Bar, Port of Kotor, Božaj, Sukobin, Debeli Brijeg, Kobila, Sitnica, Ranče, Dobrakovo, Dračenovac, Kula and Ilino Brdo (14) have been integrated, e.g. incorporated in the Central information system.

**The total of 41 CrossMatch D-Scan A 100 mechanical readers of identification documents have been installed at the following border crossings: Airport Podgorica, Airport Tivat, Port of Bar, Debeli Brijeg, Sitnica, Dračenovac, Dobrakovo.**

**Until 31 December 2009 CrossMatch D-Scan A 100 mechanical readers of identification documents will also be installed at the border crossings Kula, Sukobin-Murićani, Ranče, Božaj, Kobila, Port of Kotor and Ilino Brdo.**

At those less busy border crossings which are not integrated in the Central information system (Šćepan Polje, Metaljka, Šula, Vuče, Nudo, Krstac, Grnčar, Vračenovići, Port of Zelenika, Port of Risan, Port of Budva, Railway station Bijelo Polje, Railway station Tuzi) installation is made of: Server (Windows 2000 server) and local database which is weekly synchronized with the Central information system (transferring device - USB memory).

**By 1 November 2009 border crossings Ilino Brdo, Railway station Bijelo Polje, Metaljka and Port of Budva will be incorporated into the Central information system, so by 1 November 2009, the total of 18 border crossings will be integrated into the Central information system, e.g. all busy border crossings.**

**On 31 July 2009, the total of 12 border crossings (out of 28 border crossings in Montenegro) have been incorporated into the network of Interpol databases (out of which 7 border crossings have been equipped with the readers of travel documents). When the previous report on liberalization of visa regime has been prepared only 4 border crossing were incorporated into the network.**

The main task of the Information subsystem for state border crossing control is a control of entry and exit of passengers and vehicles. Entering a set of data by the border police officials allows for: a basic state control, control of vehicles and their owners (plates, registration, number of vehicle's chassis) in the inquiry records; control of vehicles registered in the Montenegrin vehicle's registration records; record of individuals who are prohibited from entering or leaving Montenegro; additional check ups for vehicles registered in Montenegro (registration expiry, insurance policy); counting vehicles according to their type (Montenegrin and foreign vehicles, entering and leaving); passport control with documents reader and automatic control of data from the travel document, with a possibility of manual inscription of data; automatic control allowing for control of data, comparison of elements from MRZ zone and visible zone, check up of the control number, control of optical elements, control of MRZ-RFID elements, possibility of enlarging certain types of images); control of passengers on the basis of the data readable from the travel document, data on the travel document, data on the holder of the travel document) in inquiry records; control of data on Montenegrin travel documents in Montenegrin registry of travel documents; control of personal data in the registry of Montenegrin citizens; keeping pictures (photograph of a person, image of a travel document under normal, UV, IR and coaxial light); automatic control on whether the foreign citizen needs a visa based on a citizenship of such individual and the type of travel document; in a situation of the so called "hit", i.e. identifying a vehicle, an individual or an object in the inquiry records, it is allowed to enter data on measures undertaken with respect to such vehicle, individual or objects; automatic alarming of a supervising officer in a 'hit' situation and taking up the alarm by the supervising officer; module directly communicating through the software application with MIND system (Mobile Interpol Network Database), which represents a system of accessing to the Interpol's databases from users outside of the National Central Bureau of Interpol. MIND represents check up of Interpol databases during crossing (entering-exiting) a border by individuals (a check up refers to: control of travel documents and control of motor vehicles, showing images with a possibility of enlarging them and introducing and maintaining records of individuals who are identified as individuals of interest for security service); presenting images with a possibility to enlarge them; keeping and maintaining records of individuals who are identified as individuals of interest for security service.

Apart from the aforementioned, Information subsystem for control of the state border crossings provide for a statistical analytical reporting which presupposes: daily reporting on the work of police official; list of all people who were subject of border crossing control; list of vehicles who were subject of border crossing control; transfer

of passengers and vehicles; prohibited entry to Montenegro and exit from Montenegro, as well as the other activities of the border police.

In addition to this, Information subsystem for control of the state border crossings also allows for recording activities of users and subsequent search which encompass the following: all activities related to the work of border police are kept (who, when, where and what) with a possibility of subsequent review on the grounds of user's order or work station. When entering into the system certain individuals or vehicles, officials of the state border police may face the warning – alarm on irregularity in the form of a message, while the red sign will appear in relevant fields. With respect to such individuals or vehicles, data pertaining to them are entered, while status of crossing the border is not defined and it is necessary to alter it manually. State border police official must compare data on individuals or vehicles with the data which are entered into field which has a red sign. The fields in which the alarm may appear are: Inquiry fields (which means that such individual is in the recorded in the inquiry records), Interpol (Interpol's warrant which are entered into the national database of Police Directorate by NCB Interpol Podgorica officials), MIND (online search of Interpol database of stolen travel documents and stole registry plates), Extended surveillance (records on individuals identified as of interest for security service), and Status of passport readers (scanning travel documents and depending on its validity reports errors in a form of a message). After the comparison of data has been completed, or additional checks for individual or vehicle are being done, the official must manually enter data pertaining to the status of border crossing, depending on the action taken, namely: prevented crossing, no crossing, approved crossing.

## **2. Completing electronic registry of Montenegrin citizens**

**Electronic registry of Montenegrin citizens has been completed and established.**

## **BLOK II: ILLEGAL MIGRATIONS, INCLUDING READMISSION**

### **I. BORDER MANAGEMENT**

#### **1. Setting up the Proposal of the Law on State Border Control and adopt accompanying by laws for its implementation**

Government of Montenegro has set up **the Proposal of the Law on State Border Control and suggested to the Parliament of Montenegro to adopt it in an urgent procedure.**

**Proposal of the Law is fully in line with the Schengen Code on Borders which is adopted by the European Parliament and the Council of the European Union in 2006.**

Bylaws necessary for implementation of this Law (Decree on Border Crossings and Decree on Material and Technical Means for Equipping the Border Crossing) will be prepared and delivered to the Government of Montenegro for review and adoption, immediately after the Law on Border Control is passed by the Parliament of Montenegro.

## **2. Improve the plan of training for members of the border police at the Police Academy.**

Police Academy has amended the content of its Education program for obtaining status of a policeman. A round table has been convened in period between 7 February and 9 February 2009, participated by the lecturers, instructors and management of the Academy, associated consultants from the University of Montenegro, representatives of operational sectors of the Police Directorate and engaged experts, who have analyzed the existing educational program and harmonized proposals on amendments. **One of the key amendments is in the area «Control of crossing and surveillance of state border crossings» for which a new program has been prepared with thematic content and number of classes adjusted to the Program of Education of the European Border Guard developed by the FRONTEX. The Academy has started the initiative with respect to licensing and approval of this new program.**

**Innovative program encompass those themes related to the Risk Analyses, techniques of conducting informative interviews, undertaking criminal investigation, tactics of conducting control at the land and water etc.**

In cooperation with the Border police the Academy has prepared innovative Program which will be used for realization of courses of additional classes for members of the border police. For education field «Control of crossing and surveillance of the state border» it is planed to organize 85 classes (theoretical and practical education), which is 15 classes more than the number of classes predicted with the existing Program.

**Innovated Program encompass thematic content which also includes:** Legal order and security of the European Union; Schengen Agreement; Schengen regulations, external and internal Schengen borders and principles of criminal-intelligence work and principles of investigation in accordance with the Schengen Convention; Montenegrin legislation and organization of work in the Border police; Borders (terminology, significance, types of border, marking the borders and the legislation on state border surveillance and border control); Surveillance – protection of state border in water; Crossing the state border and border crossings; Control of passengers and luggage during the state border crossing; Integrated border management; Risk Analyses; Technique of conducting informative interviews; Methods of depriving from liberty criminal offenders with respect to border security; International police cooperation; Border incidents and border violations; Definition of foreigner and conditions for entering into Montenegro; Residence of foreigners, etc.

**With the Annual Program of education, professional training and specialization for officials and civil servants of the Police Directorate, the Police Academy has planned 27 different educational contents (courses and seminars) attended by 600 participants of the Border police.** Courses and seminars are carried out by lecturers and instructors from the Police Academy, experts from the Police Directorate, Custom Administration and other bodies, as well as experts engaged by the Police Academy through international cooperation with associations and organizations dealing with police education and police colleges and police academies from the European countries.

**In period between January and September 2009, fifteen different educational seminars have been organized at the Police Academy, successfully completed by 237 Border officials, namely:**

- XIII and XIV course of additional education within Elementary police education for 50 participants
- Seminar for trainers on the subject «Ethics, Code of conduct and anticorruption measures» for 37 participants
- Course «Work of border police in the community» for 30 participants
- In OSCE Center for Education at the Police Academy, organized by OSCE and the Police Academy numerous of seminars have been convened under the title «Prevention of drug smuggling across the state border» for 39 participants
- Course organized by OSCE, TADOC Academy from Turkey and the Police Academy from Montenegro, on the subject «Illegal migrations and trafficking in human beings» for 26 participants
- Seminar on the topic «Visa regime» for 22 participants
- Seminar organized by the United Nations and OSCE «Fighting drug trafficking, with a special focus on finding drugs, inspection and search» for 9 participants
- Additional education with respect of control of passengers and luggage at the airports for 121 participants

### **3. Signing work engagement with the FRONTEX**

**Work engagement between the European Agency for management over the operational cooperation on external borders of the member states of the European Union (FRONTEX) and the Police Directorate of Montenegro is signed on 18 June 2009 in Warsaw**, upon a decision passed by the Board of FRONTEX, on 25 March 2009, accepting a proposal for the Work engagement, previously prepared in cooperation between the representatives of FRONTEX and representatives of the Ministry for Interior Affairs and Public Administration and the Police Directorate of Montenegro.

Basic elements of cooperation which were defined with Work engagement are the following:

- Exchange of information in the area of risk analyses with FRONTEX Unit for risk analyses
- Cooperation related to organization of trainings
- Technical cooperation, which encompass research and development
- Joint operations
- Joint policy with respect to return of illegal immigrants.

Signing this Work engagement has formally set up a partnership between the Police Directorate of Montenegro and FRONTEX, which will further open up a possibility for the Police Directorate to participate in all activities which FRONTEX is already carrying out with other countries signatories.

After signing the Work engagement, the Police Directorate will give its contribution in developing annual report on risk analyses between the Western Balkans countries and FRONTEX. This joint report will be of a great significance for all participating

counties, since it will be used as a basis for planning operational activities, as well as for strengthening cooperation in the area of integrated border management between the Western Balkans countries and FRONTEX.

### **Improving Risk analyses**

System of Risk analyses used by the Border police is functional and based upon the system of efficient reporting.

**Reports on strategic risk analyses are done on a monthly basis, at the central level, by the Border police** – Department for operational work, while at the regional level these operational reports are prepared weekly by the Border police units, with one intelligence officer in each of them (deputy for operational work), in charge of operational work, managing certain number of intelligence personnel working in the field (leader of security sectors).

Intelligence personnel working in the field (leader of security sectors) make operational information based on 4x4 system, which are subsequently processed and analyzed and further used for directing the work of patrols and setting up ambushes with the aim to prevent all kinds of cross border crime, which has produced results in practice.

Certain number of information have been forwarded to the Criminal police (if it is related to criminal offences with the elements of organized crime – trafficking in humans, drugs, etc.), in order to allow the Border police, together with the Criminal police, to fight against these types of organized crime.

### **Acquisition and usage of dogs for detecting drugs during the search of vehicles**

**At this moment, the Border police have 10 official dogs used for detecting drugs**, allocated in the following manner: 3 in Podgorica, 1 in Berane, 1 in Pljevlja, 1 in Nikšić, 2 in Bar, 1 in Herceg Novi and 1 in the Border police maritime unit.

**Acquisition and training of four additional dogs for detecting drugs is anticipated.**

### **Integrating Border police into the unified communication network of data of relevant institutions**

As of 2003, **Custom Administration** has installed the integrated information system. New information equipment has been procured (PC, Servers and network equipment) which is implemented into the newly setup centralized information system.

At this moment the Custom Administration has around 400 PCs, allocated to 34 custom locations throughout the entire territory of the state. For interconnecting custom locations into the unified information system, transmission system of Montenegrin Telekom has been used (where it was possible, e.g. where Telekom has developed its infrastructure). At those locations where Telekom could not offer its facilities, the Custom Administration used coverage of these locations with mobile

telephones signals and in association with local providers has connected these custom locations with the Custom information system (CIS).

## **II. ASYLUM**

### **1. Undertake further training of the members of the State Appellate Commission**

Additional trainings of the members of the State Appellate Commission in charge of deciding over the asylum appeals are carried out by representatives of the UNHCR office in Podgorica. Training is also attended by employees from the Asylum Office. First training within the additional training is planned for the end of November 2009. The theme of this training will be passing a decision over the appeals filed against negative decisions related to the submitted asylum applications.

### **2. Improve accommodation conditions for asylum seekers**

Center for accommodation of asylum seekers is foreseen in the Law on Asylum (Official Gazette of the Republic of Montenegro number 45/06). Construction of the Center has started in 2007. The main contractor was the Ministry of Internal Affairs and Public Administration in cooperation with the Directorate for Public Works of Montenegro, the UNHCR as a donor and NGO HELP Podgorica as the executive partner. At the beginning of the construction it was predicted that this facility will be developed as the Center for asylum seekers and foreigners. Spuz – Danilovgrad municipality was determined as a location for construction of the Center. So far the Center is partially constructed, while resources for providing a construction plot and for the construction itself, up to now, were rendered by the Government of Montenegro and UNHCR.

In the meantime, the Government of Montenegro has established the Agency in charge of providing care to refugees, as the authority competent for taking care of asylum seekers, while the Police Directorate is in charge of undertaking control over the movement and residence of foreigners.

**In February 2009, the Government of Montenegro has passed the Conclusions based on which a separate Center for asylum seekers and Shelter for foreigners will be constructed.** With the same Conclusions the Government of Montenegro has vested the Agency in charge of providing care to refugees with the usage right over the construction plot, as well as over the partially constructed facilities of the Center for accommodation of asylum seekers and obligated the Agency to continue with the further activities on construction of the Center for accommodation of asylum seekers, in cooperation with the Directorate for Public Works.

**According to projected capacities of the Center for accommodating asylum seekers, it will provide accommodation for 65 beneficiaries, with necessary accompanying facilities and premises for employees of the Center. Project provides for units envisaged for accommodation of families, for unaccompanied minors, for disabled people, separate units for man and women and for lightly ill people.**

**Montenegrin budget for 2009 provides EUR 450.000 and it is estimated that this amount accounts for 50% of needed resources for completion and start of the operation of the Center.**

**Aiming at providing the remaining financial resources for completion and furnishing of this Center, competent authorities of Montenegro have applied for additional financial resources in the amount of additional EUR 450.000 through the IPA projects. These funds have been approved and it is planned to complete construction of the Center for asylum seekers in 2010.**

Construction of this Center continues with the usage of resources approved in the budget of Montenegro. Existing activities comprise the necessary additions to the project documentations and obtaining a construction permit for continuation of works. The next activity is announcement of the tender for construction works in the Center, which is planned for September 2009.

Although the construction of this Center is not completed, Agency in charge of providing care to refugees provides accommodation for asylum seekers through the lease of accommodation with necessary capacities.

### **3. Efficient and overall implementation of the rights which are guaranteed by the Law on Asylum for refugees and other categories enjoying protection, including the right to work**

In order to provide for implementation of the Law on Asylum (Official Gazette of the Republic of Montenegro number 45/06), all necessary bylaws have been passed, namely:

- Decision on the form and content of the application and the manner of issuing documents to the asylum seekers, to individual who has been granted a refugee status, to individual who has been granted the additional protection and to individual who has been granted a temporary protection (Official Gazette of Montenegro number 13/09)
- Decree on the content and manner of keeping asylum related records (Official Gazette of Montenegro number 09/08)
- Decree on financial assistance provided to the asylum seekers, to individuals who have been granted a refugee status and to individuals who have been granted the additional protection (Official Gazette of Montenegro number 56/08)
- Regulation pertaining to the form of application on seeking asylum and of the minutes on verbally submitted application for seeking asylum (Official Gazette of Montenegro number 04/07)
- Regulation on the procedure and the manner of taking photographs, fingerprints, signatures and other data from the asylum seeker (Official Gazette of Montenegro number 04/07).

Granting a refugee status, as well as cessation and revocation of this status is regulated by the Law on Asylum. An individual who has been granted a refugee status has the right to: residence; travel document and personal identity card verifying his identity, legal status, the right to residence and other rights as stipulated by his Law; freedom of movement and choice of a place of residence; free access to courts and

legal assistance; freedom of religious beliefs; free of charge elementary and high school education in schools founded by the state, while high and higher education in public institutions founded by the state is allowed under the conditions provided for foreigners; work; social welfare; family reunion; accommodation, if necessary, but not longer than six months after a refugee status has been granted; health protection, until obtaining a status of insured individual, all in accordance with special regulation; obtaining movable and immovable property, under certain legally provided conditions, without reciprocity condition needed after three years of residence in Montenegro; assistance with social inclusion.

A refugee can exercise the right to work under the same conditions as provided for foreigners who have been granted a permanent residence status. The right to work is exercised on the grounds of personal work permit issued for indefinite period of time. Personal work permit allows free access to the labour market, regardless of situation and relations at the market.

The right to insurance due to disability, the right to health protection, pension insurance and other rights deriving from the labour are exercised under the same conditions as provided for Montenegrin citizens.

A refugee has the right to social welfare in line with the special regulation on social welfare, but not longer than one year after a decision on granting a refugee status becomes final.

**With the Decree on financial assistance for asylum seekers who have been granted a refugee status and who have been approved the additional protection („Official Gazette of Montenegro” number 56/2008),** as a special regulation allows refugees to obtain a financial assistance, as a kind of social welfare. This assistance is granted as a monthly financial assistance or as ad hoc financial assistance. Monthly financial assistance is granted to a refugee whose right to accommodation has ceased, in accordance with the Law on Asylum and under the condition that such individual does not have his own financial resources and property.

The amount of this financial assistance is following:

- For an individual	EUR 55
- For a two-member family	EUR 66
- For a three-member family	EUR 79,20
- For a four-member family	EUR 93,50
- For a family with five and more members	EUR 104,50.

This assistance can be determined in a higher amount.

Ad hoc financial assistance is provided for refugees:

- if special circumstances occur which affect their material situation and health condition;
- in case of covering funeral costs.

The amount of this assistance is determined on the basis of the situation which has occurred, taking into account financial situation of the state.

Conditions for exercising the right to social, economic and cultural inclusion are provided depending on the economic and other possibilities of Montenegro, by organizing courses of Montenegrin language, providing information on state organization, history and culture, organizing seminars and through other forms of trainings.

Within its economic and other possibilities, Montenegro has committed itself to provide the integration and naturalization of refugees to the widest possible extent, as well as to determine taxes and other costs which are to be paid in the procedure of obtaining these rights, in the amount that would not represent an obstacle for submitting the application and exercising these rights.

According to the Law on Asylum, authorities in charge of deciding and executing rights of those individuals who are granted a refugee status are the following:

- For labour and social welfare – Ministry of Labour and Social Welfare and the state authorities, organizations and institutions under its jurisdiction;
- For health – Ministry of Health and the state authorities, organizations and institutions under its jurisdiction;
- For education – Ministry of Education and Science and the state authorities, organizations and educational institutions under its jurisdiction.

#### **4. Further development of administrative capacities of the Agency in charge of providing care to refugees**

During 2006, within the CARDS program, a project “Support to the institutional development of Commissariat for Displaced Persons in Montenegro” has been implemented, financed by the European Union, and managed by the European Agency for Reconstruction – office based in Podgorica. The aim of this Project was to improve administrative and management capacities of employees of the Commissariat. The legal successor of this Commissariat is the Agency in charge of providing care to refugees.

The Agency has in its work systematization the total of 35 work positions for officials and civil servants, with 18 employees and civil servants being engaged. It is predicted that the Center for asylum seekers will employ 16 officials and civil servants.

The Human Resources Management Authority of the Government of Montenegro has organized several seminars and trainings, attended also by the representatives of the Agency. Trainings were organized on subjects such as »Public procurement system in Montenegro«, »Development of and drafting the projects«, »How to attract and retain the best staff in the state administration« »The system of officials and civil servants«, »Negotiations and negotiating skills« etc. In the future, representatives of the Agency will attend language courses and different trainings, organized by the Human Resources Management Authority.

For employees of the Agency, the UNHCR have organized trainings on »Improvement of management skills« and »Public advocacy and lobbying«.

With the aim of providing for better education needed for the future work in the asylum sector, employees have attended two seminars in Petrovac and Kolasin, organized by the UNHCR. These seminars introduced international standards in area of providing care to refugees. According to international standards, these seminars were used to harmonize the manner and form of cooperation between the authorities involved in the process of accepting and providing care to asylum seekers and refugees.

During May 2008, the UNHCR has organized a study visit to Hungary, where employees of the Agency were presented with Hungarian system of asylum, as well as with their experiences thereof.

On 29 and 30 May 2008, ICMPD has organized a visit to the Agency of the representatives of Special mission of Denmark, who held a training on asylum for employees of the Agency, employees of the Asylum Office of the Ministry of Internal Affairs and Public Administration and the Police Directorate of Montenegro, presenting also the relevant experiences of Denmark and comparative analyses of legislation of some European Union countries.

On 6 June 2008, employees of the Agency attended »Regional seminar on migrations, asylum and visas«, organized by the ICMPD in Podgorica.

During July 2008, OSCE has organized a participation of the Agency representative in a study and working meeting under the title »Sustainable policy for integration of Roma and Sinta«, held on 10 and 11 July in Vienna. This was an opportunity to exchange experiences related to integration policy of Roma in the region and broader.

From 7 July to 16 August 2008, in the organization of the UNITAR from Geneva (United Nations Institute for Training and Research) one employee from the Agency, as a representative of Montenegro, has attended training program on international law and has completed training at the Diplomatic academy in Hague. Topics from all areas of international law were covered with the focus on International human rights law and International refugee law. Agency's employee, as the representative of Montenegro, made a presentation on refugee law, and on that occasion she has presented issues related to displacement in Montenegro and all that has been done in our country with respect to strategic legislation, integration and repatriation.

In October 2008, the office of the Committee for the European Integrations of Poland has organized a study visit to Poland. In period between 29 October and 1 November, Agency's employees have been given the opportunity to visit the Office for Foreigners, the Center for foreigners who are applying for a refugee status, the Office for the Implementation of EU Programs, the Office of the Committee for European Integrations and to exchange experiences with their officials on the issues of asylum and planning, programming and implementation of the EU projects.

During 2008 and 2009, the Office of the Delegation of the European Union in Montenegro and the CDP (Capacity Development Program) have organized three

seminars in Kolašin, Cetinje and Budva, covering topics »Writing and preparing projects for IPA pre-accession funds«, also attended by the representatives of the Agency.

During June 2009, within the MARRI initiative a study visit has been organized to the Asylum Center in Potsdam in the Republic of Germany, attended by the director of the Agency in charge of providing care to refugees. Study visit has been realized through two groups of activities: visit to the Ministry of Internal Affairs in Potsdam and study visit to the Central office for foreigners and asylum seekers in Brandenburg.

Within the framework of pre-accession funds of the European Union - IPA 2009, the Agency in charge of providing care to refugees has been approved a project »Support to the Center for Asylum Seekers«, within which the EU will provide funds in the amount of EUR 450.000,00 for completion of construction and furnishing of the Center for asylum seekers. With the same project the Government of Montenegro will co-finance training programs for employees who will be engaged in the Center for asylum seekers in the amount of EUR 30.000,00. The training programs will encompass both trainings and study visits. It is planed to implement these programs during the year of 2010 and 2011.

### **III. MANAGING MIGRATIONS**

#### **1. The Law on Foreigners - implementation**

**In order to provide for implementation of the Law on Foreigners (Official Gazette of Montenegro number 82/08), the following bylaws have been passed:**

- **Decree on visa regime (Official Gazette of Montenegro number 18/09)**
- **Regulation on the manner of approving temporary stay and permanent residence and on issuance of travel documents and other personal identification documents to foreigners (Official Gazette of Montenegro number 58/09)**
- **Regulation on visas and visa application forms (Official Gazette of Montenegro number 64/09)**

#### **2. Human resources and training for those individuals authorized to implement the Law on Foreigners**

**The Law on Foreigners is applicable as of 8 January 2009. All conditions for full implementation of this law have been provided. Bylaws for implementation of this Law have been passed.**

Ministry of Interior Affairs and Public Administration has established a special organizational unit – DEPARTMENT FOR FOREIGNERS, MIGRATIONS, VISAS AND READMISSION, instead of the existing organizational unit operating under the name group in charge of migrations, visas and readmission.

