

**Government of Montenegro**

**Ministry of Foreign Affairs**

## **Questionnaire**

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

– ADDITIONAL QUESTIONS –

### **31 Foreign, security and defence policy**

Minister:

**Milan Rocen**



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**CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

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## 31: Foreign, security and defence policy

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### A. Summary Information

**1. (Ref to Summary Information): Please provide clarification whether the Law on Foreign Affairs and the Law on Restrictive Measures were adopted or not, and when, if adopted.**

According to the Programme of Work of the Government of Montenegro for the year 2010 it was envisaged for the **Law on Foreign Affairs** to enter the Government procedure by the end of the first quarter. The Ministry of Foreign Affairs prepared the Draft of this law and sent it to the Secretariat for Legislation, which will give its legal opinion in line with its competence. On 8 April 2010, the Government adopted the Draft Law on Foreign Affairs.

Although it is not an obligation which is envisaged by the current legislation, according to the practice of good cooperation, the Ministry of Foreign Affairs had submitted the Draft Law to the Parliamentary Committee for Foreign Affairs in order to deliberate upon the working version, which was actually performed at its session held on 17<sup>th</sup> March 2010. The objective was to ensure transparency and obtain suggestions which will be taken into consideration during the work on the final text of the Law. During the month of April, the Government will send the Proposal for this law to the Parliament for further deliberation and adoption.

In line with the National Programme for the Integration of Montenegro into the EU, the **adoption of the law which will regulate the application and implementation of restrictive measures**<sup>1</sup>, competence of individual public administration bodies, as well as the manner of keeping record on natural persons and legal entities against whom international restrictive measures have been introduced, and the creation of the legal framework for unilateral restrictive measures is planned for the end of the year 2011. The Ministry of Foreign Affairs has initiated the procedure of comparative analysis of the regulations of the countries in the region, as well as of perceiving the Basic Principles of the EU on the Use of Restrictive Measures, the Guidelines for the implementation and evaluation of the restrictive measures adopted within the framework of joint foreign and security policy of the EU, the analysis of legal, administrative and material measures that will need to be introduced for the purpose of adoption and thorough implementation of such a law.

### B. CFSP – political dialogue

**2. (Ref to Q. 15):**

**- Please provide more detailed information about the compatibility of the Visa Liberalisation Agreement between Montenegro and Israel (signed in September 2009) with the Visa Facilitation Agreement between Montenegro and the EU (in force since 1 January 2008).**

On 26<sup>th</sup> February 2009, the Government of Montenegro passed the Decree on Visa Regime (Official Gazette of Montenegro 18/09), by means of which Montenegrin visa policy is regulated in

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<sup>1</sup> The previous answer to the question number 2, the year 2010 is mentioned as the year during which the Law on Foreign Affairs and the Law on Restrictive Measures will be adopted. For the purpose of clarification, the year 2010 in the previous answer was related to the Law on Foreign Affairs. According to the National Plan for Integrations (NPI), the Law on Restrictive Measures was planned for the year 2011, which was also stated in the response to the question number 16, whilst the Draft Law is to be done during the current year.

line with the European regulations and standards, and which affirm the principles related to its accession to the European integrations, especially with regards to the harmonization of the visa regime with the so called »white« list of countries whose citizens may freely enter the Schengen zone and stay up to 90 days within the period of 180 days.

The stated Decree prescribes that, beside the citizens of the EU countries, even the citizens of the countries from the so called »white« Schengen list, which also includes the State of Israel, do not need visas for the entry and stay in Montenegro during the period of 90 days. The visa-free regime for the Israeli citizens had been in force even prior to that, at the time of the state union Serbia and Montenegro, and former Yugoslavia.

Since this was a unilateral decision of the Government of Montenegro, and since the Montenegrin citizens needed to have visas to enter the State of Israel, the Israeli Government accepted the initiative of the Montenegrin side for the bilateral agreement to be signed between the two countries, by means of which the citizens of Montenegro would be able to stay in Israel without visas, on a reciprocal basis. The thinking behind that was that such an agreement would additionally improve both the relations and the cooperation between the two countries in the economic, cultural, scientific sphere, in the area of tourism, environment protection, investments and other areas of mutual interest and enable facilitated travelling of all the citizens of Montenegro.

The agreement between the Government of Montenegro and the Government of the State of Israel on abolishing visas for the holders of diplomatic, official and ordinary passports, signed by the Ministers of Foreign Affairs of the two countries, Milan Roćen and Avdigor Liberman, in Podgorica on 17<sup>th</sup> September 2009. The Agreement was signed for the initial period of one year and it has not come into force yet. The Montenegrin side has concluded its internal legal procedures for its becoming effective (the Agreement was published in the Official Gazette of Montenegro – International Agreements 1/10), but the Israeli side has still not done the same. Pursuant to the provisions, the Agreement shall come into effect 90 days as of the receipts of the second of respective diplomatic notes by means of which the parties inform one another of their completing respective internal legal procedures necessary for its coming into effect.

**- Please provide an update of the list of countries that hasn't yet recognised Montenegro.**

**List of countries which by 18<sup>th</sup> March 2010 had not recognized Montenegro**

COUNTRY	Sending date of the letter by means of which the Ministry of Foreign Affairs of Montenegro asked for the recognition of Montenegro as a sovereign and independent state	Remark
1. Antigua and Barbuda	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
2. Bahamas	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
3. Barbados	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
4. Belize	20 <sup>th</sup> September 2006 21 <sup>st</sup> July 2009	
5. Benin	12 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
6. Botswana	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	Procedure initiated / Permanent Montenegrin mission at the UN, New York
7. Bolivia	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
8. Burkina Faso	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
9. Burundi	11 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
10. Butan	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	
11. Chad	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	
12. Central African Republic	9 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
13. Dominica (Commonwealth)	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
14. Djibouti	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
15. Equatorial Guinea	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	



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## - Additional Questions -

16. El Salvador	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
17. Ethiopia	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	
18. Fiji	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	Procedure initiated / Permanent Montenegrin mission at the UN, New York
19. Gabon	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
20. Gambia	27 <sup>th</sup> July 2006.	Procedure initiated / Permanent Montenegrin mission at the OSCE, Vienna
21. Ghana	6 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
22. Granada	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
23. Guayana	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
24. Haiti	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
25. Honduras	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
26. East Timor	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	
27. Jamaica	28 <sup>th</sup> June 2006 21. July 2009.	
28. Yemen	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
29. Jordan	6 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	Procedure initiated / Permanent Montenegrin mission at the UN, New York
30. Cameroon	8 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
31. Kenya	29 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
32. Kiribati	14 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
33. Comoros	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
34. Congo, Republic	16 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	

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35. Kuwait	3 <sup>rd</sup> August 2006 27 <sup>th</sup> July 2009	Procedure initiated / Permanent Montenegrin mission at the UN, New York
36. Lesotho	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
37. Liberia	9 <sup>th</sup> June 2006 27 <sup>th</sup> July 2006	Procedure initiated / Permanent Montenegrin mission at the UN, New York
38. Madagascar	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
39. Malawi	29 <sup>th</sup> June 2006 27 <sup>th</sup> July 2009	
40. Mali	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
41. Marshall Islands	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
42. Mauritius	26 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
43. Micronesia	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
44. Nauru	11 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
45. Nepal	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
46. Niger	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
47. Nigeria	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
48. Côte d'Ivoire (Ivory Coast)	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
49. Palau	10 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
50. Papua New Guinea	3 <sup>rd</sup> August 2006 21 <sup>st</sup> July 2009	
51. Rwanda	19 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
52. São Tomé and Príncipe	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	

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53. Saudi Arabia	6 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
54. Senegal	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
55. Sierra Leone	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
56. Solomon Islands	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
57. Somalia	27 <sup>th</sup> July 2006	
58. Swaziland	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
59. Saint Lucia	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
60. Saint Kitts and Nevis	28 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
61. Saint Vincent and Grenadines	4 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
62. Sri Lanka	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
63. Tanzania	7 <sup>th</sup> June 2006 July 2009	
64. Tonga	11 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
65. Trinidad and Tobago	10 <sup>th</sup> August 2006 21 <sup>st</sup> July 2009	
66. Tuvalu	2 <sup>nd</sup> July 2006 21 <sup>st</sup> July 2009	
67. Uganda	19 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
68. Vanuatu	26 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	
69. Venezuela	5 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
70. Zambia	7 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
71. Cape Verde	27 <sup>th</sup> July 2006 21 <sup>st</sup> July 2009	

72. Zimbabwe	6 <sup>th</sup> June 2006 21 <sup>st</sup> July 2009	
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### C. CFSP and ESDP – political strategy

#### Restrictive measures

#### 3. (Ref to Q. 16-19): Please provide clarification on legal basis for sanctions and Montenegro's practice on sanctions legislation

On the basis of Article 9 of the Constitution of Montenegro according to which the ratified and published international treaties and the generally accepted rules of the international law are an integral part of the internal legal system, as well as having in mind the fact that Montenegro, as a member of the United Nations, accepted the UN Charter (Decision on the Proclamation of Independence of Montenegro Official Gazette of the Republic of Montenegro 36/06; UN Charter published in the Official Gazette of the Democratic Federal Yugoslavia 69/45), Montenegro is obliged to implement the measures which have been adopted on the basis of Chapter 7 of the UN Charter.

