

**Government of Montenegro**

**Ministry of European Integration**

## **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

### **III Regional issues and international obligations**

**Minister: Gordana Djurovic**

**Podgorica, December 2009**



**TABLE OF CONTENTS**

POLITICAL CRITERIA..... 5

III Regional issues and international obligations..... 6



## **POLITICAL CRITERIA**

---

## **III Regional issues and international obligations**

---

### **Return of refugees and displaced persons**

#### **107. Statistics: Please provide statistics for the following categories of persons:**

**a) Refugees from Montenegro who went to other countries during (1) the wars in the former Yugoslavia in the early 1990s; (2) the Kosovo crisis of 1999. What proportion of these refugees has returned?**

Montenegro does not have statistical data to answer this question. The Ministry of Interior and Public Administration did not keep records on individuals who went from Montenegro to other countries during the wars in the former Yugoslavia in the early 1990s and the Kosovo crisis of 1999. Therefore, for these reasons, Montenegro does not possess the asked statistical data.

The reason is that the nationals of Montenegro, with valid passports, were able to cross state border in order to travel to another state with no explanation. Furthermore, during the wars in the former Yugoslavia in the early 1990s and the Kosovo crisis of 1999 passports were issued to Yugoslav nationals (the Federal Republic of Yugoslavia) and there were no specific records on Montenegrin nationals. Moreover, the data that the UNHCR is in possession of for the mentioned periods are exclusively about the nationals of the Federal Republic of Yugoslavia, thus they cannot be used in answering to this question.

Generally speaking, Montenegro was a destination country that accepted refugees from all parts of the former Yugoslavia. The influx was massive while the number of people who left Montenegro was insignificant. During the Kosovo crisis of 1999 refugees and internally displaced persons made up more than 20 percent of the total population of Montenegro.

**b) Refugees from other countries who came to Montenegro. When did they arrive and what proportion has returned?**

#### **Displaced persons**

In 1992 34 307 persons from the former Yugoslav republics (Croatia, Bosnia and Herzegovina and Slovenia) were registered as displaced persons in the territory of Montenegro and they received displaced persons identification documents.

After that, in 1996 and 2000 there were two registrations that did not have the character of legally formal revision of the status of displaced persons. They were used to establish the exact number of displaced persons in Montenegro. In 1996 there were 28 338 registered displaced persons, while in 2000 this number was 14,418.

During the latest registration in 2004 it was established that there were 8 474 displaced persons from the former Yugoslav republics in Montenegro. Out of these 8 474, 6 105 were persons from Bosnia and Herzegovina, 2,343 from Croatia and 26 from Slovenia. Until 10 September 2009 the database of the Ministry of Interior and Public Administration registered 43 deregistration of stay decisions for the reasons of return to country of origin, 74 deregistration decisions outside Montenegro and 30 deregistration decisions for leaving to Serbia.

5 741 persons responded to the public call of the Ministry of Interior and Public Administration, which lasted from 1 April of 1 August 2009. The call was announced for the re-registration of the

status of displaced persons from the former Yugoslav republics in accordance with the Law on Asylum.

### **Internally displaced persons**

During the Kosovo crisis of 1999 a significant number of displaced persons from Kosovo, mainly of Albanian nationality, found its refugee in Montenegro. The Commissariat for Displaced Persons of the Government of Montenegro in cooperation with the UNHCR started the first registration of displaced persons from Kosovo in Montenegro. In the period of 1 February 1999 to 10 April 1999 18 000 displaced persons from Kosovo were registered. As the events developed, this registration lost its effects since the established database could not be used for planned purposes. The reason being that in early April 1999 there was a massive movement of population in Kosovo. A very large influx of displaced persons from Kosovo to Montenegro brought the country to the brink of a humanitarian catastrophe. In the course of May 1999, the number of displaced persons from Kosovo was almost 130 000 with 28 000 of refugees from the former Yugoslav republics (the estimate for refugees from the former Yugoslav republics was done by the Commissariat for Displaced Persons in 1996).

A switch in the population of displaced persons in Montenegro happened in June 1999. The return of Albanian population to Kosovo and influx of non-Albanian population from Kosovo to Montenegro changed the situation. Necessary preconditions for a new registration of displaced persons from Kosovo were made only when the situation stabilised in the latter half of 1999.

In the period 1 October 1999 until 18 December 1999, a number of 32,040 displaced persons from Kosovo was registered. All the registered persons received displaced persons IDs along with family files for the purposes of humanitarian assistance. The database of the second registration of displaced persons from Kosovo only could then be used for planning of various activities in solving humanitarian and many other problems of displaced persons.

New registration was organised in 2003. It established that there were 18 047 internally displaced persons from Kosovo in Montenegro.

On 16 November 2009, there were 10 950 displaced persons from Kosovo in Montenegro, according to the latest data obtained after the re-registration procedure conducted from 14 September 2009 to 14 November 2009.

The records on the returnees have been kept by the Bureau for the Care of Refugees since 2007. During 2007, 107 persons returned; 92 returned in 2008 and 153 in 2009.

In 2007, 108 persons left for Serbia and 2 persons in 2009.

### **108. Legal and regulatory framework: Please describe the legal and regulatory framework governing the protection, status, rights, as well as the integration of refugees displaced and internally displaced persons in Montenegro.**

Many legislative acts have been adopted since 1992 in order to regulate the mentioned questions:

- **The Strategy for Durable Solutions of Refugees and Internally Displaced Persons in Montenegro.** Its goal was to find optimal solutions for displaced and internally displaced persons through repatriation, local integration and settlement in third countries having in mind economic circumstances in Montenegro as well as international standards and principles. This goal was to be fulfilled in the period of three years after it had been adopted (the adoption was in March 2005).
- **The Law on Montenegrin Citizenship** (Official Gazette of Montenegro 13/08) stipulates that displaced persons and internally displaced persons can obtain Montenegrin nationality by admission if legal conditions are met.
- **The Law on Asylum** (Official Gazette of the Republic of Montenegro 45/06) prescribes that the status of a refugee can be conceded to a person who has the status of displaced person if the legal conditions under this law are met.

- **The Law on Employment and Work of Foreigners** (Official Gazette of Montenegro 22/08) stipulates that persons with refugee status in Montenegro and persons who have additional protection according to the Law on Asylum, can obtain personal work permit. The personal work permit enables free access to labour market to a foreigner, independently of the situation and the relations in that market.
- **The Law on Health Protection** (Official Gazette of the Republic of Montenegro 39/04) stipulates that the state secures financial means for health protection of foreigners who are conceded refugee and displaced person status according to specific regulations and international treaties.
- **The Decree on the Care of Displaced Persons** (Official Gazette of the Republic of Montenegro 37/92, 45/06 and 72/06) regulates issues of temporary admission, care, protection and record-keeping of displaced persons as well as solving their status.
- **The Decision on Temporary Retaining of the Status and Rights of Displaced and Internally Displaced Persons in Montenegro** (Official Gazette of the Republic of Montenegro 46/06) prescribes that displaced persons from the former Yugoslav republics and internally displaced persons from Kosovo temporarily retain the status that they had on 3 June 2006 (the date of independence of Montenegro) and that their status is to be solved according to the laws on foreigners, asylum and regional solutions for their status.
- **The Decision on the Record-Keeping of Refugees and internally displaced persons** (Official Gazette of the Republic of Montenegro 30/05) prescribes the manner of registration and deregistration of displaced persons and internally displaced persons in the records of the Health Insurance Fund for the purpose of obtaining health protection.
- **The Decision on the Appearance and Content of Forms and the Manner of Issuing Documents to Persons who seek Asylum, Persons who Have Refugee Status, Persons who have Additional Protection and Persons who have Temporary Protection** (Official Gazette of Montenegro 13/09), prescribes the manner of issuing and the form of the documents issued to persons seeking asylum or are conceded some other type of protection.
- **The Decree on Financial Assistance for Persons seeking Asylum, Persons with Refugee Status and Person who Have Additional Protection** (Official Gazette of Montenegro 56/08) prescribes that the person seeking asylum, person with refugee status and person who has additional protection can obtain financial assistance as a type of social protection according to the Law on Asylum.
- **The Rulebook on the Displaced Person Identification Document** (Official Gazette of the Republic of Montenegro 41/92 and 76/04) prescribes the form of the displaced person ID as well as the manner of keeping records on issued ID for displaced persons and the change of their residence.
- **The Action Plan for Solving the Status of Displaced Persons from the former Yugoslav Republics and the Internally Displaced Persons from Kosovo Residing in Montenegro.**
- **The Law on Foreigners** (Official Gazette of Montenegro 82/08) and the **Law on Amendments to the Law on Foreigners** (Official Gazette of Montenegro 72/09).

**109. Explain your overall policy regarding the treatment of the refugees displaced and internally displaced persons residing in Montenegro. Are there any discriminations applying to them in relation to social and economic rights?**

The following information confirms that there is no discrimination applied to refugees, displaced persons and internally displaced persons in relation to their social and economic rights:

The Law on Asylum (Official Gazette of the Republic of Montenegro 45/06) regulates the acquiring of the status of a refugees, as well as cessation and termination of this status.

Individual who has been ceded refugee status has the right to:

- 1) Stay
- 2) Travel documents and identification documents with which he/she can prove his/her identity, legal status, right of stay and other rights regulated by this law;
- 2) Freedom of movement and the choice of residence,
- 4) Free access to courts and legal aid;
- 5) Freedom of confession;
- 6) Free primary and secondary education at state schools, and higher and high education in state institutions according to the conditions which are valid for foreigners,
- 7) Work,
- 8) Social protection,
- 9) Family reunification,
- 10) Accommodation, if it is needed, and up to six months at most from the day that he/she obtained refugee status,
- 11) Health protection, until obtaining the status of insured person, according to a particular legal act,
- 12) Obtain movable and immovable property, according to the conditions defined by law, with no reciprocity after three years of stay in Montenegro,
- 13) Assistance for inclusion within the society.

Refugees have the right to work under the same conditions as foreigners with permanent stay in Montenegro. This right is obtained on the basis of personal work permit which is issued on an indefinite time basis. The personal work permit allows free access to labour market independently of the situation and the relations in the market.

The limitation measures for foreigners are not applied to refugees:

- minimal stay in Montenegro of three years;
- marriage with a Montenegrin citizen,
- Montenegrin citizenship of one of his/her children.

Refugee obtains rights for disability insurance, health protection, pension insurance and other rights stemming from work relationship under the same conditions as a Montenegrin citizen.

Refugee obtains the right to social protection according to a particular act on social protection in the period of up to one year from the date he/she was recognised the refugee status.

On the basis of the Decree on Financial Assistance for Persons seeking Asylum, Persons with Refugee Status and Person who Have Additional Protection (Official Gazette of Montenegro 56/08), as a special act, refugees obtain financial assistance as a type of social protection. This assistance is obtained as a monthly financial assistance or as one-time financial assistance. The monthly financial assistance is given to a refugee who lost his/her right to accommodation according to the Law on Asylum, and on the condition that he/she does not have financial means or property.

The amount of the financial assistance is:

- |                                 |           |
|---------------------------------|-----------|
| - for an individual             | EUR 55    |
| - for a family of two members   | EUR 66    |
| - for a family of three members | EUR 79.20 |

- for a family of four members EUR 93.50
- for a family of five and more members EUR 104.50

The amount of this assistance can be higher.

Refugees can obtain one-time financial assistance:

- in case of special circumstances that affect their material and health state;
- in case of funeral costs

The amount of this assistance is determined according to the situation and in line with material capabilities of the state.

The Conditions for obtaining the right of inclusion into social, economic and cultural life are ensured, depending on the economic and other capacities of Montenegro, through the organisation of Montenegrin language courses, provision of information on the state system, history and culture, organisation of seminars and other forms of education.

Montenegro enables the integration and naturalisation of refugees in the limits of its economic and other capacities. Taxes and other costs in the process of obtaining these rights are determined in the amount that does not present an obstacle for submitting and obtaining requests.

According to the Law on Asylum, the bodies competent for deciding and providing rights to persons with refugee status are:

- The Ministry of Labour and Social Welfare and the bodies of state administration, organisations and institutions in the area of labour and social welfare.
- The Ministry of Health and the bodies of state administration, organisations and institutions in the area of health.
- The Ministry Education and Science and the bodies of state administration, organisations and institutions in the area of education.

Note: more detailed information on displaced persons and internally displaced persons as well as the activities that Montenegro takes in order to permanently solve this problem are contained in the answer to question 110 of this chapter.

Documents as annex to this answer:

- Law on Asylum (Official Gazette of the Republic of Montenegro 45/06),
- The Decree on Financial Assistance for Persons seeking Asylum, Persons with Refugee Status and Person who Have Additional Protection (Official Gazette of Montenegro 56/08)

NOTE: More detailed information on displaced and internally displaced persons and the activities that Montenegro is taking in order to permanently solve this problem are contained in the answer to question 110 of this chapter.

#### **110. What are the solutions envisaged to the problem of displaced and internally displaced persons who live in Montenegro? Is relevant legislation providing any sustainable resolution on the status of internally displaced persons?**

fThe Decision on Temporary Retention of the Status and Rights of Displaced and Internally Displaced Persons in Montenegro (Official Gazette of the Republic of Montenegro 46/06) prescribes that displaced persons from the former Yugoslav republics with the status established on the basis of the Decree on the Care of Displaced Persons (Official Gazette of the Republic of Montenegro 37/92) and internally displaced persons from Kosovo with status established by the Commissariat for Displaced Persons of the Government of Montenegro, temporarily retain the status that they had on 3 June 2006.