Employees of the Ministry of Internal Affairs and Public Administration, who are engaged in this Department and in the local units and branches of this Ministry, were trained.

Training was attended and successfully completed by employees engaged in work related to foreigners within the Ministry of Internal Affairs and Public Administration.

### **3. The system of data collection (databases) and the system for monitoring migrations**

**In the Ministry of Internal Affairs and Public Administration, electronic database on foreigners who have been granted a permanent residence in Montenegro has been set up and is updated on a daily basis.**

Electronic database contains the following: the name and last name, personal identification number, birth name, place of birth, father's name, mother's name, citizenship, marital status, address of residence in Montenegro, date as of which a foreigner is residing in Montenegro and the duration of approved residence.

Electronic database on foreigners who have been granted a temporary stay and permanent residence, which has been set up in the Ministry of Interior Affairs and Public Administration, will be the constitutive part of the Central registry of citizens of Montenegro.

**On 17 September 2009, there is total of 11.417 foreigners who have been granted a temporary stay in Montenegro.**

The Law on Foreigners stipulates that a temporary stay may be granted to a foreigner who intends to stay in Montenegro for more than 90 days for reasons of employment or work, conducting economic or entrepreneurship activity; seasonal work; high school education or studying; participation in programs of international exchange of students or other youth programs; specialization, professional education and practical training; scientific or research work; medical therapy; family reunion; humanitarian reasons and other justifiable reasons as provided for by the law or international agreement and if other conditions prescribed by the Law are fulfilled. Temporary stay is granted for up to one year, unless otherwise stipulated by the aforementioned Law.

**On 17 September 2009, there is total of 438 foreigners who have been granted a permanent residence in Montenegro.**

The Law on Foreigners stipulates that a permanent residence may be granted to a foreigner who, until the day of submitting the application for permanent residence, has been continuously residing for five years, on the grounds of approval for temporary stay and if other conditions provided for in the aforementioned Law are being fulfilled.

**Exchange of data on foreigners has been done on a daily basis between the Ministry of Internal Affairs and Public Administration, the Ministry of Labor and Social Welfare, the Ministry of Foreign Affairs, the Police Directorate, the**

**Employment Agency, the Statistics Agency (MONSTAT), both on the central and local level.**

#### **4. Responsibility of transport operators**

**Responsibilities of transport operators have been stipulated in the Article 29 of the Law on Foreigners.** Transport operator may bring a foreigner to the border crossing or to the territory of Montenegro, only if a foreigner meets conditions prescribed by the Article 10 of the Law on Foreigners, namely that a foreigner may enter, move within and stay in the territory of Montenegro with a valid travel document containing visa or approval of residence, unless the Law on Foreigners or international agreement does not determine otherwise; allowed to enter to Montenegro without a valid travel document is a foreigner who must be sheltered by Montenegro on the basis of international agreements, if so required for the reasons of humanity, reasons pertaining to the protection of public order or public health. Citizens of certain states may enter in Montenegro just with a valid personal identification document, i.e. other documents suitable for verifying their identity and citizenship, in accordance with international agreement or Decree on visa regime. This Decree lays down those states whose citizens do not need a visa to enter Montenegro.

Transport operator who brought a foreigner to Montenegro, i.e. to the state border crossing, but does not fulfil requirements for entering to Montenegro, will be obligated to take away such foreigner from the border crossing or from the territory of Montenegro at its own costs, as well as to compensate for all the costs incurred during the stay or return of such foreigner.

Organizer of touristic or business trips will bear costs of forcedly deportation of a foreigner from the territory of Montenegro, to whom aforementioned services have been provided, including the costs of stay in the Shelter for foreigners, if a foreigner has been forcedly deported for the reasons laid down in the Law on Foreigners, and such costs can not be beard by a foreigner himself.

Article 102 of the Law on Foreigners stipulates that a legal entity or entrepreneurship will be fined with the amount ranging from 50 times to 200 times of the minimal wage in Montenegro if transports a foreigner to the border crossing or if without a delay, at its own costs, does not take away a foreigner and compensate for all the costs of foreigner's stay, provided a foreigner does not fulfil conditions for entry at the territory of Montenegro.

In addition to this, a responsible person within a legal entity will be fined with the amount ranging from one half to 20 times of the minimal wage in Montenegro. Moreover, for such violation the Law allows for a possibility that such legal entity or entrepreneurship may be prohibited from conducting its activity for a period of up to one year.

#### **5. Human resources in MONSTAT necessary for efficient processing and analyses of statistical data pertaining to migrations**

The Ministry of Internal Affairs and Public Administration has entered into the Agreement with the Statistics Agency (MONSTAT) on mutual cooperation in the

field of statistics related to internal and international migrations. This Agreement has been entered into on 17 February 2009.

With the new Act on Systematization, **a Department for statistics related to demography and census of citizens has been established within the Montenegrin Statistics Agency.**

Within the IPA project for 2007, representatives of Montenegrin Statistics Agency are allowed the access to the migration related meetings of EUROSTAT.

## **6. The Law on Employment and Work of Foreigners – implementation**

Aiming at the quality and overall preparation for the implementation of the new Law on Employment and Work of Foreigners, the Employment Agency of Montenegro has organized numerous seminars and trainings for employees who will be engaged in a procedure of issuing work permits. Training was organized for around 20 employees, from organizational units of the Employment Agency in all municipalities, since in line with the Regulation on the manner of issuing a work permit to foreigners (»Official Gazette of Montenegro«, number 81/08) it is foreseen that the application for obtaining a work permit will be submitted to the Employment Agency of Montenegro – to its organizational unit for legal and general affairs, and exceptionally the application for employment permit and permit for seasonal work of foreigners will be submitted to the Employment Agency in the place of employer's seat of business.

In the future, Employment Agency will continue to organize trainings on this subject for its employees.

Organized by the Union of Employers of Montenegro, under the auspices of the International Labour Organization, in the first half of the year Employment Agency together with the Ministry of Labour and Social Welfare and the Ministry of Internal Affairs and Public Administration, has participated in seminars for employers on subject »New legislation on employment and work of foreigners«. Seminars were organized in Podgorica, Budva, Herceg Novi and Kolašin.

Also, organized by the Union of Employers of Montenegro and with the active participation of the Employment Agency and the Ministry of Labour and Social Welfare, in October 2008 meetings with employer's representative from different businesses have taken place. These meetings, which followed after the survey of employers by the Union of Employers, related to their need of engaging a foreign labour force in the next year, were aiming at introducing new solutions contained in the aforementioned Law on Employment and Work of Foreigners, as well as preparation for setting up quotas of work permits.

The Law on Employment and Work of Foreigners stipulates that the Government of Montenegro will establish the number of work permits (quota), in accordance with migration policies, situation and movements on the labour market. Quota is determined not later than 31 October for the upcoming year. Fulfilling the legal obligation, the Government has passed a Decree on criteria and procedure for establishing the number of work permits issued to foreigners (»Official Gazette of Montenegro«, number 69/08) and a Decision on determining the number of work

permits issued to foreigners for 2009 (»Official Gazette of Montenegro«, number 70/08). This Decision sets up quota of 39.450 work permits for 2009.

**In the period from 1 January 2009 until 31 August 2009, the Employment Agency of Montenegro has issued total of 13.681 work permits for work of foreigners in Montenegro:**

- Personal work permits – 18
- Employment permits – 4.184
- Permits for seasonal work – 8.789
- Work permit for providing cross border services – 634
- Work permit for additional training and qualifying – 3
- Work permit for movement of persons within a foreign legal entity – 35
- Permit for professional qualification and training -1
- Permit for providing contracted services – 17.

**It is important to mention that the majority of the work permits were issued to foreigners who are citizens of the following states: Serbia – 6202 or 44,7%; Bosnia and Herzegovina 3807 or 27,18%; Macedonia 3101 or 22,14% which accounts for 94,02% of the total number of issued work permits.**

**7. Achieve more active approach to those citizens from the third countries who have legal residence or to those who have returned, aiming to ensure a proper financial and social assistance to which they are entitled to in line with relevant legislation.**

Article 55, paragraph 1, item 4 of the Law on Foreigners (Official Gazette of Montenegro number 82/08) **stipulates that a foreigner who has been granted a permanent residence in Montenegro has the right to social welfare.** This right is exercised in line with the law regulating social welfare. Also, citizens of Montenegro who are returning from abroad to Montenegro will enjoy all the rights as the other citizens of Montenegro, including the right to social welfare in the procedure and in the manner as prescribed by the relevant legislation.

#### **8. Activities in the area of fighting against organized forms of illegal migrations**

In order to prevent all kinds of illegal migrations, the Police Directorate of Montenegro has participated in the international investigation which ended on 6 May 2009, under the name „Tara“, related to prevention of organized smuggling of Turkish citizens. This investigation has been conducted in organization of SECI Center, in cooperation with representatives of competent police and prosecuting authorities from Turkey, Hungary, Republic of Serbia, Bosnia and Herzegovina, Macedonia, Republic of Slovenia and Austria, for reasonable suspicion that they have committed the aforementioned criminal offences by smuggling a great number of Turkish citizens through Montenegro towards the Western Balkan countries and further to the European Union states. Police Directorate in cooperation with the Special Prosecutor for fighting against the organized crime has provided a full contribution to joint international investigation which resulted in several criminal charges filed with the abovementioned states and with arrests of numerous perpetrators.

As of 18 June 2009, the Police Directorate of Montenegro in cooperation with the police of Bosnia and Herzegovina, Republic of Serbia, Republic of Croatia and Republic of Slovenia is undertaking a joint police operation under the name BORDER, aiming at prevention of organized smuggling of people from Albania and Kosovo to Italy and Slovenia.

According to data from the Supreme State Prosecutor, in period from 1 January 2007 to 1 September 2009, seven cases against total of 29 individuals were processed before the relevant courts, for committing criminal offence – illegal state border crossing and trafficking of people regulated by Article 405 of the Criminal Code of Montenegro, with elements of organized crime. In 2007, five cases against 19 individuals were processed. In four cases indictments were finalized with three verdicts of conviction, while in one case against 2 individuals verdict of acquittal has been rendered (which is not final). In one case against 10 individuals first instance verdict (of conviction) is vacated and the case has been referred to the first instance court for retrial. In this case, hearing is scheduled (in a retrial procedure) for 18 September 2009. In 2008, two cases against 10 individuals were processed. In one case against 3 individuals a verdict of conviction has been rendered, while the second case against 7 individuals is still in the stage of investigation. In 2009, (until 1 September 2009) no cases of this criminal offence have been processed.

In the upcoming period Supreme State Prosecutor of Montenegro will continue with its activities aiming at efficient cooperation with the Police Directorate in the area of prevention of trafficking people, all in accordance with the Action plan of the Government of Montenegro for implementing the Program of fighting against corruption and organized crime.

Illegal state border crossing and trafficking of people are criminal offences defined with the Article 405 of the Criminal Code of Montenegro ("Official Gazette of the Republic of Montenegro", number 70/03, 47/06 and 40/08).

1. 'Whoever without a required permission crosses or attempts to cross the border of Montenegro, under arms or by use of force, shall be punished by imprisonment up to one year.
2. Whoever enables another illegal crossing of the Montenegrin border or illegal sojourn or transit with intent to acquire a benefit for himself shall be punished by imprisonment of three months to five years.
3. If the offence specified in paragraph 2 of this Article is committed by an organized group, by abuse of authority or in a manner endangering lives and health of persons whose illicit crossing, sojourn or transit is being facilitated or if a larger number of persons is being smuggled, the perpetrator shall be punished by imprisonment from one to ten years.
4. The means intended or used for commission of the offence specified in paragraphs 1 to 3 of this Article shall be impounded."

**Cases related to criminal offences regulated by Article 405 of the Criminal Code, which are under the jurisdiction of the Basic courts**

year	Number of cases	Number of prosecuted individuals	Number of trafficked persons	completed	Decision	Pending
2006	4	6	22	4	Two prison sentences Two verdicts of acquittal	-
2007	11	16	41	11	Two verdicts of acquittal, Seven prison sentences, Two paroles	-
2008	7	14	69	4	Three verdicts of acquittal One prison sentence	3
2009	1	5	8	-		1
total	23	41	140	19	10 prison sentences Two paroles and seven verdicts of acquittal	4

**Cases under jurisdiction of the higher courts**

In the reporting period, three indictments were raised before the high courts for criminal offence regulated by Article 405, paragraph 3 of the Criminal Code. These indictments are raised against 17 indicted individuals, while the total number of smuggled persons was 167. One case was completed with verdict of conviction. Two cases are being trailed. All cases date from 2009.

Before the High courts there is an ongoing investigation in one case for the aforementioned criminal offence. In this case, a request to conduct investigation has been filed against seven individual, suspected of smuggling 14 persons.

**9. Giving priority and duly completing the facility for detention of illegal migrants**

The Government of Montenegro with its Conclusion number 03-2468, dating 5 March 2009, has entrusted the Ministry of Interior Affairs and Public Administration and the Real Estate Directorate to, in line with the Law on the Property of the Republic of Montenegro, undertake all the necessary activities in order to inscribe the plot of land marked as the cadastre parcel number 200/2, of total surface 1.918 m<sup>2</sup>, registered in the Property sheet number 707, Cadastre Municipality Grbe, as the ownership of Montenegro, and then allocate the usage right over it to the Police Directorate.

This creates relevant preconditions for initiating the next phase of construction of the Shelter for foreigners, encompassing development of Project documentation, obtaining necessary permits and providing funds for financing the construction.

It is planned that construction of the Shelter for foreigners will be done through the project »Support to the migrations management«, envisaged by the IPA program for

2008. The authority in charge of implementing this project is Delegation of the European Union in Podgorica.

Beneficiaries of the project are the Ministry of Internal Affairs and Public Administration – Department for foreigners, migrations, visas and readmission, as well as the Police Directorate – Border police sector.

The total value of the Project is EUR 1.250.000, out of which the European Union contributes with EUR 1.000.000, while the Police Directorate is obligated to provide funds in the amount of EUR 250.000.

Financial contribution of the European Union is divided in two parts:

- EUR 600.000 is earmarked for strengthening administrative capacities of the aforementioned authorities;
- EUR 400.000 is earmarked for construction of the facility itself.

National contribution in the amount of EUR 250.000,00 is provided for development of a feasibility study, development of a project, as well as for all the other necessary preparatory works.

The Police Directorate has established a Working group which will be in charge of coordinating activities related to the construction of the Shelter for foreigners. Applications for issuing a location permit and urban-technical conditions have been submitted, after which the project documentation should be developed.

### **BLOCK III PUBLIC ORDER AND SECURITY**

#### **I GENERAL/OVERALL POLICY ON THE SUPPRESSION AND FIGHT AGAINST ORGANIZED CRIME AND TERRORISM**

##### **1. To make further efforts to ensure efficient and due realization of measures from the Action Plan that have not been realized yet**

- In its 11th session held on 29. July 2009, the National Commission responsible for implementation of the so-called Innovated Action Plan for the implementation of the Programme of fight against corruption and organized crime, has adopted the Fifth Report on realization of measures from the Innovated Action Plan for the implementation of the Programme of fight against corruption and organized crime. It was concluded that the satisfactory progress in realization of measures has been achieved, since innovated Action Plan encompasses numerous of new measures and activities that need to be implemented by the end of 2009.
- The analysis of the degree of implementation of all 310 measures that need to be realized by the end of 2009 was carried out in the reporting period from 1 January to 30 June 2009. All such activities were planned as single-stage or continuous activity.

- Results show that 90 measures (29%) have been implemented, while 116 (37,4 %) are being implemented continuously. In other words, total number of measures that have been realized and those still in the process of continuous realization in the aforementioned period is 206, or **66,5%** out of total number of planned measures. At the same time, there are 41 (13,2%) partly realized measures, while the number of unrealized measures is 63 or 20,3%.
- It is important to note that the Innovated Action Plan envisages adoption of 20 new laws by the end of 2009, whereof **12** have already been adopted. **The highest level of realization, by institutions, has been achieved in the area of internal revision (100%), then in the area of efficient criminal prosecution procedure in prevention of corruption and organized crime (88,9%), in the Public Revenues Department (87,5%), Agency for Anti-Corruption Initiative (87,5%), judiciary (82,6%) and public procurement (80%).**
- The Fifth Report of the National Commission responsible for implementation of the new Action Plan for the implementation of the Programme of fight against corruption and organized crime will be available on the website of the Agency for Anti-Corruption Initiative, following final technical revision. The Fifth Report of the National Commission will be submitted for discussion and adoption to the Government on its first regular session in September.
- Upon the adoption by the Government, the Report of the National Commission along with the recommendations will be submitted to the Parliament of Montenegro, the Supreme Court, the Supreme State Prosecutor's Office, the National Audit Institution, NGO sector, media and local self-government. Following its translation to English, the report will be submitted to representatives of international community as well.
- **A new Strategy for fight against corruption and organized crime with complementary Action Plan for its implementation for the period 2010 – 2012 is planned to be elaborated by the end of 2009.**

## **2. To strengthen investigation capacities of competent authorities through adoption of Criminal Procedure Code**

**The new Criminal Procedure Code has been adopted** in the Parliament of Montenegro (Official Gazette of Montenegro no. 57/09) on 27.07.2009 and includes number of new provisions that would further facilitate the prosecution of the offences with elements of organized crime and corruption:

- The Prosecutor shall be bound to initiate investigation.
- Increased number of crimes for which measures of secret surveillance can be undertaken – a catalogue of crimes with elements of corruption for which measures of secret surveillance can be undertaken has been introduced.
- Measures of secret surveillance can be undertaken not only in the course of inquires but also during investigations.
- Catalogue of measures of secret surveillance is expanded – Engagement of undercover investigator and an associate.

- A new provision concerning an AGREEMENT ON ADMISSION OF GUILT is introduced for the criminal offences for which 10 years of imprisonment sentence is prescribed
- A provision FOR IMPLEMENTATION OF EXTENDED SEIZURE (an inverse burden of argumentation) by the convict, his legal successor or person to whom the convict has transferred the property for which he does not possess evidences on the legality of its origin is in the process of introduction.

**To enhance administration capacities, 26 new state prosecutors and deputy state prosecutors have been appointed, and also 15 new servants and 19 probationers have been employed in the period January 1, 2007 – August 30, 2009.**

In the period January 1, 2007 – August 30, 2009, **trainings** for the state prosecutors and deputy state prosecutors have been carried out **in the form of seminars**, international meetings and conferences organized by local and international organizations: OSCE, UNICEF, UNDP, the Council of Europe Office, a Judicial Training Center of Montenegro, the State Prosecutor's Office, the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Interior Affairs and Public Administration. Ninety three seminars, international meetings and conferences have been conducted within aforementioned period, with participation of state prosecutors, deputy state prosecutors and competent associates. The most often topics of these trainings have been the following: computer crime, anti-corruption policy and measures of prevention; war crimes; money laundering prevention; organized crime and corruption; measures of secret surveillance; confiscation of illegally acquired property; strengthening of regional and transnational cooperation as a precondition for successful criminal proceeding; society impact of corruption; new provisions in the Draft Law on criminal procedure; responsibility of legal entities; trafficking in human beings etc.

All trainings have been fully realized and total number of 141 state prosecutors, deputy state prosecutors, competent associates and probationers took part. Trainings comprehended total of 86 state prosecutors and deputy state prosecutors serving in Montenegro, all 19 competent associates and significant number of probationers, state servants and employees.

Implementation of the Training Programme for state prosecutors and deputy state prosecutors initiated by the State Prosecutor's Office in September 2008, is still ongoing. Significant number of trainings for state prosecutors and deputy state prosecutors was carried out through the CARDS Programme which is completed as well as through the PROSECO project which is ongoing.

**The Supreme Court** – In its session held on 18 March 2008, the Parliament of Montenegro adopted the Law amending the Law on Courts published in the Official Gazette of Montenegro no. 22/08. Article 21 of this Law prescribes the following:

“After paragraph 1 of the Article 99 of this Law, two new paragraphs are added:  
A Specialized Department for the Suppression of Criminal Offences of Organized Crime, Corruption, Terrorism and War Crimes shall be established within the High Court.

A judge who sits in judgment at the Specialized department as specified in paragraph 2 of this Article shall be entitled to the amount of monthly salary equal to the amount

of the monthly salary of a Supreme Court judge as well as to a special allowance on account of aggravated working conditions and specific quality of the work he or she performs”.

Pursuant to aforementioned law regulation, Specialized Departments for the Suppression of Criminal Offences of Organized Crime, Corruption, Terrorism and War Crimes have been established within the High Court in Podgorica and High Court in Bijelo Polje.

There are six judges performing their function in the Specialized Department of the High Court in Podgorica, while the same department of the High Court in Bijelo Polje is staffed with three judges. Mentioned departments are equipped with all necessary means for undisturbed and successful performance of employees.

In its session held on 10 October 2004, the Parliament of Montenegro enacted the Law on protection of witnesses, published in the Official Gazette of Montenegro no. 54/04. This Law regulates conditions and procedures for providing out-of-court protection and assistance to a witness, when reasonable fear exists that testifying for the purpose of bringing evidence about the criminal offences in connection with which the protection may be provided under the present Law, would expose the witness to severe danger to life, health, corporal inviolability, freedom or property of large scale, where other measures do not suffice.

After the aforementioned Law entered into force, the Committee for Implementation of the Witness Protection Programme was established. The Committee is composed of the Judge of the Supreme Court of Montenegro, the Deputy Supreme State Prosecutor and the Head of the Witness Protection Programme.

### **3. To further develop the capacities of competent bodies, in particular in certain sectors within the Police Department, along with provision of relevant professional equipment and training**

**Police Department** – In the period from the commencement of the IPA Project “Fight against Organized Crime and Corruption” in March 2009 to July 2009, activities within the Police Department were focused towards the analysis of internal procedures, strategies, Action Plan, cross-institutional cooperation and programmes of advanced training on implementation of measures of surveillance.

Two Programmes of trainings for the officers of the Criminal Police Sector have been carried out on the following topics:

- „Specific techniques of surveillance” attended by 11 officers (May – June 2009)
- “Work with operational links” attended by 11 officers (May 2009).

By the end of this project (June 2010) realization of training for employees of the Criminal Police Department was planned on the following topics:

- „Undercover investigator” for the minimum of 10 employees (September – November 2009)
- “Training for Surveillance” for 5 employees (December 2009, in the United Kingdom)
- “Training of trainers” for 6 employees (February – March 2010)

- “Training on techniques in undercover surveillance” for the minimum of 6 employees (March – April 2010)

Component D of the IPA 2007 Project envisages procurement of equipment and devices necessary for successful conduction of investigations and surveillance (equipment for audio and video surveillance, tracking equipment and other devices). For the purpose of procurement of such equipment, the European Commission allocated resources in the amount of Euro 300.000 and published an international tender at the end of June 2009. Opening of bids is scheduled for the second week of September 2009. As a contribution to this Project, the Government of Montenegro has allocated resources in the amount of Euro 100.000 in 2009, which will be, in accordance with the recommendations of the UE experts, used for procurement of priority equipment and means (vehicles).

**The Supreme State Prosecutor’s Office** – Department for Suppression of Organized Crime, Corruption, Terrorism and War Crimes within the Supreme State Prosecutor’s Office has significantly improved its initial administrative capacities.

Until 15 September 2008, the function in this department was performed by the Special Prosecutor along with a deputy and a servant, but after this date this function has been expanded with another 4 deputies of special prosecutor and three servants. All judicial staff in this Department is provided with the special office. Servants perform their functions in a conditional archive area and they all have technical equipment for performance of their duties installed. This department also has on its disposal three official vehicles. Plan for further strengthening of administrative capacities in this Department foresees expansion of Department for another three competent associates – specialists in economy and informatics.

**The Supreme Court** – The process of computerization of courts has been commenced in 2000. At present, there are 640 computers and 460 printers in use. Each court is also equipped with server with anti-virus software installed and a domain controller for unique administration of IT users.