#### Article 9 of the Constitution of Montenegro stipulates as follows:

“The ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation”.

#### The Decision on Proclamation of Independence of the Republic of Montenegro stipulates as follows:

“The Republic of Montenegro shall apply and adhere to International treaties and agreements that the state union of Serbia and Montenegro was party to and that relate to the Republic of Montenegro and are in conformity with its legal order”.

#### The Declaration on the Proclamation of Independence stipulates as follows:

“Proceeding from its restored independence, the Republic of Montenegro:

- Accepting the principles laid down in documents of the United Nations, Council of Europe, Organization for Security and Cooperation in Europe, and other international organizations, shall initiate the process of gaining a full-fledged membership of these organizations;
- Shall accept and adhere to the rights and obligations that arise from existing arrangements with the European Union, United Nations, Council of Europe and the Organization for Security and Cooperation in Europe, as well as other international organizations, that relate to Montenegro and are in conformity with its legal order, providing full support to the operation of their agencies and representations on its territory...”

#### Economic (trade) restrictive measures

- **Enforcement of the UN Security Council sanctions based on Article 9 of the Constitution of MNE**
- **Law on Foreign Trade (Official Gazette of RoM 28/04 and 37/07) stipulates the following:**

### **Article 2 Paragraph 11**

“Restrictive measure shall mean any prohibition, quantitative restriction, special charge (other than a tariff, internal tax, or charge for a service actually rendered), condition, license, approval or any other measure imposed by any State Authority having a restrictive effect on Foreign Trade, but shall not include technical regulations”.

### **Article 3 Paragraph 1**

“Foreign trade shall be unrestricted except as otherwise provided by this Law”.

### **Article 4**

“The Government of the Republic of Montenegro (hereinafter referred to as: the Government) shall be the only State Authority competent to establish a Restrictive Measure”.

- **Specific economic (trade) restrictive measures – Embargo on arms**
- **Law on Foreign Trade in Arms, Military Equipment and Dual Use Goods (Official Gazette of RoM 80/08)**

### **Article 17 – Approvals and opinions of competent authorities**

Prior to deciding on application for issuance of license, the Ministry shall acquire approval from the ministries in charge of foreign affairs, defence and internal affairs.

In case that any of the ministries referred to in paragraph 1 of this Article do not give the approval, the Ministry shall not grant the license.

When applicable, depending on type and purpose of controlled goods, the Ministry shall acquire opinion of other competent authorities as well.

### **Article 18 - Criteria**

Within their own competencies, ministries referred to in Article 17 paragraph 1 of this Law, when granting the approval for export in controlled goods and the Ministry while making decision on granting the license, shall respect the following criteria:

- 1) respect of international obligations of Montenegro, especially sanctions imposed by the United Nations Security Council, international treaties on non-proliferation of weapons, as well as other international obligations;
- 2) respect of human rights in the country of final destination;
- 3) assessment of the internal situation, i.e. existence of tense situation or armed conflicts in the country of final destination;
- 4) keeping peace, security and stability in the region;
- 5) national security of Montenegro, as well as security of the countries Montenegro has partnership relations with;
- 6) conduct of purchasing country in relation towards the international community, especially its attitude towards terrorism, the nature of its alliances and respect of the international law;
- 7) existence of risk that the goods, that are to be exported, shall be re-directed within the country of final destination or shall be re-exported under unfavourable conditions,
- 8) compatibility of weapons export with the technical and economic capabilities of a receiving country, taking into consideration the needs of the country to fulfil its legitimate security and defence tasks with the least possible reallocation of human and economic resources for purchasing weapons.

### **Article 19 – Assessment of criteria**

While assessing criteria referred to in Article 18 hereof, special attention shall be paid to:

- international obligations of Montenegro and its obligations to enforce arms embargo of United Nations, Organization for Security and Cooperation in Europe and European Union;
- international obligations of Montenegro pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons, Biological and Toxin Weapons Convention and Chemical Weapons Convention;
- obligation of Montenegro not to export any kind of antipersonnel mines,
- risks that indicated receiver shall use the goods for aggression against another country, or in sense of realisation of territorial claims.

When assessing the criteria referred to in paragraph 1 of this Article, the following shall also be taken into consideration:

- possibility of clear risk that goods may be used for internal repression;
- type of equipment, for the countries in which relevant bodies of the United Nations, Council of Europe or European Union have identified serious human rights violations;
- existence or possibility of armed conflicts between the receiving country and another country;
- claiming the right over the territory of a neighbouring country, which a receiving country tried to attain in the past by using force or threatened to do that;
- possibility that the goods may be used for the purposes which are not related to the legitimate national security and defence of the receiving country;
- unfavourable influence to the regional stability;
- potential impact of the goods on the defence and security interests of Montenegro, as well as interests of the countries Montenegro has partnership relations with, accepting that this factor may not influence the application of the criteria on respect of human rights, protection of peace, security and stability in the region;
- risk that subject of the export shall be used against Armed Forces of Montenegro, or against armed forces of the countries Montenegro has partnership relations with ;
- risk of not intended technology export;
- need to protect interests of Armed Forces of Montenegro;
- legitimate defence and internal security interests of a receiving country, including possible involvement in peacekeeping activities of the United Nations or other peacekeeping activities;
- technical capability of a receiving country to use the imported equipment;
- capability of a receiving country to conduct effective export control;
- conduct of the end- user country towards terrorism and international organized crime;
- fulfilment of the international obligations, particularly in relation to non –usage of force, including those obligations arising from international humanitarian law, applicable to international and internal conflicts;
- support to non- proliferation and other areas of arms and disarmament control, especially the signing, ratification and implementation of the relevant conventions on arms and disarmament control,
- risk that weapons shall be re-exported or re-directed to terrorist organizations.

### **Article 23 – Refusal to grant a license**

The Ministry shall refuse to grant a licence if:

- 1) person is not entered into Register;
- 2) It is established that the goods for which the licence has been requested are subject to the court dispute;
- 3) person provides false data in the licence application;
- 4) person fails to submit International Export Certificate, or has submitted a certificate older than six months, or certificate which is not translated by the sworn-in court translator;
- 5) person fails to submit an evidence of paid administrative fee,

- 6) the ministries referred to in Article 17 paragraph 1 of this Law do not provide the approval to the submitted request.

In case of refusing licence application, the Ministry shall inform the applicant on reasons due to which the licence has not been granted, not revealing secret data or protected data, in accordance with the law.

### **Article 31 - Record of the Ministry in charge of foreign affairs**

In order to implement the control over export and import of controlled goods, Ministry in charge of foreign affairs shall update and publish the list of countries subjected to embargo imposed by United Nations Security Council, Organisation for Security and Cooperation in Europe and the Commission of the European Union.