The Decision states that their status is to be solved according to the Law of Foreigners and the Law on Foreigners.

The National Strategy for Durable Solutions of Refugees and Internally Displaced Persons in Montenegro was adopted on 3 March 2005. Its goal was to find optimal solutions for displaced and internally displaced persons through repatriation, local integration and settlement in third countries having in mind economic circumstances of Montenegro as well as international standards and principles. This goal was to be fulfilled in the period of three years after it had been adopted. The Strategy pointed out to three possible solutions for this problem:

- repatriation and return to Kosovo
- local integration
- settlement in third countries.

The Law on Asylum (Official Gazette of the Republic of Montenegro 45/06) in its Article 75 paragraph 2 prescribes: "The status of refugee shall be ceded to those persons who obtained the status of a displaced person on the basis of the Decree on the Care of Displaced Persons (Official Gazette of the Republic of Montenegro 37/92) if it is established that a displaced person, on the day when this Law enters into force, has a permanent residence in Montenegro and if there are no reasons for cessation or termination of the refugee status as prescribed by this law".

The Ministry of Interior and Public Administration made a public call to displaced persons from the former Yugoslav republics to register with the regional units of the Ministry where they reside. In four months left for registration, 5 718 of displaced persons responded to the public call.

The Ministry of Interior and Public Administration, i. e. the Office for Asylum in the Department for Administrative Internal Affairs is competent for first-instance procedure and decisions on refugee status as well as decision on cessation or termination of refugee status.

According to the Law on Asylum, one can submit complaints on the decision of the Ministry to the State Commission for Asylum Complaints.

#### **a) Integration of Displaced and Internally Displaced Persons**

The Parliament of Montenegro has adopted the Proposal for a Law on Amendments to the Law on Foreigners. Through this Law, displaced persons from the former Yugoslav republics and internally displaced persons from Kosovo shall be able to obtain the status of foreigner with permanent residence, including the access to all rights that have been prescribed for foreigners with permanent residence in Montenegro, as well as the right to obtain foreigner IDs.

The Government of Montenegro adopted the Action Plan for Solving the Status of Displaced Persons from the former Yugoslav Republics and the Internally Displaced Persons from Kosovo Residing in Montenegro in September 2009. The Action Plan envisages activities, time limits and implementers in order to solve this issue.

The Conclusion of the Government of Montenegro entrusted the Bureau for the Care of Refugees to re-register internally displaced persons from Kosovo residing in Montenegro in cooperation with the Ministry of Interior and Public Administration. The Re-registration started on 14 September 2009 and lasted until 14 November 2009. The target group of the re-registration are the internally displaced persons from Kosovo residing in Montenegro who obtained the status from the Commissariat for Refugees of the Government of Montenegro.

The re-registration procedure entails individual survey of persons who approach the registration point.

Through the regular re-registration procedure, conducted from 14 September 2009 to 14 October 2009, 10 126 persons were re-registered. During the re-registration extension period from 14 October 2009 to 14 November 2009, 824 persons were re-registered. In total, 10 950 persons were re-registered.

Several accommodation facilities have been built in Montenegro in order to care, i.e. accommodate displaced persons and internally displaced persons. 418 living units have been constructed and 1

656 persons have been accommodated since 1995. The facilities construction has been done in cooperation of local self-governments and international organisations.

#### **b) Repatriations and Return to Kosovo**

Since 2005 the Commissariat for Refugees (now the Bureau for the Care of Refugees) has been involved in the implementation of the project "Idi-Vidi" of the UNHCR and the Danish Refugee Council in order to find sustainable solution for return of internally displaced persons from Kosovo.

These persons are enabled to visit Kosovo and directly see what state their property is in, what kind of assistance is offered by the local community and which possibility they have to access their rights. After this, displaced persons decide about the return on their own.

Currently, a survey is being organised for internally displaced persons from Kosovo. Its goal is to determine the number of those interested in return to Kosovo. Up to now, 1,300 persons have shown interest in return to their place of origin. Out of this number 72 families (402 persons) have already started formal procedure and filled in return questionnaires, while the remaining 244 families (894 persons) are in the lists of the persons interested in return.

#### **Regional cooperation**

**111. Please provide a list of all regional initiatives in which Montenegro participates. Please specify which regional agreements have been signed or ratified.**

The list of organisations and initiatives:

- Central European Initiative (CEI)
- The South East European Cooperation Process (SEECP)
- The Regional Cooperation Council (RCC)
- The Adriatic-Ionian Initiative (AII)
- The Union for the Mediterranean (UfM)
- The Migrations, Asylum, Refugees Regional Initiative (MARRI)
- The Central European Free Trade Agreement (CEFTA 2006)
- The Initiative on Cooperation of Local Communities at the Triple-Border of Bosnia and Herzegovina, Montenegro and Croatia.
- The Southeast Europe Cooperation Initiative (SECI – Vienna)
- Regional Centre for Fight against Cross-Border Criminal (SECI Centre in Bucharest)
- Centre for Security Cooperation (RACVIAC)
- The Disaster Preparedness and Prevention Initiative (DPPI)
- Regional School for Public Administration (ReSPA)
- Trilateral Commission for the Adriatic
- South East Europe Energy Community
- South East Europe Health Network (SEEHN)
- The Regional Anti-Corruption Initiative (RAI)
- The Council of Ministers of Culture of South East Europe
- The Adriatic Charter,
- Southeast Europe Defence Ministers Cooperation (SEDM)

- Southeast Europe Small Arms Control Regional Centre (SEESAC)
- South East Europe Clearing House (SEECH)
- The Danube Commission
- The Cooperation Process on the Danube (DCP)
- The Black Sea Economic Cooperation Organisation (BSEC)
- The International Commission for the Protection of the Danube River (ICPDR)
- The International Commission for the Protection of the Sava River Basin (ISRBC)
- The Electronic South East Europe Initiative (eSEE)
- The Police Cooperation in South East Europe
- The Adriatic Euroregion
- The South Adriatic Eurodistrict

Signed and ratified regional agreements:

- Agreement between the Council of Ministers of Bosnia and Herzegovina and the Governments of other State Parties of the Southeast Europe Cooperation Process, the Interim Administration of the UN Mission in Kosovo, on behalf of Kosovo in line with the UNSC Res. 1244 on the host country arrangement for the Secretariat of the Regional Cooperation Council (RCC) – signed on 14 September 2007 and ratified on 11 February 2008.
- Agreement on Free Trade in the Region (CEFTA 2006) – signed on 19 December 2006, ratified on 28 March 2007.
- Agreement between the European Communities and Montenegro on the Establishment of the Energy Community (EC) – signed on 25 October 2005 and ratified on 26 October 2006.
- Convention on Police Cooperation in South East Europe – signed on 5 May 2006 and ratified on 26 December 2007.
- International Agreement on Establishment of the Regional School for Public Administration (ReSPA) – signed on 21 November 2008 and ratified on 13 October 2009.
- Agreement on Establishment of Railway Network of High Performance in South East Europe – signed on 4 May 2006 and ratified on 12 July 2007.
- Memorandum of Understanding on the Institutional Framework of the Disaster Preparedness and Prevention Initiative (DPPI) – signed on 24 September 2007, the ratification is pending.
- The Charter of the Southeast Europe Cooperation Process (SEECPP) on Good Neighbourly Relations, Stability, Security and Cooperation in South East Europe – signed on 23 October 2008.
- Agreement on Cooperation with the Aim of Prevention and Fight against Cross-Border Criminal – Montenegro acceded on 6 June 2008.

## **Bilateral relations**

**112. Please provide an overview of your relations with neighbouring countries, and countries of the Western Balkan Region, including outstanding bilateral issues, including border issues, and prospects for solutions.**

Neighbours that are not the Western Balkans

### **The Italian Republic**

#### **Bilateral relations**

The relations of Montenegro and the Italian Republic are characterised by traditionally friendly cooperation and intensive high political level contacts.

Italy recognised Montenegro and established diplomatic ties on 15 June 2006. The two countries have diplomatic relations on ambassadorial level.

Prime Minister of Italy Silvio Berlusconi made an official visit to Montenegro on 16 March 2009; Minister of Foreign Affairs of Montenegro Milan Roćen visited Italy on 27 November 2008; Prime Minister of Montenegro Milo Đukanović and Minister of Foreign Affairs of Montenegro Milan Roćen made an official visit to Italy on 17 July 2008 and Speaker of the Montenegrin Parliament Ranko Krivokapić visited Italy in July 2008.

Italy, which is one of the most significant foreign-policy partners of Montenegro, firmly supports the dynamic progress of Montenegro and other countries in the region within their European and Euro-Atlantic integrations, as well as the visa liberalisation process.

#### **Economic Cooperation**

The political contacts that have been established up to now have resulted in a number of bilateral economic initiatives. This is of importance for the progress of not only economic, but the overall cooperation of Montenegro and Italy.

Trade between Montenegro and Italy in 2008 was EUR 280.45 million, while in the period January-June 2009 it was EUR 68.9 million.

A number of meetings of Italian entrepreneurs with Montenegrin businessmen in the recent period confirm the fact that the economic cooperation is being intensified. Furthermore, the establishment of the Italian-Montenegrin Business Union in early 2009, the visit of the Italian Minister for Economic Development Mr Claudio Scaiola to Montenegro in June 2009 and signing of two agreements in the field of energy and transport on that occasion as well as the opening of the Office of the Italian Institute for Foreign Trade in Podgorica, whose primary goal is to improve trade between the two states and to promote Italian investment, have all given an additional impulse to further economic and overall connecting of the two countries.

There is strong interest of both governments to intensify cooperation in the area of port, railway and road transport. The Memorandum of Understanding between the Ministry of Economy of Montenegro, the Ministry of Economic Development of Italy and the Ministry of Infrastructure of Serbia on the Implementation of the Study on Technical-Economic Feasibility of Works on the Reconstruction of the Railway Bar-Beograd was signed on 16 June 2009. The reconstruction and modernisation of the Bar-Beograd railway is worth EUR 1.5 million and presents a significant project for the transport system of Montenegro and South-East Europe.

The Memorandum of Understanding between the Ministry of Economy of Montenegro and the Ministry of Economic Development of Italy on Cooperation in the Field of Energy Sector Development was also signed on 16 June 2009. It is an important step in improving cooperation of the two states in the areas of electric energy, natural gas and oil, with special focus on the project of development of transmission capacities of electric energy through underwater cable between Montenegro and Italy.

Italian investments in the Montenegrin energy sector have also been made, primarily the participation of the Italian Company A2A in the capital increase of the Electric Enterprise of Montenegro. Special focus was put on the project of energy linkage of Montenegro and Italy - Terna and the Electric Enterprise of Montenegro of total worth of EUR 800 million.

Montenegro and Italy have intensive contacts and cooperation in the area of interior affairs, tourism, environmental protection, health, culture, science and education.

The Agreement of the Government of Montenegro and the Government of Italy on Fight against Criminal was signed on 27 July 2007.

#### Multilateral Cooperation

Montenegro intensively cooperates with Italian regions as well as in the framework of regional and international organisations (All, RCC, CEI, Council of Europe, OSCE, UN and its specialised agencies etc).

Western Balkans (Croatia, Bosnia and Herzegovina, Serbia, Kosovo under UNSC Res. 1244, Albania, FYR of Macedonia);

## **1. Croatia**

### Bilateral relations

Bilateral relations of Montenegro and Croatia are very good. They have been developed in many fields. Montenegro and Croatia cooperate especially in the area of European and Euro-Atlantic integration on the basis of the Protocol on Cooperation in the area of the European Union signed on 12 January 2007 between the Ministry of Foreign Affairs and European Integration of Croatia and the Secretariat for European Integration of Montenegro, as well as in a number of regional initiatives and fora. The cooperation of the two countries is characterised by a continuity of intensive political contacts on the highest level: visits to Croatia of Minister of Foreign Affairs Milan Roćen (14 January 2009), Prime Minister Milo Đukanović (12 March 2008) and Speaker of the Parliament Ranko Krivokapić (5/6 October 2009 and 17/18 June 2008); visits to Montenegro of Prime Minister Ivo Sanader (22 June 2009), Speaker of Parliament Luka Bebić (27/28 October 2008 and 8 February 2009), President Stjepan Mesić (7/8 July 2008). Premier Đukanović and Foreign Minister Roćen took part in the Croatia Summit 2009 on 9/10 July 2009 in Dubrovnik, while President Mesić participated in the 8th Regional Forum on Culture Corridors in SEE Managing Cultural Differences and their Promotion for Tourist Purposes, 3/4 June 2009 in Cetinje.

During the Montenegrin Presidency of the Initiative on Cooperation of Local Communities at the Triple-Border of Bosnia and Herzegovina, Croatia and Montenegro Foreign Minister Roćen hosted the meeting of the Initiative on the perspectives of local communities at the triple border entitled Presentation of Project-Oriented Cooperation in the Triple Border on 8 July 2009 in Herceg-Novi. A Joint Statement on cooperation in the realisation of common cross-border projects was also adopted.

