



**Montenegro**  
**Government of Montenegro**

**Report**  
**on the readiness of Montenegro for liberalization of visa regime**

**Podgorica , August 2008**

- A. Montenegro is implementing commitments resulting from the Readmission Agreement, which is signed and ratified. A separate Department is established under the Ministry of Interior Affairs and Public Administration, which addresses issues related to migration, visas and readmission (Department for Migrations, Visas and Readmission). The Department officers are trained for performing tasks and duties related to readmission.

Also, the Police Administration officers are trained for performing duties under their competence that relate to readmission.

For more details, see Item 2.11.2.

- B. The Law on Ratification of the Agreement between the Republic of Montenegro and the European Union on the Facilitation of the Issuance of Short-Stay Visas ("Official Gazette of Montenegro", no. 7/07) ratified the Agreement that was signed in Brussels on September 18, 2007.

The Ministry of Foreign Affairs continuously monitors all institutions, authorities and bodies of Montenegro, who are involved in the issuance of visas, certificates and other documents, based on which the citizens of Montenegro are issued visas for traveling to the EU and other countries.

Immediately after this Agreement entered into force, a list was produced of institutions, authorities and bodies which are permitted to issue appropriate letters of invitation, certificates and other documents to Montenegrin citizens who wish to travel to the EU countries (on employment, personal income, insurance, working and civil status, or a position held in a state authority).

These institutions submitted to the Ministry of Foreign Affairs – Sector for Consular Affairs and Diaspora – registered names of institutions, authorities or bodies, names of sectors, departments or services which are permitted to issue letters of invitation, certificates or other documents, the first and the last name, telephone numbers, fax number, e-mail, etc., as well as addresses of persons who are authorized to issue letters of invitation, certificates and other documents.

The competent Consular Departments in Embassies of foreign countries in Podgorica are aware of this list.

The Ministry of Interior Affairs maintains permanent and day-to-day cooperation with these Embassies for the purpose of eliminating potential disagreements regarding other necessary documents, which is a direct contribution to implementing the Agreement.

In May this year, Podgorica hosted sessions of the Joint Readmission Committee and the Joint Committee for the Facilitation of the Issuance of Visas, and it was concluded that Montenegro is implementing all commitments.

## **BLOCK 1: DOCUMENT SECURITY**

### **1.1 Issuing of machine readable biometric travel documents in compliance with ICAO and EC standards and introduction of biometric data, including photo and fingerprints.**

#### **1.1.1 Current state in relation to introduction and issuing of machine readable biometric travel documents**

The Law on Travel Documents («Official Gazette of Montenegro» No.21/08 and 25/08) that is effective since May 5th 2008, prescribes that the travel document is an electronic public

document. Only Montenegrin citizens have the right to receive the Montenegrin travel document.

Passport is in compliance with ICAO and EC standards. The passport has machine readable zone, biometric data and contactless chip which is placed on the datapage.

Data from machine readable zone and digital photo that is in compliance with ISO/IEC FDIS 19794-5 standard are inscribed in the contactless chip. For the chip access control Basic Access Control (BAC) is used.

A Montenegrin citizen can hold only one travel document of the same kind.

Procedure for issuance of identification documents is conducted in the following manner – in the regional unit or division of the Ministry of Internal Affairs and Public Administration, in the municipality of permanent residence of the Montenegrin citizen, a citizen submits the request for issue of identification documents enclosing the breeder documentation needed, gives necessary alphanumerical data and digital photo, digital personal signature and fingerprints are taken. Through the unique computer network, data are directly transferred to the central database. Personalization of documents is performed only at the central location of the system – in Podgorica. Personalized identification documents are delivered to the regional unit or division of the Ministry of Internal Affairs and Public Administration which hands out the document to its holder, after the applicant's fingerprint verification.

Along with passports, the new System for document issuing also performs issuance of identity cards and drivers licenses. Identity card contains machine readable zone.

Within the period May 5th – August 26th 2008, the Ministry issued:

	Passport	Identity card	Drivers license
Issued	43268	70709	27071

The Rule book on the content of machine readable zone of travel documents, («Official Gazette of Montenegro» No 41/08) determines the data that contain machine readable zone.