### **Financial sanctions**

- **Law on Prevention of Money Laundering and Terrorism Financing (Official Gazette of MNE 14/07 and 4/08)**

### **Article 3 – Terrorism financing**

In the context of this Law, the following shall, in particular, be considered as terrorism financing:

1. providing or collecting or an attempt of providing or collecting money or other property, directly or indirectly, with the aim or in the knowledge that they are to be used, in full or in part, in order to carry out a terrorist activity or used by a terrorist or terrorist organization, and
2. encouraging or assisting in providing or collecting the funds or property from Item 1 of this Article

### **Article 4 - Obligors**

Measures for detecting and preventing money laundering and terrorism financing shall be taken before and during the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or carrying out the transactions for which there are reasonable grounds for suspicion of money laundering or terrorism financing.

Measures from Paragraph 1 of this Article shall be undertaken by companies, other legal persons, entrepreneurs and natural persons (hereinafter referred to as: obligors), as follows:

- 1) banks and foreign banks' branches and other financial institutions;
- 2) savings-banks, and savings and borrowing institutions;
- 3) organizations performing payment transactions,
- 4) post offices,
- 5) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 6) companies for managing pension funds and branches of foreign companies for managing pension funds;
- 7) stock brokers and branches of foreign stock brokers;
- 8) insurance companies and branches of foreign insurance companies dealing with life assurance;
- 9) organizers of lottery and special games of chance;
- 10) exchange offices;
- 11) pawnshops;
- 12) audit companies, independent auditor and legal or natural persons providing accounting and tax advice services;

- 13) institutions for issuing electronic money;
- 14) humanitarian, nongovernmental and other non-profit organizations, and
- 15) other companies, legal persons, entrepreneurs and natural persons engaged in the activity or business of:
  - sale and purchase of claims;
  - factoring;
  - third persons' property management;
  - issuing and performing operations with payment and credit cards;
  - financial leasing;
  - travel organization;
  - real estate trade;
  - motor vehicles trade;
  - vessels and aircrafts trade;
  - safekeeping;
  - issuing warranties and other guarantees;
  - crediting and credit agencies;
  - granting loans and brokerage in loan negotiation affairs;
  - brokerage or representation in life insurance affairs, and
  - organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of € 15.000 or more, in one or more interconnected transactions.

Exceptionally from Paragraph 2 of this Article, a regulation of the Government of the Republic of Montenegro (hereinafter: the Government) may stipulate other obligors that shall take measures from Paragraph 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a more significant risk of money laundering or terrorism financing; the regulation of the Government may also stipulate the obligors that do not need to undertake the measures from Paragraph 1 of this Article, when the risk of money laundering or terrorism financing ceases to exist.

## **Article 6**

An obligor shall:

1. carry out customer identification;
2. exercise thorough customer due diligence (hereinafter: customer due diligence);
3. report and provide data, information and documentation to the administration body competent for the affairs of preventing money laundering and terrorism financing (hereinafter: the competent administration body), in compliance with the provisions of this Law.
4. apply measures for preventing and detecting money laundering and terrorism financing in its registered office and organizational units outside the registered office;
5. appoint a person authorized for undertaking the measures stipulated by this Law and his/her deputy;
6. ensure regular professional training and education of employees and internal control of meeting the obligations stipulated by this Law;
7. compile and regularly keep up-to-date list of indicators for identifying suspicious transactions, for which there are reasonable grounds for suspicion of money laundering or terrorism financing;
8. ensure keeping and protecting data and keeping of required records, and
9. perform other affairs and obligations provided for by this Law and regulations passed on the basis of the law.



### **Article 8 – Risk analysis**

An obligor shall undertake a risk analysis in order to determine risk assessment of groups of clients or of an individual client, business relationship, transaction or product with regard to the possibility of abuse for the purpose of money laundering or terrorism financing.

The analysis from paragraph 1 of this Article shall be undertaken in accordance with the guidelines on risk analysis.

The guidelines from Paragraph 2 of this Article shall be defined by the competent supervisory bodies from Article 86 of this Law, in accordance with the regulation adopted by the ministry responsible for financial affairs (hereinafter: the Ministry).

The regulation from Paragraph 3 of this Article shall define more specific criteria for guidelines development (obligor's size and composition, scope and type of affairs, clients or products and the like), as well as the type of transactions for which, due to absence of risk of money laundering and terrorism financing, it is not necessary to carry out customer identification in the context of this Law.

### **Article 45 – Applying the list of indicators for detection of suspicious clients and transactions**

When establishing reasonable grounds for suspicion of money laundering or terrorism financing and other circumstances related to the suspicion, an obligor, lawyer or notary shall use the list of indicators for identifying suspicious customers and transactions.

List of indicators from paragraph 1 of this Article shall be placed in the premises of obligors, lawyers or notaries.

### **Article 46 – Defining the list of indicators**

The list of indicators for identifying suspicious customers and transactions shall be defined by the Ministry based on the expert report prepared by the responsible administration body in cooperation with other responsible bodies.

### **Article 51 – Temporary suspension of transaction order**

If it assesses that there are reasonable grounds for suspicion of money laundering or terrorism financing, the competent administrative body may temporarily suspend transaction by written order, for maximum 72 hours, and it is obliged to notify competent bodies of that fact without delay.

If due to the nature of transaction or manner of executing the transaction or other circumstances under which the transaction has been carried out, refraining from the transaction execution is impossible, an order shall be issued verbally, exceptionally from Paragraph 1 of this Article.

Person in charge of an obligor shall make a note of receiving verbal order from Paragraph 1 of this Article.

The competent administrative body shall provide previously issued verbal order in written form without delay.

Upon receipt of notification on suspension of transaction, competent authorities from Paragraph 1 of this Article shall act immediately in accordance with their authority, but not later than within 72 hours from the temporary suspension of transaction.

### **Article 55 – Notification of suspicious transactions**

If the competent administrative body assesses on the basis of data, information and documentation obtained in accordance with this Law, that in relation to certain transaction or certain person there

are reasonable grounds for suspicion of money laundering or terrorism financing, it shall inform the competent authority in written form about the reasons for suspicion, supported by necessary documentation.

In the notification from paragraph 1 of this Article the competent administrative body shall not state data regarding an obligor and the employee of the organization who gave data, unless there are reasonable grounds for suspicion that the obligor or obligor's employee have committed a criminal offense of money laundering or terrorism financing, or if that data are necessary for establishing facts in criminal proceedings and if provision of that data is requested by a competent Court, in writing.

#### **Article 56 – Information on other criminal acts**

If the competent administrative body assesses, on the basis of data, information and documentation obtained in accordance with this Law, that in relation to a transaction or a person there are grounds for suspicion that other criminal acts were committed, which are prosecuted ex officio, it shall provide a written report about that fact to the responsible authorities.

#### **Article 62 – Temporary suspension of transaction at the initiative of a competent authority of a foreign state**

Based on the justified written initiative of a competent authority of a foreign state, the competent administrative body may, in accordance with this Law, and under reciprocity requirements, temporarily suspend a transaction by written order for maximum 72 hours.

The competent administrative authority is obliged to inform competent authorities about the order from Paragraph 1 of this Article.

The competent administrative body may reject the initiative of the competent authority of a foreign state from Paragraph 1 of this Article, if based on the facts and circumstances stated in the initiative it assesses that sufficient grounds have not been given for reasonable suspicion of money laundering and terrorism financing, and it shall inform in writing the authority that submitted the initiative and give the reasons for rejection thereof.

#### **Article 63 - Initiative to a foreign competent authority for temporary suspension of transaction**

Within its jurisdiction in the area of detection and prevention of money laundering and terrorism financing, the competent administrative body may submit a written initiative to a competent authority of a foreign state for temporary suspension of transaction, if it assesses that there are sufficient grounds for reasonable suspicion of money laundering or terrorism financing.

- **Criminal Code (Official Gazette of RoM 70/2003, 13/2004, 47/2006 and Official Gazette of MNE 40/08)**

#### **Article 447. Criminal offense – International terrorism**

(1) Anyone who, with the intention of causing harm to a foreign state or organization commits abduction over a person or other act of violence, causes explosion or fire or takes other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in Paragraph 1 of this Article resulted in death of one or more persons, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If in the commission of crime referred to in Paragraph 1 of this Article the offender has committed murder, the offender shall be liable to imprisonment for a minimum term of ten years or to prison sentence of forty years.