The Parliament of Montenegro established a Group of Friendship of Montenegro-Croatia on 26 November 2008. The Committee for Inter-parliamentary Cooperation of the Parliament of Croatia established a Group of Croat-Montenegrin Friendship on 22 July 2008.

Cooperation of the two Ministries of Foreign Affairs has been strengthened: consular consultations between the MFA of Montenegro and the MFA of Croatia were held on 2 April 2009 in Podgorica. It was agreed to cooperate more dynamically in the European integration process in the field of consular affairs. In February 2009, a consultation on European integration was held during the visit of V. Drobnyak, Croatia's Chief Negotiator for EU accession.

Montenegro and Croatia cooperate intensively in the defence field. A plan of bilateral defence cooperation for 2009 was signed on 6 February 2009. Croatia is the main partner of Montenegro in setting up a new non-commission officer chain of support which is implemented in the new formation of the Armed Forces of Montenegro. In this regard, Croatia organises courses for instructors to train non-commission officers and soldiers of the Armed Forces of Montenegro. Furthermore, a number of soldiers from Montenegro are being trained at the Command Staff

School of Croatia. There is an ongoing and active communication on the ISAF participation with Croatia.

On the basis of the Agreement on Scientific and Technological Cooperation signed on 26 January 2009 in Podgorica and the Memorandum of Cooperation in Education signed on 18 June 2008, the Programme of cooperation in the area of science, technology and education for the period of 2009-2012 was signed on 9 July 2009 in Podgorica by the Ministry of Education and Science of Montenegro and the Ministry of Science, Education and Sport of the Republic of Croatia.

#### Bilateral Agreements

There are 27 bilateral treaties and acts in force between Montenegro and Croatia. Three of them are interim ones. In January 2009 during the visit of Foreign Minister of Montenegro M. Roćen to Croatia, a bilateral Agreement on the Protection of National Minorities was signed. In June 2009 during the visit of Prime Minister of Croatia I. Sanader to Montenegro an Agreement on Air Service was signed.

#### Economic Cooperation

Bilateral economic cooperation is of great strategic significance. The Croatian Consortium headed by the Split company Konstruktor inženjering, which consists of the Institut građevinarstva Hrvatske (IGH) and Tehnika, was selected in April 2009 to construct the first motorway in Montenegro – from Bar to the border with Serbia, worth EUR 2.77 billion. The construction of the Motorway started on 15 October 2009 in the presence of Montenegrin Premier Milo Đukanović, Croatian Premier Jadranka Kosor and Serbian Premier Mirko Cvetković. In 2008 Croatia was the sixth biggest foreign investor in Montenegro and the fifth one when it comes to the volume of trade. A Council for Economic Cooperation was constituted on 1 July 2008 in Podgorica, the second meeting is expected to be organised by the end of 2009 in Zagreb (two sub-committees were held in the framework of the Council – for infrastructure projects, transport, energy and environmental protection on 8 June 2009 and for removing trade barriers on 5 November 2008). A representation office of the Chamber of Commerce of Montenegro was opened in Zagreb in early September 2008.

#### Minorities

In January 2009 the Government of Montenegro and the Government of Croatia signed the Agreement on Protection of Montenegrin Minority in Croatia and the Croatian Minority in Montenegro, which guarantees a high standard of minority rights of these communities. The rights of the Montenegrin national minority in Croatia are regulated by the 2002 Constitutional Law on National Minorities of the Republic of Croatia, on the basis of which the Council of the Montenegrin National Minority in Croatia was set up in order to take part in public life and promote its interests. The Croatian nation is mentioned in the preamble of the new Constitution of Montenegro, while the Croatian language is, along with others, in official use. In late 2007 the Council of the Croatian National Minority in Montenegro was established. Authentic representation of one Croatian representative in the Parliament of Montenegro has been secured.

#### Multilateral Cooperation

Montenegro and Croatia intensively cooperate in the framework of international organisations (CoE, OSCE, UN and specialised agencies etc), as well as in regional initiatives such as the Initiative on Cooperation of Local Communities at the Triple-Border of Bosnia and Herzegovina, Croatia and Montenegro, CEI, SEECP, AII, RCC, CEFTA 2006, DPPI SEE, Adriatic Charter, MARRI, SECI, Council of Ministers of Culture in SEE, Energy Community, Union for the Mediterranean, RACVIAC, ICPDR, SECI Regional Centre etc.

#### Delimitation

In relation to delimitation issue, the first meeting of the Joint Commission for Delimitation between Montenegro and Croatia was held on 14 January 2009 in Zagreb during the visit of Foreign Minister Roćen to Croatia, when the rules of procedure of the Commission was agreed upon. On this occasion the Croat side offered its version of text, while the Montenegrin side submitted its version of the text of the agreement on 8 July 2009 during the Trilateral Meeting in Herceg-Novi. There will be another meeting of the Commission by the end of 2009. After the text is agreed upon,

the two countries shall submit it to the International Court of Justice. In the meantime, the Protocol on the Interim Regime along the Southern Border between the two states (the Prevlaka Protocol) signed on 10 December 2002 has been implemented smoothly and with no problems whatsoever.

The constitutional session of the Joint Commission for Resolving Property and other Related Issues between Montenegro and Croatia was held on 17 December 2008. After this, pro memorias on questions that should be solved in good faith in the next period were exchanged by the two states.

#### Dual Nationality

Negotiations on the agreement on dual nationality are ongoing.

## **2. Kosovo**

### Bilateral Relations

Montenegro recognised the Republic of Kosovo on 9 October 2008 and is currently working on the formal establishment of diplomatic ties of the two states. There is an ongoing communication between Montenegro and Kosovo. The two presidents met at the Summit of Presidents of Albania, Macedonia, Montenegro and Kosovo in Vlora 24 June 2009, the prime ministers met during the Croatia Summit in Dubrovnik 9 July 2009. The contacts of ministers of foreign affairs are often. State delegations of Montenegro, composed of representatives of the Government and the Parliament, had working visits to Kosovo in January and July 2009.

There is an initiative on the construction of joint border crossing Kućište on the Murino-Čakor-Peć road, which was closed in 1999, as well as the joint border crossing Kula-Kulina on the road Rožaje-Kula-Peć. The contacts of competent authorities are ongoing.

### Bilateral Agreements

Since the proclamation of the Kosovo independence Montenegro and Kosovo concluded one agreement – Memorandum of Understanding between the Supreme Public Prosecutors on 26 June 2009 in order to jointly fight terrorism, smuggling and other forms of cross-border crime.

### Economic Cooperation

Economic relations of the two countries are ascending. Before the start of the 2009 tourist season, a presentation of Montenegrin tourist potentials was organised in Priština for the first time. Total trade in 2008 was EUR 41 million – Montenegrin export was 37 million.

### Multilateral Cooperation

Montenegro supported the membership of Kosovo in the IMF and the World Bank. Kosovo became a member of these two financial institutions on 29 June 2009. Montenegro supports the inclusion of Kosovo in all regional initiatives.

Representatives of the Ministry of Foreign Affairs of Kosovo, along with other countries of the region, attended the Diplomatic Summer School for Young Diplomats of the Region organised by the Ministry of Foreign Affairs of Montenegro.

### The Issue of the Montenegrin National Minority and Displaced Persons

Montenegro is committed to recognition of the Montenegrin ethnic community in Kosovo as a separate minority group as well as its inclusion in the Constitution of Kosovo. The Government of Kosovo is open for finding solution for this issue, which was officially confirmed in January after the visit of representatives of the Government of Montenegro and the Parliament of Montenegro to Priština.

Apart from including the Montenegrin minority into the Constitution of Kosovo, Montenegro and Kosovo cooperate on the return of displaced persons to Kosovo. According to the official data, there are 16,212 displaced persons from Kosovo. 1,300 Roma displaced persons have expressed their interest to return until now.

### **3. Albania**

#### **Bilateral Relations**

Relations between Montenegro and Albania are traditionally friendly and free of open and problematic issues. They are additionally strengthened by common European and Euro-Atlantic priorities and represent a positive example of good-neighbourly cooperation of the two states.

The two countries continuously have political contacts on high level: Premier of Montenegro Milo Đukanović visited Albania on 25 November 2008; Speaker of Albanian Parliament Jozefina Topali had an official visit to Montenegro on 27 January 2009 and President of Albania Bamir Topi visited Montenegro on 17/18 September 2009.

Contacts on the level of presidents and prime ministers (meeting of M. Đukanović with S. Berisha at the UN General Assembly) and the level of ministers of foreign affairs at regional and international conferences are intensive.

The first joint border crossing in the SEE region – Sukobin-Murićani (financed by the European Commission CARDS Funds and worth EUR 1.1 million) was opened on 18 June 2009 which, among other things, represents the contribution of the two states to the implementation of the Guidelines of the EC for Integrated Border Management. This is an integral part of the overall security system, fight against organised crime and all other aspects of crime, illicit traffic and illegal migrations. The Protocol between the Council of Ministers of Albania and the Government of Montenegro on Joint Border Control at the Joint Border Crossing Sukobin-Murićani was signed on this occasion.

There are lot of possibilities for cooperation in the area of valorisation of natural and economic resources which represent the common good of Montenegro and Albania, particularly in the area of the National Park of Skadar Lake and the River Bojana. Montenegro and Albania actively cooperate in the implementation of the Integral Management of the Skadar Lake Ecosystem Project worth 4.55 million USD. Its goal is to assist in creating and strengthening institutional mechanisms of cross border cooperation through joint efforts in order to improve the management of Skadar Lake.

There are numerous opportunities for intensifying the cooperation in the field of transport infrastructure (Tirana-Podgorica-Sarajevo road, the Adriatic-Ionian Motorway, Podgorica-Plav road which should pass through Albania, Skadar-Bar road through Vladimir; the activation of Durres-Bar and Virpazar-Skadar ship lines; navigation on the Bojana River).

The two countries have good cooperation in defence area. A plan of development of cooperation in the area of sea security and the control of sea border and its demilitarisation is being negotiated.

In April 2009, a political consultation on cooperation in the process of Euro-Atlantic integration was held, when the representatives of the Ministry of Foreign Affairs of Montenegro paid visits to the Ministry of Foreign Affairs and Ministry of Defense of Albania.

In the area of parliamentary cooperation – both Parliaments established friendship groups. The Montenegrin Group of Friendship established in November 2008 is made of 7 MPs, while the Albanian Group of Friendship has 5 members. The first meeting of the two groups was held in Podgorica on 27 January 2009 during the visit of the Speaker of the Albanian Parliament MS Jozefina Topali with parliamentary delegation.

The relations of the two countries is characterised by good cooperation in the field of tourism. The presentation of Montenegrin tourism offer was organised in early June 2009 in Tirana. According to the data of the Union of Tourism Operators of Albania, Montenegro is placed second (after Turkey – Antalya) when it comes to tourist exchange. The importance of Skadar Lake for further strengthening of cooperation of Albania and Montenegro can be found in opportunities for the development of transit, holiday, hunting and recreational-sport tourism.

On 10 November 2009, the Montenegrin Minister of Culture, Sports and Media and Albanian Minister of Tourism, Culture, Youth and Sports signed in Tirana the Agreement on Cooperation in the Field of Culture between Montenegro and Albania.

#### **Bilateral Agreements**

There are 15 agreements between Montenegro and Albania.

The Agreement between the Council of Ministers of Albania and the Government of Montenegro on Reconstruction, Repair and Maintenance of Pyramids and other Border Marks along the Montenegrin-Albanian Border Line was initialled in Tirana on 9/10 July 2009. On this occasion, the texts of agreements on mutual travel of citizens, which enables stay without visa with valid national passports in the period of 90 days, and on readmission were also finalised (the latter one is in the procedure). The signing of these two agreements is planned for the end of 2009.

Agreement on Cultural Cooperation is to be signed. The procedure for signing Agreement on Cooperation and Assistance in Emergency Situations has also been initiated.

Meeting of the delegations of Montenegro and Albania on international road transport was held in Podgorica on 22 July 2009. Protocol of the meeting was signed on this occasion while during the next meeting of the Joint Montenegrin-Albanian Commission (planned for November 2009) the amendments to the Agreement on Transport of Passengers and Cargo in the International Road Transport shall be discussed and harmonised.

#### Economic Cooperation

There is space for improving economic cooperation between the two states and to increase the volume of trade. The cooperation of the two chambers of commerce is of significance. During the first Montenegrin-Albanian Business Forum in Tirana on 29 May 2009 the President of the Chamber of Commerce of Montenegro and the president of the Chamber of Commerce of Tirana signed an Agreement on Inter-chamber Cooperation. Moreover, a full liberalisation of the agriculture sector from 1 January 2010 was agreed in order to increase the trade of the two countries and to diminish illegal trade.

The two countries develop cooperation in the energy field; the energy system of Montenegro is connected to the energy system of Albania through the 220 kW Podgorica-Skadar long-distance power line. The project of construction of the long-distance power line of 400 kV between Podgorica and Tirana is under way while the project of extension of the power transformer station Podgorica 2 and Elbasan is planned to be finished by November 2009. The construction of this long-distance power line represents the project of great significance since it shall strengthen the regional energy network by creating conditions for better control of voltage and increased security of systems in Albania and Montenegro as well as other countries of the region.