Machine readable zone is entered in passport, diplomatic passport and official passport.

Machine readable zone is set in accordance with the ICAO Doc 9303 Recommendations.

Machine readable zone has two lines. Each of them has 44 characters..

Data structure of the upper machine readable line :

Document code: «P» for normal passport, «PD» for diplomatic passport , «PS» for service passport ( character positions 1 to 2 )

Issuing State: «MNE» ( character positions 3 to 5 )

Name: The name consists of primary and secondary identifiers ( character positions 6 to 44 )

The primary and secondary identifiers shall be separated by two filler characters (<<).

Components within the primary or secondary identifiers shall be separated by a single filler characters(<).

The primary and secondary identifiers in the MRZ shall be printed in English alphabet (typeface OCR-B).

Translation of Montenegrin alphabet is : Đ - D, Ž - Z, Ć - C, Č - C and Š - S.

When all components of the primary and secondary identifiers and required separators do not exceed 39 characters all unused character position shall be completed with filler characters repeated up to position 44 as required.

Data structure of the lower machine readable line :

Passport number - ( character positions 1 to 9 )

Check digit - ( character position 10 )

Nationality: «MNE» ( character positions 11 to 13 )

Date of birth - ( character positions 14 to 19 )

Check digit - ( character position 20 )

Sex: F = female, M=male ( character position 21 )

Date of expiry -( character positions 22 to 27 )

Check digit - ( character position 28 )

Personal number ( character positions 29 to 41 )

Filer - - ( character position 42 )

Check digit - ( character position 43 )  
Composite check digit - ( character position 44 )

The check digits shall be calculated on modulus 10 with a continuously repetitive weighting of 731 731 ..., as follows.

When check digit calculation is applied to data elements the characters shall have values 0 to 35 consecutively, as follows :

0 123456789<

0 1234567890

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35.

Going from left to right, multiply each digit of the pertinent numerical data element by the weighting figure appearing in the corresponding sequential position. Add the products of each multiplication and divide the sum by 10. The remainder shall be the check digit.

### **1.1.2. Time frame for the obsolescence of the current travel documents.**

The Law on Travel Documents, in its Article 60, prescribes that the travel documents issued before beginning of implementation of this Act , shall be valid until expiration of the period stipulated in the document, and not later than 31 December 2009. Since May 5th 2008, passports, diplomatic passports and official passports are no longer issued on the basis of the previous pattern.

### **1.1.3 Conformity of travel documents with ICAO and EC standards**

Montenegrin travel documents are developed in compliance with the following documents :  
“International Civil Aviation Organization (ICAO), Machine Readable Travel Documents, Doc 9303, Part 1 Machine Readable Passports, Sixth Edition, of 2006 ” and “Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States” .

The conformity of Montenegrin travel documents includes :

1. Compatibility of materials used for booklet production (data page, visa pages and covers )
2. Compatibility of security elements that are embedded in the passport booklet
3. Compatibility of personalization technology ( laser engraving )
4. Compatibility of protection against copying
5. Compatibility regarding the layout of a data page
6. Compatibility regarding the content of a contactless chip and protection of a chip from unauthorized reading
7. Compatibility of personalization process – concept of document production only on one location in the State
8. Compatibility regarding provision of security mechanisms for personalization process and transport of documents
9. Compatibility regarding the mode and applied techniques for data acquisition

Detailed description is given in the Annex 1 (Document Travel document issuing system – conformity with standards)

### **1.1.4 Security elements included in travel documents ( biometric photo).**

In Montenegrin travel documents security elements are included and they are classified on the following levels:

- 1=open to public
- 2=limited instruction to police and border ( confidential )

- 3=limited to certain number of specialists ( secret )

For the first security level ( open to public ) there is no need for detection and verification equipment- visible to the human eye

For the second security level ( confidential ) there is a need for a simple verification equipment ( UV lamp, IR lamp, magnifier ... ).

For the third security level (secret) verification can only be done in a laboratory.