#### **Article 448. Criminal offense – Taking hostages**

(1) Anyone who commits abduction of a person or threatens to kill that person, hurt or keep as hostage with the intention of forcing a state or international organization to do or not to do something, shall be punished by imprisonment for a term of two to ten years.

(2) The offender referred to in Paragraph 1 of this Article who frees the hostage of his own free will, although the purpose of the abduction has not been reached, can be liable to a reduced sentence.

(3) If an offence referred to in Paragraph 1 of this Article resulted in death of the hostage, the offender shall be punished by imprisonment for a term of three to fifteen years.

(4) If during the commission of offences referred to in Paragraph 1 of this Article, the offender committed murder of the hostage, the offender shall be liable to imprisonment for a minimum term of ten years or a prison sentence of forty years.

#### **Article 449. Criminal offense – Financing of terrorism**

(1) Anyone who provides or raises funds intended for financing of criminal offences referred to in Articles 365, 447 and 448 of the present Code, shall be liable to imprisonment for a term of one year to ten years.

(2) Funds referred to in Paragraph 1 of this Article shall be seized.

- **Criminal Procedure Code (Official Gazette of MNE. 57/2009)**

#### **Article 85 –Seizure of Objects and Material Benefit**

1. Objects which have to be seized under the Criminal Code or which may be used as evidence in criminal proceedings, shall, upon the proposal of a Public Prosecutor, and by way of a court ruling, be seized and delivered for safekeeping to the court or their safekeeping shall be secured in another way.

(2) The ruling on the seizure of objects shall contain:

- 1) the name of the court issuing the ruling,
- 2) legal grounds for the seizure of objects,
- 3) indication and description of objects that are to be seized,

4) forename and family name of the person from whom the object is seized and the place at or in which a certain object should be seized.

(3) Persons who are in possession of objects referred to in paragraph 1 of this Article shall hand them over. Persons refusing to hand over the objects may be punished by a fine of up to €1.000, and in case of further rejection, they may be incarcerated. Incarceration shall last until the object is handed over or until the criminal proceedings is completed, and at the longest for two months. The procedure as regards a person in an official capacity or a responsible person in a state body, business organisation or another legal person shall be the same.

(4) The provisions of paras. 1 and 3 of this Article shall apply to the data stored in devices for automatic or electronic data processing and media wherein such data are saved, which shall,

upon the request of the court, be handed over in a legible and comprehensible form. The court and other authorities shall abide by the regulations on maintaining the confidentiality of data.

(5) The following objects shall not be subject to seizure:

1) files and other documents of state bodies, publication of which would violate the obligation to keep data confidential in terms of regulations providing data confidentiality, until the competent authority decides otherwise;

2) letters of the accused to their defence counsel or to persons referred to in Article 109, paragraph 1, items 1, 2 and 3 of this Code save when the accused hands them over voluntarily;

3) recordings, extracts from the register and similar documents that are in possession of persons referred to in Article 108, item 3 of this Code and that are made by such persons in relation to the facts obtained from the accused while performing their professional service, if publication thereof would constitute violation of the obligation to keep a professional secret.

(6) The prohibition referred to in paragraph 5, item 2 of this Article shall not apply to the defence counsel or persons exempted from the duty to testify pursuant to Article 109, paragraph 1 of this Code if well-founded suspicion exists that they aided the accused parties in committing the criminal offence or they helped them after the criminal offence was committed or if they acted as accomplices by virtue of concealment.

(7) The ruling referred to in paragraph 3 of this Article shall be issued by the investigative judge during the investigation and by the Chair of the Panel after an indictment has been brought.

(8) The Panel referred to in Article 24, paragraph 7 of this Code shall decide on the appeal against the ruling referred to in paras. 2 and 3 of this Article. An appeal against the ruling on incarceration shall not suspend enforcement.

(9) Authorized police officers may seize objects referred to in paragraph 1 of this Article when proceeding pursuant to Articles 257 and 263 of this Code or when enforcing a court ruling.

(10) On the occasion of seizing objects it shall be specified where they were found and they shall be described, and where appropriate, their sameness shall be ensured in another way as well. A receipt shall be issued for the seized objects.

(11) Measures referred to in paragraph 3 of this Article may not be enforced against the suspects or accused or persons relieved of duty to testify.

(12) Provision of Article 481 of this Code shall apply on the seizure of material benefit.

### **Article 89 – Obtaining Data from the Competent State Body for Temporary Suspension of Monetary Transactions**

(1) Public Prosecutors may request that the competent state body performs control over the financial operations of certain persons and to submit them documentation and data which can be used as evidence of a criminal offence or of the proceeds of crime, as well as notifications about suspicious monetary transactions.

(2) Public Prosecutors may request that the competent authority or organization temporarily suspends the payment, or the issuing of suspicious money, securities and objects, at the longest for six months.

(3) Public Prosecutors shall specify in the request referred to in paragraphs 1 and 2 of this Article in more detail the contents of measure of action they are requesting.

(4) At the proposal of Public Prosecutors, the court may issue a ruling ordering a temporary suspension of a certain monetary transaction when well-founded suspicion exists that it constitutes a criminal offence or that it is intended for the commission or concealment of a criminal offence or proceeds of crime.

(5) By way of the ruling referred to in paragraph 4 of this Article, the court shall order that funds in check or cash form be seized and deposited into a special account in view of keeping them until the legally-binding close of criminal proceedings or until conditions for their return are met.

(6) An appeal against the ruling referred to in paragraph 4 of this Article may be lodged by the parties and the defence counsel, or the owner of funds or his/her proxy or the legal person from whom the funds have been seized. Such an appeal shall be decided upon by the Panel referred to in Article 24, paragraph 7 of this Code.

#### **Article 90 – Temporary Seizure of Material Benefit and Financial Investigation for the Purpose of Extended Seizure of Property**

(1) In the procedure conducted for the criminal offence for which the Criminal Code provides for a possibility of extended seizure of property from the convicted persons, their legal successors or persons to whom the convicted persons have transferred their property who are not able to prove the legality of its origin, and grounds for suspicion exist that the property in question was illicitly acquired, the court may, at the proposal of a Public Prosecutor, order the property to be seized.

(2) The Public Prosecutor shall initiate a financial investigation by way of an order against the suspects or the accused for the criminal offence referred to in paragraph 1 of this Article, their legal successors or persons to whom the suspects or the accused have transferred certain property.

(3) During the financial investigation, evidence shall be obtained on the property and revenues of suspects or the accused, their legal successors or persons to whom the accused have transferred property that was acquired in the term provided for by the Criminal Code.

(4) In the procedure of seizure of property referred to in paragraph 1 of this Article, provisions of the law regulating enforcement procedure shall apply accordingly, unless otherwise provided by the provisions of this Code.

#### **Article 94 - Duration of the Temporary Seizure of Objects, Material Benefit and Property**

(1) The seizure of objects, material benefit or property may last at the longest until the Panel referred to in Article 24, paragraph 7 of this Code decides upon the request of the Public Prosecutor referred to in Article 486 of this Code.

(2) If the seizure referred to in paragraph 1 of this Article was ordered during the preliminary investigation, it shall be overruled *ex officio* if the investigation has not been instituted within a term of six months from the date of issuing the ruling on seizure.

(3) The ruling on the seizure of objects, material benefit or property may be overruled by the court *ex officio* or upon the request of the Public Prosecutor or the interested party if it is proved that the measure is not needed or justifiable in consideration of the gravity of the criminal offence, financial standing of the person the measure is imposed on or the situation of persons s/he is legally bound to maintain, as well as if the circumstances of the case which indicate that seizure of objects, material benefit and property will not be prevented or significantly complicated until the completion of the criminal proceedings.

## **PROCEEDINGS FOR THE SEIZURE OF MATERIAL BENEFIT**

### **Article 478 – General Provisions on Seizure of Material Benefit**

(1) Material benefit obtained through the commission of a criminal offence shall be established as such in the preliminary investigation, preliminary proceedings and at the main hearing ex officio.

(2) In the course of the preliminary investigation, preliminary proceedings and at the main hearing, the court and other authorities shall obtain evidence and determine circumstances that are relevant to the establishment of material benefit as such.