In the courts building in Podgorica has been equipped with the recording room in 2007, as well as rooms for interrogation of witnesses. Equipment ensuring face and voice protection of protected witnesses has been installed, so as software for video conference link. At the same time, equipment for reproduction of audio and video material has also been installed in one of the courtrooms in Podgorica.

A camera and a server for the needs of recording trials were provided in the Basic Court in Kolasin. Equipment is in the stage of installing and the process should be completed soon, as a pilot project in the respective court.

In 2009, the process of WAN linking between courts and their connecting to internet was carried out in six municipalities (Podgorica, Bijelo Polje, Kolašin, Nikšić, Danilovgrad and Žabljak)

**4. To improve statistics with the aim to follow trends of organized crime and corruption, further development of data collection methods, along with provision of analysis and interpellation of disposable statistical data**

- The Fifth Report on realization of measures from the Innovated Action Plan for implementation of the Programme of fight against corruption and organized crime also includes statistical overview submitted by the **Tripartite Commission**. This Report relates to statistics of reported committed criminal offences with elements of corruption and organized crime, showing also final court rulings in the period January 2006 – June 2009 and also for each year separately.
- In addition, a detail analysis of cases where the criminal procedure was completed with a **verdict of acquittal**, shows that in **76 cases filed against 108 individuals** the criminal procedure was completed with the verdict of acquittal, whereof: in 24 cases, imprisonment sentence for committing criminal offence subject of eight-year imprisonment sentence, was imposed to 47 individuals; five individuals in three cases were imposed imprisonment sentence for committing criminal offence subject to eight and more years of imprisonment sentence; suspended sentence for criminal offences subject to five-year imprisonment sentence was imposed to 55 individuals in 48 cases, while one individual in one case was rendered a fine for the criminal offence subject to three-year imprisonment sentence.
- In cases of **organized crime**, out of 31 cases 21 were closed with rendering **verdict of conviction** against 105 individuals (imprisonment) and one verdict of acquittal against three individuals.
- In addition, as per data of the Supreme Court, **the efficiency of performance of courts have been enhanced, while the number of sustained cases form previous years has been reduced** – on 31.12.2008., there were 47.567 cases from previous years, whereof 25.418 or **53%** have been brought to closure. In particular, for the criminal offences with elements of corruption – there were total of **260** cases with elements of corruption with the basic and high courts (ending with 30.06.2009), whereof **201** cases have been brought to closure out of which 107 with final verdicts, while 59 cases remained pending, while 94 cases procedure upon appeal is still ongoing; 2) criminal offences related to organized crime – there were total of 31 cases, whereof 22 have been brought to closure, while 9 of them remained pending. Out of total number of closed cases verdict in 4 cases is final, while in 18 cases the procedure upon appeal is still ongoing.

## **5. To adopt a new Strategy for Fight against Organized Crime and Corruption**

As per Decision of the Government of Montenegro passed on 30 July 2009, the Ministry of Interior Affairs and Public Administration shall be, in cooperation with other competent institutions, obliged to prepare and submit to the Government a Report on activity plans for enacting the Strategy for fight against organized crime and corruption for the period 2010 – 2012 along with the Action Plan for strategy implementation by September 4, 2009.

The Ministry of Interior Affairs and Public Administration has already undertaken necessary activities in regards to this. The next step is establishment of a Work Group responsible for preparation of the Strategy for fight against organized crime and corruption along with the Action Plan for its implementation. Upon the establishment of such Group, the work on elaboration of these documents will commence.

**Strategy for fight against organized crime and corruption for the period 2010 – 2012 along with the Action Plan for strategy implementation will be adopted by the end of 2009, while the implementation process will commence on January 01, 2010.**

## **II POLICY ON THE SUPPRESSION AND FIGHT AGAINST TRAFFICKING IN HUMAN BEINGS**

### **1. Enhancing efficiency of competent authorities in the field of fight against trafficking in human beings**

#### **The Police Directorate**

**Identification of victims** – Competent authorities responsible for identification of potential victims of human trafficking are defined through the work of the Criminal Police Sector divided into sections: at the central level through the work of the Division responsible for prevention of organized crime and corruption, at the regional and local level through the work of the Division responsible for prevention of violent and sexual crimes, in case the victim is juvenile – through the work of inspectors for juvenile crime and in case the victim is foreign citizen – through the work of inspectors for foreigners. In the course of investigation, this team is headed by the competent prosecutor.

Cooperation of police units in regards to this type of criminal offence with elements of cross border organized crime is carrying out between Criminal Police Sector, Border Police Sector, Ministry of Interior Affairs, Prosecutor's Office and at the international level through NCB Interpol Podgorica, Liaison Officers of the Department for international police cooperation and EI, SECI Center – cooperation at the level of numerous countries in the course of conducting international proactive investigations is carrying out.

**Plan for further activities** – The Police Directorate of Montenegro **has defined its plans** for implementation of operational activities which include: regular control of hospitality facilities for the purpose of data collecting, reporting and assessment of whether such facilities are the possible subject of criminal offences of trafficking in human beings aiming at sexual exploitation, intermediation in the acts of prostitution and other criminal offences, subject of prosecution ex officio; controls of entry of foreign citizens into and leaving the territory of Montenegro, movements and residence/sojourn of foreigners in Montenegro so as their employment and work, all this for the purpose of data collection and assessment whether their sojourn and movements over the territory of Montenegro can lead to information implying the existence of criminal offences of illegal crossing of state border and human smuggling and human trafficking aiming at work exploitation in terms of their work engagements; control of street beggary for the purpose of providing information whether the begging is forced, in the form of committing criminal offence of trafficking in human beings. In all aforementioned cases, regular operational actions and controls at the local level result in collecting data, their verification and assessment on the existence of elements of criminal offence of trafficking in human beings and other forms of crimes, all this in consultations with the competent State Prosecutor.

### **Seminars conducted in the reporting period:**

- 01-04 June 2009, participation in seminar on: “Programme to Support the Development of Transnational Referral Mechanisms for Trafficked Persons” – Ohrid
- 08-12 June 2009, participation in seminar regarding elaboration of report on the state of organized crime in SECI Center in Bucharest.
- 29 June – 03 July 2009 participation in seminar regarding trafficking of human beings organized by SECI Center in Skopje.

Data of the Supreme State Prosecutor shows that in the first eight months of 2009 two cases against four individuals have been filed before competent court for committing criminal offence of human trafficking. In one case (against three individuals), an indictment was rendered upon completed investigation. In other case (against one individual) the procedure is still in the phase of investigation.

The State Prosecutor’s Office will, within its future activities, act in line with the Action Plan for implementation of the National Strategy for fight against trafficking in human beings.

In organization of the **Office for combating trafficking in human beings**, as well as international institutions that the agency intensively cooperates with in regards to fighting the human trafficking in Montenegro, and in line with the Action Plan for 2009, a numerous seminars, workshops, round tables and trainings have been conducted aiming at enhancing administrative capacities of state institutions for the purpose of identification of potential victims of human trafficking, such as:

- 6 workshops with topic: “Improvement of mechanisms of fight against trafficking in human beings”, also attended by representatives of the prosecutor’s office, judiciary, local self-government, border police, customs, medical institutions, institutions of social welfare and NGOs.
- Office for combating trafficking in human beings, together with the Ministry of interior affairs and public administration, Police Department and NGO “Sigurna ženska kuća” (Women’s Safe House) issued a Handbook for employees of the Police Department which will help competent units to make the process of human trafficking victim identification easier.
- Office for combating trafficking in human beings in cooperation with the International Organization for Migration (IOM), in April 2009 has organized a lecture in high schools with topic: “Fight against trafficking in human beings”. Lectures took place in five municipalities in Montenegro (Podgorica, Berane, Nikšić, Bar and Ulcinj).
- The Office for combating trafficking in human beings in cooperation with the NGO “Crnogorski ženski lobi” (Montenegrin woman’s lobby) conducted the Project “I understand you – I will help you” in the period from 25 December 2008 to 5 May 2009. The aim was introducing the casual link between human trafficking and drug use to children, youth and parents. The Project included workshops in 5 high schools

and 10 elementary schools. A Handbook aimed at education of parents and teachers on the human trafficking phenomenon was also elaborated.

- Representatives of tourism sector have signed the “Code on conduct for the protection of children from sexual exploitation in travel and tourism” with the aim of increasing and ensuring security of tourism companies during touristic season.
- In May 2009 two trainings have been conducted in the premises of the Police Department, organized by the OSCE. Training topic was “Programme of fight against trafficking in human beings” aiming at professional education of Border Police and customs service.

## **2. To establish common database on human trafficking victims and online database access to authorized users**

The Office for combating trafficking in human beings has been **equipped with database** containing data on human trafficking victims. The Office for combating trafficking in human beings collects data from all institutions and organizations responsible for the fight of trafficking in human beings. Database was installed on 5 June 2009 and is available to employees of the Office for combating trafficking in human beings. At the request of competent institutions and for the purpose of executing duties prescribed by laws, data are also being delivered to other institutions. Data on the amount of criminal offences, raised indictments and verdicts for the criminal offence of human trafficking are being updated on regular basis through the work of established Tripartite Commission composed of representatives of the Police Department, the Supreme State Prosecutor’s Office and the Supreme Court. Accordingly, below is the statistical overview of the criminal offences of human trafficking for the period 2004 – 01. June 2009.

- In 2004, **6 criminal charges** against 15 individuals for criminal offences of human trafficking have been filed with the Police Department.
- In 2005, **3 criminal charges** against 3 individuals for criminal offences of human trafficking have been filed with the Police Department.
- In 2006, **2 criminal charges** against 7 individuals for criminal offences of human trafficking have been filed with the Police Department, out of which 1 file against 6 individuals relates to criminal offence of trafficking in children for the purpose of illicit adoption.
- In 2007, **2 criminal charges** against 8 individuals have been filed with the Police Department, out of which 4 for the criminal offence of human trafficking, and 4 for the mediation in prostitution.
- In 2008, **2 criminal charges** against 9 individuals have been filed with the Police Department for the criminal offence of human trafficking.
- In 2009, **1 criminal charge** against 3 individuals has been filed with the Police Department for the criminal offence of human trafficking.

**Total: In the period 2004 - 01 June 2009, 15 criminal charges for the criminal offence of human trafficking as specified in Art. 444 of the CL of Montenegro and 1 criminal charge for the criminal offence of trafficking in children as specified in Art. 445 of the CL of Montenegro have been filed with the Police Department.**

**Profile of victims:**

- foreign citizens, except in 2 cases
- individuals of age between 20 – 35
- 1 newborn
- victims' countries of origin: Ukraine, Serbia, Albania, Bangladesh.

In order to protect personal data on victims and perpetrators of criminal offences of human trafficking from potential abuse, the activity of **establishment of online database access to authorized users also includes installation of security systems and appointment of employees who will be in charge of keeping and protection of data**. Accordingly, as per the Office's plans, the activities on the establishment of online database access to authorized users will be completed by the end of 2009.

### **III POLICY ON THE PREVENTION OF AND FIGHT AGAINST FINANCIAL CRIME (MONEY LAUNDERING, TERRORIST FINANCING, PROPERTY SEIZURE)**

#### **1. Further strengthening of capacities by providing necessary financial and human resources on sustainable basis, aiming at implementation of the Law on the prevention of money laundering and terrorist financing**

Aside of participating in the Egmont Group Plenary Meeting (Doha, Qatar – June 2009) and MONEYVAL Plenary Meeting (Strasbourg – February and March 2009), representatives of the Directorate for the prevention of money laundering and terrorist financing also took part in this years' 3<sup>rd</sup> Regional Financial Intelligence Unit Conference (held in Warsaw- June 2009) as well as in seminars organized by international institutions (June 2009 – Syracuse, Seminar on anti-money laundering – 1 representative; July, Workshop on implementation of the cooperation agreement between Europol and Montenegro – 2 representatives). Employees of the Directorate are taking part in trainings organized by the Human Resources Management Authority as per Training Programme of civil servants and state employees. In the course of this year they attended the following seminars on: Implementation of the Data Secrecy Act; Public procurement; European integrations; Programme budget planning. Also, in April 2009 study visit to similar institutions in London was organized for the representatives of the Directorate within the TWINNING project (SOCA and Metropolitan Police) – 3 employees.

Provided that the Directorate for the prevention of money laundering and terrorist financing participates in education and training programmes for authorized persons employed at the competent state institutions, this Directorate in cooperation with the OSCE and the Securities Commission organized a counselling with the participants in the capital market as obligors as specified in the Law on the prevention of the money laundering and terrorist financing in January 2009 (30 participants). In May 2009, this Directorate organized counselling with the authorized representatives of commercial banks in charge of preventing money laundering and terrorist financing (10 participants). In July 2009, one-day training course for the employees of a commercial bank and its subsidiaries was held (14 participants). In May 2009, international

experts from the United Kingdom and Northern Ireland in cooperation with the Directorate for the prevention of money laundering and terrorist financing carried out a training course for employees who have direct contact with client in 9 commercial banks. This course was attended by around 100 participants.

Within this Project, a training courses for representatives of the supervision state bodies as per the Law on the prevention of the money laundering and terrorist financing (such as Directorate for the prevention of money laundering and terrorist financing, Central bank of Montenegro, Ministry of finances, Insurance Supervision Agency, Department of Public Revenues, Department of gambling, Securities Commission) were launched on July 31, 2009. In the period 07 – 11 September 2009, a series of Workshops were organized on: Inter-Agency cooperation focusing on organized crime and corruption. These workshops were attended by the representatives of the Directorate for the prevention of money laundering and terrorist financing, Police Directorate, Directorate for Anti-corruption initiative and Ministry of interior affairs and public administration.

## **2. To improve investigative mechanisms of suspicious transactions**

In the period 01.01.2009 -31.08.2009, legal obligors have reported **42 suspicious transactions** to the Directorate for the prevention of money laundering and terrorist financing. In the same period, *Sector for data entry, processing and analysis* within the Directorate for the prevention of money laundering and terrorist financing **have isolated and processed 30 suspicious transactions**. In comparison to the same period last year (01.01.2008-31.08.2008), rate of processed suspicious transactions was higher for 63.63% (in the period 01.01.2008-31.08.2008., **44** suspicious transactions have been processed, while **72** suspicious transactions have been processed in the period 01.01.2009-31.08.2009).

In the period 01.01.2009-31.08.2009, **23** cases (**10** of which being initiated and processed upon the motion of legal obligors who reported suspicious transaction, while **13** have been initiated and processed upon the motion of the Sector for entry, processing and analysis of data) have been forwarded to the competent state bodies. In addition, the Directorate for the prevention of money laundering and terrorist financing may also initiate collection and analysis of data, information and documentation at the request of competent state bodies. In the noted period the Directorate for the prevention of money laundering and terrorist financing has processed **26** cases upon the motion of competent state bodies, and forwarded information on suspicion that the criminal offence of money laundering or some other criminal offence subject to prosecution ex officio has been committed. Hence, in the period **01.01 - 31.08.2009, the Directorate for the prevention of money laundering and terrorist financing furnished the competent state bodies with 49 reports in total.**

Number of motions forwarded to international financial intelligence units (FIU) (in the period 01.01. - 31.08.2009) is 58, while the number of motions received by the international financial units in the same period is 33.

Considering direct control of financial transactions, **Inspectors of the Department for the control of obligors from the Directorate for the prevention of money**

**laundering and terrorist financing execute direct control of certain categories of obligors** (obligors specified in paragraph 2 items 14 and 15 of the Article 4 of the Law on the prevention of money laundering and terrorist financing) by inspecting a business documentation. After the direct supervision/control is completed, data comparison from the database of the Directorate for the prevention of money laundering and terrorist financing is performed (data imported from other obligors, courts/ contract basis, CDA, Police Directorate etc.). When the direct control results in recognition that implies the existence of a suspicion that the criminal offence of “money laundering” has been conducted or some other offence subject to prosecution ex officio, such information is then being forwarded to the Department for suspicious transactions which is taking all necessary measures to consolidate all documentation from the obligors. **For the eight month period in 2009, Inspectors of the Department for the control of obligors performed 97 direct controls in total; 17 requests for initiation of criminal procedure due to determined irregularities have been filed so as 15 reports to other competent bodies due to existence of suspicion that some other criminal offence subject to prosecution ex officio is conducted.**

The Directorate for the prevention of money laundering and terrorist financing has signed the *Agreement on the exchange of financial-intelligence data* with the State Committee for financial supervision of Ukraine in June 2009, while the *Agreement on the exchange of financial-intelligence data* with the Unit for the prevention of money laundering and suspicious cases of the United Arab Emirates was signed in July 2009. **The Cooperation Agreement between the Directorate for the prevention of money laundering and terrorist financing and the State auditors institution was signed in March 2009.**

In January 2009, the Directorate for the prevention of money laundering and terrorist financing in cooperation with the OSCE organized a two-day workshop on Inter-agency cooperation in regards to preventing money laundering and terrorist financing. The workshop was attended by the representatives of the Directorate for the prevention of money laundering and terrorist financing, Ministry of Finance, Specialized department of the High Court in Podgorica, State Prosecutor’s Office, Police Department, Central bank of Montenegro and Securities Commission.

### **3. Enhancing efficiency of competent bodies in regards to money laundering**

The plan of future activities of the Police Department of Montenegro envisages **organizational and technical enhancement of capacities, especially within the Directorate for the prevention of money laundering and terrorist financing and the Economic Crime Division**, as well as organizing numerous trainings with participation of international lecturers on Money laundering and terrorism financing. In addition, this Department also plans **to establish the Office for coordination of the state authority bodies, with the aim to ensure faster and more precise data exchange. All institutions dealing with both fight against money laundering and other types of criminal activities would have their representatives in this Office.** Further development of institutions responsible for the control of monetary sphere is also planned at the national level, so as strengthening of bank sector, police capacities in the field of border control and cross border zone, education of citizens and business

sector. Aforementioned activities will highly limit the aspect of this kind of criminal operations, and also increase the level of resolving such cases.

Also, a training plan was determined in cooperation with the Police Academy: *Money laundering and terrorism financing*, which encompasses the following topics:

- Money laundering and related legislation with reference to concerned criminal offences.
- Role of police and other state authorities in preventing and detecting money laundering.
- Integration of laundered money.
- Financial investigation and seizure of profit and property gained by committing criminal offence.
- Role of police and other state authorities in financial investigations.
- Process of identification of property to be seized as well as institutions involved in identification of property in financial investigation.
- Temporary measures of seizure and procedure of dealing with temporary seized property.
- Case studies (practical examples “Financial investigations and seizure of profit and property gain acquired by committing criminal offence).

For the purpose of improving administration capacities in the field of prevention of the criminal offence of money laundering, specialization for the holders of judicial office was carried out in the **Montenegro State Prosecutor’s Office**. Hence, duties of prosecuting individuals involved in committing criminal offences of money laundering were entrusted to prosecutors with extensive experience in complex cases, who underwent all necessary education levels in regards to detecting and processing this kind of criminal offence. An in-service education of prosecutors for acting in cases of criminal offences from this field is carrying out on constant basis.

Data of the **Supreme State Prosecutor’s Office** show that 17 cases against 77 individuals for the criminal offence of money laundering have been processed before the competent court in Montenegro in the period 01.01.2004 -01.09.2009.

- In 2004, one case against two individuals has been processed. Upon completion of investigation, an indictment was raised against both individuals. Indictment was closed with the final verdict, when imprisonment sentence and seizure of material gain in the amount of 895.000 was ordered.
- In 2005, three cases involving eight individuals against whom the investigation was requested have been processed. An indictment raised against one individual was closed with the verdict of acquittal. The verdict was final. Two cases against seven individuals are in the phase of investigation.
- In 2006, 9 cases against 50 individuals have been processed. An indictment raised against two individuals was closed with the verdict of conviction. Measure of seizure of material gain in the amount of 161.000,00 € was also ordered. Verdict is not final. Four cases against 19 individuals are in the process of investigation.
- In 2007, one case against 10 individuals, which is still in the phase of investigation, has been processed.

- In 2008, three cases against seven individuals have been processed. An indictment was raised against one individual in one case and the measure of seizure of material gain in the amount of 72.600,00 € was recommended. An indictment has not been brought to closure. Two cases against six individuals are in the process of investigation.
- In 2009 (ending with 01.09.2009.) no new case has been processed in regards to this kind of criminal offence.

In cases not being closed with the final verdict, financial investigation was undertaken and upon recommendation of the competent prosecutor security measures were ordered (the ban to alienate and encumber movable and immovable assets, ownership of accused individuals, including the ban to alienate and encumber securities in legal entities and privatization funds). In addition, money found at the time of depriving inductees' liberty was also seized.

#### **4. To ensure quality implementation of investigative methods and improve cooperation between relevant authorities responsible for law enforcement**

Representative of the Directorate for the prevention of money laundering and terrorist financing took part in the activities of the Work Group which agreed on the Model of joint office under the name "National coordination office of the state authority bodies". Precise measures and conditions for the establishment of such office were defined.

Representatives of the Directorate for the prevention of money laundering and terrorist financing, the Prosecutor's office and the Police department are the members of the Montenegro delegation in the Council of Europe Committee for prevention of money laundering and terrorism financing (MONEYVAL). In 2008 this Committee undertook a 3<sup>rd</sup> round of evaluation of Montenegro in implementing measures for prevention of money laundering and financing of terrorism. **The Report of the Council of Europe Committee of Experts on the third round of detail assessment of Montenegro in regards to prevention of money laundering and terrorism financing** was adopted at the 29<sup>th</sup> Plenary meeting of MONEYVAL held in Strasbourg on March 17<sup>th</sup> 2009,.

This Report sets out assessment of compliance of Montenegro's relevant legal framework with the international standards in the field of prevention of money laundering and financing of terrorism. **Out of 49 FATF recommendations, Montenegro managed to comply its system of preventing money laundering and financing of terrorism with 41 recommendations (9 recommendations – completely complied, 18 – complied to the high extent, 14 – partly complied). Six recommendations are not in compliance, while 2 recommendations are not applicable.**

In addition of the above, training on financial investigation is planned to be carried out as one of the activities from the IPA project "Fight against organized crime and corruption". Training is scheduled from September to November 2009 and March 2010, in two occasions, and will be attended by minimum of 24 employees of the Police Department, Department for prevention of money laundering and terrorism financing as well as representatives of the prosecutor's office.

## **5. Initial activities of the newly established State Property Office**

The State Property Office responsible *inter alia* for dealing with temporary and permanently seized property has been established. Scheduled is adoption of the Rulebook on the systematization of posts in the Office.

## **IV POLICY ON THE FIGHT AGAINST DRUGS**

### **1. Ratification of the Draft Law on control of production of and trade in substances used in production of illicit Drugs and psychotropic substances**

The Government of Montenegro ratified the **Draft Law on control of production of and trade in substances used in production of illicit drugs and psychotropic substances**. The text of the Draft Law is in compliance with directives and regulations of the European Commission EC/111/2005, EC/1277/2005 and EC/273/2004.

This Law stipulates change in competences in this field. Licenses for import/export/transit of precursors shall be issued by the Ministry of Health, except in cases when precursors are classified in the group of pharmacologically active substances, then such licenses shall be still issued by the Medicines and Medical Devices Agency.

Competences of all institutions involved in the process of monitoring of precursors, system for monitoring and control of production and trade, inspection and supervision, measures of prevention of drug abuse, as well as other significant issues shall be defined.

### **2. Intensifying activities of the border police and customs authorities in regards to prevention of drug trafficking**

Cooperation between the Police Department and the Customs Administration is developing on the basis of the Agreement on mutual cooperation, primarily with the Division for prevention of drug trafficking composed of mobile teams located in the northern, central and southern Montenegro, hence covering the whole territory of Montenegro. These teams are responsible for the control of: persons, vehicles and goods over the whole customs zone. Intelligence information and targeted monitoring is the base for the control activities these teams are performing. Cooperation between these two institutions is reflected through: formation of joint teams, control of passengers, exchange of information, assistance, joint in-site activities (inspections, inquests, passenger and goods control at border crossings etc.) and exchange and mutual utilization of technical capacities for evidence security.

The Customs Administration and Border Police cooperate in practice through data exchange, joint meetings and execution of mutual control.

Article 24 of the Customs Law (Official Gazette of the Republic of Montenegro no.07/02 and 29/05) prescribes that, in cases when the customs officers find illicit drugs, involved individuals together with vehicle drivers shall be deprived from the

free movement on temporary basis and the competent authority of the Ministry of interior affairs shall be informed thereof. According to the Agreement on mutual cooperation between the Police Department and the Customs Administration joint controls are being initiated and conducted. By executing regular activities within their competence, the customs officials at border crossings are developing cooperation with the representatives of the Border Police through data exchange and joint inspection of vehicles and persons who are intriguing in the terms of drug trafficking.