Security elements are incorporated in documents in process used for blank documents production, as well as in the document personalization process.

Design of data page is different from the design of visa pages and inner covers of a passport.

Passport holder's data ( including photo and signature ) are included in a passport by laser engraving technique. In that way, data are integrated into the material which is used for the production of data page.

In order to provide more reliable link between passport holder and the document itself, contactless chip is embedded in the data page. Data from machine readable zone and digital photo that is in compliance with ISO/IEC FDIS 19794 -5 standard are written on the contactless chip. Integrity and authenticity of data stored in the chip is provided by digital signing, in accordance with ICAO NTWG, PKI for Machine Readable Travel Documents Offering ICC Read-Only Access, Technical Report, Version 1.1, October 01, 2004. Basic Access Control ( BAC ) is used for the chip access control .

During data acquisition two fingerprints are taken, in compliance with ISO/IEC FDIS 19794 - 4 standard. The fingerprints are stored in the database and they are used in the process of identification of a person during the document handout. Fingerprints taken are technically ready for inscription in the chip when we establish adequate infrastructure ( extended access control ).

Detailed specification of a security elements of levels 1 and 2, and personalization process are given in the Annex 1 (Document Travel document issuing system – conformity with standards , Chapter 1 Blank documents production and Chapter 2 Personalization of documents).

## **1.2 Administrative measures ensuring the integrity and security of the personalization and distribution process.**

### **1.2.1 Organization of personalization and distribution of travel documents**

Personalization process is centralized and it is done only within the Department for information technologies of the Ministry of Internal Affairs and Public Administration, whether the request was submitted in the country or in a diplomatic or consular representative of Montenegro. The personalization solution includes:

- Personalization machines supporting laser engraving and chip encoding for e-Passports
- Certification Authority and HSM's to support the ICAO PKI required to implement personalization and the key and certificate sharing processes of ICAO
- Production and tracking management software
- Data preparation software and HSM's to generate chip data for e-passports
- Personalization software and HSM's to personalize chip data onto e-passports
- Quality Control software to allow checking of documents after personalization
- Stock and inventory management and order processing support
- Integration with the central database servers..

Access to blank documents storage is based on a „four eyes“ principle.

Personalized travel documents are distributed in metal boxes, using the Transport Service that is organized within the Ministry.

Handout of the document is done after the applicant's fingerprint verification.

Request for the travel document is submitted in person by applicant. Applicant has to give alphanumeric data and on-line photo, signature and fingerprints are taken.

Detailed description of personalization process is given in the Annex 1 (Document Travel document issuing system – conformity with standards, Chapter 2 Personalization of documents).

Detailed description of document distribution is given in the Annex 1 (Document Travel document issuing system – conformity with standards, Chapter 3 Distribution of travel documents).

Detailed description of data acquisition and handout of the document is given in the Annex 1 (Document Travel document issuing system – conformity with standards, Chapter 6 Data acquisition and handout of the document).

### **1.2.2 Administrative measures and control mechanisms for integrity assurance and safety of personalization and distribution of travel documents.**

In order to provide control mechanisms for integrity assurance and safety of personalization and distribution of travel documents, the Ministry developed the following instructions for the work in the personalization center:

- Instruction for access control to the personalization center
- Instruction for blank documents storage and stock checking
- Instruction for working process in the perso center
- Instruction for job division and related duties
- Instruction for blank document issuing
- Instruction for package and delivery of produced travel documents
- Instruction for destruction of wasted documents.

Instruction for access control to the personalization center defines who, when, and under which conditions can enter the Center for information technology ( i.e. personalization center) and which zone of the Center. Procedures for employees and other parties are separately defined.

Instruction for blank documents storage and stock checking defines method and conditions for blank documents storage. It also defines method and dynamics for stock checking of the documents.

Instruction for working process in the perso center defines job description for each position in the perso center and process dynamics within a working day. Every month, on the basis of this Instruction, the Instruction for job division and related duties is developed. This instruction defines when and what each employee does in a given month.

Instruction for blank document issuing defines who, when and how can take blank documents from the stock. It also defines who, when and how can return non-personalized and wasted documents to the stock.