#### Multilateral Cooperation

Montenegro and Albania cooperate in the framework of regional and multilateral organisations and initiatives: CEFTA 2006, AII; SEECP, SECI, MARRI, ReSPA, DPPI SEE, Council of Ministers of Culture of SEE, RCC, Adriatic Charter, Energy Community, Union for the Mediterranean, RACVIAC, ICPDR SECI Centre, BSEC, Council of Europe, OSCE, UN and its specialised agencies.

#### Minorities

It is estimated that there are app. 30,000 Montenegrins living in Albania. There are two societies in Albania: Rozafa – Morača (the Society of the Serbian and Montenegrin Minority) from 1991 and Alba – Montenegro with its seat in Skadar established on 30 June 2001.

The Constitution of Montenegro recognises the Albanian minority, the Albanian language is one of the official languages in Montenegro and the Albanian population is represented in the Parliament through 4 ethnic parties.

## **4. Macedonia**

### Bilateral Relations

The two countries traditionally develop good cooperation characterised by mutual trust and respect as well as common strategic goals – European and Euro-Atlantic perspective. The cooperation in the area of European and Euro-Atlantic integration is implemented on the basis of the Memorandum on Cooperation in the area of European and Euro-Atlantic integration of the two

Ministries of Foreign Affairs, which was signed on 25 December 2008 in Podgorica. There are intensive high level political contacts between Montenegro and Macedonia: Macedonian Premier Nikola Gruevski visited Montenegro on 25 December 2008 and Montenegrin President Filip Vujanović visited Macedonia on 12 May 2009. Macedonian President Gjorgji Ivanov visited Montenegro on the occasion of the 8th Regional Forum on Culture Corridors in SEE Managing Cultural Differences and their Promotion for Tourist Purposes, 3/4 June 2009 in Cetinje. At the Summit of the 4 Western Balkan countries in Albanian city of Vlora on 24 June 2009 President Vujanović had a bilateral meeting with President Ivanov.

Cooperation of the two MFAs has also been strengthened. Foreign Ministers have regular communication both bilaterally and at regional and international meetings. Bilateral consultations on consular affairs were held in late June 2009 in Skoplje. On this occasion the Montenegrin side was introduced to the functioning of the National Visa Centre of Macedonia. Representatives of the Montenegrin MFA visited Skoplje in April 2009 and agreed concrete areas of cooperation in the area of Euro-Atlantic integration: Macedonia offered assistance to Montenegro for the process of alignment of the Montenegrin legislation with the NATO acquis as well as to share its experience on MAP for one Montenegrin diplomat to visit the Macedonian MFA. It was also suggested to hold bilateral consultations on NATO. In the area of European integration, MFA representatives held consultations with the Macedonian Secretariat for European Issues in September 2009 on the process of work on the EC Questionnaire – information on the answering process were given and Macedonian experience of the work on the Questionnaire was shared with the Montenegrin side. In October 2009, political consultations on bilateral cooperation in the field of European and Euro-Atlantic integration were held, when the State Secretary of the Ministry of Foreign Affairs of Macedonia paid a visit to Montenegro.

In the area of parliamentary cooperation, the Parliament of Macedonia established a Friendship Group with Montenegro on 16 September 2008. Montenegro established a parliamentary Friendship Group for Cooperation with the Parliament of Macedonia on 22 November 2008.

Defence cooperation of the two states should be pointed out: a plan of bilateral cooperation for 2009 was signed and the two ministries of defence cooperate through numerous training programmes such as: training for work with the media, training of medical staff, exchange of pilots, exchange of expert level opinions on defence and planning policy; drafting mid-term and long-term defence plans; drafting defence programme and using of NATO software. Macedonia assisted Montenegro in the drafting process of the Strategic Defence Review, which presents a key document in this field. Macedonia also offered to train Montenegrin cadets at its Military Academy in Skoplje and to train Montenegrin troops in its Regional Medical Centre.

The two states have good cooperation in the field of tourism. The Montenegrin Tourism Office presented its tourism offer in Skoplje on 13 May 2009. Tourism opportunities and services of Montenegro were presented in tourism fairs in Skoplje and Ohrid (17-20 January 2009 with the representatives from Kotor, Tivat, Budva, Bar and Ulcinj).

Additional impulse to strengthening relations is given by better transport connections between the two states: opening of Podgorica-Skoplje and Tivat-Skoplje air lines since June 2009 as well as Skoplje-Bar railway line for tourism purposes during the summer season from 1 July to the end of August 2009.

Cooperation of security sectors in the field of combating organised crime and judicial institutions of the two states on the basis of signed agreements is also very important.

Cultural cooperation is developed through direct contacts and visits to cultural institutions. The visit of the Macedonian Minister of culture is expected in late October 2009 when a Three-Year Programme of Activities in various areas such as film, theatre, museums and publications shall be signed.

On 13 November, the Government of Montenegro adopted the proposal for a Law on Ratification of the Agreement between the two Governments regulating their cooperation in the field of protection against natural and other disasters.

#### Bilateral Agreements

There are 26 agreements between Montenegro and Macedonia. There is mutual interest to expand this list. Agreement on Education, Science and Technology Cooperation, Agreement on Cooperation in Combating Terrorism, Organised Crime, Illicit Traffic of Narcotic, Psychotropic Substances and Precursors, Illegal Migrations and other Criminal Offences are being finalised. They are expected to be signed by the end of 2009. Initiative to conclude a new Investment Agreement Montenegro-Macedonia has been started. The Macedonian side submitted its draft text of the agreement with amendments in 2009 and the proposal to organise a meeting of experts of the two states in order to initial the agreement by the end of 2009.

The text of the Agreement on International Road Transport of Passengers and Cargo was harmonised at the meeting of the Joint Macedonian and Montenegrin Commission for Road Transport of Passengers and Cargo on 16 and 17 July in Ohrid.

Administrative Agreement on Social Security was initialled in September 2008. Negotiations of the two delegations on the agreement were continued in Podgorica in March 2009 and the agreement is expected to be signed soon.

#### Economic cooperation

A more developed economic cooperation of the two states is of mutual interest. Montenegrin-Macedonian Business Council was established for the purpose of connecting entrepreneurs and business circles of the two countries. Throughout 2009 airplane and railway lines have been opened in order to ease connections among businessmen, tourist and citizens. The second meeting of the Montenegrin-Macedonian Business Council was held in Ohrid on 13 April 2009. It discussed the issues of improvement of bilateral economic cooperation and regional cooperation along with using IPA funding. There are excellent opportunities for more intensive economic relations through increased trade, using of capacities of the duty free zone of the Port of Bar as well as container transport of goods from the Montenegrin port to Macedonia. There is possibility to intensify agricultural cooperation – the Federation of Macedonian Farmers expressed its interest in establishing cooperation with vine cultivators and wine producers from Montenegro in August 2009.

#### Multilateral Cooperation

Montenegro and Macedonia have an intensive cooperation in the framework of regional initiatives: CEFTA 2006, CEI, MARRI, SECI, SEECF, A5, DPPI SEE, RCC, RACVIAC, Ministers of Culture of SEE, Energy Community, Union for the Mediterranean and the SECI Centre.

In May 2009, the first consultations between the two Ministries of Foreign Affairs on cooperation in multilateral activities were held.

#### Minorities

There are 5 to 10 thousand Montenegrins in Macedonia. Society of Macedonian-Montenegrin Friendship, Union of Montenegrins in Macedonia (since 2006) and Women's Lobby of the Montenegrin Community operate in Macedonia. Montenegro has a honorary consul in Bitolj. Macedonian community in Montenegro is very small.

#### Dual Nationality

Agreement on Dual Nationality between Montenegro and Macedonia was signed during the Conference of Ministers of Interior of the SEE in Belgrade on 6 March 2009.

## **5. Bosnia and Herzegovina**

#### Bilateral Relations

Montenegro and Bosnia and Herzegovina have intensive bilateral relations which are varied and developed on all levels. The two countries actively cooperate within European and Euro-Atlantic integrations, regional initiatives and fora. There is a continuity of highest level visits: Foreign Minister Roćen visited Bosnia and Herzegovina on 12 November 2008, Premier Đukanović on 1

December 2008 and President Vujanović on 22/23 May 2009. President of Republic of Srpska Ratko Kuzmanović visited Montenegro on 10 December 2008.

Foreign minister Milan Roćen participated at the ministerial meeting of the Adriatic Charter which was held on 23 September 2009 during the UNGA meeting in New York – foreign minister of Bosnia and Herzegovina Sven Alkalaj presided over the meeting.

During the Montenegrin Presidency of the Initiative on Cooperation of Local Communities at the Triple-Border of Bosnia and Herzegovina, Montenegro and Croatia Foreign Minister Roćen hosted the meeting of the Initiative on the perspectives of local communities in the triple border entitled Presentation of Project-Oriented Cooperation in the Triple Border on 8 July 2009 in Herceg-Novi. A Joint Statement on cooperation in the realisation of common cross-border projects was also adopted.

The Parliamentary Assembly of Bosnia and Herzegovina decided to appoint members of an Inter-parliamentary Group of Friendship with Montenegro in January 2008. The Parliament of Montenegro established a Parliamentary Group of Friendship Montenegro - Bosnia and Herzegovina on 26 November 2008.

Cooperation of the two MFAs has been improved: consultations on European and Euro-Atlantic integration were held on 27 and 28 April 2009 in Sarajevo (topic: exchange of experience and information on the European and Euro-Atlantic integration processes, opportunities for cooperation and mutual coordination and support).

By the end of November 2009, the bilateral consultations of the two Ministries of Foreign Affairs will be held in Podgorica.

Meeting of the Permanent Joint Committee for Implementation of the Succession Agreement attended by the representatives of the former Yugoslav republics was held on 17/18 September 2009.

Montenegro and Bosnia and Herzegovina cooperate in a number of areas in the framework of the IPA Cross Border Cooperation Programme: cross border tourism, rural development, environmental protection, cooperation of chambers of commerce etc – these projects are intended for local communities and border municipalities.

In July 2009, the Parliament of Montenegro adopted the Resolution on Srebrenica confirming the European Parliament Resolution on Srebrenica.

The Government of Montenegro donated 100,000 euros for the construction of a school and an infirmary in Srebrenica.

#### Bilateral Agreements

11 bilateral treaties and acts have been signed between Montenegro and Bosnia and Herzegovina after Montenegro regained its independence. 19 agreements remain in force through succession. 6 agreements are being negotiated.

#### Economic Cooperation

Economic cooperation of the two countries is constantly growing. In the course of 2008 total investment from Bosnia and Herzegovina in Montenegro were EUR 6.53 million (1.38 million of investment into enterprises and banks and 5.11 million in real estate) which was more than in 2007 when they amounted to EUR 5.13 million (1.14 million of investment into enterprises and banks and 2.83 million in real estate and 1.16 million in inter-company debt). Trade between Montenegro and Bosnia and Herzegovina in 2008 was EUR 167.38 million – 140.89 million was import, while export from Montenegro to Bosnia and Herzegovina was only EUR 26.49 million.

Memorandum on Joint Activities on Drafting Project and Study Documentation for Connecting Bosnia and Herzegovina and Montenegro with the Railway Line Čapljina – Nikšić was signed in Sarajevo on 4 February 2008. The European Commission concluded the Agreement on Preliminary Design and Study for the Railway Line Čapljina-Trebinje-Nikšić in June 2009. Activities started in September 2009.

The National Tourism Organisation of Montenegro opened its tourism office in Sarajevo on 5 May 2009 in order to strengthen and continuously promote Montenegro in Bosnia and Herzegovina which is a strategically close and important market.

Representatives of Chambers of Commerce of Montenegro and Bosnia and Herzegovina signed the Agreement on Implementation of the Project of Intensifying Economic Cooperation within the IPA Framework on 28 May 2009. The amount of EUR 174,000 shall be spent for the first phase and 58,000 for the second phase of drafting the feasibility study.

#### Minorities

Montenegrin national minority is one of the most numerous ones in Bosnia and Herzegovina. The Society of Montenegrins and Citizens of Montenegrin Origin was established in Bosnia and Herzegovina in late June 2008. Declaration on the Establishment of the Coordination Council of Representatives of Montenegrin National Minority in the Bodies of Bosnia and Herzegovina was signed on 4 May 2009.

#### Multilateral Cooperation

Montenegro and Bosnia and Herzegovina intensively cooperate in regional initiatives such as: CEFTA 2006, CEI, SEECP, AII, RCC, Initiative on Cooperation of Local Communities at the Triple-Border of Bosnia and Herzegovina, Montenegro and Croatia, Adriatic Charter, DPPI SEE, MARRI, SECI, RACVIAC, ICPDR, SECI Centre, Union for the Mediterranean, Ministers of Culture of SEE etc.

During 2008 and 2009, consultations on cooperation in multilateral activities between the ministries of foreign affairs of Montenegro and Bosnia-Herzegovina were held twice.

#### Dual Nationality

On 22 September 2008 Montenegro submitted its Draft Agreement on Dual Nationality between Montenegro and Bosnia and Herzegovina. The Bosniak Member of the Presidency of Bosnia and Herzegovina did not support the signing of this agreement or any similar agreement with any of the former Yugoslav republics with the explanations that it would put the diaspora of Bosnia and Herzegovina in the world into an unequal position.