**In the period 2008 – 2009, 228 mutual activities have been performed and the attempt of illegal entry of drugs in 8 cases was prevented:**

- 23.09.2009 at the BC Sukobin – 30 g of illicit drug cannabis
- 24.01.2009 at the BC Sukobin – 10 g of illicit drugs cannabis
- 30.05.2009 at the BC Sukobin – 1 g of illicit drug cocaine
- 3.07.2009 at the BC Sukobin – two seeds of cannabis
- 17.07.2009 at the BC Sukobin – 15 g of illicit drug cannabis
- 11.08.2009 at the BC Debeli Brijeg – 2 g of illicit drug cannabis

**In the first half of 2009, in two different cases at the border crossing Šćepan Polje 30 kg of the illicit drug “skunk” has been seized**

With the aim of preventing drug trafficking, employees of the Customs Administration in cooperation with the employees of the Border Police are taking necessary operational and tactical measures and activities along state border out of border crossings, through the work of formed mixed mobile teams with the task of interrupting potential courses of drug trafficking on the customs territory of Montenegro. During 2008 – 2009, 51 mutual activities have been performed with no results of narcotics seizure.

### **3. To establish a precursor monitoring network**

New Law on control of production of and trade in substances used in production of illicit drugs and psychotropic substances stipulates change of powers in this field. Licenses for import/export/transit of precursors shall be issued by the Ministry of Health, except in cases when precursors are classified in the group of pharmacologically active substances, then such licenses shall still be issued by the Medicines and Medical Devices Agency.

Competences of all institutions involved in the process of monitoring of precursors, system for monitoring and control of production and trade, inspection and supervision, measures of prevention of drug abuse, as well as other significant issues shall be defined.

### **4. To continue activities on the establishment of an EMCDDA-harmonized data collection standards**

The Project of cooperation between EMCDDA with the Western Balkan countries “Assessment of the Western Balkan countries capacity to establish an EMCDDA-compatible drug information system” is officially extended by the end of 2009. The

National presentation of results of the ESPAD 2008 research was delivered, and issued publications were distributed to all national and international entities.

In May 2009, the EMCDDA experts conducted a seminar for the training in the area of five epidemiological indicators in Podgorica, for elaboration of documents in compliance with the EMCDDA standards.

In July 2009 “A country overview” is completed in compliance with the EMCDDA standards which will be published on the EMCDDA website in September.

A second document in compliance with the EMCDDA standards “InfoMap” is planned to be completed by the end of October 2009, and the work on its elaboration is ongoing.

For the purpose of developing drug user register, a cooperation with the EMCDDA experts is established. A Form for registration of drug users (Pompidou form) and a Rulebook on keeping the records are prepared, and upon completion of the procedure of text harmonization in cooperation with the Secretariat for Legislation which is ongoing, these will be published in the Official Gazette of Montenegro. In such manner a harmonized standard with the EMCDDA Protocol is established. In the following months an operationalization of the Form is foreseen, i.e. its introduction to everyday practice of medical institutions dealing with the drug addicts treatment, along with the preoperational phase.

##### **5. To ensure adequate training of competent officers within the Police Department on the work in all criminal areas including drug fighting**

An in-service training of employees dealing with the prevention of criminal activities in regards to illicit drugs is carrying out in cooperation with the international organizations. In this view, the following trainings and seminars were held so far:

- 01.- 04. May 2009. – Interpol’s training on “Online drug trafficking”, organized by the OSCE Mission to Montenegro.
- 06.- 08. May 2009. – seminar on “Control of precursors used in illicit drugs production”, organized by the OSCE Mission to Montenegro, for the police and customs officers of the Republic of Albania, Bosnia & Herzegovina, Republic of Croatia, republic of Serbia and Montenegro, aiming at enhancing professional efficiency of those employed in institutions and services dealing with monitoring and control of precursors used for production of illicit drugs, as well as strengthening of regional cooperation in this field.
- May 13 – a meeting of heads of offices dealing with drug abuse prevention in the Southern Europe countries was held in Hague – organized by the UNODC office (UN Office on drugs and crime) as part of the LEXPRO Project, aiming at finding efficient modes of cooperation regarding drug abuse prevention on the territory of Southern Europe, as well as utilization of EUROPOL resources in terms of this.
- 18. - 20. and 24. – 27 May – seminar on »Cross border criminal prevention« was held in Budva.
- Within the IPA Project training on the »Work with operational links« was held from 24 to 30 May (HANDLER).

- 24 - 30 May and 21 - 24 June 2009, training on the “Undercover investigators” organized by the Criminal Police of Australia was held.
- Final meeting and evaluation of the LEXPRO Project organized by the UNODC Belgrade Office was held on 17 and 18 of June in Cairo. The LEXPRO Project was related to training of police and customs officers regarding drug abuse prevention.
- In July 2009, two seminars organized by the Ministry for European integration of Montenegro and the European Commission Office in Podgorica were held, aiming at elaboration of the project of the Police Department nominated for the IPA funds 2010.

In addition to the above, an in-service basic training of the police officers who are undergoing a border police course at the Police Academy in Danilovgrad on the “Prevention and suppression of criminal acts in regards to illicit drug abuse” organized by the Office for fight against drug abuse is carrying out.

#### **6. To plan further upgrade of technical equipping especially for the purposes of drug detection at the border crossings**

Technical equipping of customs units and authorized customs officers in charge of direct customs procedures has been considerably improved comparing to recent years.

In fact, border customs units in charge of control of crossing the state border, control of money importation and exportation, customs supervision over customs goods, passengers and vehicles have been equipped with the following primary equipment: terminal links connected to central information system of the Police Directorate; telephone link with fax; separate telephone group at the mobile operator;

The customs service at border crossings has at its disposal the following secondary equipment: desktop computer & TFT monitor & keyboard, UPS and optical mouse; laser printer; scanner; photocopiers; paper shredder; klasar; digital camera; drug testing + spare reagents set; fiber optic (only at bigger border crossings); borescope (only at bigger border crossings); manual x-ray unit with mobile display; ultrasound distance meter; metal detector; Baster kit; telescopic ladder; rechargeable drilling machine; fluorescent jacket; fluorescent short overcoat; helmet; personal safe deposit boxes; system for fuel suction (only at bigger border crossings); ASI Lloyd receiver in the Port of Zelenika for the control of vessels and electronic supervision of harbour traffic; radio devices for internal communication, Motorola (only at the airports), one mobile scanner for container inspection (in the Port of Bar); one smaller vessel (at the Skadar Lake), adequate scales with the capacity of 50 t 8 vol. (at bigger crossings), official vehicles etc.

**Aside of customs information system, the officials of the Customs Administration at the border crossings also have a database with data on misdemeanours at their disposal, so as database of suspicious activities within the System of risk analysis.**

- **Database of perpetrators** includes data on companies, transport means and persons involved in customs misdemeanours. Database includes data on all perpetrators from 01.01.2004 and is updated on regular basis. Search can be performed using any of the parameters stated.

- **Database of suspicious activities** includes data from international exchange, data received from other state bodies and agencies, so as other data on suspicious activities. Search can be performed using any of the following parameters: name of the perpetrator, company name or address, type of goods etc.

The following equipment for the purpose of drug detection has been provided: 3 special devices for drug detection Sabre 4000 and 27 drug testing sets.

For the purpose of drug detection the following devices available at the Police department can also be used: 3 Isotope identification devices SAIC, GR 135B; 10 manual x-rays with CSECO, K910B display; 5 special control and inspection sets CSECO, CT30; 2 Boroscopes model B1; 2 Fiberoptic Scope Kits and 2 PASS devices.

For the purpose of ensuring quality utilization of the aforementioned equipment, 25 training courses have been carried out including 141 customs officer.

## **V. POLICY ON THE PREVENTION AND FIGHT AGAINST CORRUPTION**

### **1. Enforcement of the Law on prevention of conflict of interest in discharge of public office, including re-appointment and strengthening of the Commission for Establishing Conflict of Interests and enactment of by-laws**

Law on the Conflict of Interests (Official Gazette of Montenegro no. 42/04 and 17/05) was a substantial platform for initial activities in the area of the conflict of interests in Montenegro, but it did not include adequate legal mechanisms that would prevent conflict of interests in the more effective way nor the explicit rules on office inconsistency in wider sense, which resulted in the adoption of the new Law on prevention of conflict of interests (Official Gazette of Montenegro no. 1/09) by the Government of Montenegro. On the day this Law entered into force on 17 January 2009, the old Law on the conflict of interests ceased to apply.

Pursuant to the new Law, competences of the Commission, number of members of the Commission, number of persons considered to be public officials shall be changed, then number of articles in the new Law was increased from 28 to 58 and new provisions regulating fines for law violators have been introduced, but the goal remained the same – legal and lawful constitution of power, ensuring equity in performing public office, elimination of any possible suspicion in objective performance of office, increasing the level of confidence, spreading the democratic political culture, respecting ethical rules and codes of conduct.

The Law on prevention of conflict of interests (Official Gazette of Montenegro no. 1/09) stipulates that the Commission for the Prevention of Conflict of Interests shall determine existence of the conflict of interest and shall recommend measures for prevention of such conflict of interest. The Commission for the Prevention of Conflict of Interests is an independent body consisted of the president and six members elected by the Government of Montenegro on the proposal of competent working body of the Parliament, for the five- year term without the right of re-election.

The Commission for the Prevention of Conflict of Interests shall have the following competences:

- conducting the procedure and making decisions regarding violation of the Law on prevention of conflict of interests (Commission for the Prevention of Conflict of Interests is at the same time both first and second instance body since it decides on requests for reconsideration of first-instance decisions);
- giving its opinion on the existence of a conflict of interests;
- establishing the value of the gift referred to in Article 14, paragraph 6 of the Law on prevention of conflict of interests (public officials may not accept gifts, except protocolary or appropriate gifts whose value does not exceed the amount of Euro 50);
- passing rules and rules of procedure for the operation of the Commission for the Prevention of Conflict of Interests, upon the proposal of the President of the Commission;
- giving its opinion on draft laws, other regulations and general acts, if the Commission considers it necessary for the purposes of preventing conflict of interests;
- launching the initiative for changes and amendments to the laws, other regulations and general acts for the purposes of their alignment with European and other international standards in the field of anti-corruption initiative and transparency of business operations;
- filing a request for initiation of misdemeanour procedure to regional institutions responsible for misdemeanours;
- performing other activities in compliance with the Law on prevention of conflict of interests.

The Parliament of Montenegro, on its session held on July 29, 2009, has appointed the president and members of the Commission for the Prevention of Conflict of Interests.

In order to introduce limitations, sanctions and enforcement of the new Law, the Commission for the Prevention of Conflict of Interests carried out eight educational seminars for public officials in 2009. First seminar was held on 24.02.2009 in Budva, second on 18.03.2009 in Ulcinj, third one on 19.03.2009 for media in Podgorica, fourth one on 28. 04.2009 in Tivat, fifth one on 13.05.2009 in Podgorica, sixth one in Podgorica (for judges and prosecutors), seventh one on 24.06.2009 in Podgorica as well (for Government's public officials). Conduction of seminars in Danilovgrad, Herceg Novi and Plav is also planned, so as for NGO sector.

Organized by the NGO "BONUM", the Commission for the Prevention of Conflict of Interests also held seminars in Pljevlja on 22.07. 2009, in Bijelo Polje on 29.07.2009, in Berane on 13.07.2009 and in Rožaje on 14. 07.2009. These were attended by approximately 150 local public officials, representatives of NGOs and media.

The aim of the Law on prevention of conflict of interests is to ensure that all public officials act in compliance with the law and to submit a Disclosure Report on the earned income and property to the Commission for the purpose of making records of the property state of the public official and his family at the beginning and at the end of his term of office.

On August 26, 2009, out of total number of public officials (**2642 in total - 934 or 35% of them being state and 1708 or 65% being local**), **2240 or 84,8%** have submitted Disclosure Reports on incomes and property for 2008, whereof **924 or 98,9% have been submitted by state and 1316 or 77, 0% by local officials.**

In 2009, total of 548 motions have been submitted, whereof 365 were submitted by the Commission for the Prevention of Conflict of Interests on its own initiative, while 128 have been submitted by the NGO MANS and 55 by other entities.

By Decisions for 328 public officials, it was determined they are violating the Law on the prevention of conflict of interests, for 64 it was determined they have violated the law but eliminated deficiencies, while for 80 of them it was determined they do not violate the law. The Commission for the Prevention of Conflict of Interests passed 16 opinions and 16 conclusions. In all cases in which Commission determined that the public official violated the law, decisions were submitted to the bodies and institutions in which the public official is performing his/her office, for the purpose of further actions in compliance to the law.

In 2009, the Commission for the Prevention of Conflict of Interests filed 39 motions for initiation of criminal procedure to the competent regional units, as follows: Žabljak – 5; Mojkovc – 8; Ulcinj – 13; Bar - 2; Herceg Novi – 1; Plav – 2; Budva – 1; Kolašin – 1; Plužine – 1; Podgorica – 4; Berane -1;

Out of 25 public officers, 23 of them have transferred the managing right to other unrelated person as specified in Article 7 of the Law on the prevention of conflict of interest, while out of 26 public officials 23 of them have left the Steering Committee in accordance to the Article 9 of the respective Law.

**In 2009, only 8 requests for dismissal of the public officials from their public function were submitted.**

Article 4 of the Law on the prevention of conflict of interest stipulates that it is considered for public official to violate provisions of this law in case when he/she does not behave in accordance with the opinion of the Commission for the prevention of interests or with the obligations prescribed by this law, or he/she behaves in a manner violating prohibitions and rules referring to prevention of conflict of interest prescribed by this law and other regulations defining the conflict of interests in the areas governed by these regulations. Therefore, the Commission for the prevention of conflict of interests also supervised implementation of the laws which are closely connected to the conflict of interests – total of 20 laws and codes of ethics – and passed decisions for public officials.

**Pursuant to the Law on free access to information, 57 requests for 590 documents have been approved in 2009. All requests have been approved within the term prescribed by Law.**

One of the first **obligations** that the Commission will perform, and this was verified on its 1<sup>st</sup> establishment meeting, relates to elaboration of a Rulebook on a procedure before the Commission for the prevention of the conflict of interests so as the Rules of conduct of the Commission for the prevention of conflict of interest, preparation of

new forms, Report on incomes and property, keeping records on reports and gift reporting.

The Commission for the prevention of conflict of interest shall, within 90 days from the day of being established, pass the Rulebook, Rules of procedure and other stated enactments in accordance with this Law.

Pursuant to Conclusions of the innovated Action Plan for the fight against corruption and organized crime, the Commission for the prevention of conflict of interests is also obliged to deliver Analysis on needs of strengthening the capacities within the Commission, so as to elaborate and amend the Rulebook on internal organization and systematization of posts and tasks in the Commission, as well as to hire new officers and servants aiming at enhancing administrative capacities in this respective institution.

The Commission also plans to prepare second TV commercial on receiving and giving the gifts to public officials, for which an open tender shall be published for selection of the most favourable offer. TV commercial will be broadcasted, depending on available financial resources, on the national TV and radio stations, local and independent electronic media.

Provided that the conflict of interests is a relatively new issue in Montenegro, former Commission for establishing the existence of conflict of interests had intensive cooperation with numerous institutions and bodies in and out of the country, especially with alike or similar institutions in Serbia, Macedonia, Bosnia and Herzegovina, Slovenia, Romania and Albania, with the aim to enhance its operational capacities and acquire new experiences. Respective Commission also signed the Memorandum of Understanding with the above countries, and therefore the new Commission for the prevention of conflict of interests will continue to cooperate with similar institutions from wider region, especially with the EU countries. In 2009, further development and expansion of cooperation is planned, including Bulgaria, China, Russia and Greece.

Preparation of the third Survey by the relevant institution (“Survey results – opinion of public officials on the Law on prevention of conflict of interest”) is ongoing. Survey will encompass 1000 interviewees and will be related to public perception on public officials and their respect of law and on the Commission for the prevention of conflict of interest.

## **2. Further implementation of GRECO recommendations**

In its 40<sup>th</sup> Plenary meeting held on December 5, 2008, GRECO discussed and adopted the Compliance Report on Montenegro. It was stated and concluded that Montenegro has implemented 16 recommendations, while 8 of them were evaluated as being partly implemented. Deadline for their implementation is June 2010, but the activities on their full implementation were commenced immediately.

With regard to partly implemented recommendations (xvi, xvii and xix) related to improvement of provisions of the Law on conflict of interests, the Parliament of Montenegro has adopted new Law on the prevention of conflict of interest on

December 27, 2008 (OG of Montenegro, no. 1/09) which became effective on January 17, 2009. Text of the new Law on the prevention of conflict of interests took into consideration GRECO recommendations, and in regards to this: number of persons this Law refers to has been increased; competences of the new Commission for the prevention of conflict of interests have been expanded in terms that it may initiate procedure in case of violations of this Law; provisions referring to receiving and recording gifts have been improved; a new practice of limiting public officials going from a public-sector position into a private-sector one (“pantouflage”) is introduced; GRECO recommendation that is not fully implemented refers to Article 9 of this Law. In fact, this Law stipulates that a public official shall not be a president or member of any management or supervisory board, executive director or member of management of a public company, public institution or any other legal entity. However, the same Article prescribes that “exceptionally, public official, except for the member of the Government, may be a president or a member of the management or supervisory board, executive director or a member of management board of public company, public institution or any other legal entity in a public company or public institution in which the state, i.e. local government is owner”.

Pursuant to the provisions of the new Law on the prevention of conflict of interests, the Parliament of Montenegro, in its session held on July 29, 2009, has passed a decision on election of the President and six members of the Commission for prevention of conflict of interests, and such way the number of Commission members was increased from four to six (OG of Montenegro no. 51/09). Therefore, the Commission commenced its activities according to provisions of the new Law.

For the purpose of implementation of GRECO recommendations (vi, viii and xi) that refer to enhancement of cooperation between police and prosecutors, the possibilities of implementation of measures of undercover supervision have been extended to include all criminal offences of corruption, in accordance with the new Criminal Procedure Code.

The Supreme Court, the Supreme State Prosecutor and the Police Department established the Tripartite Commission (in October 2007). Therefore, process of standardization and analysis of data on cases of corruption and organized crime resulted in enhanced supervision and quality of prevention of these kinds of criminal offences. In addition, mutual trainings for inspectors, prosecutors and customs officers have been organized *inter alia* with the aim of establishing a unique frame for communication and cooperation between authorities responsible for law enforcement.

New Criminal Procedure Code entrusts the prosecutor a leading role in the stage of investigation, while the investigative judge will decide on detention, impose measures of secret surveillance and order a search warrant in the pre-trial procedure. Article 158 of the Criminal Procedure Code stipulates implementation of measures of secret surveillance to all criminal offences with elements of corruption. A Special Verification Division has been established within the Police Department and in regards to implementation of such measures training courses are organized.

**Hence, Article 90 of the respective Code stipulates procedure for temporary seizure of objects and property gain so as financial investigation leading to extended seizure of property. This Article, together with Articles 486-489,**

**regulates confiscation of property whose legal origin has not been determined (so called extended confiscation), while the burden of determination of the property origin is now being transferred to the defendant (paragraph 3 of the Article 93).**

The two remaining recommendations (xxi and xxiv) which are evaluated by GRECO as being partly implemented and which refer to elimination of business barriers and to guidelines for state auditors on procedures for reporting corruption to state prosecutors, are now in the process of intensive realization through numerous of activities.

For the purpose of fulfilling recommendation no. xxi which refers to elimination of business barriers, the Parliament of Montenegro has adopted the Law on spatial planning and building of object (OG of Montenegro no. 51/08) on August 11, 2008. By adopting this Law, this field has been codified since the old Law on construction land, Law on object construction and Law on spatial and construction inspection have ceased to apply.

For the purpose of eliminating business barriers, the most important new features in comparison to existing regulations from the considered field refer to simplified and shorter administration procedure in regards to audit of technical documentation and obtaining construction and usage permit. Recommended provisions suggest shortening and simplifying of stated procedures, therefore the investor shall select auditor of technical documentation by himself (Article 86 of the Law), he shall obtain construction permit by exercising single administration procedure and shall obtain usage permit by exercising single administration procedure as well. Earlier, investors were obliged to undergo seven administrative steps, but after implementation of stated activities number of steps was reduced to two.

Pursuant to the Article 94 of the respective Law, construction permit shall be obtained within 15 days from the date of filing the request, provided that the conditions referred to in Article 93 are fulfilled and shall be made public on the website of the administration authority i.e. local self-administration authority within 7 days from the date of its issuance. Significant new feature is change in obligation of paying the fee for communal equipping of the construction land from construction to usage permit, all this with the aim of simplification in its initial phase of construction. Also, starting from January 1, 2009, citizens and investors are obliged to pay compensation for utilization of construction land.

In addition, the Law on internal trade (OG of Montenegro no. 49/08) has been adopted in August 2008. This Law prescribes

In addition, the Law on internal trade (OG of Montenegro no. 49/08) that has been adopted on August 4, 2008, prescribes that enterprises that are initiating trade activity in stores, shall not be obliged to request working license from the municipal authorities (license is practically cancelled). Trader shall be obliged to report initiation of his/her business activity to the competent inspection and municipal authority eight days in advance. This of course does not abolish him/her from obligation that his/her business premises must fulfil all necessary technical conditions.

The Craft Law (OG of Montenegro no. 54/09) which entered into force on August 18, 2009, prescribes that enterprises which initiate their craft activities shall not be obliged to obtain working license from the competent administration authority.

Following adoption of the Programme for elimination of barriers to development of entrepreneurship (October 2007) and Working Plan (April 2008), the Council for elimination of business barriers has been established in order to monitor their implementation and to recommend to the Government of Montenegro adoption and amending of regulations referred to elimination of business barriers. Hence, in December 2008, the Council has adopted the Report on realization of working plan for 2008. Therefore, the following activities aiming at improvement of existing legal framework referring to elimination of business barriers have been carried out: upon the motion of the Commercial Court, the Ministry of Justice has adopted amendments to the Instruction on Central Register Operations of the Commercial Court which prescribes the online registration of companies; a Working Group for elaboration of the new Law on Insolvency of Business Organizations was established. This Group will in the course of 2009 submit the text of the Law to the Government for the purpose of discussion and discussion and adoption; the Real Estate Directorate established a Working Group for amending the Law on the State Survey and Real Estate Cadastre; the Customs Directorate also established a Working Group which adopted recommendations for elimination of barriers in the field of external trade exchange; the new Labour Law (OG of Montenegro no. 49/08) has been adopted aiming at simplifying the procedure of establishing and termination of employment and at determination of competences of employees etc. From February 2009, a website of the Council for elimination of business barriers is available ([www.biznis-barijere.com](http://www.biznis-barijere.com)). Here one can find detail information on the Council's activities.

For the purpose of realization of the reform of local self-government a Working Group for elimination of business barriers has been established in April 2008 within the Ministry of Interior Affairs and Public Administration. In December 2008, this Group elaborated an Analysis of regulations at the municipal level including proposal of measures and activities aiming at elimination of business barriers which was adopted by the Council for elimination of business barriers. In February 2009, a model for elimination of business barriers has been developed.

In respect of the previously adopted Models of programmes and action plans for the fight against corruption in the local self-government and in the aim of implementing measures for prevention and suppression of corruption in this fields, 11 local self-government units have adopted the Programme and Action Plan for the fight against corruption in the local self-government, whereof some already started to implement measures stipulated by adopted documents (Nikšić and Pljevlja).

Within the Ministry for spatial planning and environment a Working Group *inter alia* composed of representatives of the municipality community and capital city of Podgorica has been established to perform analysis in all areas of spatial planning and construction of objects, obliged also to elaborate recommendations for revision of regulations and procedures. Following consultations with over hundred of stakeholders involved in processes of spatial planning and construction of objects in Montenegro (representatives of the Secretariats for spatial planning in 21 municipalities, water supply enterprise, regional water supply enterprise, electric

enterprise etc), a report on the analysis of administration and business barriers in the area of spatial planning and construction of objects has been elaborated and submitted to the Council for elimination of barriers for discussion.