Instruction for package and delivery of produced travel documents defines package procedure of personalized documents, handout of metal boxes ( personalized documents are transported in metal boxes) to the Transport Service, as well as the procedure for receiving of confirmation that the documents were delivered to a regional unit.

Instruction for destruction of wasted documents defines procedure for the destruction of documents wasted during the personalization process.

For the work of regional units, where data acquisition, request processing and handout of documents are done, the Ministry has developed the following instructions:

Instructions on how to use computer systems

Instructions on how to use applications for data acquisition and request processing

Instructions on how to handout documents.

Instructions on how to use computer systems provides procedures for computer authorization and defines the level ( security role ) of the use of the system .

Instructions on how to use applications for data acquisition and request processing provides detailed description of procedures for request acceptance and decisions regarding the requests.

Instructions on how to handout documents defines the procedure for handout of travel documents.

### **1.3 Training programs and ethical codes on anti-corruption targeting the officials of any public authority that deal with visas or passports**

#### **1.3.1 Designing anti-corruption training programs**

Employees and servants of authorities who deal with supervision, receiving requests for applications processing, deciding upon applications, taking biometric data, personalization of documents and issuing documents are aware of the Ethical Code of the State Administration Employees and Civil Servants, and have assumed the responsibility to strictly adhere to it. Implementation of the Ethical Code is a permanent obligation.

#### **1.3.2 Content and the scope of training programs**

The concept of the Ethical Code, implementation of the Ethical Code, impartiality and political neutrality, professionalism, loyalty and kindness, dedication to parties – beneficiaries, procedures with beneficiaries, conflict of interest, prohibition of conducting other activities, maintenance of public trust, access to information, keeping business secrets, reporting unethical requests, prohibition of receiving gifts and offers, reacting to attempts of giving gifts and offers, abuse of office, protection of property and means, relation to superiors, relations between the superior and officers, behavior to other staff, violation of the Code, etc.

#### **1.3.3 Ethical Code on Anti-corruption.**

In Montenegro, Ethical Code of the State Administration Employees and Civil Servants is in force («Official Gazette no. 21/05)

### **1.4 Report to Interpol/LASP database on lost and stolen passports.**

#### **1.4.1 Report to Interpol/ LASP database.**

According to the Law on Travel Documents passport holder has an obligation to report the disappearance or the theft of the travel document to the body that issued the document.

Data on lost and stolen travel documents are collected in a way that the passport holder files a report to the regional unit of internal affairs of the Ministry or to diplomatic or consular representative of Montenegro if the document was lost or stolen abroad. They first check the

identity of the person that files a report, and then they enter the data from the report into the computer system of the Ministry.

Data on lost and stolen travel documents are delivered, electronically, to the Police Administration –National Bureau of Interpol in Podgorica, and they enter the data into the Interpol database. The following data are delivered- the number of a travel document, type of a travel document, state code, information on whether the document was lost or stolen, date when the report was filed. Delivery is on a daily basis.

### **1.5 High level of security of breeder documents and ID cards and define strict procedures surrounding their issuance**

A detailed description of the security elements and procedure for issuance of Identity Cards is given in the Annex 1 (Document Travel document issuing system – conformity with standards).

#### **1.5.1 Procedure for issuance of breeder documents**

According to the Law on Travel Documents and the Law on Identity Cards, the travel document and identity card will be issued only to the Montenegrin citizens. This means that a citizen is obliged to enclose the following documents with the request for issuance of a document:

- citizenship certificate, on the basis of the official record which is kept and issued by local self-government bodies
- birth certificate, on the basis of the official record which is kept and issued by local self-government bodies
- marriage certificate, as needed, on the basis of the official record which is kept and issued by local self-government bodies.

Record on Montenegrin citizens and citizenship certificates:

- 1) Montenegro has a reliable record of its citizens which is kept according to the Law. According to the current Law on Montenegrin Citizenship («Official Gazette of Montenegro No. 13/08), a Montenegrin citizen shall be considered a person who acquired the Montenegrin citizenship in accordance with previous regulations and if registered into the Register of Montenegrin citizens in Montenegro (Article 39, paragraph 1).