(3) If the injured party submits a claim under property law regarding the restitution of items acquired in consequence of the commission of a criminal offence or regarding the payment of amount which corresponds to the value of the items, the material benefit shall only be established for the part not covered by the claim under property law.

### **Article 479 – Seizure of Material Benefit From Third Persons**

(1) In cases of seizure of material benefit obtained through the commission of a criminal offence from other persons, the person to whom the material benefit was transferred or the person for whom it was obtained, or the representative of the legal person shall be summoned for hearing in the investigation and at the main hearing. The summons shall contain a caution that the proceedings will be held even in his/her absence.

(2) The representative of the legal person shall be heard at the main hearing after the accused. The court shall proceed in the same manner regarding the other person referred to in paragraph 1 of this Article, unless s/he is summoned in the capacity of a witness.

(3) The person to whom the material benefit was transferred or the person for whom it was obtained or the representative of the legal person shall be entitled to offer evidence concerning the establishment of the material benefit and, upon the authorization of the Chair of the Panel, to put questions to the accused, witnesses and expert witnesses.

(4) Exclusion of the public from the main hearing shall not relate to the person to whom the material benefit was transferred or for whom it was obtained or to the representative of the legal person.

(5) If the Court establishes that grounds for seizure of material benefit exist while the main hearing is in progress, it shall adjourn the main hearing and summon the person to whom the material benefit was transferred or for whom it was obtained, or the representative of the legal person.

### **Article 480 – Determining the Amount of Material Benefit at the Discretion of the Court**

The amount of material benefit shall be fixed by the court at its discretion, if its determination entails disproportionate difficulties or a significant delay in the proceedings.

### **Article 481 – Imposing Provisional Security Measures**

When the conditions for the seizure of material benefit are met, the court shall, ex officio or upon the motion of the Public Prosecutor, impose provisional security measures, pursuant to the provisions of the law governing the enforcement procedure. In such a case, the provisions of Article 243 of this Code shall apply accordingly.

### **Article 482 – Imposing Seizure of Material Benefit**

(1) Court may order the seizure of material benefit by a judgment declaring the defendant guilty, by a ruling on sentencing issued without a main hearing, by a ruling on a judicial admonition or by a ruling on the application of a corrective measure, as well as by a ruling imposing of a security measure of mandatory psychiatric treatment and confinement in a medical institution, or mandatory outpatient psychiatric treatment.

(2) In the enacting terms of judgment or operative part of the ruling, the court shall state which valuable items, amount of money or other material benefit is to be seized.

(3) An authenticated transcript of the judgment or the ruling shall also be delivered to the person to whom the material benefit was transferred or for whom it was obtained, and to the representative of the legal person, provided that the court has imposed the seizure of material benefit from such a person or a legal person.

### **PERMANENT CONFISCATION OF PROPERTY WHOSE LEGAL ORIGIN HAS NOT BEEN PROVED**

#### **Article 486 – Request for Permanent Confiscation of Property and Contents of Request**

(1) After the finality of the judgment declaring the accused guilty of the criminal offence for which the Criminal Code provides for the possibility of extended seizure of property from the convicted person, his/her legal successor or the person to whom the convicted person has transferred the property and who cannot prove the legality of its origin, the Public Prosecutor shall, at the latest within one year, submit the request for confiscation of the property of the convicted person, his/her legal successor or a person to whom the convicted person has transferred the property for which there is no evidence on the legality of its origin.

(2) The request referred to in paragraph 1 of this Article shall contain the data on the convicted person, his/her legal successor or the person to whom the convicted person has transferred the property, indication of property to be seized, evidence on the property owned by the convicted person, his/her legal successor or the person to whom the property has been transferred, and on their legal proceeds, as well as circumstances indicating the obvious discrepancy between the total property and the legal proceeds of the convicted person, his/her legal successor and the person to whom the convicted person has transferred the property.

(3) The request referred to in paragraph 1 of this Article shall be served without delay to the convicted person, his/her legal successor or the person to whom the convicted person has transferred the property, along with a caution stating that s/he shall prove the legal origin of the property at the Panel session referred to in Article 24, paragraph 7 of this Code, as well as that the property will be seized if its legal origin has not been proved.

#### **Article 487 – Deciding upon the Permanent Request for Confiscation of Property**

(1) Pursuant to Article 314 of this Code, the Panel referred to in Article 24, paragraph 7 of this Code shall decide upon the request referred to in Article 486 of this Code at the session held behind closed doors.

(2) The following shall be invited to the Panel session: Public Prosecutor, convicted person, his/her legal successor or a person to whom the convicted person has transferred his/her property, and his/her proxy.

(3) If the convicted person, his/her legal successor or the person to whom the convicted person has transferred his/her property does not prove by plausible documents or in absence of plausible documents, in some other manner, the legal origin of the property, the Panel shall issue a ruling on the confiscation of the property.

(4) If the convicted person, his/her legal successor or the person to whom the convicted person has transferred his/her property proves by plausible documents or in some other manner

the legality of the property origin or of the part of property, the Panel shall issue a ruling on total or partial rejection of the request referred to in Article 486, paragraph 1 of this Code.

(5) The Panel referred to in Article 24, paragraph 7 of this Code shall dismiss the request if it was submitted after the expiry of the term referred to in Article 486, paragraph 1 of this Code.

### **Prohibition of entry into or transit over the territory**

- **Foreigners Law (Official Gazette of MNE 82/08)**

#### **Article 8 – Denial of entry**

A foreign person shall not be permitted to enter Montenegro, if :

- 1) He or she fails to satisfy the requirements from Article 10 of this Law;
- 2) He or she has insufficient financial resources to support himself or herself during his or her stay in Montenegro and to return to his/her country of origin or to travel to a third country;
- 3) He or she is in transit and fails to satisfy the requirements for entry into a third country;
- 4) A pronounced protective measure of expulsion (*misdemeanour responsibility*) or security measure of deportation (*criminal responsibility*<sup>2</sup>) is in force or his/her sojourn has been cancelled;
- 5) This is required by reasons of national security, public order or public health;
- 6) He or she is on the corresponding records as an international offender;

A denial of entry shall be entered into the foreign persons' valid travel document.

#### **Article 10 – Entry, movement and stay**

A foreign person may enter Montenegro, move about and stay in its territory provided that he or she has a valid travel document containing a visa or a sojourn permit, unless otherwise provided by this Law or an international treaty.

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#### **<sup>2</sup> Criminal Code : Expulsion of a foreigner from the country – Article 76**

(1) The court can order that a foreigner who has committed a criminal offence be expelled from the territory of Montenegro for the period ranging from one to ten years or for good if s/he has committed a repeated criminal offence (Article 43).

(2) When assessing whether to pronounce the measure referred to in Paragraph 1 of this Article, the court shall take into consideration the time and gravity of a committed offence, motives from which the criminal offence has been committed, manner in which it was committed as well as other circumstances that indicate to the ineligibility of the foreigner's further stay in Montenegro.

(3) The period of expulsion commences on the day of coming into effect of the decision thereof, provided the time spent in prison shall not be credited to the term of this measure.

(4) The measure referred to in Paragraph 1 of this Article shall not be pronounced against an offender who enjoys protection pursuant to the ratified international treaties.



Foreign person that Montenegro is obliged to admit into the country, if so required pursuant to international treaties or if so required for humanitarian reasons, reasons of protecting public order or public health, shall be granted entry without a valid travel document.

Citizens of specific countries may enter Montenegro with a valid identification card or other document that proves their identity and citizenship, in accordance with the international agreement or visa regime regulation from Article 14, Paragraph 2 of this Law.

#### **Article 22 – Competence for visa issuance**

Foreign citizen shall obtain a visa prior to entering Montenegro.

Visa shall be issued by a diplomatic or consular mission of Montenegro, unless regulated otherwise by this Law.

Visa application shall be submitted by a foreign citizen in person, using a special form.

Prior to visa issuance, the diplomatic or consular mission of Montenegro shall previously obtain, in certain cases, the consent from the administration authority in charge of police affairs (hereinafter: the Police).