The Montenegro Chamber of Economy keeps records of business barriers on regular basis, through both direct contacts with businessmen and also activities of boards of associations in all relevant sectors. Along with recommendations for their elimination, the Chamber also directs the recorded barriers towards state authorities and as a member of the Council for elimination of business barriers it actively participates in the process of improvement of business ambience.

With the aim of full realization of this GRECO recommendation, the Agency for Anti-Corruption Initiative in cooperation with the Council for elimination of business barriers, the Ministry of economy, the Ministry for spatial planning and environment, Employers federation, Chamber of economy and representatives of private sector and the OSCE Mission to Montenegro, has launched realization of project on sharing the experiences in elimination of business barriers in July 2009.

Representatives of stated institutions are conducting analysis of the existing regulatory and institutional framework related to initiation of business, with the special focus on issuance of construction permits. First of three round tables was held on July 16 in Budva, while the other are scheduled for September and October 2009.

In July 2009, research on phenomena, causes and negative consequences of corruption has been launched in private sector, scheduled to be finished in October 2009. We believe that the results of this research so as recommendations will *inter alia* influence the process of elimination of business barriers and conditions which are favourable for the appearance of corruption in this sector.

Finally, in order to realize the GRECO recommendation xxiv which refers to establishment of Guidelines for state auditors so they can effectively fulfil their obligation to report the State Prosecutors on the criminal offences of corruption, the Project of the Agency for Anti-Corruption Initiative, in cooperation with the OSCE Mission in Montenegro, is carrying out. The Guidelines for state auditors on acting in cases when they suspect that the criminal offence with elements of corruption was conducted have been prepared, and also relevant training which will be carried out in September and October 2009 is planned.

### **3. Enhancing efficiency of competent authorities in the area of fight against corruption and carrying out the research on public perception of this phenomenon**

The issue of corruption in Montenegro is being approached in a way that a numerous of different activities are undertaken within the anti-corruption process, such as researches, interviews and analysis on the corruption level in different areas which results in the increased interest on and support to anti-corruption reforms, informing public on the efficiency of preventive anti-corruption measures etc.

The National Action Plan for implementation of the Programme for fight against corruption and organized crime comprise measure of in-service research on this phenomenon of corruption, its causes and mechanisms of its elimination, which will be undertaken by the Agency for anti-corruption initiative, NGO sector and media. In cooperation with the Ministry of finances, the Agency for anti-corruption initiative has defined areas that will be encompassed by such research (prosecutor's office, local self-government, private sector and state administration). Hence, in this regards the following researches and interviews have been conducted:

1. The research "Assessment of Integrity and Capacity of Judiciary System in Montenegro" has been conducted in October 2008 for the needs of the Agency for anti-corruption initiative and the UNDP. The research was conducted on a footprint of 1.788 interviewees (among judges, lawyers, prosecutors, court experts, clerks and court officers, clients, police and companies) in 19 municipalities in Montenegro. Research results include relevant recommendations on the activities to be undertaken towards enhanced efficiency of the judiciary system in Montenegro;
2. The research "Assessment of Integrity and Capacity of Local Self-Governance in Montenegro" has been undertaken in June 2009 with the support of the UNDP Office in Montenegro. The research was conducted on a footprint of 3.480 interviewees (among citizens, business sector, civil sector and employees in the local-government bodies and the Ministry of interior affairs and public administration). Research results comprise number of recommendations which are submitted to the competent Ministry and the municipality community for the purpose of defining local anti-corruption action plans.
3. The interview organized by the Agency for anti-corruption initiative in high education institutions, within the framework of campaign "Choose the RIGHT path and report corruption", during academic year 2008 / 2009.
4. The interview organized by the Agency for anti-corruption initiative among members of the Police Directorate during 2009.
5. The interview organized by the Agency for anti-corruption initiative among state officers and employees in March, April and July 2009.

The local self-government bodies, within the framework of activities on elaboration of programmes and action plans for the fight against corruption in the local self-governance, are conducting interviews and researches on this phenomenon. So far, the interviews have been conducted in: Budva, Nikšić (December 2008), Danilovgrad (April 2009), Tivat, Plužine, Bar (May 2009), Mojkovac (June 2009) Kolašin (July 2009), Bijelo Polje, Cetinje, Kotor and Berane.

Ongoing are the activities on realization of interviews on the level of corruption from the private sector in Montenegro point of view, which are conducting within the project "Support to implementation of international anti-corruption standards and instruments", financed by the Government of the Kingdom of Norway and

implemented in cooperation with the International Management Group (IMG) as the implementation partner.

**4. To make further efforts in strengthening human resources and expertise, in particular involving specialized police departments, special prosecutor and special court anti-corruption divisions**

In cooperation with the Police Academy, **the Police Department** is conducting education and training programmes for the police staff. Issue of corruption and prevention of commercial crime is included in regular education plans and programmes at the Police Academy for all police staff through certain number of education units. In cooperation with the OSCE, ICITAP, IOM, OLAF, ILEA, UNDP, specialist seminars are being organized for the officers of criminal police dealing with corruption prevention.

**- In the period 01.05. - 01.08.2009, employees of the *Division for fight against organized crime* took part in numerous training courses on the organized crime and corruption organized in and out of Montenegro by the following international organizations: UNDOC, OCTN, ICITAP, CARE, ICMPD, OLAF, ILEA, Interpol and the Police Academy, as per training plan for 2009, such as:**

- **8 May 2009 - employees of the *Division for fight against organized crime* participated in the seminar on “Measures of secret surveillance and seizure of material gain acquired by committing criminal offence”, in organization of the Judicial Training Center in Podgorica.**
- **18-22 May 2009 – employees of the Corruption Prevention Group (2) took part in seminar organized by the OCTN organization on “Fight against corruption”.**
- **16 April 2009. – Podgorica, seminar on “Implementation of the Council of Europe Civil Law Convention on Corruption”**
- **29 April 2009 – Podgorica, participation in the National Anti-corruption Conference.**
- **18-20 May 2009 – Budva, seminar organized by the IOM for the training of instructors on “Fight against corruption in relation to cross border organized crime”.**
- **25-29 May 2009 – Budva, seminar on “Fight against corruption”**
- **18-20 May 2009 -- staff of the Group for the prevention of economic crime participated in seminar on “Computer crime and fight against organized crime and corruption” organized by the OSCE at the Police Academy in Danilovgrad.**
- **25-29 May 2009 - Bečići, staff of the Group for the prevention of economic crime participated in seminar organized by the ICITAP on “Fight against corruption”.**

- **29- 30 June 2009 – Brisel, employees of the Division for prevention of organized crime took part in seminar on “Anti-corruption measures” organized by the Council of Europe.**
- **25-26 June 2009 – Sarajevo, Head of the Division for prevention of organized crime participated in the SEPCE’s third annual sub-board for fight against organized crime and corruption organized by the Federal Police Department of Bosnia & Herzegovina.**

**To enhance fight against corruption**, a necessary concentration of competences has been undertaken in **the State Prosecutor’s Office of Montenegro**. In fact, the new Law on the State Prosecutor’s Office dated from 2008 prescribes that the competence of the Division for prevention of organized crime which is formed within the Supreme State Prosecutor’s Office of Montenegro shall now be extended to criminal offences with elements of corruption as well. In accordance with the expanded competence, the number of judicial staff is increased by appointing another four Deputy Special Prosecutors (15.09.2008), so the Division now has necessary number of the holders of judicial office (Special Prosecutor and 5 Deputies). A certain number of employees and officers in also employed in the respective Division, necessary for due operation of the judicial administration.

For the purpose of improving administration capacities, in-service trainings in the State Prosecutor’s Office are being conducted intended for state prosecutors and deputies, so as at seminars and other education courses in organization of the OSCE, UNDOC, Council of Europe Office, UNDP, Judicial Training Center, State Prosecutor’s Office and Ministry of Justice. In this respect, in 2008 the Supreme State Prosecutor’s Office has enacted a Programme of training of state prosecutors and deputies, whose implementation is ongoing.

**In 2008, the holders of judicial office took part in 44 seminars. For the purpose of illustration, below are just some of the topics that have been discussed in the course of this year:**

**“Implementation of the Council of Europe Civil Law Convention on Corruption”; Programme of supporting development of transnational mechanisms for the human trafficking victims in South-East Europe; “Anti-corruption Policy and Measures of Prevention”; “War Crimes”; “New solutions in the Draft Criminal Procedure Code”; “Initiation of investigation by prosecutors”; “Criminal liability of legal entities” etc, participated by over 60 holders of judicial office.**

**In 2009, (ending with 01.09.2009), state prosecutors and deputies took part in 38 seminars and trainings (whereof 13 have been organized out of the country). More than 70% of judicial office holders participated in such seminars. Numerous of topics have been discussed on these occasions, such as:**

**“Judicial corruption”; “New provisions in the Criminal Procedure Code – the role of the State Prosecutor in the process of investigation and role of the investigative judge”; “Implementation of the CE Convention on Corruption”; “measures of secret surveillance and seizure of property gain acquired by**

**conducting criminal offence”; “Social impact of corruption” and other, participated by 33 holders of judicial office.**

**A Judicial Training Center** is an organizational unit of the Supreme Court of Montenegro. As per the Rulebook on systematization of job positions, number of predicted job positions in the Judicial Training Center is 4, as follows: executive manager, independent officer II for in-service training, independent officer II for initial education and officer IV – administrative collaborator. At present, one job position is vacant.

At the end of each year, a Judicial Training Center passes the new Annual education programme for the following year. Also, aside of the Annual education programme, this Center also prepares semi-annual programmes. These are being conducted depending on financial means necessary for activity realization.

**December 2008 – the Judiciary Anticorruption Training Programme** is developed. The Programme is developed with the support of the United Nations Development Programme (UNDP) – Podgorica Office (UNDP) by Mr. Drag Kos, the President of GRECO (Group of states against corruption) within the Council of Europe. The Programme is developed to enable the Judicial Training Centre to set up a programme of thorough study in the field of integrity and anti corruptive measures in judiciary for prosecutors and judges in the country. The training programme should serve as an instrument for education of judges and prosecutors for recognizing corruption and efficient fighting against it. This Programme is an Annex to the Annual Training Programme for 2009. Public promotion of this Programme was planned for January 2009, however, because of objective reasons it was postponed to the second half of 2009.

**May 2009** – The Judicial Training Centre in cooperation with the USA Embassy in Podgorica and the Organisation for Security and Cooperation in Europe (OSCE) – Mission to Montenegro, organized **Seminar** in Podgorica on the **“Secret surveillance measures and confiscating property gains by criminal acts”**. This is the second in a set of seminars dedicated to new solutions in the Proposal of the Law on Criminal Proceedings of Montenegro. The seminar was attended by Montenegrin judges, prosecutors, lawyers and police officers (**27 participants in total, excluding lecturers and guests**).

**June 2009** – Vienna/Austria, Judicial Training Centre was a mediator and organized participation of the Higher State Prosecutor in Podgorica and Deputy Higher State Prosecutor in Bijelo Polje at the International Conference on **“New technical ways of surveillance and protection of fundamental rights – challenges for the European judiciary”**.

## **5. Establishing National Office for coordination and exchange intelligence**

The Customs Administration, the Police Administration and the Administration for Preventing Money Laundering and financing of terrorism prepared, with the support of the OSCE Mission to Montenegro, Office for customs and fiscal assistance – CAFAO, the United Nations Office on Drugs and Crime – UNODC, Swedish

National Police Board, USA International Criminal Investigative Training Assistance Programme – ICITAP, USA Embassy and the Embassy of Great Britain, a proposal for establishing **National Office for coordination and exchange of intelligence**.

This proposal was signed mid 2008 by all Directors of the above organisations and Ambassadors. **The establishment of the National Coordination Office is planned for 2010.**

**6. The Criminal Procedure Code, including, inter alia, the use of special investigative techniques in cases of corruption, and organize training of relevant staff**

The Criminal Procedure Code (“Official Journal of Montenegro”, no. 57/09) is published in the Official Journal of Montenegro on August 18, 2009. The Criminal Procedure Code came into effect on August 26, 2009.

We point out that Montenegro makes distinction between coming into force and the start of enforcement of the Law. The date of coming into force and the start of enforcement of the Law usually match, the Law starts to be enforced on the day when it comes into force respectively. Legal texts, which impose special requirements in terms of implementation, make distinction between the date of coming into force and the date of practical implementation. This was done at the adoption of the Criminal Procedure Code, which introduces a new concept of prosecution investigation instead of earlier court investigation.

**On the date of coming into force of the Criminal Procedure Code, the following provisions started to be enforced: Article 109 (Persons exempt from the duty to testify), Article 158 (criminal acts for which secret surveillance measures may be ordered), Article 272 (postponing of criminal prosecution), Article 273 (dismissal of criminal charge for the reason of fairness) and Article 461 (decision about the sentence without the trial).**

**Six months from the date of coming into force of the Criminal Procedure Code (February 26, 2010), the provisions of Chapter XX of the Code will start to be enforced, which regulate the Plea Agreement.**

**The provisions that relate to temporary seizure of property and financial investigation for extended seizure of property (Article 90), the request for permanent seizure of property and the content of the request (Article 486), ruling upon the request for permanent seizure of property (Article 487), content of the decision on the permanent seizure of property (Article 488), and appeal against the decision on permanent seizure of property (Article 489) will apply after the Criminal Code regulates material and legal aspects of extended seizure of property gain and inverse burden of adducing evidence. The Ministry of Justice is currently preparing text of the Law on changes and amendments to the Criminal Code, which will contain the said provisions.**

**Other provisions of the Criminal Procedure Code will start to be implemented on August 26, 2010, one year after the Code comes into force respectively.**

After the Parliament adopts the Code of Criminal Proceedings, **the Government of Montenegro will adopt a separate Action Plan for implementation of the Criminal Procedure Code. At the moment, the Ministry of Justice is preparing Action Plan for implementation of the Criminal Procedure Code with the support of OSCE experts.**

**The following activities were implemented, inter alia, in the previous period towards creating preconditions for full implementation of the Criminal Procedure Code:**

- The Ministry of Justice prepared Impact Assessment of the Proposal of the Criminal Procedure Code, which contains cost benefit analysis to be provided by the new text;
  - The Ministry of Justice prepared a working version of the Implementation Plan for the new Criminal Procedure Code;
  - The Ministry of Justice prepared Project Proposal “Support to the implementation of the new Criminal Procedure Code” under IPA 2009. Signing of twinning contract is planned in the first quarter of 2010. The purpose of the Project is to build capacities of authorities that will enforce the new Criminal Procedure Code (court, prosecution, police);
  - The Judicial Training Centre, with the support of OSCE and American Embassy in Montenegro, organized three training seminars for building capacities of prosecutors, judges and police to fight against organized and other forms of criminal, and to prepare them for enforcement of the new Criminal Procedure Code:
    - a) On 05.05.2009, a seminar held on confiscation of property gained by criminal actions;
    - b) On 08.05.2009, a seminar held where Montenegrin judges, prosecutors and policemen were informed with the solutions offered by the Proposal of the Criminal Procedure Code in relation to confiscating property and secret surveillance measures;
    - c) On 04-05.06.2009, a seminar held for judges, prosecutors and policemen, which related to the Plea Agreement;
  - The Judicial Training Centre will organize another three training seminars with the support of OSCE and American Embassy in Montenegro for building capacities of prosecutors, judges and police for fighting organized and other forms of criminal, and in order to prepare them for enforcing the new Criminal Procedure Code;
  - The Supreme State Prosecution prepared assessment of missing material and professional-administrative capacities in relation to solutions contained in the Criminal Procedure Code;
- The Ministry of Justice is currently preparing:**
- a) Comments on the Criminal Procedure Code, which is currently being written by Prof. Dr. Milan Škulić, OSCE expert;
  - b) The brochure with forms for practical implementation of the Criminal Procedure Code, whose preparation and printing is supported by the OSCE;

- c) The Guidelines for enforcement of the Criminal Procedure Code, which is implemented under the Twinning Project MN 07/IB/JLS 03 “Judiciary Reform” funded by the European Union;

**The Judicial Training Centre** implemented a number of activities related to adoption of the CPC before the CCP was adopted.

**July 2008** – Initial meeting was held in Podgorica under the so-called “twinning light” project for the support to The Judicial Training Centre provided by the European Union – title of the Project: “Advisory support to prosecutors training in Montenegro”. Partners in this Project are Austrian Ministry of Justice in cooperation with the Austrian Centre for Improving Legal Knowledge and the Judicial Training Centre of Montenegro. The meeting was the start of the implementation of this six-month project under which a number of seminars (8 seminars), a study tour to Hague and one international conference were organized for Montenegrin prosecutors and judges, with the support of the United Nations Development Programme (UNDP) – Podgorica Office. All activities were successfully organized and implemented.

Furthermore, the Judicial Training Centre, in cooperation with the USA Embassy in Podgorica and the Organisation for Security and Cooperation in Europe (OSCE) – Mission to Montenegro, organizes a number of seminars (6 seminars) dedicated to the new Proposal of the Criminal Procedure Code of Montenegro.

**September 2008** – Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), a **seminar was organized** in Podgorica **on war crimes** for 9 state prosecutors and one judge. The seminar was the preparation for the study tour to Hague Tribunal and EUROJUST, which was implemented under the said project for nine state prosecutors and one judge (costs of the participation of judges were covered by the Supreme Court of Montenegro).

**September 2008** - Hague, Holland – under the so-called “twinning” Project for support to the Judicial Training Centre provided by the EU (title of the Project: “Advisory support to prosecutors training in Montenegro”), a **study tour to Hague Tribunal and EUROJUST was organized for nine selected state prosecutors and one selected judge** (costs of the participation of judges were covered by the Supreme Court of Montenegro).

**September 2008** – Budva/Bečići, under the so-called “twinning” Project for support to the Judicial Training Centre provided by the EU (title of the Project: “Advisory support to prosecutors training in Montenegro”), a **seminar was organized on new solutions offered by the Draft of Criminal Procedure Code of Montenegro**. The seminar was organized for prosecutors of the southern region of Montenegro, and the United Nations Development Programme (UNDP) – Podgorica Office, provided for the participation of a small number of judges also from the southern region of Montenegro. This meeting was also attended by prosecutors and advisories from the following State Prosecutor Offices: Higher Court in Podgorica and Basic Courts: Nikšić, Podgorica, Kotor, Herceg Novi, Cetinje, Bar and Ulcinj, and judges and an advisor from the Basic Court in Herceg Novi and Ulcinj (**15 participants in total**,

**excluding lecturers and guests).** Lecturers on this seminar were experts from Austria.

**October 2008** – Kolašin, under the so-called “twinning” Project for support to the Judicial Training Centre provided by the EU (title of the Project: “Advisory support to prosecutors training in Montenegro”), **a seminar was organized on new solutions offered by the Draft Criminal Procedure Code of Montenegro.** The seminar was organized for prosecutors of the northern region of Montenegro, and the United Nations Development Programme (UNDP) – Podgorica Office also provided for participation of a small number of judges also from the northern region of Montenegro. It was attended by prosecutors from the following State Prosecutor Offices: Supreme of MNE, Higher from Bijelo Polje, Basic from Bijelo Polje, Pljevlja, Rožaje, Berane, Plav, and judges from the Higher Court in Bijelo Polje and Basic Courts in Pljevlja and Bijelo Polje (**15 participants in total, excluding lecturers and guests**). Lecturers on this seminar were two experts from Austria.

**October 2008** – Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), a seminar was held in Podgorica on new solutions offered by the Draft Criminal Procedure Code of Montenegro. The seminar was organized for prosecutors of the central region of Montenegro, and the United Nations Development Programme (UNDP) – Podgorica Office provided for the participation of a small number of judges also from the central region of Montenegro. The meeting was also attended by prosecutors and advisors from the following State Prosecution Offices: Supreme of MNE, Higher in Bijelo Polje and Basic in Podgorica and Nikšić, as well as judges and advisors from the Higher and Basic courts in Podgorica (10 participants in total, excluding lecturers and guests). Lecturers on this seminar were experts from Austria.

**October 2008** - Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), **a seminar was organized in Podgorica on new solutions offered by the Draft Criminal Procedure Code of Montenegro.** The seminar was organized for prosecutors from the central region of Montenegro, and the United Nations Development Programme (UNDP) – Podgorica Office provided for participation of a small number of judges also from the central region of Montenegro. The meeting was attended by prosecutors and advisors from the following State Prosecution Offices: Supreme of MNE, Basic in Podgorica, Bar and Bijelo Polje, and judges from the Basic Courts in Nikšić and Danilovgrad (**9 participants in total, excluding lecturers and guests**). Lecturers on this seminar were experts from Austria.

**November 2008.** – Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), **three-day conference** was held in Podgorica **on “Taking over investigation by prosecutors”.** The conference was organized for prosecutors of Montenegro and the region. The United Nations Development Programme (UNDP) – Podgorica Office provided for participation of a small number of judges. The conference was attended by prosecutors and advisors from the following State Prosecution Offices: the Supreme of MNE, Higher in Podgorica and

Bijelo Polje, Basic in Podgorica, Nikšić, Bijelo Polje, Kotor, Cetinje, Ulcinj, Berane, Plav, Rožaje, Pljevlja, then the judge of the Basic Court in Podgorica and representatives of the Police Administration (**28 participants in total, excluding lecturers and guests**). Lecturers were national and international experts.

**November 2008** – Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), a **seminar** was organized in Podgorica on “**Responsibilities of legal entities for criminal acts**”. The meeting was attended by prosecutors from the following State Prosecution Offices: Higher in Podgorica and Basic in Podgorica, Cetinje, Ulcinj, Bar and Rožaje, then advisor of the Higher Court in Podgorica, and officers of the Police Administration (**12 participants in total, excluding lecturers and guests**). Lecturers at the seminar were experts from Austria.

**November 2008** – Within the so-called “twinning” project of the support to the Judicial Training Centre provided by the EU (Project title: “Advisory support to prosecutors training in Montenegro”), a **seminar was organized** in Podgorica on “**Cyber criminal**”. The meeting was attended by prosecutors and advisors from the following State Prosecution Offices: Higher in Podgorica, Basic in Cetinje and in Podgorica, Bar, Rožaje and Nikšić, and officers of the Police Administration (**15 participants in total, excluding lecturers and guests**). Lecturers at the seminar were experts from Austria.

**April 2009.** – Podgorica, Judicial Training Centre, in cooperation with the USA Embassy in Podgorica and the Organisation for Security and Cooperation in Europe (OSCE) – Mission to Montenegro, organized a **seminar on “New solutions offered by the Criminal Procedure Code of Montenegro – role of prosecutor in investigations and the role of investigative judges”**. This is the first of a set of six seminars dedicated to the new Proposal of the Criminal Procedure Code of Montenegro. The seminar was attended by Montenegrin judges, prosecutors and police officers (**27 participants in total, excluding lecturers and guests**).

**June 2009** - Podgorica, the Centre, in cooperation with the USA Embassy in Podgorica and the Organisation for Security and Cooperation in Europe (OSCE) – Mission to Montenegro, organized a **seminar on the “Plea Agreement”**. This is the third of a number of seminars dedicated to new solutions offered by the Proposal of the Criminal Procedure Code of Montenegro. The seminar was attended by Montenegrin judges (**8**), prosecutors (**10**) and lawyers (**8**).

**June 2009** - Podgorica, the Centre, in cooperation with the USA Embassy in Podgorica and the Organisation for Security and Cooperation in Europe (OSCE) – Mission to Montenegro, organized a **seminar on the “Plea Agreement”**. This is the fourth of a number of seminars dedicated to new solutions offered by the Proposal of the Criminal Procedure Code of Montenegro. The seminar was attended by Montenegrin judges (**4**), prosecutors (**9**) and lawyers (**9**).

## **VI. COURT COOPERATION IN CRIMINAL MATTERS**

### **1. The use of special investigation techniques in accordance with the Criminal Procedure Code**

Secret surveillance measures, as special evidentiary actions from the Chapter on pre-trial procedure of the previous Criminal Procedure Code, are moved to general provisions of the new Criminal Procedure Code, and they can be applied not only during investigation (pre-trial procedure), but also in investigation.

**A change is made in relation to the catalogue of criminal acts for which secret surveillance measures can be ordered, because the previous catalogue did not cover some actions, including some corruptive criminal acts, or the acts which would be difficult to prove without if such measures were not applied.**

**Application of secret surveillance measures is also envisaged for criminal acts against security of computer data, which are difficult to prove and complicated to discover because of the use of sophisticated computer technique (Article 158 line 5).**

The Criminal Procedure Code also contains provisions on involving undercover agent and informants (Article 159 paragraph 2 and Article 160 paragraphs 2, 3 and 4). On the date of coming into force of the Criminal Procedure Code, Article 158 (criminal acts for which secret surveillance measure can be ordered) started to be enforced.