#### Delimitation

Draft text of the Agreement on the State Border between Montenegro and Bosnia and Herzegovina was adopted at the meeting of the state commissions of Montenegro and Bosnia and Herzegovina 18/19 February 2009 in Podgorica. Internal procedure in Montenegro is finished – the reply of Bosnia and Herzegovina is pending.

## **6. Serbia**

#### Bilateral Relations

There have been no significant changes in the quality of relations between the two countries after the recognition of the independence of Kosovo, with the exception of the Decision of Serbia to proclaim the ambassador of Montenegro persona non grata which came after Montenegro recognised independent Kosovo on 9 October 2008. Montenegro did not reply with reciprocal measure. Newly appointed Montenegrin ambassador of Montenegro in Serbia Igor Jovović received the Serbian consent on 9 September 2009 and took over the duty on 15 October 2009.

The two countries intensively cooperate in the field of European and Euro-Atlantic integrations, regional initiatives and fora. There is a continuity of political contacts in bilateral relations of Montenegro and Serbia. President Vujanović visited Serbia on 18 May 2009, Premier Cvetković visited Montenegro on 1 October 2009 when together with Premier Đukanović and Croatian Premier Jadranka Kosor participated at the opening ceremony of the motorway from Bar to the border with Serbia; Foreign Minister Jeremić visited Montenegro on 9 July 2008. Furthermore, meetings of President Vujanović and Tadić were organised during the Conference Natural Gas for Europe - Security and Partnership in Sofia 24/25 April 2009; the 8th Regional Forum on Culture Corridors in SEE Managing Cultural Differences and their Promotion for Tourist Purposes, 3/4

June 2009 in Cetinje and in the 16th Summit of Presidents of Central Europe on 18/21 June 2009 in Novi Sad. It is expected that President Tadić shall be visiting Montenegro in November 2009 (Serbian proposal). Chief of General Staff of the Armed Forces of Montenegro visited the General Staff of Serbia on 18/19 September 2009. In November 2009, a visit of the Minister of Defence of Montenegro to Belgrade will be realized.

Meeting of the Permanent Joint Committee for Implementation of the Succession Agreement attended by the representatives of the former Yugoslav republics was held on 17/18 September 2009.

On the occasion of the intention of the Government of Serbia to open three consulates in Montenegro, the Ministry of Foreign Affairs of Montenegro emphasised the need to regulate the treaty base in the field of consular cooperation. The Serbian side handed over the Draft of Consular Convention between Montenegro and Serbia on 18 June 2009 in order to regulate consular affairs of the two states in a detailed and comprehensive manner. The Ministry of Foreign Affairs of Montenegro submitted its suggestions on the Draft Consular Convention to the Serbian side and informed that it agreed that Serbia opened one consulate in Montenegro. The Convention is being harmonised and negotiations are expected to be held in October 2009.

There are further possibilities of implementing joint projects of cross border cooperation through IPA funds. In the Programmatic Document for Montenegro and Serbia the priority of cooperation was defined as socio-economic cohesion through joint activities aiming at improving physical, business, social and institutional infrastructure and capacities. Along with Serbia, Montenegro participates in bilateral cross border programme Serbia-Montenegro, IPA Adriatico Programme and Southeast Europe Cooperation Programme (SEES).

Plan of Bilateral Defence Cooperation for 2009 was signed in March 2009. Agreement on Donation between the Ministry of Defence of Montenegro and the Ministry of Defence of Serbia was signed on the occasion of the official visit of Serbian Minister of Defence D. Šutanovac to Podgorica on 2 February 2009. By this agreement Montenegro donated one flight simulator for Galeb type aircraft (G-4). Furthermore, in July 2009, the Serbian side handed over the Draft Agreement on Services between the Ministry of Defence of Montenegro and the Ministry of Defence of Serbia for further procedure.

Protocol on Joint Patrols along the Border of Montenegro and Serbia was signed during the regional meeting of Ministers of Interior of the SEE in Belgrade on 6 March 2009.

Agreement on Border Control in Railway Transport between the Government of Montenegro and the Government of Serbia was signed on 9 March 2009 and Agreement on Transport of Passengers and Cargo in International Road Transport was signed on 28 August 2009.

#### Bilateral Agreements

12 bilateral treaties and acts have been signed between Montenegro and Serbia since regaining Montenegrin independence.

A set of agreements on legal aid between Montenegro and Serbia was signed in Podgorica on 29 May 2009: Agreement on Mutual Legal Aid in Civil and Criminal Matters; Agreement on Mutual Enforcement of Decision in Criminal Matters and Agreement on Extradition. Protocol on Cooperation of the Ministries of Justice of Montenegro and Serbia was also signed on this occasion.

#### Economic Cooperation

Montenegro and Serbia are important foreign trade partners. There are many opportunities for agricultural and transport cooperation as well as cooperation of business communities. In order to create more efficient economic surroundings it is necessary to sign agreements on economic cooperation and on reciprocal promotion and protection of investment (drafts of these agreements were handed over to Montenegro on 9 July 2009). In the course of 2008 the trade was EUR 875.84 million: EUR 761.36 million was import and EUR 114.48 million was the Montenegro export. Serbian FDI in Montenegro for 2008 was EUR 43.54 million. There is also an intensive cooperation of chambers of commerce of Serbia and Montenegro.

#### Minorities

Preparations for the establishment of the National Council of Montenegrins in Serbia are under way. Two Montenegrin political parties are active. The Serbian National Council functions in Montenegro and it receives financial assistance through the government Fund for Minorities. The Constitution recognises the Serbian language as one of the official languages of Montenegro.

#### Multilateral Cooperation

Montenegro and Serbia intensively cooperate within regional initiatives such as: CEFTA 2006, CEI, SEECP, AII, RCC, DPPI SEE, MARRI, SECI, RACVIAC, ICPDR, BSEC, SECI centre, Ministers of Culture in SEE, Energy Community etc.

The first consultation on cooperation in multilateral activities was held in Belgrade, at the end of October 2009.

#### Dual Nationality

Negotiations on dual nationality started on 1 October 2008 in Belgrade when the two interior ministers met and they continued on expert level on 8 October 2008 in Budva, 15 October and 21 November 2008 in Belgrade. During the fourth round of negotiations on dual nationality it was agreed that dual nationality should be recognised to all nationals who obtain nationality of both states until the bilateral agreement is concluded. The Government of Montenegro sent the integral text of the proposal of Agreement on Dual Nationality to Serbia in late December 2008. In January 2009 Serbia submitted its proposal on dual nationality which was different than the previously discussed version. On 22 April 2009 Minister of interior of Montenegro sent a formal initiative to his Serbian counterpart to continue negotiations. In principle it was agreed to continue negotiations in a short time.

#### Delimitation

Negotiations between the two state commissions for delimitation of Montenegro and Serbia were scheduled for 14 April 2008 but they were cancelled upon the request of Serbia. Project documentation on border crossings of Dobrakovo and Draženovac with Serbia is being drafted. This project is going to be financed from IPA funding and the Montenegrin budget. The start of construction of border crossings of Dobrakovo and Draženovac is expected in early 2010.

### **113. How has the SFRY Succession Agreement been implemented? Are there any remaining difficulties? When and how has Montenegro been included in the process? Explain.**

Legal basis for the succession process is found in the Agreement on the Questions of Succession (Official Gazette of the Federal Republic of Yugoslavia 6/02) signed in Vienna on 29 June 2001 and the Agreement between the Republic of Serbia and Montenegro on Regulating Membership in International Financial Institutions and Delimitation of Financial Rights and Obligations (Official Gazette of the Republic of Montenegro 45/06) signed on 10 July 2006, which defines the principles for division between the two new states. The Vienna Agreement entails the establishment of a Committee on the Distribution of Assets and Liabilities of the former SFRY (the Committee). Representatives of the Ministry of Finance of Montenegro, together with a representative of the Central Bank of Montenegro, take part in the work of the Committee. Until now there have been 17 meetings of the Committee (Montenegrin representative have participated in the last five of them) and most of the obligations have been defined and divided. Representatives of Montenegro became involved in the succession process in early June 2004 when, being a part of the joint delegation of Serbia and Montenegro, they took part in the 13th meeting of the Committee on the Distribution of Assets and Liabilities of the former SFRY from Annex C of the Agreement on the Questions of Succession which took place in Zagreb.

Most of the financial rights and obligations, according to the provisions of both agreements, have been divided on the basis of the territorial principle i. e. applying the principle of the final user, while the key defined by the Vienna Agreement is used for non-allocated obligations and assets. Assets from the process of succession area had in the most part already been divided on the basis of the

key from the Vienna Agreement and the means have been allocated to the account of the Ministry of Finance in the Central Bank of Montenegro (the former FRY received 38% of assets and liabilities, except the gold with the BIS in the percentage of 36.52).

The Agreement between the Republic of Serbia and Montenegro on Regulating Membership in International Financial Institutions and Delimitation of Financial Rights and Obligations signed on 10 July 2006 defines the principles of division between the two new states. Article 2 of the Agreement determines the key on the basis of the GDP participation in the former FRY: 94.12% for Serbia and 5.88% for Montenegro. Therefore, all financial rights and obligations relating to the former state union of Serbia and Montenegro process of succession, which is 38% of the total amount for the former SFRY, is divided between Serbia and Montenegro in this manner. However, this key is applicable only for non-allocated financial rights and obligations, while, as it is regulated by the Agreement on the Questions of Succession, most of the remaining property has been divided on the basis of the territorial principle.

In the process of succession of property and obligations of the former SFRY, in the part on assets and liabilities (Annex C of the Agreement), the following three key questions remained unresolved:

1) The status of the old savings in foreign currencies which was deposited with the former National Bank of Yugoslavia and was guaranteed by the SFRY. Montenegro was not included in negotiations on the regulation of the old savings in foreign currencies, which, according to Article 7 of the Agreement on the Questions of Succession, were held under the auspices of the Bank for International Settlements and were concluded without success. It should be noted that Montenegro took over the obligation to pay the savings that its citizens deposited in banks in other republics of the former SFRY (now state successors) in the amount of EUR 34 million. A part of this obligation was fulfilled by Montenegro while for a part of savings the Government of Montenegro issued bonds which are payable until 2017. Montenegro claims this amount from other state successors.

2) Division of means with mixed banks (Article 5 – IV of the Agreement);

3) Division of the former SFRY debt to Libya

The problems of succession defined under 1) and 2) have been submitted to the Permanent Joint Committee (established under Article 4 of the Agreement on the Questions of Succession) to be resolved. The problem under 3) shall be discussed at the first meeting of the Committee on the Distribution of Assets and Liabilities of the former SFRY which is to be held in Podgorica in early December 2009. This question shall be the subject of succession and negotiations with other states of the former SFRY (six successors).

Furthermore, in early September 2009 representatives of all state successors of the former SFRY held negotiations with representatives of Albania in order to find solution for the parity of the clearing dollar and the establishment of interest rate for the part of debt of Albania to the National Bank of Yugoslavia of the former SFRY. The negotiations have been successfully finalised and it is expected that all state successors of the former SFRY start bilateral negotiations by the end of this year in order to determine the manner of compensation of Albania with each of the states individually.

By resolving the abovementioned questions the process of succession of financial rights and obligations of the former SFRY as defined in the Annex C shall be practically finalised. The process of resolving some less problematic and materially less important questions is also under way. The question of immovable property abroad – diplomatic and consular buildings, residences and flats for diplomats – is being negotiated by the state successors. Serbia and Montenegro reached an agreement by which Montenegro shall obtain some 6% of the part that Serbia receives through negotiations.

**114. Have all pending issues following the dissolution of the State Union of Serbia and Montenegro been solved? Please provide details.**

Building close relationship with Serbia, based on the principles of equality and mutual respect represents one of the priorities of the Montenegrin foreign policy, primarily in the context of historical, cultural and economic links of the two states as well as the common European goals they strive for.

After Montenegro recognised the independence of Kosovo, the relationship of the two states has not essentially changed with the exception of the Decision of the Serbian Government to proclaim the Montenegrin ambassador persona non grata. Montenegro decided not to reciprocate with the Serbian ambassador in Montenegro and not to take any other measure which could weaken the relationship of the two states. Serbia gave its consent to a new ambassador in Belgrade on 9 September 2009. The two countries cooperate intensively in the field of European and Euro-Atlantic integration, regional initiatives and fora. There is a continuity of political contacts on all levels within bilateral relations of Montenegro and Serbia.

Negotiations on dual nationality started on 1 October 2008 in Belgrade when the two interior ministers met and they continued on expert level on 8 October 2008 in Budva, 15 October and 21 November 2008 in Belgrade. During the fourth round of negotiations on dual nationality it was agreed that dual nationality should be recognised to all citizens who obtain nationality of both states until the bilateral agreement is concluded. The Government of Montenegro sent the integral text of the proposal of Agreement on Dual Nationality to Serbia in late December 2008. In January 2009 Serbia submitted its proposal on dual nationality which is different than the previously discussed version. On 22 April 2009 Minister of interior of Montenegro sent a formal initiative to his Serbian counterpart to continue negotiations. In principle it was agreed to continue negotiations in a short time.