Montenegro citizenship is not established for the first time when Montenegro became an independent state and when the above mentioned Law was adopted. In the former Yugoslavia and its Republics, there were two citizenships at the same time, one citizenship was Yugoslav (federal) and another one was the citizenship of a member Republic (a person had Yugoslav citizenship and citizenship of one of the Republics at the same time). Records on citizens of the member Republics, and thereby records on Yugoslav citizens, were kept by the member Republic bodies. In that period, Montenegro had the following four laws on Montenegrin citizenship:

- Law on Citizenship of the National Republic of Montenegro, adopted in 1949,
- Law on Citizenship of the Socialist Republic of Montenegro, adopted in 1965,
- Law on Citizenship of the Socialist Republic of Montenegro, adopted in 1975, and
- Law on Montenegrin Citizenship, adopted in 1989.

All these laws regulated the modes and conditions for the acquisition and the cessation of Montenegrin citizenship, likewise keeping of the Register of Montenegrin citizens.

- 2) Keeping of the Record on Montenegrin citizens is performed by local self-government bodies, as a delegated task from the state administration. Monitoring of the Record keeping is performed by the Ministry of Internal Affairs and Public Administration.



Records are kept in municipalities, and within a municipality in the municipality's areas (one or more inhabited sites), in the form of the book (Book of citizens). The book is bind.

Along with the book of citizens, alphabetical record (by first letter of a surname) is kept. Next to the personal name, page of the book, citizenship and ordinal number of registration are written.

At the request of citizens , local self-government bodies are issuing citizenship certificates, on the basis of this record. Data in the record must be compatible with the data in the official record.

- 3) The Law on Montenegrin citizenship, in its Articles 33-38, establishes the Register on Montenegrin citizens. The Register will be kept by the Ministry of Internal Affairs and Public Administration, through its regional units. This implies that the data from the book of citizens should be uploaded in a computer, in which way computer database on Montenegrin citizens would be created.

The Government of Montenegro has already created the Team for this task. The Government also provided financial resources for this task.

Record of data on born, married and deceased Montenegrin citizens and issuance of certificates:

- 1 Montenegro also has reliable record of data on birth, death or concluded marriage on the territory of Montenegro, and data on birth, death or concluded marriage for Montenegrin citizens incurred on the territory of another state. This record is kept in accordance with the Law on matricular evidence.
- 2 Keeping of the record of data on birth, death or concluded marriage is performed by local self-government bodies, as a delegated task from the state administration. Monitoring of the Record keeping is performed by the Ministry of Internal Affairs and Public Administration. This record is kept in the same way as the book on citizens («matricular book of born persons», « matricular book of deceased persons», and « matricular book of married persons»).
- 3 According to the Law on matricular evidence (this Law was adopted in July 2008 ), the record will be kept electronically and the transfer of data will be done by the newly created team of the Government of Montenegro in co-operation with local self-government.

### **1.5.2 Security standards of breeder documents.**

According to the Law and related bylaws, inscription of data in the matricular book of born persons, the matricular book of deceased persons, and the matricular book of married persons, will be done solely by a specially designated employee - registrar. Registrar will inscribe the data in the matricular books only on the basis of the listed documentation.

Appearance and the content of the citizenship certificate, the birth certificate, the marriage certificate and the death certificate are prescribed by the relevant bylaw, and registrar can issue a certificate in the proper form only. In the certificate, registrar can only enter the data contained in the official record. Record is kept on every citizenship certificate and certificates from matricular books that are issued.

### **1.5.3 Keeping breeder documents**

These records are kept in two copies, books that are concluded at the end of each calendar year, and the back-up copy is kept separately. At the submission of applications for the issuance of travel documents, the related documents are scanned and stored in the database, and then attached to applications and archived after the issuance of travel documents.