## **2. Continue activities on concluding bilateral agreements with neighbouring countries**

At the session held on 27.12.2007, the Government of Montenegro reviewed and established the Platform for negotiating and concluding contracts in relation to judiciary cooperation with the Republic of Serbia: the Agreement on Legal Assistance in civil and criminal matters, the Agreement on extradition and Agreement on mutual execution of court decisions in criminal matters.

These Agreements were signed on May 29, 2009 and are enforced from the date of signing.

**The Agreement on legal assistance in civil and criminal matters** is aimed at developing mutual confidence and cooperation in the field of legal assistance in civil and criminal matters, which will contribute to more efficient practicing of rights and interests of citizens of these two countries, and improved overall relations and cooperation between countries, in accordance with multilateral agreements which regulate these forms of cooperation. Starting from this goal of the agreement, it is envisaged that the cooperation related to general forms of providing legal assistance regarding serving and submission of some acts, documents and notifications, and implementation of some processes, takes place directly between courts and other state authorities of signatory countries. The aim of such communication is to simplify communication in a way that the communication for some forms of legal assistance will take place directly between judiciary authorities, instead through the Ministry of Justice, which will contribute to quicker and more efficient finalization of court procedures. In addition, it is envisaged to establish reciprocity for lawyers registered in the Registry of Lawyers in one signatory country in terms that they can advocate in procedures before courts and other authorities of another signatory country.

The Contract defines the scope of legal assistance, the way of providing legal assistance, refusal of legal assistance, costs of providing legal aid through common provisions, and specific provisions regulate provision of legal assistance in civil and criminal matters. Consequently, provisions on legal assistance in civil matters envisage exemption from paying law-suit costs and exemption from giving deposits for costs of procedures, exemption from legalization, furnishing documents on personal status, and the procedure for admission and execution of court and arbitrary decisions. Provisions on legal assistance in criminal matters define forms of legal assistance, temporary extradition of persons deprived of freedom, furnishing notifications from criminal records, the procedure of transfer and taking over criminal prosecution.

Final provisions envisage temporary implementation of contracts from the date of signing until the date of coming into force. Reasons for such provision are practical and specified by a large number of cases of international legal assistance, which are forwarded through central communication authorities, i.e. Ministries of Justice, which influences postponing of court procedures with an international element in process terms and the need for legal assistance.

**Aim of Extradition Agreement** is to create conditions on bilateral basis for stronger, more mandatory and more efficient cooperation on extradition of persons subject to criminal proceedings in one country or are convicted in that country, to prevent them from leaving the country and thus avoid criminal procedure or serving sentence. In addition, this Agreement is aimed at contributing to higher level of protection of some human rights and freedoms, because the cooperation in this field is conditioned by the level to which they are respected, guaranteeing them respectively. The Agreement is harmonized with standard provisions for Bilateral Agreements of this type and with the European Convention on Extradition.

The Agreement regulates method of communication, some criminal actions for which extradition is allowed, reasons for refusing extradition, postponing extradition and temporary extradition, simplified extradition, the principle of speciality, i.e. that an extradited person cannot be prosecuted for an act which is not subject of the extradition, detention in the extradition procedure, costs of the procedure and transit.

Final provisions envisage temporary application from the date of signing of the Agreement to coming into force. Reasons for temporary application are defined by the fact that this Agreement is signed at the same time with other two agreements for which there are practical reasons for temporary application.

Aim of the **Agreement on mutual execution of court decisions in criminal matters** is to have convicted people serve criminal sanctions in countries of residence, or where they reside in order to contribute to more efficient and more complete re-socializing of criminal offenders, based on the principle of humanity. This Agreement specifies criminal sanctions to be executed and the conditions for execution, joint provisions for extradition procedure, and the execution with a transfer. The extradition process will be implemented in the country of which the convicted person is a resident, or in which the person resides, if the person who is a resident of one of signatory countries, or resides in that country, is legally convicted for a criminal act to imprisonment, or is subjected to other measures which imply deprivation of freedom.

The procedure of execution with transfer is implemented if the convicted person, who is a citizen of one signatory country, started serving criminal sanction in the state of infliction and he/she requests transfer to the country of which he/she is a citizen.

It is envisaged that this Agreement will be applied to court decisions made before its coming into force. Court decisions, which became legally binding prior to June 3, 2006, will be applied in signatory countries as local verdicts.

Final provisions envisage temporary application of the Agreement from the date of signing to coming into force. Reasons for such provision are practical and are defined by the need to create conditions for executing legally binding decisions which could not be previously executed between two countries, and relate to sentences of imprisonment less than three months. In addition, shorter time limitation is envisaged for short-term convictions, and there is a need to create conditions for execution of these verdicts to prevent time limitation.

The Ministry of Justice of Bosnia and Herzegovina submitted an initiative for making changes to the Agreement on mutual execution of court decisions in criminal matters, and the Agreement on legal assistance in civil and criminal matters between Bosnia and Herzegovina and Serbia and Montenegro. In those terms, review of existing agreements will start soon, especially in terms of establishing a more direct cooperation between judiciary authorities, and in terms of unconditionally with consent of the convicted person in the state of which he/she is a citizen.

### **3. Formalizing coordination at national level**

The cooperation in criminal matters at national level takes places based on the Law on International Legal Assistance in criminal matters, the Law on Courts and the Law on State Prosecution. The Ministry of Justice performs tasks under its competence in accordance with applicable regulations. Performance of tasks under the competence of the Ministry of Justice is regulated by applicable regulations. Laws clearly regulate cooperation between the government authorities of Montenegro (state administration and judiciary, judiciary and prosecution, police and prosecution, etc.).

### **4. Cooperation between the Ministry of Justice, the Supreme State Prosecutor, the Supreme Court and the Police Administration**

**The Ministry of Justice** performs tasks under its competence in accordance with the Law on State Administration and the Regulation on Organization and Method of State Administration and other applicable regulations. The performance of tasks under the competence of the Ministry of Justice is regulated by regulations and there is no need for this Ministry of sign agreements with other state authorities, because the Law clearly regulates cooperation between Government authorities within Montenegro (state administration and judiciary, judiciary and prosecution, police and prosecution, etc.).

**Law on State Prosecution** – Articles 100, 101 and 102 regulate the relations between the Ministry of Justice and the Supreme State Prosecution. The Supreme State Prosecutor is obliged, on the request of the Ministry of Justice, to furnish data and information needed by the Ministry for monitoring organization and work of the state

prosecution, enforcement of the Regulation on internal activities of the state prosecution, acting upon complaints and appeals of citizens and general data on prosecution of criminal offenders and other criminal acts. Through an authorized officer, the Ministry of Justice monitors the work of state prosecution against organization of work in line with the Regulation, acting upon complaints and appeals, work of clerk's office and archive, keeping prescribed official records, and other activities of prosecution administration. The Ministry of Justice adopts the Regulation on internal activities of the state prosecution, prescribes the form, method, procedure and records of issuing official documents for state prosecutors and deputies of state prosecutors.

Article 114 of the Law on State Prosecution regulates the relations between the state prosecution and courts, and other state authorities. This Article prescribes that the state prosecutor, or the deputy, is authorized to request from courts and other state authorities to submit documents, information and notifications that these authorities are obliged to provide them with. In addition, state prosecutors or deputies are obliged to act in same way on the request of the court or some other state authority.

**In is planned that in September 2009 the Memorandum on cooperation between the Ministry of Justice, the Ministry of Spatial Planning and Environment, the Supreme State Prosecution of Montenegro and the Police Administration is signed in the field of eliminating of criminal acts against environment.**

**Supreme Court** - Article 104 of the Law on Courts ("Official Journal of the Republic of Montenegro", no. 5/02, 49/04 and 22/08) prescribes that supervision of the performance of the administration in the court is performed by the Ministry of Justice. While performing supervision, the Ministry of Justice may not undertake actions which influence decisions of the court in court cases.

Article 105 prescribes that courts will, on request of Ministry of Justice, furnish data and notifications needed for monitoring organization and work of courts and application of the Court Code of Conduct, and for acting upon complaints and appeals of citizens.

## **VII. COOPERATION IN LAW ENFORCEMENT**

### **1. Continue to undertake measures for formalizing existing inter-agency cooperation and exchange of information, including exchange on border crossings**

The Agreement on mutual cooperation between the Police Administration and the Tax Administration in order to fight against organized crime and corruption was signed on October 06, 2008.

**There are ongoing activities on drafting of Annex to the Agreement between the Police Administration and the Customs Administration (concluded on 06.10.2008) for developing a more detailed procedure related to exchange of data through the established link.**

A number of professional meetings were held in order to implement direct connection between information systems of the Customs Administration and the Police Administration, where principles and method of functioning of the link was agreed upon. Presentations were given of databases held by the Customs Administration and the Police Administration.

**A direct link is implemented by optical cable between server and central communication units of the Customs Administration and the Police Administration.** Questionnaires are prepared which are ready and made available to be used under the implementation of this project.

The cooperation between the Customs Administration and the Police Administration is implemented daily through discovering and finding the good smuggled across state borders and joint investigations implemented in that direction. If smuggling involves excise goods, cigarettes, alcohol, motor vehicles, or any other type of good of international origin, it is handed over to the Custom Administration with a charge for committed customs offence, and a criminal charge is filed at the same time for committed criminal act of illegal trade. If it is smuggling of drugs, people, weapons, the procedure will be managed by criminal police in cooperation with border police and customs.

Fifty-four criminal offences of illegal trade and 31 criminal offences of smuggling were processed in the first 7 months of 2009.

## **2. Memorandum on cooperation between the Police Administration and the Supreme State Prosecutor**

In order to improve cooperation **between the Supreme State Prosecution of Montenegro and the Police Administration of Montenegro, the Memorandum on cooperation and exchange of information was signed on 10.06.2009 for preventing, discovering and prosecuting criminal offenders who are prosecuted ex officio.** The Supreme State Prosecutor of Montenegro, in cooperation with the Director of the Police Administration of Montenegro, adopted professional guidelines on the procedures to be followed in reporting criminal offences with elements of corruption and protection of people who report such criminal offences to the Police Administration.

The first result of mutual cooperation between the State Prosecutor and the Police Administration, in accordance with the signed Memorandum, **through teamwork, a case was processed against 9 staff of the Real Estate Agency – Regional Unit Kotor (end of July 2009)** because of the criminal offence with elements of corruption, which is in investigative phase. Under the next activities, the State Prosecution and the Police Administration will establish joint investigation teams in complex cases for criminal offences that fall under organized crime and corruption.

## **3. Support, by appropriate budget and appropriate training, the Project “Intelligence-led Police 2008. – 2010”**

Under the Project “Intelligence-led Police”, activities of the Police Administration in the first half of 2009 were focused on providing training to officers in the regions of

Budva, Bar and Ulcinj (which are covered by the pilot project), and developing information technologies as support to the “Intelligence-led Police” model.

Training programmes for the Police Administration staff were implemented on:

- ”criminal-intelligence work and DESK” for 46 staff (3 courses, March-May 2009),
- “Intelligence analysis based on ANAKAPA method” for 15 staff (April 2009),
- “Training of work controllers with intelligence relations” for 8 staff (March 2009),
- ”Work with intelligence liaison staff” for 11 staff (March 2009).

Sustainable development in the field of training was one of the main priorities of the Police Administration. In those terms, a substantial progress was made under this project. The Police Administration provided training in 2008, and then additional training to its trainers in 2009 (9 staff) for key areas in this work process. Trainers of the Police Administration implemented training programmes in 2009 independently (ANAKAPA), or under supervision of experts from Sweden (working with liaison staff, criminal-intelligence work and DESK).

The progress in this field was also achieved by involving the Police Academy in order to institutionalise the basic training processes. In relation to this, two lecturers from the Police Academy monitored the basic training programme in this field and gathered material for further implementation of this training.

Professional development of staff is planned in the second half of 2009 through:

- “In-service training” for criminal-intelligence work and DESK, two activities in pilot regions (September and December 2009),
- „Training for model-based management” for managers in pilot regions (December 2009).

In the field of **information technology development**, the Police Administration developed “Work plan for developing IT support for the Model: Intelligence-led Police” at the beginning of 2009. This plan covers all components (software and hardware) that are needed for developing a **uniform Criminal Intelligence System of the Police Administration of Montenegro - CrIS**. The Criminal Intelligence System is planned to be consisted of the following sub-systems:

1. Document Flow
2. Entity management system
3. Case management system
4. Security computer system - PKI

The first step was implemented in **May 2009**, i.e. **the first software module for entering and searching central database of intelligence and findings assessed in accordance with the 4x4 method** was implemented. This module is the first part of the Document Flow sub-system. The software was developed in Montenegro with the financial support from Swedish SIDA (donation 26.500 EUR), and with expert support and supervision of the Swedish National Police Board.

It is planned for the next period (September 2009 – June 2010), through the development project with the Police of the Kingdom of Sweden, to continue working

on the remaining software modules, which belong to the “Document Flow sub-system”. The Police Administration has not received final decision of the Swedish SIDA on the donation (around 130.000 EUR) for this activity yet.

Estimated funds needed for further development, or for developing the remaining sub-systems of the Criminal Intelligence System of the Police Administration in 2010 and 2011 amount to around 320.000 EUR for developing software and around 150.000 UR for procurement of hardware and other equipment.

In addition to developing information technologies, plans of the Police Administration for implementing the “Intelligence-led Police” model in 2010-2011 include:

- drafting of strategic documents of the Police Administration and additional training of staff with expert support from the EU countries (estimated around 300.000 EUR needed,
- improving safety standards in intelligence field of the police work with classified data, primarily at regional level (around 120.000 EUR).

The development project implemented with the Kingdom of Sweden (and Swedish SIDA as a donor) will be completed by the middle of 2010. Since the Police Administration plans to continue the Project “Intelligence-led Police” in 2010 and 2011, activities are already undertaken towards considering options for financing this project partly from own sources, and partly from the pre-accession funds of the European Union (IPA).

#### **4. Develop additionally operational and investigative capacities of law enforcement authorities**

Activities related to signing of the Memorandum of Understanding between the Supreme State Prosecution, the Police Administration, the Tax Administration, Administration for the Prevention of Money Laundering and Financing of Terrorism and the Real Estate Agency are in their final phase and aimed at establishing joint investigation teams for fighting against organized crime and corruption. After signing of the Memorandum of Understanding, it is planned to adopt the Programme for Organizing Training on topics that will be agreed upon by signatories of the Memorandum.

The Agreement on Mutual Cooperation signed in October 2008 is the basis for cooperation between the Police Administration and the Tax Administration. Signatory countries to this Agreement regulate mutual cooperation in fighting against corruption and organized crime in order to improve cooperation and ensure optimum conditions for exchange of information. In those terms, information is exchanged on persons involved in committing criminal offences with elements of corruption and organized crime. The provision of human resources, technical and other assistance in discovering criminal offenders is agreed under this Agreement. The submission of data and exchange of information is performed in written and electronic forms.

The Agreement also envisages establishing mixed field teams, and a number of joint actions were designed and implemented in the past period. Some of the results of joint activities are two substantial confiscations of drugs, in May 2008, 15 kg cocaine and in July 2009, 350 kg of drug “Skank”.

**The Tax Administration continued comprehensive training, and 207 vocational training sessions were organized in the country and abroad in 2008 and the first half of 2009, which were attended by 570 tax officers.**

#### **5. Confirm Strategic Agreement on cooperation with EUROPOL and ensure full and efficient implementation of the Agreement on Cooperation with EUROPOL**

As a result of joint willingness to establish cooperation, the EUROPOL initiated activities at the end of 2007 on drafting and signing of the “Strategic Agreement on cooperation with Montenegro”. Representatives of the Ministry of Interior and Public Administration and the Police Administration actively participated in drafting of the Agreement, as well as representatives of EUROPOL. Based on previously assumed obligations and activities by the Police Administration and the Ministry of Interior and Public Administration, and the communication established with EUROPOL, and after drafting of the Proposal of the Agreement, the Minister of Interior and Public Administration signed the Strategic Agreement on cooperation between Montenegro and EUROPLO on September 19, 2008. **The Law on ratification of the Strategic Agreement between Montenegro and EUROPLO was adopted by the Parliament of Montenegro on 05.08.2009.**

According to the said Agreement, formal conditions were created for the start of the process of establishing EUROPOL Office in Montenegro under the Police Administration as defined by the said Agreement, through reorganization of the Police Administration. Changes to applicable Regulation on the systematization of positions in the Police Administration will create legal grounds for establishing the National Europol Bureau. **Activities on establishing the National Europol Bureau are ongoing.**

The establishing of the EUROPOL NB will provide for further cooperation with EUROPOL in terms of fulfilling obligations from the EUROPOL Road Map for the purpose of signing of Operational Cooperation Agreement. The Agreement will enable full participation of Montenegro in joint activities with EUROPOL. The cooperation will be implemented by exchanging police intelligence on persons interesting from security point of view, criminal groups and trends in the development of international organized crime, and through the participation of the Police Administration of Montenegro in the work of EUROPOL Analytic Work Files (AWF).

One of the most important activities that the Police Administration of Montenegro is currently working on is **establishing a safe communication link between the Police Administration and EUROPOL for the purpose of creating conditions for safe exchange of strategic information.** The request for establishing a safe communication link (with confirmation that the Police Administration accepts EUROPOL conditions related to selection of equipment and providers of telecommunication services) is submitted to EUROPOL, and the final confirmation is awaited and sending of the necessary equipment for installation in the Police Administration. After receiving the equipment, the Police Administration will sign an Agreement with EUROPOL on using the equipment for safe communication link, and

this will fulfill all requirements for its commissioning (which is expected by October 2009).

## **6. Building administrative capacities of authorities responsible for international police cooperation**

International cooperation tasks in the Police Administration are performed by the Department for international police cooperation and European integrations and the NCB Interpol. International police cooperation also takes place through the work of the Border Police Sector with involvement of the Department for international police cooperation and European integrations and the NCB Interpol. The Department for international police cooperation and European integrations performs tasks related to coordination of the EU accession processes, establishes cooperation with diplomatic-consular representative offices in the country and abroad, and with international organisations. It coordinates donor activities as well. The Department is in regular communication with liaison officers and police attachés at strategic level, while operational cooperation is implemented by the NCB Interpol. **It is planned to send two liaison officers to the headquarters of Interpol in Lion and to SECI Centre in Bucharest.**

The Police Administration initiated a procedure for making changes to the Regulation on systematization and organization of positions in the Police Administration, which would define the National Bureau of EUROPOL under the structure of the Police Administration. It is planned that changes to the existing Regulation reorganize the existing National Bureau of INTERPOL, which is systematized under the Criminal Police Sector.

The procedure for selecting and training of staff is already initiated under the existing NCB INTERPOL, who will assume activities under the newly established NB EUROPOL. Consequently, in cooperation with EUROPOL, a workshop was organized in July 2009 in Montenegro for representatives of middle management of the Police Administration (including future staff of the NB EUROPOL), where mission, goals and activities of EUROPOL were presented, as well as key functions, databases, method of functioning. In addition to the said workshop, it is planned to organize training in EUROPOL headquarters, which enable the National Bureau of EUROPOL in Montenegro to start functioning in its full capacity with continuous support of EUROPOL representatives.

**The establishing of NB EUROPOL, with the existing NCB INTERPOL, will join overall international police cooperation at operational level, which will fully enable this organizational unit for performing tasks under international cooperation.**

Preparations for participation in peace operations are ongoing. Six staff of the Police Administration have completed training for participating in peace operations, and four staff are referred to the peace operations course.

**Based on the decision of the Government of Montenegro, one officer went to peace mission of the United Nations on Cyprus on 14.08.2009 (UNFICYP).**

## **VIII REPORT WITH STATISTICAL DATA ON THE NUMBER OF INVESTIGATIONS, PROSECUTIONS AND VERDICTS FOR 2008 AND THE FIRST HALF OF 2009 IN THE FIELD OF FIGHTING AGAINST CORRUPTION AND ORGANIZED CRIME, INCLUDING ANALYSIS OF PROGRESS**

### **Criminal acts with elements of corruption**

This Report covers the following criminal acts, as corruptive acts, as prescribed by the Criminal Code: breach of equality in performing economic activity (Article 269); abuse of monopole position (Article 270); causing bankruptcy (Article 273); causing false bankruptcy (Article 274); abuse of powers in economy (Article 276); false balance sheet (Article 278); abuse of estimation (Article 279); disclosing business secrets (Article 280); disclosing and use of stock market secret (Article 281); abuse of office (Article 416); malpractice (Article 417); illegal mediation (Article 422); taking bribe (Article 423); offering bribe (Article 424), and disclosing business secret (Article 425).

**The total of 231 charges was filed against 363 people in the period 01.01.2008 to 31.12.2008**, out of which the Police Administration filed 50 charges against 64 people, while other subjects filed 181 charges against 299 people.

**In ruling upon charges, the Prosecution, having collected the necessary notifications for pre-trial procedure, dismissed 89 charges against 125 people, filed two bills of indictment against two people, file one charge without investigation against two people, filed 72 requests for investigation against 105 people, furnished one charge against one person to the Special Prosecutor, while at the end of the reporting period, there were 66 charges against 128 people that remained in the phase of collecting the necessary notifications in the pre-trial procedure.**

Based on requests of prosecution for conducting investigation, courts established 72 cases against 105 people. The investigation is finalized and documents returned to prosecution for ruling upon the results of investigation in 35 cases against 51 people. Investigations are ongoing in 37 cases against 54 people.

After the investigation is completed, prosecutors dropped prosecution in eleven cases against 16 people, and the court ruled in the favour of dismissing investigations.

Prosecutors filed 31 charges against 46 people.

**There were 34 accusations against 50 people in the procedure in courts. Ruling upon accusations of the prosecution, courts completed criminal procedure in 26 cases against 31 people, while there are ongoing criminal procedures in 8 cases against 19 people.**

**After the finalization of criminal procedure, 18 convictions against 20 people were ruled, two dismissed against two people and six vindications against nine people.**

**Based on verdicts of courts, the prosecution filed 13 appeals against 18 people, ruling upon the appeal is finalized in three cases against three people, while the procedure based on the appeal in the process in seven cases against ten people. Ruling upon appeals, second-instance courts accepted one appeal against one person, while they dismissed two appeals against two people.**

**Verdicts are legally-binding in nine cases against ten people.**

**The total of 111 charges against 173 people was filed in the period 01.01.2009 to 30.06.2009, out of which the Police Administration filed 16 charges against 24 people, while other subjects filed 95 charges against 149 people.**

**Ruling upon charges, the prosecution, having collected the necessary notifications in the pre-trial procedure, dismissed 23 charges against 31 people and filed 15 requests for investigating 20 people. The Special Prosecutor is furnished with eight charges against 15 people, while 62 charges against 104 people remained at the end of the reporting period in the phase of collecting the necessary notifications in the pre-trial procedure.**

**Based on requests of prosecution for conducting investigation, 15 cases were established in courts against 20 people. There is ongoing investigation in 11 cases against 12 people.**

**Three bills of indictment were filed against three people.**

Ruling upon charges, courts completed criminal procedure in one case against one person, while criminal procedure in two cases against two people is in the process.

After finalization of criminal procedure, one vindication was ruled for one persons, and it is legally binding.

#### **Criminal acts of organized crime**

**In 2008, eight criminal charges were filed to the Special Prosecutor against 49 people for criminal acts of organized crime.**

**Ruling upon criminal charges, the Special Prosecutor, having conducted investigation, filed seven indictments against 42 people.**

**Investigation before the Higher Court in Podgorica is in the process against seven people, based on the request for conducting investigation dated 16.09.2008. Investigation is in the process.**

During 2008, since the Law on changes and amendments of the Law on State Prosecution came into force (04.07.2008), Special Prosecutor, whose responsibility is expanded by the said Law to cover criminal acts with elements of corruption, terrorism and war crimes, worked on nine cases against 34 people because of criminal acts with elements of corruption.

Ruling upon the charges, the Special Prosecutor, having conducted investigation, filed one charge against two people before the Higher Court in Podgorica. The charge was finalized by sentence of imprisonment. The ruling of the second-instance court upon this case, the appeal of the prosecutor was dismissed and the first-instance ruling confirmed.