Negotiations between the two state commissions for delimitation of Montenegro and Serbia were scheduled for 14 April 2008 but they were cancelled upon the request of Serbia. Project documentation on border crossings of Dobrakovo and Draženovac with Serbia is being drafted. This project is going to be financed from IPA funding and the Montenegrin budget. The start of construction of border crossings of Dobrakovo and Draženovac is expected in early 2010. The issue of border control was regulated by the signing of bilateral Protocol on Joint Patrols along the Border of Montenegro and Serbia on 6 March 2009.

Legal aid issues and cooperation in criminal matters between Montenegro and Serbia were regulated through: Agreement on Mutual Legal Aid in Civil and Criminal Matters; Agreement on Mutual Enforcement of Court Decision in Criminal Matters and Agreement on Extradition (on 29 May 2009). When it comes to distribution of military property, an agreement between the Government of Montenegro and the Government of Serbia on the Exchange of Means and Documentation is being negotiated. Joint Commission on Claims started to work in July 2008.

The issue of property after the break up of the state union is explained in the answer to question 113 of this chapter.

## International obligations

### 115. Cooperation with the ICTY:

**a) How is co-operation with The Hague tribunal organised both at political and operational levels? Is there a specific legal framework? What is the procedure followed when the government receives requests for assistance (RFAs) from the ICTY? Which is the ministry/body in charge?**

Cooperation of public authorities of Montenegro with the International Criminal Tribunal for the Former Yugoslavia (ICTY) is developed on the basis of the:

- Constitution of Montenegro
- Law on Cooperation of Serbia and Montenegro with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.
- Law on Cooperation with the International Criminal Court (whose provisions apply to cooperation with the ICTY when appropriate)
- Law on International Legal Aid in Criminal Matters, and
- Criminal Procedure Code.

These legal sources and previous compliance of Montenegro with the requests for assistance (RFAs) of the ICTY confirm the political readiness of Montenegro to fully cooperate with the International Criminal Tribunal for the Former Yugoslavia.

Concrete cooperation on operational level is developed in accordance with the abovementioned regulations of Montenegro (through competent ministries and judicial institutions).

Namely, when the Government of Montenegro, through the Ministry of Foreign Affairs, receives requests for assistance from the ICTY, the request is, in accordance with the mentioned laws, delivered to the Ministry of Justice of Montenegro which after examining whether the RFA contains all necessary elements for providing legal aid (formal validity of the RFA) and whether it is based on the provisions of the Statute and the Rulebook on Procedures and Evidence of the ICTY, forwards the RFA to the competent state authorities for further procedure. These competent state authorities can be domestic judicial authorities - competent court or public prosecutor as well as the Police Directorate. These authorities are obliged to urgently process the RFA and to inform the Ministry of Justice on the activities taken and possible hindrances in the procedure. After the procedure is finished, the competent authority submits the documentation (collected evidence etc) to the Ministry of Justice to be sent to the ICTY.

It should be noted that on 6 December 2007 the Office of the Supreme Public Prosecutor of Montenegro concluded a Memorandum of Understanding on the Use of the System for Electronic Disclosure with the ICTY Prosecutor's Office, which enabled the Supreme Public Prosecutor to have access to the Hague Tribunal database. In line with this memorandum, the Supreme Public Prosecutor of Montenegro has taken over a number of documents – evidence from the database for the needs of proceedings on criminal offences of war crimes in Montenegro

**b) Which is the institution in charge of serving summonses to witnesses and suspects?**

In accordance with legal regulations of Montenegro, authorities in charge for ICTY RFAs, i. e. of serving summonses for summonses to witnesses and summonses to suspects are the court and

the Police Administration. Which one of these authorities shall be responsible depends on the content of the RFA. If it relates to the hearing which is to be done by the investigators and prosecutors of the ICTY in the territory of Montenegro, then the competent authority is the Police Administration. If it relates to the testimony and hearing of a suspect in the ICTY, then the competent authority is the court. In this case, if the competent court in Montenegro is not able to serve summons through its summoning service (cannot find the person to whom the summons is to be served – he/she is not at the known address) it will ask the Police Directorate to do it.

**c) How many and what types of RFAs have you received and how many replies have been given? How many summonses for witnesses?**

By 1 October 2009 public authorities of Montenegro received 21 RFAs from the ICTY and the ICTY Prosecutor: in 2005 there were 4 RFAs, in 2006 3 RFAs, in 2007 8 RFAs, in 2008 3 RFAs and in 2009 3 RFAs. These RFAs relate to and in particular:

- Four relate to submission of documents
- Four relate to serving summonses and enabling the investigators of the Hague Tribunal to talk with persons in Montenegro as well as to their hearing. One out of these four relates to hearing of three witnesses and three on hearing of suspects.
- Two relate to serving summons for three witnesses;
- Two relate to the ban of entry into the territory of Montenegro, out of which the first one relates to 15 persons and the second one to 45 persons;
- Two relate to forwarding personal and other data on five persons;
- Five relate to guarantees of the Government of Montenegro for the five accused in the ICTY – for their temporary release - two of these have the nationality of Montenegro and the nationality of the Republic of Serbia, and three only the nationality of Serbia. The guarantees were given for all the mentioned persons in the time specified. Guarantees were given three times for one person (twice in 2005 and once in 2007). For one person guarantees were given five times (once in 2005, twice in 2006, once in 2007 and once in 2008). In each of these cases the guarantees of the Government of Montenegro defined the conditions of stay of the person for whom the guaranty is given, in accordance to the request of the ICTY, as well as the preparation and delivery of periodical reports on the observance of conditions of stay by the person for whom the guarantee is given;
- One related to urgent issuance of a travel document for one person in order to be heard as witness in the ICTY.
- One related to the need that the authorities of Montenegro identify persons who are familiar with laws, regulations and rules, confidential rules that were in force from August 1993 to 31 December 1995 on the production of arms and other military equipment and their registration, storage, transfer, selling and transport.

Public authorities of Montenegro complied with all (total of 21) RFAs of the ICTY and the ICTY Prosecutor.

**d) How much time is needed as an average to respond positively to a RFA? How many RFAs were answered positively? Of these RFAs, how many summonses for witnesses?**

In accordance with Article 5 of the Law on Cooperation of Serbia and Montenegro with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

the RFA procedure is urgent which means that public authorities involved in the procedure of RFAs are obliged to urgently comply with them.

Public authorities of Montenegro competent for ICTY RFAs have received the total of 21 RFAs. They urgently complied with these requests for assistance. 12 RFAs were complied in the time limit defined in the RFAs. Four RFAs were complied in 15 day, four more in 30 day and one in 35 days. From the abovementioned it can be concluded that more than two thirds of RFAs were complied urgently in less than 15 days.

Out of the total number of RFAs:

- Two RFAs relate to serving summonses and enabling the investigators of the Hague Tribunal to hearing with six witnesses. These RFAs were complied in the time limit specified in the RFAs.
- Three RFAs relate to serving summonses and enabling the investigators of the Hague Tribunal to talk and hear three suspects. These RFAs were complied in the time limit specified in the RFAs.

**e) How many RFAs are still to be answered? What are the reasons for the delay in answering them? What issues are they related to?**

Public authorities of Montenegro received the total of 21 RFAs of the ICTY and the ICTY Prosecutor and complied to all RFAs, as it was explained in the answer to question 115 (c) of this Chapter.

**f) Is your country ready to respond positively to possible future requests for information from the ICTY and how do you envisage ensuring the appropriate follow-up?**

Yes, Montenegro is ready to respond positively to possible future requests for information to the Hague Tribunal in accordance with the already established practice of cooperation with the ICTY. This has already been confirmed by the previous practice as well as the established legal framework in Montenegro which enables successful and unimpeded continuation of the already good cooperation in all its segments.

**g) How many cases have been opened by the ICTY and what is the state of the proceedings?**

The Hague Tribunal has not given any case to public authorities of Montenegro in order to open criminal procedure in Montenegro.

Criminal procedure has been started against two persons with dual nationality in the ICTY – nationality of Montenegro and of the Republic of Serbia.

Note: the Hague Tribunal's web site refers to these two and three more persons as the citizens of Serbia. The Government of Montenegro gave guarantees for the temporary release of all these five persons on the request of the ICTY, as it is in more details explained in the answer to question 115 (c) of this Chapter.

**h) Do you have legislation and mechanisms to protect witnesses? Please explain.**

Legislation framework to protect witnesses is secured through:

- Criminal Procedure Code (Official Gazette of Montenegro 57/09)
- Law on Witness Protection (Official Gazette of the Republic of Montenegro 65/04)
- Law on the Police (Official Gazette of the Republic of Montenegro 28/05)
- Questionnaire on Personal Data, Property, Obligations and other Data on Witnesses i.e. of a Person close to Witness (of 26 January 2009).

If there is any fear that by giving testimony or responding to certain questions one would seriously jeopardise its property of property security or security of its spouse or close relative exist, any witness can be protected in criminal procedure. The procedure of applying witness protection measures during criminal proceedings can be started by a witness or public prosecutor by submitting a written proposal to the court or orally to transcript before the hearing in the investigation or during the main hearing. The Criminal Procedure Code stipulates specific ways of participation and hearing of protected witnesses during criminal proceedings: hearing of witness under pseudonym, hearing with the help of technical devices (protection wall, devices for the change of voice, devices for transmission of picture, sound etc). Hearing of witness under pseudonym encompasses two ways of hiding identity of protected witness: hiding only personal data by giving pseudonym to witness which is used during criminal proceedings. Absolute hiding of witness identity is achieved by hearing of witness in separate premises and by communication of the investigating judge and the person present during the hearing with the witness through technical devices which make the face and voice of the witness unrecognisable. In this way the Criminal Procedure Code complies with Article 24 of the UN Convention on Combating Transnational Organised Crime, which Montenegro took over through the process of succession.

The Law on Witness Protection regulates the application of police and other measures of personal and property security in the protection of witnesses and of persons close to it outside of criminal proceeding. Protection of witnesses and of persons close to its outside of criminal proceedings consists of application of police and other measures of personal and property security (physical protection, resettlement, identity and property data hiding and change of identity in line with the Witness Protection Programme). Protection outside of criminal proceedings is secured only for those witnesses without whose deposition a certain criminal offence cannot be proved (against the Constitutional order, humanity and international law as well as any other offence which calls for imprisonment of ten years or more or when its proving would be considerably harder without a witness). Witness protection outside of criminal proceeding is secured through the Witness Protection Programme. The Witness Protection Programme Commission takes decisions on application, interruption, termination or extension of the Witness Protection Programme. The Commission is made of: a Judge of the Supreme Court of Montenegro, the Deputy Supreme Public Prosecutor and the Head of the Protection Unit. Witness protection procedure is started by an initiative for application of the Witness Protection Programme which can be submitted by: witness, public prosecutor in charge, judge competent for the proceeding, the director of the Institution for Enforcement of Criminal Sanctions and the Head of the Criminal Police Department.

The Police Directorate has a specialised unit which is responsible for application of the Witness Protection Programme. When the Law on Witness Protection was drafted, legislation from the countries in the region was used. In the course of application of the Witness Protection Programme, the Protection Unit of the Police Directorate secures necessary economic, psychological, social and legal assistance to witnesses and helps with economic and social measures until witnesses reach economic independence.

International cooperation in the application of the Witness Protection Programme is achieved on the basis of international agreement, specific agreement or on the basis of mutuality. The Protection Unit: submits requests to other state to accept the protected witness and to apply measures regulated by the Law on Witness Protection, as well as it accepts protected witnesses and applies protection measures in Montenegro.

General or basic protection, protection of any person, aggrieved and victims of criminal offence that are not exposed to danger and there is no reason be included in this programme, are defined by the Law on the Police.

Protection models in Montenegro can be described in the following manner:

Protection of all citizens «basic»  Law on the Police	Witness protection in criminal proceedings  Criminal Procedure Code	Witness protection outside criminal proceedings  Law on Witness Protection
--	---	--

**i) What judicial cooperation and extradition mechanisms exist with the other countries which belonged to the former Yugoslavia?**

Legal basis

International legal aid in criminal matters with the former Yugoslav republics is achieved on the basis of:

- 1959 European Convention on Mutual Assistance in Criminal Matters (Official Gazette of the Federal Republic of Yugoslavia 10/01)
- Bilateral agreements: Agreement between the FR of Yugoslavia and the Republic of Croatia on Legal Aid in Civil and Criminal Matters (Official Gazette of the Federal Republic of Yugoslavia 01/98), Agreement between Serbia and Montenegro and Bosnia and Herzegovina on Legal Aid in Civil and Criminal Matters and Agreement between Serbia and Montenegro and Bosnia and Herzegovina on Mutual Enforcement of Court Decision in Criminal Matters (Official Gazette of Serbia and Montenegro 06/05), Agreement between Serbia and Montenegro and the Republic of Macedonia on Legal Aid in Civil and Criminal Matters (Official Gazette of Serbia and Montenegro 22/04), which Montenegro continued to apply after proclaiming independence on the basis of the Decision on the Proclamation of Independence of the Republic of Montenegro of 3 June 2006; Agreement between Serbia and Montenegro on Legal Aid in Civil and Criminal Matters of 29 May 2009 and Agreement on Mutual Enforcement of Decision in Criminal Matters of 29 May 2009.