Exceptionally from Paragraph 2 of this Article, if so required for humanitarian, personal or professional reasons, at the border crossing point, the Police may issue the following:

1. short stay visa (visa C), for one entry and possibility of stay up to 15 days;
2. transit visa (visa B), for one transit up to five days;
3. transit visa (visa B), to a seafarer or a group of seafarers.

Visa shall be issued by putting the visa form into the valid travel document of the foreign citizen.

When so required by humanitarian reasons, national interest or international obligations of Montenegro, visa may be issued on the visa issuance form, if the travel document has no free space for visa to be put in it or if travel document is invalid for state border crossing.

The state administration authority responsible for foreign affairs shall prescribe more detailed manner of visa issuance, visa application form, cases in which previous consent must be obtained from the Police, visa form, and manner of visa entry into the passport.

#### **Article 25 – Reasons for rejection of visa application**

Visa shall not be granted to a foreign citizen, if:

1. the reasons from Article 8 of this Law exist;
2. he or she fails to appear in person following the request of a diplomatic or consular mission of Montenegro;
3. he or she fails to provide required documentation, at the request of the diplomatic or consular mission of Montenegro, which supports the purpose and conditions of stay in Montenegro;
4. he or she fails to provide evidence of health and travel insurance, at the request of the diplomatic or consular mission of Montenegro;
5. he or she stayed in Montenegro for 90 days, and the period of six months from that entry has not expired yet.

Foreign citizen is verbally informed about the reasons for rejection of visa application.

As an exception to cases stated in paragraph 1 of this Article, a visa may be issued, that is, entry into Montenegro may be approved to a foreign citizen if required so for humanitarian reasons, if this is in the interests of Montenegro or if so required due to internationally

accepted obligations. In these cases, the foreign citizen may be instructed to enter the country solely through a specified border crossing point.

### **Article 63 – Protective measure of expulsion**

In the cases of misdemeanour responsibility stipulated by this Law, a foreign citizen may be pronounced the protective measure of expulsion.

When deciding on the pronouncement of the protective measure of expulsion, the circumstances defined in Article 52, Paragraph 2 of this Law shall be taken into consideration.

### **Article 97 – Types of records and responsibility for record-keeping**

The Ministry shall keep records of issued travel documents for foreign citizens, issued and replaced personal identification cards for foreigners, issued notices of departure for foreigners in Montenegro and foreigners whose permanent residence has been cancelled.

The state administration authority responsible for foreign affairs shall keep records of the following: issued visas, rejected visa applications and annulled visas, issued special personal identification cards for foreigners and issued notices of departure for foreigners in another state.

The Police shall keep records of foreigners with cancelled residence, foreigners who were prohibited entry into and exit from Montenegro, issued visas at the border crossing points, rejected visa applications, annulled visas and visas with reduced period of stay in the country, reported missing documents for identification of foreigners and temporarily confiscated travel documents.

The content and manner of keeping records from Paragraphs 1 and 3 of this Article shall be prescribed by the Ministry, while the content and manner of keeping records from Paragraph 2 of this Article shall be prescribed by the state administration authority responsible for foreign affairs.

The European Union gives great importance to the implementation of restrictive measures and defines them as a tool of its foreign and security policies. In the European Union, the restrictive measures have their legal basis in the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union. It should be mentioned that the financial sanctions have been the subject matter of disputes in several cases before the European Court of Justice. In those proceedings, individuals and organizations have objected the acts of the Union, as well as the acts of the national authorities based on which sanctions of the United Nations and the EU were imposed. All of the aforementioned supports the conclusion that the sanctions represent an important and very complex part of the *acquis communautaire*.

The Law on restrictive measures, which is supposed to be drafted according to the NPI, should represent a complement to and a further upgrade of the developed legislative and administrative frameworks for implementation of specific types of sanctions, that is, this Law must ensure coordination between the various state authorities responsible for implementation of specific categories of restrictive measures (existence of inter-sector commission); it must also create a legal basis for introduction of the unilateral restrictive measures and establish a mechanism for definition of lists of states, entities and individuals subject to multilateral and unilateral sanctions, as well as the mechanism for updating those lists.

Through the analysis of the existing legislation, primarily in the process of providing answers to the EC Questionnaire, and based on the reports of the international bodies, the Ministry of Foreign Affairs determined that there are some legal gaps that can only be resolved through the adoption of the Law on restrictive measures. Still, only after its adoption it will be possible to adopt amendments to specific other laws that ensure implementation of financial sanctions and sanctions related to the entry into and transit through the state territory, having in mind that the Law on restrictive measures will regulate the issue of lists of individuals that are subject to this type of sanctions.

In the sense of the aforementioned, at its session held on 8 April 2010, the Government of Montenegro deliberated and adopted the **Information on implementation of restrictive measures (sanctions) of the United Nations, the Organization for Security and Cooperation in Europe and the European Union.**

The Ministry of Foreign Affairs has been instructed to post the document "Legislative and administrative framework for implementation of restrictive measures" on its web page. This document is enclosed with this Information.

Besides, the Ministry of Foreign Affairs has been instructed to update regularly the List of states subject to restrictive measures by UN, OSCE and EU, in accordance with the information submitted by the Permanent Mission of Montenegro to the United Nations in New York, the Permanent Missions of Montenegro to the United Nations, OSCE and other international organizations in Vienna, and the Permanent Mission of Montenegro to the EU.

## **Non-proliferation and WMD/SALW strategy**

### **4. (Ref to Q. 22):**

In the period that followed the renewal of independence, the public administration bodies competent for the issue of the control of foreign trade in armament, military equipment and dual-use goods, put the emphasis on the development of an adequate legislative framework, as well as on the strengthening of the administrative capacities, with the purpose of achieving full implementation of the adopted regulations. Having in mind the obligations resulting from the membership in the international regimes, and starting from the view that the membership in the same may contribute to higher quality control solely if there are predispositions to fully respond to the demands of the membership, the competent bodies have come to an agreement (Ministry of Economy and Ministry of Foreign Affairs) for the possibility of considering future application for *Wassenaar Arrangement*.

Below, we offer the reasons for such a decision:

**- Please provide information on plans to apply for membership in all relevant international export control regimes and on the full implementation of the EC export control regime.**

### **Wassenaar Arrangement**

The membership in WA comprises the participation of the representatives of public administration at regular annual meetings, both plenary and those of ancillary bodies. Also, the participation in this regime obliges the country to prepare reports on the transfers and refused requests for specific controlled goods outside the Arrangement and the exchange of information on sensitive dual-use goods and technologies. Although Montenegro is a manufacturer and exporter of armament and related industrial equipment (very low production level), as well as a country which is a member of international treaties from the area of non-proliferation, which it consistently adheres to, the abovementioned obligations require for national capacities to be additionally enhanced, as well as well established internal practice. It should be borne in mind that it has been barely two years since the adoption of the Law on Foreign Trade in Armament, Military Equipment and Dual-Use Goods, noting that national lists of armament, military equipment and dual-use goods have already been harmonized with the WA checklists.

### **Nuclear Supplier Group**

Montenegro does not meet the basic requirement for the membership in this group, i.e. it is not a manufacturer of nuclear materials, related equipment and technologies.

### **Australia Group**

Just as in the case of WA, competent bodies established that full implementation of the obligations resulting from the membership in the AG requires the consolidation of only just completed national institutional and legislative framework. Also, one should be aware that the circulation of chemicals and other matters from the scope of the application of the Convention on Prohibition of Chemical Weapons and the Convention on Prohibition of Biological and Toxicological Weapons call for the established and elaborated communication channels with the manufacturing sphere, which in Montenegro falls among one of the priorities of the Ministry of Economy in the area of the implementation of the Law on Foreign Trade in Armament, Military Equipment and Dual-Use Goods. Although this law envisages that in case of the rejection of a permit issuing request, the competent foreign affairs ministry can, in line with the international obligations of Montenegro, inform other countries about it, detailed regulating of the modalities for the exchange of information in this area at the international level is yet to be undertaken.

### **Missile Technology Control Regime**

Bearing in mind the character of the equipment which is the subject matter of the control of this regime, it has been assessed that mere membership in this initiative is not decisive for the strengthening of the national export control.