#### **1.5.4 Security of the procedure**

Keeping of the records which are used as the basis for issuing the relevant documents is based on the following principles: official, uniform data and authenticity. The Law prescribes that official records on Montenegrin citizenship, birth, marriage and death, certificates and testimonials from these records are valid as public documents, and a competent authority is nominated for entering data into the register. Officers who receive applications for issuing passports have an opportunity to check the validity of every certificate or a testimonial that is issued.

### **BLOCK 2: ILLEGAL MIGRATIONS, INCLUDING READMISSION**

#### **2.1 Legislation governing the movement of persons at the external borders, as well as the organization of the border authorities and their functions in accordance with the Action Plan on the implementation of the Strategy on Integrated Border Management, which was adopted in December 2006.**

##### **2.1.1 Progress Report on the drafting, adoption and implementation of legal and regulatory aspects/ normative documents on the movement of persons at the external borders taking account of the EU positive practice/ norms.**

The Law on State Border Surveillance was adopted in 2005 ("Official Gazette of the Republic of Montenegro", no. 72/05), and entered into force on 09.12.2005. This is the first Law in this field in Montenegro, which regulates state border surveillance, performing control of crossings of the state borders of Montenegro, control inside the country, cross-border police cooperation and the cooperation of services at state borders.

On the grounds of Article 40, paragraph 3 of the Law on State Border Surveillance, the Regulation on Underwater Activity in the waters of the Republic of Montenegro was drafted ("Official Gazette of the Republic of Montenegro", no. 66/06), and it entered into force on 12.11.2006. The Regulation stipulates carrying out of underwater activities in the waters of Montenegro, types of diving and the method of training people for diving, and identifies areas where such activities are carried out.

The Law on Changes and Amendments to the Law on Police, whose drafting, as per the Government Work Plan, is envisaged for Q3 of this year in relation to the applicable Law, regulates international cooperation in more detail, including exchange of information related to safety of borders. It is also planned to produce by-laws which will stipulate a method and procedure of referring police officers abroad as liaison officers and police attachés.

Activities under these two projects are about to be completed, meaning that both documents are drafted.

According to the Government Work Plan for 2008, it is planned to review the Law on Changes and Amendments of the Law on State Border Surveillance in Q4.

The changes to the Law are aimed at its further harmonization with the Schengen Border Guards Handbook from 2006.

Changes to the Law are prepared in the form of a working text. The main changes to the Law relate to:

- clarification of and supplements to some terms, such as control inside the country, operator, etc.,
- crossing the state border outside border crossings,
- permits for crossing the state border,

- responsibilities of operators,
- conducting border control,
- putting a seal on travel documents,
- priorities and benefits of border control,
- crossing of borders by cross-border workers and minors, etc.

### **2.1.2 Progress achieved in adopting and enforcing legislation on organization/ functions of border authorities and their operational efficiency**

The Police Administration is established by the Decision on Organization and Work of the State Administration ("Official Gazette of the Republic of Montenegro", no. 28/05). The responsibilities, rights and obligations of the Police Administration are precisely stipulated. The Border Police Sector is established under the Police Administration in accordance with the Rulebook on Internal Organization and Systematization. The Border Police Sector comprises four departments: the State Border Surveillance Department, the Department for Control of Border Crossings, the Operational Department and the Department for Foreigners and Illegal Migrations, as well as seven border police branches: Berane, Pljevlja, Bijelo Polje, Podgorica, Nikšić, Bar and Herceg Novi, with the responsibility of surveillance and control of the state border on the ground, and a branch of Marine Border Police, whose task is to perform surveillance of the state border on the water.

According to the systematization, the Border Police Sector employs the total of 1470 officers, 147 Heads, 1312 Police Officers and 11 positions are envisaged for administrative staff – operators. The current staffing level is around 91% of the planned.

### **2.1.3 Report on the Action Plan for IBM (Integrated Border Management) and the results, including border controls (control, surveillance, manuals)**

The Government made a Decision on 05.11.2007 and established a Cross-Sectoral Commission for implementing the Integrated Border Management Strategy and the Action Plan for its implementation. The Cross-Sectoral Commission is in charge of monitoring preparations, and reports regularly to the Government on the tasks outlined in the Action Plan.