Agreement on Extradition with the Republic of Serbia was also signed on 29 May 2009. It is based on the principles of the European Convention on Extradition, while the 1957 European Convention on Extradition (Official Gazette of the Federal Republic of Yugoslavia 10/01) represents the legal basis for extradition procedures with Slovenia, Croatia, Bosnia and Herzegovina and Macedonia.

International legal aid and extradition with Kosovo are achieved on the basis of the Law on International Legal Aid in Criminal Matters (Official Gazette of Montenegro 04/08) and internal provisions of Kosovo.

Cooperation

Most of the requests (70%) in the period after independence of Montenegro (3 June 2006) are international legal aid with Serbia, which is why a bilateral agreement that envisages direct communication of judicial authorities of the two states was signed on 29 May 2009.

Extradition – mechanisms

The Constitution of Montenegro (Article 12) stipulates that a Montenegro national cannot be deported or extradited to other state except under international obligations of Montenegro. Montenegro has not concluded any agreement which allows for extradition of its nationals with the countries which belonged to the former Yugoslavia (and no other country); and in relation to Article 6 of the European Convention on Extradition Montenegro gave a statement that its national shall not be extradited.

**116. Please describe your obligations deriving from membership to the Council of Europe, the measures taken to date to honour these obligations and the envisaged actions for any pending obligations.**

Montenegro became a full-fledged member of the Council of Europe on 11 May 2007. On the occasion of the ceremony in the CoE seat in Strasbourg, Minister of Foreign Affairs Milan Roćen signed the Statute of the Council of Europe and the Convention on the Avoidance of Statelessness. On the basis of statement of accepting obligations, Montenegro was acknowledged the status of successor in 49 conventions and protocols of the Council of Europe (having in mind a number of conventions and protocols open for membership), while 13 conventions and protocols had to be ratified.

On the basis of conclusions of the Government of Montenegro of 1 November 2007, the Ministry of Foreign Affairs, in coordination with competent ministries, prepared an Action Plan of Cooperation of Montenegro with the Council of Europe. In order to fully, consistently and integrally honour these obligations and to achieve an interactive and responsible relationship in the implementation of a quality and adequate programme of post-accession cooperation with the Council of Europe, the Government of Montenegro adopted the Action Plan of Cooperation of Montenegro with the Council of Europe in January 2008.

The Action Plan reflects a coherent approach to cooperation with the Council of Europe and defines activities of responsible bodies of the Government of Montenegro for a three-year period (2008-2010). The aim of the Action Plan is to serve as a practical tool, a concrete reminder for implementers of activities in order to receive support in developing and preparing adequate measures and instruments focused on key priorities of cooperation with the Council of Europe. The Action Plan encompasses a wide diapason of activities of cooperation of Montenegro and the Council of Europe, particularly in the area of the reform of the judiciary and the police, as well as various programmes in other areas. Key elements of the Action Plan are the basic principles, action guidelines, implementation and monitoring mechanisms, which actually make the way the plan is structured.

Obligations of Montenegro after the accession to the Council of Europe are divided into four parts.

- 1) adoption of convention and protocols of the Council of Europe
- 2) constitutional reform
- 3) national legal system
- 4) human rights

**1. ADOPTION OF CONVENTION AND PROTOCOLS OF THE COUNCIL OF EUROPE**

**The list of treaties that Montenegro signed and are to be ratified in the Parliament of Montenegro:**

1. ETS 200	Convention on the Avoidance of Statelessness in relation to State Succession
2. ETS 163	European Social Charter (revised)
3. ETS 164	Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine
4. ETS 181	Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows
5. ETS 186	Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin
6. ETS 190	Protocol amending the European Convention on the Suppression of Terrorism
7. ETS 195	Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research

### III Regional issues and international obligations

8. ETS 160	European Convention on the Exercise of Children's Rights <b>PREPARATION OF THE PROPOSAL FOR THE LAW ON RATIFICATION IN PROGRESS</b>
9. ETS 202	European Convention on the Adoption of Children (Revised) <b>PREPARATION OF THE PROPOSAL FOR THE LAW ON RATIFICATION IN PROGRESS</b>
10. ETS 205	Council of Europe Convention on Access to Official Documents
11. ETS 201	Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse <b>PREPARATION OF THE PROPOSAL FOR THE LAW ON RATIFICATION IN PROGRESS</b>
12. ETS 106	European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities
13. ETS 159	Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities
14. ETS 169	Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation

#### Treaties for signing and ratification (2009 – 2010)

1. ETS 166	European Convention on Nationality
2. ETS 70	European Convention on the International Validity of Criminal Judgments <b>PROCEDURE OF SUBMISSION FOR ADOPTION BY THE PARLIAMENT OF MONTENEGRO IN PROGRESS</b>
3. ETS 116	Convention on the Compensation of Victims of Violent Crimes <b>PROCEDURE OF SUBMISSION FOR ADOPTION BY THE PARLIAMENT OF MONTENEGRO IN PROGRESS</b>
4. ETS 82	European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes

Note: the deadline for signing and ratification of all the mentioned conventions was within two years after accession to the Council of Europe. On its session of 15 October 2005, the Government of Montenegro obliged the competent ministries to inform the government on the dynamics of fulfilling the rest of obligations. It was concluded that the Prime Minister send a letter to the Speaker of the Parliament asking for a faster procedure in ratification of the conventions in the Parliament.

#### The list of signed and ratified conventions of the Council of Europe by Montenegro

1. ETS 1	Statute of the Council of Europe
2. ETS 2	General Agreement on Privileges and Immunities of the Council of Europe
3. ETS 10	Protocol to the General Agreement on Privileges and Immunities of the Council of Europe
4. ETS 24	European Convention on Extradition
5. ETS 9	Protocole to the Convention for the Protection of Human Rights and Fundamental Freedoms
6. ETS	European Cultural Convention
7. ETS 24	European Convention on Extradition
8. ETS 30	European Convention on Mutual Assistance in Criminal Matters

### III Regional issues and international obligations

9. ETS 41	Convention on the Liability of Hotel-Keepers Concerning the Property of their Guests
10. ETS 44	Protocol No.2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights Competence to Give Advisory Opinions
11. ETS 45	Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention
12. ETS 46	Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto
13. ETS 50	Convention on the Elaboration of a European Pharmacopoeia
14. ETS 51	European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders
15. ETS 55	Protocol No.5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Amending Articles 22 and 40 of the Convention
16. ETS 62	European Convention on Information on Foreign Law
17. ETS 69	European Agreement on Continued Payment of Scholarships to Students Studying Abroad
18. ETS 73	European Convention on the Transfer of Proceedings in Criminal Matters
19. ETS 86	Additional Protocol to the European Convention on Extradition
20. ETS 87	European Convention for the Protection of Animals kept for Farming Purposes
21. ETS 88	European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle
22. ETS 90	European Convention on the Suppression of Terrorism
23. ETS 92	European Agreement on the Transmission of Applications for Legal Aid
24. ETS 97	Additional Protocol to the European Convention on Information on Foreign Law
25. ETS 98	Second Additional Protocol to the European Convention on Extradition
26. ETS 99	Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
27. ETS 102	European Convention for the Protection of Animals for Slaughter
28. ETS 105	European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children
29. ETS 108	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data
30. ETS 112	Convention on the Transfer of Sentenced Persons
31. ETS 114	Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty
32. ETS 117	Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms
33. ETS 118	Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms
34. ETS 120	European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches

### III Regional issues and international obligations

35. ETS 121	Convention for the Protection of the Architectural Heritage of Europe
36. ETS 122	European Charter of Local Self-Government
37. ETS 126	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
38. ETS 132	European Convention on Transfrontier Television
39. ETS 134	Protocol to the Convention on the Elaboration of a European Pharmacopoeia
40. ETS 135	Anti-Doping Convention
41. ETS 141	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
42. ETS 147	European Convention on Cinematographic Co-production
43. ETS 148	European Charter for Regional or Minority Languages
44. ETS 151	Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
45. ETS 152	Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
46. ETS 155	Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby
47. ETS 157	Framework Convention for the Protection of National Minorities
48. ETS 104	Convention on the Conservation of European Wildlife and Natural Habitats
49. ETS 182	Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
50. ETS 165	Convention on the Recognition of Qualifications concerning Higher Education in the European Region
51. ETS 167	Additional Protocol to the Convention on the Transfer of Sentenced Persons
52. ETS 173	Criminal Law Convention on Corruption
53. ETS 174	Civil Law Convention on Corruption
54. ETS 162	Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe
55. ETS 176	European Landscape Convention
56. ETS 177	Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms
57. ETS 187	Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances
58. ETS 194	Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention
59. ETS 191	Additional Protocol to the Criminal Law Convention on Corruption
60. ETS 196	Council of Europe Convention on the Prevention of Terrorism
61. ETS 197	Council of Europe Convention on Action against Trafficking in Human Beings

### III Regional issues and international obligations

62. ETS 198	Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
63. ETS 185	Convention on Cybercrime
64. ETS 189	Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems
65. ETS 199	Framework Convention on the Value of Cultural Heritage for Society

#### 2. CONSTITUTIONAL REFORM

One of the main challenges of Montenegro in recent years has been the work on the first Constitution of the independent state. The Council of Europe asked Montenegrin politicians to commit themselves to the incorporation of a minimum of principles of the Council of Europe in the new Constitution, which would present the first step in the accession of Montenegro to the CoE. Along with the letter sent from the CoE a list of seven principles was also delivered. These principles relate to: civil organisation, avoidance of political influence in the appointment of judges and prosecutors, securing that prosecutors do not represent the state in civil matters; guarantees of human rights protection at least on the level of the Charter on Human and Minority Rights of Serbia and Montenegro (the so called Small Charter), death penalty prohibition, retroactive application of protection of human rights to past events and the Convention on Human Rights and Fundamental Freedoms Protection with its Protocols on Retroactive Applicability of Human Rights Protection to Past Events, regulation of the status of armed and security forces and intelligence services and mechanisms of parliamentary control, and ensuring that the a civilian be a military commander. Since Montenegro's intention was to adopt a modern Constitution that would reflect the character of a modern Montenegrin statehood and European standards, during the process of drafting the Constitution, Montenegro intensively cooperated with Venice Commission experts. Almost all of their recommendations were introduced in the new Constitution of Montenegro.

- 1) Montenegro adopted the Constitution on 19 October 2007 by which it is defined as a civil, democratic and ecological state of social justice based on the rule of law.
- 2) In relation to the second principle, the Venice Commission assessed that “the role of the Montenegrin Parliament in the process of appointing the president of the Supreme Court and public prosecutors is still problematic, while most of the members of the High Judicial Council are politically appointed”.

Montenegro adopted the Law on the Judicial Council in 2008. After that the Council was established. It should ensure the independence of judges and remove the influence of political parties in its work. The members of the Prosecutorial Council are proposed by prosecutors alone, and not politicians. The Parliament decides on their appointment without the right to propose any of them.

- 3) When it comes to prosecutors not representing the state in civil matters, the Council of Europe assesses that this practice continues, having in mind the fact that the Office of Public Advocate has not been established yet. The Ministry of Finance has initiated the appointment procedure for a defender of state proprietary interests, in accordance with the Law on State Property, and the Government procedure is in progress. Thus, the conditions will be met for this body to take over the activities of representing the State in proprietary disputes
- 4) In relation to the principle of ensuring human and minority rights, Article 9 of the Constitution stipulates that “international treaties and agreements and generally adopted rules of international law shall form an integral part of the internal legal order, have supremacy in case of conflict with domestic law, and are directly applicable in case of conflict with domestic law.
- 5) Article 26 of the Constitution stipulates the prohibition of death penalty in Montenegro.

- 6) When it comes to the retroactive application of protection of human rights to past events and the Convention on Human Rights and Fundamental Freedoms Protection with its Protocols on Retroactive Applicability of Human Rights Protection to Past Events, Article 5 of the Law on the Implementation of the Constitution relates to explanation and getting closer to courts and the public. The ECHR in the case *Bijelić against Serbia and Montenegro* pointed out (on 28 April 2009) that the judgment of March 2004 should be respected.
- 7) The recommendation relating to the regulation of the status of armed and security forces and intelligence services and mechanisms of parliamentary control, and ensuring that a civilian has to be a military commander was fully implemented through Articles 55, 129, 130 and 131 of the Constitution.

### 3. THE NATIONAL LEGAL SYSTEM

Montenegro continued to align its legislation with the standards of the European Convention on Human Rights as well as with reforms which ensure professionalism, efficiency and independence of judiciary bodies and employees.

Montenegro strongly supports activities which lead to ensuring sustainable efficiency of the European Court for Human Rights (ECHR) having in mind its significance in the Council of Europe system. State Agent of Montenegro to the ECHR has been appointed.

Montenegro also strongly supports the continuous efforts of the Council of Europe Commissioner for Human Rights, Thomas Hammarberg when it comes to the implementation of human rights standards in the CoE Member States and the creation of a more humane and inclusive Europe.

The reform of the election legislation and its alignment with the Constitution has been defined as of one of the priorities of the new call of the Parliament. This activity shall be continued in cooperation with the Council of Europe and the Venice Commission in order to adopt and implement high European standards in this area and finding the best possible solution having in mind the recommendations of the Council of Europe and the reality of Montenegro.

In the next period Montenegro shall work on fulfilling the recommendations of the Council of Europe on introducing the judiciary of Montenegro with court practice of the ECHR. In this context, it is necessary to provide translations of court practice in the ECHR and to promote its work through the office of the State Agent.