### **Arms Trade Treaty**

Montenegro is one of 139 countries to cast its vote in the UN General Assembly in 2006 for the first step to be undertaken towards the harmonization of the international agreement aimed at preventing illegal and irresponsible arms trade, which causes conflicts, poverty and serious violation of human rights. Also, the representatives of Montenegro took part in the seminar „Promotion of Discussion on Arms Trade Treaty“, in the organization of the UN Institute on Disarmament Research (UNIDIR) and the European Union, held in Vienna on 11<sup>th</sup> and 12<sup>th</sup> February 2010.

In case the application of export regime control of the European Commission refers to the Common Position of the Council of the EU 2008/944/CFSP, it is necessary to emphasize that the criteria and basic guidelines for the assessment of the same have been transposed into the Law on Foreign Trade in Armament, Military Equipment and Dual-Use Goods (drafted in cooperation with the BAFA - *Bundesamt für Wirtschaft und Ausfuhrkontrolle* and SIPRI - *Stockholm International Peace Research Institute*). – **Stated in the answers to the questions number 16, 17, 18 and 19. Consult the part related to the Specific Economic Restrictive Measures, the Law on Foreign Trade in Armament, Military Equipment and Dual-Use Goods (Articles 17, 18 and 19).**

**- Please specify whether the amendments to the Convention on Physical Protection of Nuclear Materials and the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management were ratified (and when).**

It is on the basis of the succession that Montenegro acceded to the Convention on the Physical Protection of Nuclear Material, which came into effect on 3<sup>rd</sup> June 2006 (retroactively as of the date when it took over the responsibility for its international relations). The ratification of the amendments had been planned for the year 2009, but it was delayed following the bilateral meetings with the Department for Nuclear Safety and Security of the International Atomic Energy Agency (IAEA), held at the margins of the 53<sup>rd</sup> regular session of the General Conference, suggesting that the status of Montenegro should be previously considered in the Convention on Prevention of Nuclear Terrorism Acts, as well as the issue of the possible need for prior harmonization of penal legislation with these two documents.

In March 2010, the Parliament of Montenegro ratified the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management. Its publication in the Official Gazette and its coming into effect at the internal level and the drafting of the ratification instruments are to follow shortly.

## Cooperation with international organisations

### 5. (Ref to Q. 41): Please provide a full list of International Organisations in which Montenegro is a member (with date of joining) or in which is negotiating membership.

	Organizations of universal character	Abbreviation	Date of membership
1.	United Nations	UN	28 <sup>th</sup> June 2006
2.	Executive Committee of the Programme of the UN High Commissioner for Refugees (UNHCR)		By Decision of the UN Economic - Social Council, at the meeting held on 29 <sup>th</sup> April 2008, Montenegro was received in the membership of the Executive Committee of the UNHCR
3.	Bureau of the Environment Committee of the UN Economic Commission for Europe (UNECE)	CEP UNECE	Montenegrin membership was confirmed at the 15 <sup>th</sup> Meeting of the UNECE Environment Committee, 21 <sup>st</sup> – 23 <sup>rd</sup> April 2008
4.	Standing Committee of the WHO Regional Committee for Europe	Standing Committee of the Regional Committee for Europe	The Director of the Public Health Institute appointed a member of the Standing Committee of the WHO Regional Committee for Europe, at the 58 <sup>th</sup> meeting of the WHO Committee for Europe from 15 <sup>th</sup> to 18 <sup>th</sup> September 2008. The membership concerns the period from 2008 to 2011.
5.	UN World Tourism Organization's Commission for Europe	Commission for Europe	At the 18 <sup>th</sup> session of the General Assembly of the United Nations World Tourism Organization, held in Astana 5 <sup>th</sup> – 8 <sup>th</sup> October 2009, Montenegro was elected vice-chair of the commission for Europe. The membership concerns the period from 2009 to 2011.
6.	United Nations Organization for Drugs and Crime	UNODC	23 <sup>rd</sup> October 2006
7.	United Nations Industrial Development Organization	UNIDO	22 <sup>nd</sup> November 2006
8.	United Nations Education, Science and Culture Organization	UNESCO	1 <sup>st</sup> March 2007
9.	International Atomic Energy Agency	IAEA	16 <sup>th</sup> October 2006
10.	The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization	CTBTO	18 <sup>th</sup> September 2006
11.	Organisation for the Prohibition of Chemical Weapons	OPCW	3 <sup>rd</sup> June 2006

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#### - Additional Questions -

12.	International Civil Aviation Organization	<b>ICAO</b>	17 <sup>th</sup> March 2007
13.	World Intellectual Property Organization	<b>WIPO</b>	4 <sup>th</sup> December 2006
14.	World Health Organization	<b>WHO</b>	14 <sup>th</sup> September 2006
15.	International Committee of the Red Cross	<b>ICRC</b>	2 <sup>nd</sup> August 2006
16.	International Organization for Migrations	<b>IMO</b>	28 <sup>th</sup> November 2006
17.	International Telecommunication Union	<b>ITU</b>	21 <sup>st</sup> July 2006
18.	World Customs Organization	<b>WCO</b>	24 <sup>th</sup> October 2006
19.	International Centre for the Study of the Preservation and Restoration of Cultural Property Rome	<b>ICCROM</b>	16 <sup>th</sup> September 2007
20.	Inter-Parliamentary Union	<b>IPU</b>	16 <sup>th</sup> October 2006
21.	Universal Postal Union	<b>UPU</b>	27 <sup>th</sup> July 2006
22.	World Meteorological Organization	<b>WMO</b>	8 <sup>th</sup> May 2007
23.	International Labour Organization	<b>ILO</b>	14 <sup>th</sup> July 2006
24.	International Maritime Organization	<b>IMO</b>	10 <sup>th</sup> October 2006
25.	International Tribunal for the Law of the Sea	<b>ITLOS</b>	23 <sup>rd</sup> October 2006
26.	International Criminal Court	<b>ICC</b>	3 <sup>rd</sup> June 2006
27.	Permanent Court of Arbitration	<b>PCA</b>	10 <sup>th</sup> April 2007
28.	Hague Conference on Private International Law	<b>HCCH</b>	1 <sup>st</sup> March 2007
29.	International Criminal Police Organization	<b>INTERPOL</b>	19 <sup>th</sup> September 2006
30.	International Monetary Fund	<b>IMF</b>	18 <sup>th</sup> January 2007
31.	World Bank Group - International Financial Corporation - Multilateral Investment Guarantee Agency - International Bank for Reconstruction and Development - International Development Association	<b>WB</b> <b>IFC</b> <b>MIGA</b> <b>IBRD</b> <b>IDA</b>	18 <sup>th</sup> January 2007
32.	European Bank for Reconstruction and Development	<b>EBRD</b>	3 <sup>rd</sup> June 2006
33.	Mediterranean Action Plan under the auspices of the United Nations Environment Programme	<b>UNEP/MAP</b>	15 <sup>th</sup> January 2008
34.	World Tourism Organization	<b>UN WTO</b>	28 <sup>th</sup> November 2007
35.	International Organization for Food and Agriculture - General Fishery Commission	<b>FAO</b>	17 <sup>th</sup> November 2007 31 <sup>st</sup> January 2008
36.	World Organization for Animal Health	<b>OIE</b>	10 <sup>th</sup> August 2007
37.	Council for Olives and Olive Oil	<b>IOC</b>	13 <sup>th</sup> November 2007
38.	International Organization of Vine and Wine	<b>OIV</b>	6 <sup>th</sup> March 2007

39.	International Renewable Energy Agency	<b>IRENA</b>	26 <sup>th</sup> January 2009
	<b>Organizations of Universal Character for which membership procedure has not been completed</b>	<b>Abbreviation</b>	<b>Actions undertaken</b>
1.	World Trade Organization	<b>WTO</b>	There are ongoing negotiations for the membership in this organization.
2.	International Hydrographic Organization	<b>IHO</b>	So far, the IHO received 47 out of 49 necessary supports for Montenegrin membership