At the end of 2008, investigations were not finalized in five cases against 24 people.

Two charges against seven people (filed on 20.10.2008) remained in the phase of collecting the necessary notifications.

One case against one person is assumed from the Basic State Prosecution in Bar, after cancellation of the first-instance verdict based on the bill of indictment of the competent prosecutor from 2006. In the repeated procedure before the Higher Court in Podgorica, the bill of indictment was resolved by vindication which is not legally binding.

**In the first half of 2009, the Special Prosecutor worked on two criminal charges against 41 people because of criminal acts of organized crime.**

**In the first semester of 2009, the Special Prosecutor worked on 27 cases against 41 people because of criminal acts with elements of corruption.**

**Ruling upon the charges, the Special prosecutor, after investigation, filed 10 bills of indictment against 14 people.**

**At the end of the first semester of 2009, investigation was not completed in seven cases against 12 people.**

**The Special Prosecutor worked on one case against one person – the judge of the Basic Court in Bar because of the criminal act of abuse of office as referred in Article 416 of the Criminal Code.**

In the same period, the Special Prosecutor transferred two cases against two people, after investigation was completed before Investigative Judge of the Higher Court in Podgorica, for procedure before another prosecution.

The Special Prosecutor, after collecting the necessary notifications and implementation of necessary inspections, dismissed two criminal charges against four people.

In the same period, the Special Prosecutor worked on five cases against eight people, based on charges of other prosecutions, for criminal acts with elements of corruption, where first-instance verdicts were dismissed and cases transferred for ruling to Special Department of the Higher Court in Podgorica.

## SUMMARY

**As on 30 June 2009 there was the total of 260 criminal cases with elements of corruption in Basic and Higher Courts in Montenegro from the year 2009 and earlier years.**

**Out of that number the total of 201 cases was closed, of which 101 with judgment, 86 were acquitted and 14 were judgments of abandonment. Court decision is final in 107 cases.** The appeal procedure has been initiated in the remaining cases. The total of 59 cases is pending.

**There was the total of 31 cases of organised crime in progress. Out of that number 22 cases were closed, of which 21 with the judgment and 1 with acquittal. Court decision is final in four cases.** The appeal procedure has been initiated in the rest of the cases. The total of 9 cases is pending.

**There was the total of 332 investigative cases for criminal acts with elements of corruption (of which 27 fall under the competence of the Special Prosecutor).** Out of that number 212 cases have been closed (of which 17 cases fall under the competence of Special Prosecutor). Investigation is in progress in 120 cases (of which 10 cases fall under the competence of the Special Prosecutor).

**There was the total of 39 investigative cases of organised crime in progress. Out of that number 35 cases have been closed.** The total of 4 cases is pending.

In 2008 the property valued at EUR 1,037,825.00 and USD 116,000.00 was confiscated of which:

- the Basic Court in Pljevlja confiscated property in the amount of EUR 258,825.00.
- the Higher Court in Bijelo Polje confiscated property in the amount of EUR 779,000.00 and USD 116,000.00.

A. CRIMINAL ACTS WITH ELEMENTS OF CORRUPTION				
by criminal charges received in the period from 01 January 2008 until 31 December 2008, with the status of their progress as on 30 June 2009				
			No. of criminal charges	No. of persons
			50	64
Police Directorate			181	299
Others that filed criminal charges			231	363
Total				
		Rulings on charges by prosecutors	No. of cases	No. of persons
		Rejection of charges	89	125
		Bills of indictment	2	2
STATE PROSECUTORS				

	Indictment without investigation being conducted - direct indictment	1	2
	Motion for conducting investigation	72	105
	Motion for initialisation of investigative actions	-	-
	Those that have been conceded to the Special Prosecutor	1	1
	Charges that remained with other authorities in the pre-criminal proceedings at the end of the reporting period at the request of the prosecutor for the collection of necessary notifications	66	128
COURTS	Preliminary proceedings – investigation	Number of cases	No. of persons
	Received motions for conducting investigation	72	105
	Rulings on conducting investigation issued	72	105
	Rulings on conducting investigation not issued	-	-
	Investigations closed and files returned to the prosecutor	35	51
	Investigations in progress	37	54
STATE PROSECUTOR S	Rulings of prosecutors in cases after investigations have been closed	No. of cases	No. of persons
	Waiver of prosecution	11	16
	Indictments brought after investigation has been conducted	31	46
	Total	41	62
COURTS	Indictments before the court	No. of cases	No. of persons
	Received indictments (bill of indictment, direct indictment and indictment brought after the investigation has been closed )	34	50
	Main hearing and ruling	No. of cases	No. of persons
	Criminal proceedings closed with judgment	26	31
	Criminal proceedings in progress	8	19
	Judgments	18 *	20 *
	Judgments of abandonment	2	2
	Acquittals	6	9
	Proceedings initiated by legal remedies	No. of cases	No. of persons
	Appeals of prosecutors	13	18
	Appeal proceedings closed	3	3
	Appeal proceedings not closed	7	10
	Appeals accepted	1	1
	Appeals rejected	2	2
	Appeals of the accused	-	-
Final court decisions	9	10	

B. CRIMINAL ACTS OF ORGANISED CRIME 01 January 2008 – 31 December 2008				
			No. of cases	No. of persons
		Total	8 charges	49 persons
		Rejection of criminal charges	-	-
		Criminal charges conceded	-	-
		Motions submitted for conducting investigation	8	49
		Indictments brought after investigation has been conducted	7	42
		Investigative proceedings in progress	1	7
		Suspension of investigation	-	-
		Direct indictment	-	-
		Cases in which indictment has been closed with judgment	5 **	18 **
		Cases in which indictment has not been closed	2	24
		Resolved in some other manner	-	-
		Proceedings initiated by legal remedies	No. of cases	No. of persons
		Appeals of prosecutors	5	15
		Appeal proceedings closed	-	-
		Appeal proceedings not closed	5	15
		Appeals accepted	-	-
		Appeals rejected	-	-

\* In 18 cases against 20 persons in which the criminal proceedings were closed with judgment:  
 -imprisonment sentence for criminal acts punishable by up to eight years imprisonment was imposed on five persons in four cases,  
 -suspended sentence for criminal acts punishable by up to five years imprisonment was imposed on 14 cases on 15 persons,  
 \*\* In cases of organized crime, five judgments were imposed against 18 persons (imprisonment sentence)

C. TABLE WITH DATA ON CRIMINAL ACTS WITH ELEMENTS OF CORRUPTION FROM THE COMPETENCE OF THE DEPARTMENT FOR PREVENTION OF ORGANISED CRIME, CORRUPTION, TERRORISM AND WAR CRIMES period from 01 September until 31 December 2008				
			No. of cases	No. of persons
		Total	9 charges	34 persons
		Rejection of criminal charges	-	-
		Criminal charges conceded	-	-
		Motions submitted for conducting investigation	7	30
		Indictments after investigation has been conducted	5	22
		Investigative proceedings in progress	2	8
		Suspension of investigation	-	-
		Direct indictment	-	-
		Cases in which indictment has been closed with judgment (imprisonment sentence)	2	3
		Cases in which indictment has not been closed	3	19
		Charges that are in the stage of prior notifications	1	3

	Resolved in some other manner - protected witness	-	-
	Case-indictment that has been taken over	1	1
	Proceedings initiated by legal remedies	No. of cases	No. of persons
	Appeals of prosecutors	2	3
	Appeal proceedings closed	1	2
	Appeal proceedings not closed	1	1
	Appeals accepted	-	-
	Appeals rejected	1	2
<b>D. CRIMINAL ACTS WITH ELEMENTS OF CORRUPTION</b>			
by criminal charges received to be processed in the period from 01 January 2009 until 30 June 2009			
		No. of cases	No. of persons
Police Directorate		16	24
Others that filed criminal charges		95	149
Total		111	173
STATE PROSECUTORS	Rulings on charges by prosecutors	No. of cases	No. of persons
	Rejection of charges	23	31
	Bills of indictment	3	3
	Indictment without investigation being conducted - direct indictment	-	-
	Motion for conducting investigation	15	20
	Motion for investigative actions	-	-
	Expansion of powers of the Special Prosecutor for organised crime	8	15
	Charges that remained with other authorities in the pre-criminal proceedings at the end of the reporting period at the request of the prosecutor for the collection of necessary notifications at the end of reporting period	62	104
COURTS	Preliminary proceedings – investigation	No. of cases	No. of persons
	Received motions for conducting investigation	15	20
	Rulings on conducting the investigation issued	11	12
	Rulings on conducting the investigation not issued	4	8
	Investigations closed and files returned to the prosecutor	-	-
	Investigations in progress	11	12
STATE PROSECUTORS	Rulings of prosecutors in cases after investigations have been closed	No. of cases	No. of persons
	Waiver of prosecution	-	-
	Indictments after investigation has been conducted	-	-
	Total	-	-

COURTS		Indictments before the court	No. of cases	No. of persons
		Received indictments (bill of indictment, direct indictment and indictment after the investigation has been closed )	3	3
		Main hearing and ruling	No. of cases	No. of persons
		Criminal proceedings closed with judgment	1	1
		Criminal proceedings in progress	2	2
		Judgment (a fine) for the criminal act punishable up to three years imprisonment sentence	1	1
		Judgments of abandonment	-	-
		Acquittal	-	-
		Proceedings initiated by legal remedies	No. of cases	No. of persons
		Appeals of prosecutors	-	-
		Appeal proceedings closed	-	-
		Appeal proceedings not closed	-	-
		Appeals accepted	-	-
		Appeals rejected	-	-
		Appeals of the accused	-	-
	Final court decisions	1	1	
<b>E. CRIMINAL ACTS OF ORGANISED CRIME</b> period from 01 January until 30 June 2009				
Rulings of the Special Prosecutor on Charges			No. Criminal charge	No. of persons
			2	41
		Received motions for conducting investigation	2	41
		Indictments brought after investigation has been conducted	1	5
		Investigative proceedings in progress	1	36
		Cases in which indictment has been closed	-	-
		Cases in which indictment has not been closed	1	5
		Suspension of investigation	-	-
		Direct indictment	-	-
		Rejection of criminal charges	-	-
		Criminal charges conceded	-	-
<b>F. TABLE WITH DATA ON CRIMINAL ACTS WITH ELEMENTS OF CORRUPTION FROM THE COMPETENCE OF THE DEPARTMENT FOR PREVENTION OF ORGANISED CRIME, CORRUPTION, TERRORISM AND WAR CRIMES</b> period from 01 January until 30 June 2009				
Total			No. of criminal charges	No. of persons
			27	41
		Motions submitted for investigation	20	29
		Indictments brought after investigation has been conducted	10	14

	Investigation in progress	8	13
	Cases in which indictment has been closed with judgment (imprisonment sentence)	6	6
	Cases in which indictment has not been closed	4	8
	Suspension of investigation	-	-
	Case conceded after investigation to the Basic Prosecution Office	2	2
	Direct indictment	-	-
	Rejection of criminal charges	2	4
	Charges that are in the stage of prior notifications	-	-
	Criminal charges conceded	-	-
	Indictments of other prosecution offices after abolition of the first instance judgment – Article 35, Paragraph 3 of the Courts Law	5	8
	Closed indictments of other prosecution offices	5	8

In November 2008 the Government of Montenegro adopted the Information on Conducted and Planned Activities for the Introduction of Judicial Information System (PRIS). In accordance with the Conclusion of the Government, the Council for implementation of the PRIS project was set up, comprising Deputy Prime Minister for Economic Policy, the Minister of Justice, the Minister of Finance, President of the Supreme Court of Montenegro, Supreme State Prosecutor, Secretary of the Secretariat for Development and representative of the University of Montenegro.

At its 4<sup>th</sup> session held on 6 March 2009 the Council set up the expert team of the Council for implementation of the Judicial Information System. At the same session, the expert team was entrusted with drawing up an integral document which represents a precise cross-section of the current condition in the institutions which will be future PRIS users, as well as the level of ensuring prerequisites for project implementation which fall within the competence of public bodies, with initiating preparation of the Action Plan for activities on implementation, and it was also entrusted with pooling the documentation in the course of implementation of the project necessary for carrying out the public procurement procedure regarding maintenance, which would not fall within the competence of public bodies in Montenegro.

Acting in accordance with the conclusions of the Council, the expert team prepared the cross-section of the current condition which contains data on the condition of technical equipment and LAN networks in the facilities of PRIS users, condition of WAN network and hardware resources at the central location and existing licenses, that is, the licenses which should be obtained so as to ensure the installation of necessary software at the central location. The cross-section considers the issue of administrative, i.e. personnel resources of users and accordingly the need to work on their strengthening was identified as necessary in the forthcoming period.

During activities on development of the Action Plan, the methodology of development was determined, along with the structure of necessary data and form of data entry. The stated form was forwarded to all members of the expert team, i.e. institutions which they represent so that the expert team could upon its completion complete activities in the development of Action Plan as soon as possible. The expert team proposed to introduce the obligation of quarterly reporting on implementation of measures from the Action Plan.

Development of the Action plan itself partly depends on the completion of activities on signing the Letter of Intentions, so as to obtain time framework within which the selected software firm will implement the programme solution and other activities in accordance with their commitments. Due to the stated reason development of the Action Plan has not been completed yet and a part of activities that was recognized as extremely important for project implementation was completed in the previous period by the expert team with approval of the Council of the project. Subject activities relate to: the purchase of server for database; obtaining Microsoft server licenses Windows 2003; selection of ORACLE licenses (for the database and applicative server); enabling MipNet connection in all judicial buildings in Podgorica; purchase and installation of hard disk at Storage along with the purchase of a spare one in order to ensure its stability of work; obtaining and installation of a console for approaching PRIS servers and improvement and replacement of communication equipment in all courts in Podgorica, membership in domains, as well as securing an adequate anti-virus protection.

Implementation of stated activities created all prerequisites for implementation of the Judicial Information System on the territory of Podgorica which fall within the competence of public bodies. This is of special importance because about 60% of judicial institutions in Montenegro are located on the territory of Podgorica, them being institutions at all levels.

Expert team prepared Report on conducted activities which was adopted at the session of the Project Council held on 02 June 2009. The Report identified problems which need to be resolved as soon as possible so as to ensure beginning of direct implementation of the project at the locations of users themselves.

Selected licensed ORACLE software was installed on application and basic servers at the central location in the Ministry for Information Society in the period from 20 to 27 June 2009. Afterwards, a demo version of the software solution was installed which was used to test connections from all locations in Podgorica, as well as from Basic Courts in Danilovgrad and Kolašin. Achieved performances and quality of equipment guarantee steady operation of the information system upon the implementation of the programme solution.

## **IX PERSONAL DATA PROTECTION**

### **1. Harmonisation of the Law on Personal Data Protection with Acquis (Directive 95/46 EC) and Establishment of the Personal Data Protection Agency.**

The Parliament of Montenegro adopted the **Law on Personal Data Protection** which was published (Official Journal of Montenegro No. 79/08). This Law prescribes establishment of the Personal Data Protection Agency, defines its scope of work and guarantees its full independence as well as protection of persons in terms of personal data processing.

President and members of the Council of the Agency are appointed by the Parliament of Montenegro.

**In the Ministry of Interior and Public Administration activities are being carried out on establishment of a special organisational unit – Personal Data Protection Division, with three operators who will perform public administration affairs which relate to: further harmonisation of legislation; implementation of the Strategy and Action plan from this field and monitoring of their implementation; detection of occurrences and proposal of decisions and other affairs.**

In July 2009 the Government of Montenegro endorsed the **Proposal of the Law on Amendments to the Law on Personal Data Protection** which was harmonised with the Directive 95/46 EC and referred it to the Parliament of Montenegro for adoption.

Proposal of the Law on Amendments to the Law on Personal Data Protection stipulates amendment to Article 52 of the Law on Personal Data Protection (Official Journal of Montenegro No. 79/08) regarding duration of the terms of office of the President and members of the **Council of the Personal Data Protection Agency** and introduces the provision under which President and members of the Council report to the Parliament of Montenegro on their work.

The Council of the Personal Data Protection Agency appoints Director of the Personal Data Protection Agency.

Montenegro signed the Additional Protocol to the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data in relation to supervisory bodies and cross-border data flow of 24<sup>th</sup> February 2009. The Government of Montenegro endorsed the Proposal of the Law on Approving the Additional Protocol and submitted it to the Parliament for adoption.

#### **BLOCK IV: FOREIGN AFFAIRS AND FUNDAMENTAL RIGHTS**

##### **1. DEFINITION OF SUSTAINABLE AND DURABLE SOLUTION FOR RESOLVING THE STATUS OF DISPLACED PERSONS FROM FORMER YUGOSLAV REPUBLICS AND INTERNALLY DISPLACED PERSONS FROM KOSOVO RESIDING IN MONTENEGRO, INCLUDING FULL ACCESS OF THESE PERSONS TO THEIR RIGHTS**

**In order to define sustainable and permanent solution for resolving the status of displaced and internally displaced persons, including access to the identification documents, at the session held on 30 July 2009 the Government tasked the Ministry of Interior and Public Administration to prepare the Proposal of the Law on Amendments to the Law on Foreigners in cooperation with the Ministry of Labour and Social Welfare that will ensure that displaced persons from former Yugoslav republics and internally displaced persons from Kosovo residing in Montenegro be granted the status of foreigners with permanent residence.**

**As to defining sustainable and durable solution for resolving the status of displaced and internally displaced persons, including access to the identification documents, the Law on Amendments to the Law on Foreigners creates legal prerequisites for these persons to be granted the status of a foreigner with**

**permanent residence in Montenegro and on the basis of that the right to the identification document - foreigners` ID.**

The Government of Montenegro **endorsed the Proposal of the Law on Amendments to the Law on Foreigners and proposed to the Parliament of Montenegro to adopt it in accelerated procedure.**

Under the Proposal of the Law, displaced persons from former Yugoslav republics that temporarily retained the status of a displaced person in line with the Decision on Temporary Retention of the Statuses and Rights of Displaced and Internally Displaced Persons (Official Journal of the Republic of Montenegro, number 46/06), may be granted permanent residence if they are listed in the register of displaced persons on the day of entry of this Law into force, which is proved with the statement issued by the Asylum Office.

Permanent residence may be also granted to internally displaced persons from Kosovo who temporarily retained the status of an internally displaced person on the basis of the Decision cited in the previous paragraph for the purpose of re-registration, and who register with the Bureau for the Care for Refugees until 14 November 2009 which is proved with the statement issued by this authority. An internally displaced person who has not applied to be registered for health reasons, which is proved by medical documentation, may register with the authority responsible for the care for refugees within three months from the day of expiry of the deadline for application for the purpose of registration.

Displaced and internally displaced persons without valid travel document needed to exercise the right to permanent residence who meet other conditions will be granted temporary residence until obtaining of the travel document for the period of three years at the longest from the day when the temporary residence has been granted. Such persons have rights and obligations of a foreign permanent resident in line with the Law on Foreigners, including the right to receive foreigner`s ID which is valid throughout duration of the temporary residence.

Displaced and internally displaced persons may submit application for permanent residence within two years from the day when the Law on Amendments to the Law on Foreigners entered into force.

The Bureau for the Care for Refugees started preparations for re-registration and the Terms of Reference has been completed for re-registration of internally displaced persons from Kosovo in Montenegro, whereas the re-registration began on 14 September 2009. Re-registration will ensure reaching the accurate number and update of all relevant aspects with the aim of providing sustainable legal solution, including access to the identification documents.

**Displaced and internally displaced persons, as well as foreigners with permanent residence in Montenegro, would have the following rights: the right to work and employment; education and vocational training; recognition of diplomas and certificates; social assistance, health and pension insurance; tax relief; access to the market of goods and services; freedom of association, uniting and membership in the organisations which represent interests of workers or**

employers. As it was stated, on the basis of the status, these persons have the right to a foreigner`s identity card, but not to a passport which, according to the Law on Travel Documents, may only be the right pertaining to Montenegrin citizens.

**The Government of Montenegro, at the session of 17 September 2009, adopted the ACTION PLAN FOR RESOLVING THE STATUS OF DISPLACED PERSONS FROM FORMER YUGOSLAV REPUBLICS AND INTERNALLY DISPLACED PERSONS RESIDING IN MONTENEGRO.**

**The Action plan envisages activities, responsible persons and time frames for resolving the status of displaced and internally displaced persons.**

**Proposal of the Law on Amendments to the Law on Foreigners and the Action plan for resolving the status of displaced persons from former Yugoslav republic and internally displaced persons from Kosovo residing in Montenegro are drawn up in cooperation with the UNHCR office in Podgorica.**

*The text of the Proposal of the Law on Amendments to the Law on Foreigners and the stated Action Plan constitute an integral part of this report.*

## **2. MONTENEGRIN CITIZENSHIP ACT – Official Journal No. 13/08 – Updated data on the number of persons who acquired Montenegrin citizenship by naturalisation**

In the period from 5 March 2008 (the day of entry into force of the Montenegrin Citizenship Act) to 9 September 2009, a total of 2,922 persons acquired Montenegrin citizenship by naturalisation, 1,348 persons were issued a guarantee that they would be granted Montenegrin citizenship upon bringing a certificate of renunciation of the previous citizenship and 248 applications for Montenegrin citizenship were rejected.

In the period from 3 June 2006 (the day of proclamation of independence of Montenegro) to 5 March 2008 (the day of entry into force of the Montenegrin Citizenship Act), under the Montenegrin Citizenship Act in force at that time (Official Journal of Montenegro No. 41/99), 1,829 persons acquired Montenegrin citizenship by naturalisation and the application was rejected for 276 persons.

Since the Montenegrin Citizenship Act (Official Journal of Montenegro No. 41/99), as well as the Montenegrin Citizenship Act (Official Journal of Montenegro No. 13/08) prescribe determination of Montenegrin citizenship when a person has been granted Montenegrin citizenship in accordance with previous regulations and is not entered in the Montenegrin citizenship registry, the Montenegrin citizenship was determined in all these cases. **Thus, Montenegrin citizenship was determined for 8,683 persons in the period from 3 June 2006 to 9 September 2009.**

**Cumulatively, this means that Montenegrin citizenship by naturalisation from 03 June 2006 to 09 September 2009 was granted to the total of 4,751 persons and 8,683 persons were granted the Montenegrin citizenship by determination, which altogether means that a total of 13,434 persons acquired Montenegrin citizenship by naturalisation and determination.**

According to the Programme of Activities of the Government of Montenegro for the 4<sup>th</sup> quarter the plan is to adopt the Proposal of the Law on Approving the European Convention on Nationality and Proposal of the Law on Approving the Convention of the Council of Europe on Avoidance of Statelessness in relation to State Succession. We underline that the Montenegrin Citizenship Act has been harmonised with the stated Conventions of the Council of Europe.

## II CIVIC RIGHTS, INCLUDING PROTECTION OF MINORITIES

### 1. Improvement of the Position of Roma Population

In addition to the funds allocated for improvement of the position of Roma under the competence of certain departments, the Government allocated EUR 400,000 for the year 2008. The total of EUR 600,000 was allocated for the year 2009 for implementation of the programmes and projects from this Strategy. Commission for Monitoring Implementation of this Strategy was set up by the Government Decision of 20 December 2007. The Commission is made of representatives of line ministries at the level of Deputy Ministers, that participate in implementation of the Strategy (the Ministry for the Protection of Human and Minority Rights, Ministry of Education and Science, Ministry of Culture, Sport and Media, Ministry of Interior and Public Administration, Ministry of Health, Labour and Social Welfare), representative of the Secretariat for European Integration, representative of the Bureau for the Care for Refugees, National Coordinator for implementation of the Action Plan for *the Decade of Roma Inclusion 2005-2015* and representative of Roma NGOs. The Commission coordinates activities on implementation of the Strategy, monitors implementation of the projects, evaluates achieved results and proposes measures for elimination of detected faults, notifies the Government of Montenegro of its activities.

In the framework of reform of education system the Ministry of Education and Science attaches considerable attention to integration of Roma into formal education system with the aim of providing a quality primary education to this population and thereby assisting their overall integration into Montenegrin society.