When it comes to the recommendation on securing appropriate financial means for an efficient work of the Constitutional Court and the judiciary, the Parliament adopted the Law on the Constitutional Court on 22 October 2008. This law stipulates that the court proposes the manner of financing and as a special part of the budget of Montenegro.

Montenegro successfully implements the recommendation relating to the introduction of an appropriate legal remedy for long court proceedings in domestic courts in order to make them faster or to provide compensation in accordance with Article 13 of the European Convention on Human Rights. The Law on Protection of Rights to Fair Court Proceedings in Reasonable Time was adopted on 27 November 2007.

Moreover, in relation with the violation of the European Convention on Human Rights, the Criminal Code (article 347, paragraph 2) and the Law on Civil Procedure (Article 428 a) stipulate the possibility of renewed consideration and opening of procedure on the national level.

Appropriate legal regulations have been adopted while administrative capacities for the fight against corruption and organised crime have been established on the basis of the GRECO recommendations. The text of the new Law on Conflict of Interest Prevention incorporates all the GRECO recommendations, the area of competence of the Law has been widened as well as the competence of the Commission for Determination of Conflict of Interest which implements this law, particularly in relation to initiating sanctions in case of violation of this law, provisions on the value of gifts have been improved and the institute of pantouflage established. The only GRECO recommendation which was not fully implemented relates to article 9 of this law by which only

Members of Parliament can be chairs or members of steering bodies or committees, executive directors, members of management of a public enterprise, public institution or other legal entity, public enterprise or institution whose owner is the state or a municipality (members of the Government of Montenegro, judges of the Constitutional Court of Montenegro, judges, public prosecutors and deputy public prosecutors are forbidden to perform these functions). The GRECO Report for Montenegro of 5 December 2008 found that the recommendations relating to conflict of interest (XVI, XVII and XIX) had been partially fulfilled since the Law on Conflict of Interest Prevention was in the form of proposal at that time. The adoption of the new Law in January 2009 improved the implementation of the GRECO recommendations except in the part relating to participation of members of parliament in boards of directors of state enterprises. It is expected that this possibility shall be made terminated by future amendments of this Law.

The Anti-Corruption Initiative Administration has preventive competences only as well as the coordinating role of state bodies, non-governmental and private sector in relation to anti-corruption initiatives. The competences of control and repressive competences are with other authorities (State Audit Institution, Police Directorate etc). It should be noted that the Anti-Corruption Initiative Administration presents a separate budgetary unit in the state budget and it independently plans and implements its preventive activities independently of the Ministry of Finance. The Ministry of Finance surveys the administrative work of the Anti-Corruption Initiative Administration in relation to legality and efficiency of its work.

In accordance with the CE recommendations, a Specialized Unit for Fighting against Organized Crime within the Supreme Public Prosecutor has been established.

Montenegro adopted the Law on the Conflict of Interest Prevention in December 2008 (entered into force in January 2009) and established the Commission for Determination of the Conflict of Interest in July 2009.

Law on Local Self-Government Financing (January 2008), Law on State Property (March 2009) and the Action Plan for Local Self-Government (February 2009) were adopted in order to strengthen local self-government structures.

Law on Prohibition of Discrimination is in the preparation phase. The draft text has been sent to the Council of Europe for comments. Both the Venice Commission and the OSCE have presented their expert opinions on this Law.

In relation with recommendations on gender equality, Montenegro adopted the Law on Gender Equality on 24 July 2007.

#### 4. HUMAN RIGHTS

The Council of Europe pays special attention to resolving the status of refugees and displaced persons in Montenegro, issuance of identification documents etc. One of main activities of the Government of Montenegro is resolving the status of refugees and displaced persons in Montenegro. The Bureau for the Care of Refugees (previously the Commissariat for Displaced Persons) issues IDs to displaced persons and internally displaced persons from Kosovo. Certain rights stemming from the status of internally displaced persons are free of charge primary and secondary education, free of charge legal protection in all state health institutions in Montenegro, free of charge legal aid etc.

The national Strategy for Durable Solutions of Refugees and Internally Displaced Persons in Montenegro adopted by the Government of Montenegro on 3 March 2005 equally treats permanent solutions: 1) integration, 2) repatriation, 3) departure to third countries. Therefore, the question of repatriation is treated equally with the process of integration. Specific activities and projects have been implemented in this regard.

In the past few years, the overall number of person who voluntarily returned to Kosovo has been 2,450. The return was mostly realised in the area of the Peć District (municipalities of Peć, Klina, Istok and Đakovica) and most of the returnees belong to the RAE population. The internally displaced persons from Kosovo are assisted to visit Kosovo and directly see what state their

property is in, what kind of assistance is being offered by local community and what kind of access to rights they have.

The Bureau for the Care of Refugees organised a survey for internally displaced persons from Kosovo and a list of those interested in return to Kosovo has been made. Up to now, 1,300 persons have shown interest in return to place of origin. Out of this number 402 persons have already started formal procedures. The process of registration of refugees and displaced persons is under way, too.

The process of socio-economic integration of displaced persons has been going for years in Montenegro. Living facilities for displaced persons have been or are built in most of the municipalities in Montenegro. The Bureau for the Care of Refugees in cooperation with international organisations and particularly local self-governments has provided accommodation for displaced persons in 406 living units in Montenegro.

The Government shall continue to implement activities in cooperation with competent authorities of Montenegro and international institutions in order to realise the general commitment of Montenegro to permanently resolve the problem of displaced persons. These activities have also been intensified in the process of visa liberalisation.

Montenegro supports the strengthening of the capacities and the budget of the Ombudsman's Office having in mind the importance of the Ombudsman institution. Amendments to the Law on Ombudsman have been sent to the Council of Europe for comments.

Montenegro continuously works on securing and respecting human and minority rights. The Ministry for Human and Minority Rights, on behalf of the Government of Montenegro, prepared and delivered the Report on the Implementation of the Framework Convention on Protection of National Minorities as well as the Report on the Implementation of the European Charter on Regional and Minority Languages to the competent bodies of the Council of Europe in September 2007. The Advisory Committee of the Council of Europe adopted the First Opinion on the Report on the Implementation of the Framework Convention on Protection of National Minorities in February 2008. Furthermore, the Council of Europe gave expert assistance and was directly involved in drafting the Law on Minority Languages and Freedoms.

The Strategy for Improving the Position of Roma, Ashkalis and Egyptians in Montenegro for 2008-2012 is being implemented. It envisages a set of measures and activities in the areas of social protection, urban planning, education, culture and health protection of the RAE population in order to improve their position and inclusion. Although the responsibility in this area lies primarily within the Government of Montenegro, the implementation of the Strategy calls for coordinated, joint and synchronised efforts and activities, on financial and other levels, of the international community, first of all the Council of Europe, OSCE and the EU, as well as the civil sector in Montenegro.

After the draft Report on the State of Human Rights in Montenegro of the Office of the CoE Commissioner for HR as well as the First CPT Statement in relation to the first periodical visit to Montenegro was presented to Montenegro, the Ministry of Foreign Affairs collected the comments and suggestions on factual irregularities from competent Montenegrin authorities and delivered them to the Office of the CoE Commissioner for HR and the CPT – European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Inter-ministerial Working Group for Monitoring and Implementation of Recommendations from the Report of the CoE Commissioner for HR has been established as well as an Inter-ministerial Working Group for Fight against Torture and Inhumane and Humiliating Behaviour or Punishment which has been established in cooperation with the Ministry of Justice and has prepared an Action Plan for Torture Prevention.

Montenegro cooperates fully with the Hague Tribunal, which is one of the obligations to which the Committee of Ministers of the Council of Europe pays special attention. Respect of human rights and rule of law are the reasons why Montenegro has been and is committed to cooperation with the ICTY.

## CONCLUSION

Since its accession to the Council of Europe, Montenegro made important steps in adopting appropriate legislation, strengthening institutional capacities, fulfilling obligations on the CoE conventions and raising the level of its participation in the CoE bodies.

In the course of 2009 and 2010 Montenegro shall finalise the process of accession and ratification of the remaining conventions. It is ready to take into consideration all the CoE suggestions on acceding to certain new instruments of this organisation. The Government of Montenegro has precisely defined time limits for the realisation of these activities which shows the commitment of Montenegro to seriously and permanently work on fulfilling all of its obligations.

Montenegro particularly appreciates the activities of the Mission of the Council of Europe in Montenegro that, in synergy with the EU, OSCE and other international organisations in Montenegro, has multiple importance for the realisation of Montenegro strategic interests. The activities of the Mission are useful not only in projects related to the reform of the judiciary, public and local administration, the police, prisons, reform of education and media, fight against organised crime and trafficking in human beings, preservation of cultural and natural heritage, but also in the process of harmonisation of the election legislation with the Constitution, securing adequate representation of minorities in the Parliament and access to documents for the RAE population.

Montenegro sees the fulfilment of these obligations as the most direct confirmation of its responsible approach as the youngest member of the organisation and as the best recommendation of progress in the European integration. Montenegro shall continue to be a reliable partner in the promotion of values and improvement of principles and goals that the Council of Europe strives for.

### **117. What steps have been taken to ratify and implement into domestic law the Rome Statute on the International Criminal Court? Are there any exceptions to the Rome Statute applied by Montenegro?**

Montenegro strongly supports the process of development of international criminal law, as supra-national law, and the functioning of international criminal judicial system. On the basis of this commitment, Montenegro has supported the idea of establishing the International Criminal Court from the very start. It significantly contributed to defining the policy on this issue in the state and legal framework in which it used to be together with Serbia at that time.

As an independent state with full international legal status, by regaining independence Montenegro took over the obligation to apply international treaties and agreements of the state union of Serbia and Montenegro as a legal heir of the FRY. This commitment was incorporated in the Decision on the Proclamation of the Independence of the Republic of Montenegro and the Declaration of the Independent Republic of Montenegro (Official Gazette of the Republic of Montenegro 36/06) as well as in the Constitution of Montenegro (Official Gazette of Montenegro 1/07). Therefore, through the ratification of the Rome Statute by the FRY, by applying Constitutional principles, Montenegro took over the obligation to regulate the criminal procedure aspects of cooperation with the International Criminal Court. Montenegro fulfilled its obligation in this regard by adopting strategic documents and laws. The Strategy on the Reform of the Judiciary 2007-2012 has a special chapter dedicated to strengthening international-judicial cooperation. The Law on International Legal Aid in Criminal Matters was adopted as a part of this activity. By adopting the Criminal Code Montenegro fully aligned its criminal law with the material legal requests from the Rome Statute on the International Criminal Court. Namely, Chapter 35 of the Criminal Code, entitled Criminal Offences against Humanity and other Goods Protected by International Law, incorporates articles 6, 7 and 8 of the Rome Statute relating to the incrimination of genocide, crimes against humanity and war crimes. The question of command responsibility is resolved by defining the responsibility of a military commander or other person who practically performs this function, i. e. his/her other subordinate. Responsibility for culpable neglect is also defined.

Montenegro has fully completed the implementation of its obligations stemming from the Rome Statute by adopting the Law on Cooperation with the International Criminal Court on 27 July 2009. This law regulates cooperation with the International Criminal Court and the fulfilment of other obligations in accordance with the Rome Statute on the International Criminal Court, as well as other issues on persecution of perpetrators criminal offences from article 5 of the Statute, i. e. criminal offences against humanity and other goods protected by international law relating to violation of international humanitarian law from the Criminal Code of Montenegro.

On the basis of this Law, the Government of Montenegro can conclude a separate agreement on acceptance of proceedings or on mutual cooperation with the International Criminal Court

Furthermore, the Law stipulates the participation of Montenegro in the work of the Assembly of the State Parties to the International Criminal Court as well as in the work of other bodies of the Court and the allocation of financial means for financing the International Criminal Court. Montenegro is obliged to provide these means according to the Statute and they secured through the state budget of Montenegro.

Finally, it is regulated that the provisions of this law relating to the cooperation with the International Criminal Court shall be applied to a criminal offence from Article 5 of the Rome Statute committed after 1 July 2002 when the Statute entered into force.

#### Exceptions:

Montenegro and the USA concluded an Agreement on the basis of Article 98 of the Rome statute by exchange of notes in April 2007. The two parties took over the obligation not to extradite the nationals of other signatory party that are charged for war crimes, genocide and crimes against humanity to the International Criminal Court. Montenegro is fully aware of all the implications of this agreement. However, this decision is the result of a serious process of consideration of its positive and negative sides. It is a political decision and the aim of Montenegro was to make the international law vulnerable in no way, but to do what was assessed to be in the best interest of Montenegro at that moment. Montenegro is a signatory to the International Criminal Court Rome Statute and it shall fully cooperate with this Court and continue, as it has done previously, to respect its international obligations, which has been confirmed by its full cooperation with the Hague Tribunal.

Montenegro assessed that the conclusion of the agreement through exchange of notes represents the simplest way since it does not call for formal signing or ratification and therefore it is easier to alter or terminate it in the same way. In addition, Montenegro also took into consideration the fact that its Government in the state union accepted this agreement on the level of Serbia and Montenegro through the 2005 Agreement between Serbia and Montenegro and NATO on Transit Arrangements for Support to Peace Operations.