	<b>Organizations of regional character</b>	<b>Abbreviation</b>	<b>Membership date</b>
1.	Organization for Security and Cooperation in Europe	<b>OSCE</b>	22 <sup>nd</sup> June 2006
2.	Council of Europe	<b>CoE</b>	11 <sup>th</sup> May 2007
3.	Central European Free Trade Agreement	<b>CEFTA</b>	26 <sup>th</sup> July 2007
4.	European Company for the Financing of Railroad Rolling Stock	<b>EUROFIMA</b>	17 <sup>th</sup> October 2006
5.	European Committee of Ministers of Transport	<b>ECMT</b>	17 <sup>th</sup> October 2006
6.	European Organisation for the Safety of Air Navigation	<b>Eurocontrol</b>	1 <sup>st</sup> July 2007
	European Civil Aviation Conference	<b>ECAC</b>	25 <sup>th</sup> June 2008
	European Satellite Telecommunications Organization	<b>EUTELSAT</b>	7 <sup>th</sup> December 2009
	Regional Arrangement Concerning the Radiotelephone Service on Inland Waterways	<b>RAINWAT</b>	18 <sup>th</sup> November 2009
8.	European Travel Commission	<b>European Travel Commission</b>	3 <sup>rd</sup> October 2006
10.	Central European Initiative	<b>CEI</b>	1 <sup>st</sup> August 2006
11.	Migration, Asylum, Refugees Regional Initiative	<b>MARRI</b>	2 <sup>nd</sup> October 2006
12.	South-East European Cooperation Process	<b>SEECP</b>	11 <sup>th</sup> May 2007
13.	Adriatic-Ionian Initiative	<b>AI</b>	1 <sup>st</sup> June 2007
14.	Centre for Security Cooperation	<b>RACVIAC</b>	21 <sup>st</sup> March 2007
	Regional Cooperation Council	<b>RCC</b>	29 <sup>th</sup> February 2008
	Union for Mediterranean	<b>Union for the Mediterranean</b>	13 <sup>th</sup> July 2008
	Initiative on Cooperation of Local Communities at the border among Bosnia and Herzegovina, Montenegro and Croatia		27 <sup>th</sup> April 2007
	Regional Centre for Combating Transborder Crime	<b>SECI</b>	6 <sup>th</sup> June 2008
	South-Eastern Europe Health Network	<b>SEEHN</b>	2 <sup>nd</sup> September 2001

	South-East European Energy Community		26 <sup>th</sup> October 2006
	Disaster Preparedness Prevention Initiative for South-Eastern Europe	<b>DPPI</b>	Montenegro has been a member ever since its establishment.
	Regional Anti-Corruption Initiative	<b>RAI</b>	February 2000
	Council of Ministers of Culture of South-East Europe		31 <sup>st</sup> March 2005
	Electronic South-Eastern Europe Initiative	<b>eSEE</b>	4 <sup>th</sup> June 2002
	Police Cooperation in South-East Europe		Montenegro signed the Police Cooperation Convention for Southeast Europe on 5 <sup>th</sup> May 2006 and ratified the same on 26 <sup>th</sup> December 2007.
	International Commission for the Protection of the Danube River	<b>ICPDR</b>	Official admission of Montenegro into the membership of the ICPDR was arranged at the ICPDR Conference held in Vienna from 10 <sup>th</sup> to 11 <sup>th</sup> December 2008
	Eurodistrict Southern Adriatic		Official signing of the Convention on accession was held in Italy in March 2008.
	Danube Commission		Observer status as of 6 <sup>th</sup> November 2006.
	Organization of the Black Sea Economic Cooperation	<b>BSEC</b>	On 1 <sup>st</sup> November 2008, Montenegro was awarded the partnership status for the intersectoral dialogue to the renewable period of two years.
	International Sava River Basin Commission	<b>ISRBC</b>	Montenegro participated in the capacity of an observer at the second meeting of the signatories of the Framework Agreement on the Sava River Basin, which was held in Belgrade on 1 <sup>st</sup> June 2009.
	Organization of the Black Sea Economic Cooperation	<b>BSEC</b>	Partnership status for the sectoral dialogue as of 1 <sup>st</sup> November 2008.

### North Atlantic Treaty Organization (NATO) – Partnership for Peace (PfP)

Montenegro signed the Partnership for Peace Framework Document on 14<sup>th</sup> December 2006, while on 25<sup>th</sup> April 2007 it submitted the Presentation Document at the NATO Headquarters.

Montenegro received the invitation to join the NATO Membership Action Plan (MAP) at the ministerial meeting of the North-Atlantic Council held on 4<sup>th</sup> December 2009.

### Adriatic Charter

With the purpose of speeding up the NATO accession process, Montenegro acceded to the Adriatic Charter on 4<sup>th</sup> December 2008.

### SEDM (South-East Europe Defence Ministers Cooperation)



Membership status was awarded to Montenegro at the ministerial conference held in Sofia on 21<sup>st</sup> October 2009.

**Future activities:**

- Montenegro submitted the application for candidacy for the non-permanent member of the United Nations Security Council, for the elections which will be held on 2025, for the period from 2026 to 2027;
- Montenegro submitted the application for candidacy for the membership of the Human Rights Council, for the election that are to be held in 2012 for the period from 2012 to 2015;
- Montenegro submitted the request for the membership of the UN Sustainable Development Commission, for the period from 2011 to 2014;
- Montenegro submitted the request for the membership of the Executive Board of the UN Development Programme/UN Population Fund, for the period from 2014 to 2015;
- Competent bodies got down to drafting the file for the acquisition of the observer status in the International Organization of the Francophonie;
- The Trilateral Commission for the Adriatic - Yugoslav-Italian Agreement on the Protection of the Adriatic Sea and the Coastal Areas from Pollution was signed by Italy and SFRY in 1974. Following the dissolution of the SFRY, Croatia and Slovenia expressed their desire to become the successors. After the renewal of Montenegrin independence it was decided for the request to be sent to Italy, as the original Agreement member, for the succession in relation to the Agreement from the year 1974. The *pro-parte* succession with Italy has been completed (the letter of the Minister of Foreign Affairs of Montenegro from July 2009 and the one of the Minister of Foreign Affairs of Italy from October 2009 constitute the elements of the concluded succession). Having received the reply from the Minister Fratini, in December 2009 the Minister of Foreign Affairs of Montenegro sent the identical request for the succession to the Ministers of Foreign Affairs of the Republic of Croatia and of the Republic of Slovenia. After receiving their positive replies, Montenegro will become a full contracting party to the Agreement and the Commission;
- Regional Public Administration School (ReSPA) - In Podgorica, on 21<sup>st</sup> November 2008 the international agreement was signed on the establishing of the ReSPA, with the seat in Danilovgrad. The ReSPA establishing agreement comes into effect upon the depositing of 5 ratification instruments by seven signatories, including Montenegro. So far, Albania, Macedonia and Montenegro have deposited the instruments.

**Security measures (classified information)**

**6. (Ref to Q. 44): Please specify whether the regulations in the area of information security of classified information (INFOSEC) were adopted (and when).**

The regulations on Information Security of Classified Information (INFOSEC) have not been adopted yet since the Law on Amendments to the Law of Classified Data, established by the Government in December 2009, which is a prerequisite for the enactment of these regulations in the Parliamentary procedure. The enactment of the Law on Amendments to the Law of Classified Data is expected shortly. Following the enactment of the Law on Amendments to the Law of Classified Data, in line with the Programme of work of the Government for the year 2010, the regulations on the Information Security of Classified Information (INFOSEC) are planned to be adopted in the Second Quarter.

**7. (Ref to Q. 45): Please specify whether the security agreement with the EU was concluded?**

The agreement on security procedures for the exchange and protection of classified data between Montenegro and the EU has not been concluded. There are ongoing activities on initiating the negotiations for the conclusion of the stated agreement. In line with that, Montenegro has established the negotiation commission consisting of the representatives of the Directorate for Protection of Classified Data, the representatives of the Ministry of Foreign Affairs and of the Ministry of Defence. Having submitted the composition of the negotiating team to the competent institutions of the EU, the Security Council Office submitted to Montenegro the Draft Agreement used by the EU as the basis for negotiations. The initiation of the negotiations for the conclusion of the Agreement is expected soon.