According to the published surveys in Montenegro and beyond Roma represent the poorest class in the society, whereby one of main reasons of their extreme poverty based on surveys that have been conducted is their high illiteracy (over 50%) which is considerably higher than illiteracy of domicile population in Montenegro (2.35% of illiterate persons, the 2003 population census). **The Ministry of Education and Science took a set of significant measures in the framework of broader support to Roma education and reduction of their total poverty in order to increase the coverage of Roma children in formal education system as follows:**

- in the last two years it gave free textbooks and school material to all Roma pupils who enrolled in the first class of primary school;
- an extensive media campaign under the slogan *EVERYONE TO SCHOOL TOGETHER* was launched in primary schools by the Ministry of Education and Science in order to generate wider support from the society in integration of Roma children.
- collection of textbooks, clothes and shoes for Roma children was organised in all primary schools in which Roma children are enrolled in order to provide necessary

material assistance to Roma children. Action took place under the slogan *A BOOK AND CLOTHES FOR A SCHOOL FRIEND*.

- 6 Roma students enrolled in the teaching department at the Nikšić Faculty so as to provide Roma teaching staff;
- Roma assistants got introduced into the curriculum in primary schools and kindergartens (municipalities Podgorica, Nikšić and Berane are covered by the project Roma Education Initiative –REI)
- In the framework of the project *Roma Education Initiative*, the Ministry of Education and Science set up a special data base through which it monitors number and achievements of Roma pupils in certain primary schools in Montenegro;

The Ministry of Education and Science created favourable environment and conditions for integration and socialisation of Roma children in coordination with the Education Bureau by educating teaching staff at school facilities (kindergartens and primary schools). Integration of these children is closely monitored by managing departments at school facilities, pedagogical-psychological department, as well as technical services at the Ministry of Education and Science and Education Bureau.

Definitely the most important project which is implemented in the area of education of RAE population in Montenegro is *Roma Education Initiative* supported by REF (Roma Education Fund) which is implemented in partnership between the Ministry of Education and Science and Pedagogical Centre of Montenegro. In addition to various training seminars for teaching staff, additional/supplementary classes for RAE children, work with families, data base for children in the education system, the project introduced Roma assistants whose role was to be a link between family and school as well as to eliminate linguistic barriers of children who do not speak official language; Over a three year implementation period the project demonstrated considerable results in terms of improvement in the field of education of RAE population.

### **Pre-School Education**

According to the data from the statistical survey in the project *Development of Data Base for RAE Population in Montenegro* conducted by the Statistical Office of Montenegro – MONSTAT (October 2008) the total of 14% of RAE children in Montenegro is part of the pre-school education. In the school year 2007/2008 the total of 99 children was included in pre-school education, while the number added up to 114 RAE children in the school year 2008/2009.

### **Primary Education**

Over previous years, owing to the measures taken by the Ministry and assistance from international donors there has been a considerable increase in the number of Roma pupils in the primary education of Montenegro. **Over the last 3 years the number of Roma children in primary education increased annually at the rate of about 20%.** In the school year 2007/2008 the total of 1,263 RAE population pupils attended primary schools in Montenegro, whereas in the school year 2008/2009 1,461 RAE population pupils attend primary schools in Montenegro. Comparison of data on the number of pupils reveals the 15.40% rise which is a huge step forward in quantitative terms.

## High School Education

In the school year 2008/2009, the total of 30 pupils attended high schools in Montenegro. Each high school pupils receives monthly scholarship amounting to EUR 70,00. At the beginning of the school year the amount of EUR 100,00 per pupil is provided for the purchase of textbooks. Their work and success is being monitored, and additional assistance is provided to them in mastering the school curriculum. Scholarship is granted to the high schools pupils in 2009/2010 and they were also provided the computer equipment.

## Higher Education

**In the school year 2008/2009 8 members of RAE population studied in Montenegro.**

All students receive monthly scholarships amounting to EUR 150,00 while financial aid amounting to EUR 150,00 was allocated at the beginning of the year for the purchase of books. As part of donation of the Ministry for Human and Minority Rights the students received computer equipment. Additionally, lease of the apartment was paid for four students, and travel expenses were paid for the two of them (EUR 4,200). Scholarship was granted to students also in 2009/2010.

The Ministry of Culture, Sport and Media implemented the following activities in line with the obligations arising from media presentation of the Roma Decade defined by the Decade Action Plan:

- The video *Roma Decade 2005-2015* was financed in 2005;
- Seminars were organised for local radio broadcasters and commercial media on importance of media in promotion and recognition of the *Decade* project in cooperation with line ministries in the field of minority protection, education, labour, health and social policy as well as with representatives of Roma non-governmental organisations.
- As part of the contribution to implementation of the *Decade* project, certain projects of Roma non-governmental organisations were co-funded aiming to raise awareness, that is to educate Roma.
- Open competition for monetary prize in journalism (amounting to EUR 1,000) has been organised for two years now for the best investigative coverage on social integration of Roma in Montenegro.
- Implementation of the agreement concluded between the Ministry of Culture, Sport and Media and RTCG (Public Radio-Television of Montenegro) on co-funding the programmes which, among other things, relate to the broadcasts that are important for conveying information in languages of the members of national and ethnic minorities: Broadcast on Roma (24 broadcasts of 30 minutes) on the radio of Montenegro and *Glas Roma* (5 broadcasts of 30 minutes), on TVCG.
- *TV Vijesti* started broadcasting the programme *Roma Speak* at the beginning of October 2008 that presents culture and customs of Roma, as well as problems in social inclusion.
- TV *MBC* from Podgorica broadcasted 12 multi story broadcasts in 2008 as part of the series *Give your Hand* that lasted 40 minutes covering the

following areas: education, conservation of culture and tradition of RAE minority, aiming to introduce majority population with cultural and other specificities of the Roma minority group and all problems it is facing in Montenegro. These series were funded as part of implementation of the Strategy for Improvement of the Position of RAE in Montenegro 2008-2012 in the amount of EUR 10,500.

- Radio station *Skala* from Kotor and *Mojkovac* from Mojkovac also contributed to popularisation and conservation of culture, tradition and customs of minorities under relevant projects supported by the Ministry for the protection of Human and Minority Rights (EUR 8,000).
- Print media give their contribution to informing on the RAE population matters. According to the analysis of media in the period June-December 2008, three daily newspapers published 133 stories on RAE population.

Number of published stories and the page number:

Months:	Number of published stories in the daily:			Published on pages number:			
	<i>Pobjeda</i>	<i>Dan</i>	<i>Vijesti</i>	No. of page	<i>Pobjeda</i>	<i>Dan</i>	<i>Vijesti</i>
June	4	4	5	until page 5	1	-	1
July	6	11	8	pages from 6 to 10	16	11	7
August	4	10	5	pages from 11 to 15	3	27	8
September	8	9	5	after the page 16	12	23	24
October	2	2	3				
November	5	15	7				
December	3	10	7				
Total:	32	61	40				

Students from the Pre-School Education Department at the Faculty of Philosophy in Nikšić also got involved in conservation of the culture, tradition and customs of RAE population and in cooperation with the RAE colleagues from the Faculty in Podgorica and amateur actors from Podgorica and Nikšić they performed highly visited puppet show for children and a piece *Diary* on 8 April - International Roma Day under guidance of a writer, co-screen writer and main role Sokolj Beganaj. The premiere was arranged in Podgorica and plays were also performed in Nikšić and Herceg-Novi. The Ministry of Human and Minority Rights financially supported celebration of the International Roma Day and theatre plays (EUR 2,500).

## EMPLOYMENT

The Employment Agency of Montenegro is responsible for activities on development and implementation of the Action Plan from employment area. The Employment Agency conducts active employment policy and administers those measures and development projects which include opening of new jobs aimed at reducing the total number of the unemployed.

In April 2007 the Government of Montenegro adopted the National Strategy for the period 2007-2010 which defines goals for the said period. All objectives, measures and activities are defined in line with general definitions and guidelines of the European Union employment policy. One of the objectives of the Strategy is to develop special programmes and specialised contractors for works with groups facing difficulties in finding the job which includes members of Roma population as well, and also to rise of their employment.

**The Employment Agency created several programmes and projects intended for Roma population as follows:** literacy classes; training for occupations from the area of handicraft based on accelerated programmes; vocational training; public works (local and state) based on socially beneficial non-profit work; the project *Roma Visible on the Labour Market*, project *the Second Chance*, and project *Reduction of Social Vulnerability of Domicile RAE population*.

As part of public works the total of 72 activities were implemented in 7 Montenegrin municipalities in cooperation with municipalities, public institutions and non-governmental sector. The total of 848 persons from the register of the Employment Agency was involved. Works were executed for a period from one to twelve months and they related to the fight against addiction diseases, provision of services to children and youth with disturbances in development, encouragement of the development of rural and coastal tourism, making of souvenirs, arrangement of the library structure, cleaning of national and city parks, water beds and banks of rivers, services of handicraft works etc.

**The *Roma Visible on Labour Market* project** included survey on educational and working status of Roma who are able to work and who are registered with the registry of the Employment Agency. The survey that has been conducted as part of this project revealed that 60% of persons that participated in the survey were interested in becoming registered with the register of the Employment Agency. At the time there were 23% registered persons. In line with this survey, the highest unemployment rate applies to the age 15-24 (59%), as well as on persons older than 55 years of age (58%). Around 60% of domicile Roma has never been employed, whereas unemployed women accounted for 61%. Around 56% persons of Roma population who are registered on the labour market do not have a school diploma. The project was implemented in 2 months and resulted in better informing about the Action Plan for Employment, awareness' raising in terms of importance of registration of 3000 persons of RAE population, as well as increased number of these persons registered with the Employment Agency.

**The *Second Chance* project** covered several groups of Roma and Egyptians from Podgorica and Nikšić with the aim of functional literacy and vocational training so as to increase the possibility for more durable and quality employment of these persons including some additional activities (driving and IT training). The total of 90 trainees was selected aged between 15 and 30 years (participation of women was 40%). Trainees were mainly either illiterate or they completed at least three grades of primary school. Persons who regularly attended the programme received monthly scholarship and possibility of free training for driver's licence, as well as computer classes (to obtain basics of computer literacy). After the training had been completed 61 persons of Roma population from Podgorica and Nikšić aged between 15 and 40

years successfully completed the programme and passed final exams. The training they completed relates to the occupations from the area of civil construction, hospitality industry and personal services. The Examination Centre of Montenegro, Education Bureau and Centre for Vocational Education and Training jointly organised final exams regarding linguistic and mathematical literacy.

**The project *Reduction of Vulnerability of Domicile RAE Population in Montenegro*** which is jointly implemented by the Employment Agency and UNDP is an attempt to improve vocational qualifications of Roma and create opportunities for their better success on the labour market. The project is located in regional branches of the Employment Agency in municipalities Bar, Berane and Nikšić. Target group of the project are members of RAE population who are registered with the register of regional branches of the Employment Agency in which the project is implemented and who meet the criteria envisaged in the project. Occupations for which the trainees received training are those of lower degree of qualifications and relate to ancillary occupations such as tailor, locksmith, hairdresser, server, ceramicist, car mechanic and cook. After the training had been completed seven persons found the job at the contractors' (13% of the total number of trained persons).

Having in mind needs of the labour market and capacities and interests of RAE population in 2008 development of standards and programmes of training for 5 occupations was funded under the project: assistant to chimney sweeper, car washer-greaser, tire repairman, laundry washer, assistant to car sprayer.

As regards support to development of entrepreneurship, considerable interest existed for **start up of one's own business**. In the previous period 6 grants equalling EUR 6,000 were allocated as follows: one in the municipality of Bar, three in Nikšić and two in the municipality of Berane. Beneficiaries obtained basic knowledge about entrepreneurship and business and got introduced with all barriers and advantages of private business. Implementation of these project ideas resulted in opening of 12 jobs and the following project ideas were implemented: locksmith workshop, hairdresser's saloon (two), workshop for design of Roma costumes, service for repair of car coolers, service for repair and maintenance of on-road vehicles.

As regards increase of capacities of institutions working with RAE population, several seminars were held in those municipalities in which the project is implemented. Seminars involved representatives of the Employment Agency, Social Welfare Centre and representatives of RAE population and local NGOs. The seminar included lectures on specificities of RAE population and experienced gained so far in working with that population, connection among relevant institutions working with RAE population, sharing of experience, information and methods, as well as presentation of main goals of *the Strategy for Improvement of the Position of RAE Population in Montenegro*.

**The results achieved so far** in 2007 and 2008 are the following:

- 63 persons used some kind of an active employment plan;
- 19 persons found the job (7 after they completed training, 12 through the grants that have been allocated) – 30% of the total number of persons having participated in project activities;

- knowledge of employees at the Employment Agency and Social Welfare Centres has been upgraded with regard to working with RAE population;
- the quality of social partnership has been upgraded;
- the level of information of RAE population about the possibilities offered by the Employment Agency has increased.

The *Public works* programme in 2008 included 160 RAE persons from the territory of Montenegro.

Under the project *Purchase of Agricultural Equipment for RAE Population in Nikšić, Berane and Pljevlja* implemented by the *Foundation Fors Montenegro* with funds equalling EUR 48,764 allocated from the funds for implementation of the Strategy, employment was provided for 10 families from Berane and 3 families from Pljevlja (13 motor cultivators with trailers were provided for collection and transport of secondary raw materials), as well as for one family from Nikšić (1 motor cultivator with mower, 1 milking tube for sheep, 1 soil mixer as attachment to the motor cultivator and 1 ploughshare as attachment for the user). Additionally, 63,9 tons of waste and secondary raw materials were collected in voluntary works,

**Under the project *Keep them Clean*** implemented by the NGO *Dimnjičar* and supported by the funds of the Strategy, the funds (EUR 4,835) were provided to 10 chimney sweepers from RAE population who received training by the Employment Agency for the purchase of equipment and vehicles. With this donation 10 RAE families provided conditions for their existence.

## HEALTH AND HEALTH CARE

In addition to the relevant ministry and public health care institutions, NGOs and Red Cross organisations considerably influenced accomplishment of the goals defined in strategic documents from the area of health care of the members of Roma population in 2008. The most important implemented projects of the Ministry of Health last year are the following:

- improvement and preservation of health of Roma women,
- development of brochures *Preserve Health* as assistance to Roma women in preservation and improvement of health,
- immunisation of children.

Various entities implemented several projects in cooperation with health institutions or health workers and the most important are the following:

Project Title:	Implementing Entity:	Donor:
<i>Raising the Level of Health Awareness of Roma Population</i>	Foundation for Prevention of Drug Addiction - Nikšić	Commission for Monitoring Implementation of the Strategy (EUR 4,320)
<i>Prevention of Infectious Diseases of Roma Population in Nikšić that are Transmitted in Non-Hygienic Living Conditions</i>	OO of the Red Cross – Nikšić	Commission for Monitoring Implementation of the Strategy (EUR 2,810)
<i>Prevention of Infectious Diseases</i>	Visan CG – d.o.o.	Commission for Monitoring

		Implementation of the Strategy (EUR 6,000)
<i>Vaccination of the Children of RAE Population Aged 0-5 Years</i>	SOS Phone Nikšić in cooperation with the Child Welfare Clinic Nikšić	The Ministry of Health. Labour and Social Welfare
<i>Reproductive Health</i>	Centre for Roma Initiatives Nikšić	Coalition <i>Romski krug (Roma Circle)</i> of Montenegro
<i>Prevention of Health of RAE Population in the Settlement Budo Tomović</i>	NGO <i>Budo Tomović Nikšić</i>	Coalition <i>Romski krug</i> of Montenegro
<i>Health Protection of the Members of RAE Population</i>	NGO <i>Romsko srce (Roma Heart)</i> - Nikšić	The Ministry of Health. Labour and Social Welfare
<i>Through Education against Drug and Narcotics (implementation of the project began at the end of 2008)</i>	NGO <i>Djeca su naša budućnost (Children are Our Future)</i> – Podgorica	The Government of Montenegro – Commission for Distribution of the Lottery Funds

## SOCIAL AND CHILD PROTECTION

In order to collect relevant data on the number and types of social and protection rights exercised by families and individuals of RAE population in 2008 the office of the Coalition *Romski krug (Roma Circle)* addressed the Social Welfare Centres in municipalities in which members of RAE population also live and received the following data:

Municipality:	Socially protected rights:				
	Material subsistence of the family	Child allowance	Family accommodation or accommodation in an institution	Right to assistance and care by another person	Personal disability pay
Bar and Ulcinj	31 families	59 children	-	4 persons	1 person
Herceg Novi	11 families	20 children	-		
Nikšić	56 families	65 children	2 persons and 3 children	9 persons	2 persons
Bijelo Polje	58 families	97 children	-	2 persons	-
Berane	49 families	33 children	-	1 person	-
Rožaje	4 families	12 children			
Pljevlja	5 families	15 children			

Additionally, data reveal that that a significant number of RAE families received considerable one-off financial assistance ranging from EUR 100,00 to EUR 1,500 from the Ministry of Health, Labour and Social Welfare and particularly from the very cabinet of the Prime Minister. Due to the lack of complete data we present the data according to which 57 families received such kind of assistance in the municipality of Nikšić, and 68 families in the municipality of Bijelo Polje.

Several significant projects were implemented with the aim of achieving the goals defined in the Strategy for Improvement of the Position of RAE Population in Montenegro 2008-2012 as follows:

Organisation	Project Title:	Donor :
NGO <i>Djeca-Enfants- Berane</i>	<i>Adequate Social Protection, Better Integration</i>	Commission for Monitoring of Implementation of the Strategy (EUR 3,100)
Bureau for the Care of Refugees	<i>Aid to Child Bearing Women and Newborns</i>	„ (15.000,00 €)
JPU <i>Dina Vrbica</i> Podgorica	<i>Participation in Costs for Breakfast of Roma Children Attending Pre-School Institution</i>	„ (20.800,00 €)
JU Social Welfare Centre for the municipalities of Bar and Ulcinj and Bureau for the Care of Refugees of Montenegro	<i>Child Allowance for the Children of Roma Population from Families Displaced from Kosovo</i>	„ (2.773,00 €)
Multinational Association of Women <i>Luč, Nikšić</i>	<i>We Are Human As Well, Help Us</i>	„ (5.223,00 €)
NGO <i>Humanitarac (Humanitarian)</i> , Nikšić	<i>Let's Help Them so That They Do Not Need to Search in Containers for Bare Existence</i>	Commission for Distribution of Funds to NGOs in the municipality of Nikšić
NGO <i>Humanitarac (Humanitarian)</i> , Nikšić	<i>Aid to The Most Vulnerable Families of Refugees and Internally Displaced Persons from the Area of Nikšić Municipality</i>	Commission of the Parliament of Montenegro for Distribution of Funds to NGOs
IOM	<i>Roma Humanitarian Aid Programme through Opening of Appropriate Clubs in Bar, Podgorica and Nikšić</i>	The Government of the Federal Republic of Germany

Child allowances are provided for all children of the pre-school age and children of school-age until they turn 18 (who regularly attend classes) who come from RAE families and who have the right to financial assistance or experience considerable disorders in psycho-physical development. In 2008 the following forms of direct child protection were applied:

- free of charge, seven day summer holiday (together with pupils of other ethnic origin) was provided for 217 pupils of the primary school age who come from

- RAE families from the territory of Montenegro at the child resort *Lovćen* – Bečići and *Home of Solidarity* of the Red Cross in Sutomore;
- New Year's presents for around 1.600 children were provided from various donors;
  - Rotary Clubs provided New Year's presents for around 1,000 children of RAE population,
  - New Year's presents for 255 children from the area of Kotor and Herceg-Novi and 7 rewards for RAE population from Kotor for exemplary conduct in school were provided with assistance of the NGO *Mladi Romi (Young Roma)* from Herceg Novi. Additionally, the same organisation provided school material for 70 Roma children from Herceg Novi and textbooks for the majority of them.

## LIVING CONDITIONS

**The issue of housing of 56 families from the territory of Montenegro is adequately resolved** under relevant projects.

- *Resolution of Housing Issues of RAE in the Settlement Talum in Berane Municipality* – 24 accommodation units were built for 27 internally displaced RAE families. The project was implemented in partnership between: German humanitarian organisation *Help*, local government, UNHCR office in Montenegro and Bureau for the Care of Refugees of Montenegro. Moving in took place in mid 2008.
- *Building the Settlement for 10 Roma Families* was implemented in partnership between: Pljevlja municipality, UNHCR, German humanitarian organisation *Help* and Bureau for the Care of Refugees of Montenegro – the settlement of 10 assembled houses was built, the total area being 420 m<sup>2</sup>. Total price of the investment equalled EUR 271,237.51. The plot and infrastructural connections were provided by Pljevlja municipality, the amount of EUR 32,500 by the Commission of the Ministry for the Protection of Human and Minority Rights, while the remaining funds were provided by the Government of the Federal Republic of Germany through *Help*. The keys to completely furnished apartments for 10 RAE families with the total of 42 members were handed in on 10 December 2008 by the Ambassador of the Federal Republic of Germany to Montenegro Mr. Peter Plate.
- In 2008 the municipality of Podgorica financed from its own funds construction of 9 apartments for the most socially vulnerable RAE families. Apartments were allocated by following adequate procedure and they are moved in.
- *Regulation of the Housing Issue for the Two Most Vulnerable RAE Families from the Territory of Nikšić Municipality* which is implemented in partnership between: the municipality of Nikšić, Association of Roma *Početak (the Beginning)* and JU Social Welfare Centre in municipalities Nikšić, Šavnik and Plužine. The project envisaged construction of 2 assembled facilities, but the municipality of Nikšić, in line with the local plan of activities for involvement of RAE population, decided in addition to provision of the plot, development of design documentation and provision of free connections also to finance construction of the third apartment by itself which is intended for a deserving sportsman. Total investment added up

to EUR 72,500. Commission of the Ministry for the Protection of Human and Minority Rights provided EUR 33,728, and the remaining funds were provided by Nikšić municipality.

- Nikšić municipality also provided and arranged adequate plots for 6 families of RAE population repatriated from the Western European countries and additionally it provided 30% of construction material for 4 houses that were completed and moved in mid 2008.
- *Housing Towards Better Integration* implemented by the Association of Roma – Bar in the amount of EUR 8,000 supported by the Commission of the Ministry for the Protection of Human and Minority Rights with participation of Bar municipality, envisaged construction of assembled facility for a six member family Nerda from Bar. The project has still not been implemented for objective circumstances, but in addition to the provision of the plot and connections by Bar municipality, the construction material has also been provided and implementation of the project is expected along with adequate resolution of the housing issue of this family.

## **PARTICIPATION OF ROMA IN PUBLIC AND POLITICAL LIFE**

Certain quite significant results have also been achieved in terms of involvement of RAE population in political and public life. The coalition *Romski krug (Roma Circle)* was allocated EUR 23,491 from the funds for implementation of the Strategy for implementation of the project which includes capacity building of Roma NGOs and monitoring policies for RAE population in Montenegro. We underline the most important effects in this area:

- One of the councillors at the Municipal Council in Podgorica is of Roma ethnic origin;
- Representative of the coalition *Romski krug (Roma Circle)* is a member of the Commission for Monitoring Implementation of the Strategy for Improvement of the Position of RAE Population in Montenegro;
- At the end of December 2007 office of the coalition *Romski krug (Roma Circle)* was opened in Podgorica with support of RPP from Budapest which constitutes one of the basic prerequisites for more active social communication of the members of RAE population in Montenegro;
- Under provisions of the Law on Minority Rights and Freedoms, Roma National Council was established on 15 March 2008 by following prescribed procedure. The Council comprises 17 members. Last year the Roma Council received significant funds for its operation from the Fund for Minorities in the amount of EUR 33,374.58, it received EUR 25,000 from the Ministry for the Protection of Human and Minority Rights, EUR 7,800 from the Commission for Distribution of the Lottery Funds (for the project) and EUR 1,600 from the Fund for Minorities (for the project).
- As part of the project supported by the Open Society Institute from Budapest the NGO *Centar za romske inicijative (Centre for Roma Initiatives)* from Nikšić quite

successfully organised the first national conference on the topic *Roma Women in Montenegro 2005-2015* on 25 and 26 September 2008 which is an enormous progress in terms of beginning of social involvement of women of RAE population.

- In terms of the position of local governments towards issues of RAE population there have been some significant positive changes in all environments. The majority of local parliaments introduced the institute of *empty chair* which was used by representative of the association of Roma *Početak (the Beginning)* during adoption of LPA in Nikšić.
- Positive example is position of Herceg Novi municipality which opened the office *Romski centar (Roma Centre)* for operation of the NGO *Mladi Romi (Young Roma)*. The office is adequately furnished and the contract envisages financing of the basic office expenses: lease and material expenses (electricity, water, phone). The contract is also signed for 2009. Two volunteers already work in the office, while all members of the NGO gather on a regular basis.