#### **Activities related to implementation of the Action Plan for the Integrated Border Management Strategy**

- Information is prepared on current issues, problems and proposals for integrated border management, demarcation and identification of state borders, identification, construction, reconstruction and administration of border-crossings, which was reviewed and adopted by the Government of Montenegro at the session held on 27.12.2007;
- A schedule is prepared for implementation of activities of the state administration authorities, which are outlined by the Strategy and the Action Plan, the Law on State Border Surveillance and priorities in terms of construction, reconstruction and administration of border-crossings, which were reviewed and adopted by the Government of Montenegro at the session held on 28.02.2008;
- Cross-Sectoral Commission is established at the session held on 24.01.2008, the Commission Code of Conduct is adopted, summary of the Strategy and the Action Plan was reviewed and adopted, together with the analysis of implementation of planned activities and the Schedule with actors and deadlines, and expert team is established with representatives of border departments as its members;

- Establishment of regional teams is underway – IBM centers, with tasks related to coordinating and synchronizing activities of border departments according to their competencies; exchange of information that are important for fighting all forms of organized crime, and especially illegal migration and smuggling, in order to ensure sovereignty of state borders, protection of state borders in particular, control of state border-crossings, control within the country, cooperation of departments at the state border and protection of borders to ensure sovereignty of state borders, protection of life and health, preventing and detecting criminal offences and delicts, and preventing and eliminating other activities and actions which threat public security. The IBM Centre will involve representatives of Border Police, detectives and general police, customs, vet and sanitary inspections, market inspection and financial police, forestry inspection, water management, hunting and fishery inspections and some local government authorities;
- According to the Decree on Changes and Amendments to the Regulation on Organization and Work of State Administration (“Official Gazette of Montenegro”, no. 26/08 of 18.04.2008), integrated border and border-crossings administration is the responsibility of the Ministry of Internal Affairs and Public Administration, which added to the responsibilities of the Ministry and created conditions for improvement of border security as a part of the overall security system of Montenegro;
- A mobile system of electronic surveillance is established at the Skadar Lake;
- The unique computer network of the Police Administration involves eight border-crossings (“Debeli Brijeg”, “Port of Bar”, “Podgorica Airport”, “Tivat Airport”; “Božaj”, “Kula”, “Dobrakovo” and “Dračenovac”). Also, the customs information system involves seventeen border custom points. Airport border-crossings have OCRs for documents. At the beginning of the summer season, OCRs were installed at BC “Dobrakovo”, “D. Brijeg” and “Luka Bar (the Port of Bar)”.
- The Agreement is signed between the Police Administration and the Customs Administration on using IT system, which gave inspection departments an opportunity to use the system;
- Draft agreement on cooperation of Border Departments is underway;
- The Law on Ratification of the Police Cooperation Convention for South-Eastern Europe is adopted (“Official Gazette of Montenegro”, no. 1/08), and that created conditions for establishing partnership through operational police cooperation of signatory countries in fighting and detecting criminal offences of organized crime by exchange of information, organizing joint actions, cross-border wanted circulars, etc.;
- For the purpose of implementing the Police Cooperation Convention for South-Eastern Europe, the following Bilateral Agreements, or Protocols, were signed at the Fifth Ministerial Conference on Border Security in South-Eastern Europe (Bečići 21-23 February, 2008) held on 24.02.2008:
  - 1) The Protocol between the Ministry of Interior Affairs and Public Administration of Montenegro and the Ministry of Interior Affairs of the Republic of Albania on organizing joint patrols along the state borders;
  - 2) The Protocol between the Ministry of Interior Affairs and Public Administration of Montenegro and the Ministry of Interior Affairs of the Republic of Albania on organizing and holding meetings at national, regional and local levels between representatives of Border Departments;
  - 3) The Protocol between the Ministry of Interior Affairs and Public Administration of Montenegro and the Ministry of Interior Affairs of the Republic of Serbia on organizing and holding meetings at national, regional and local levels between representatives of Border Departments;

- 4) The Protocol between the Ministry of Interior Affairs and Public Administration of Montenegro and the Ministry of Public Safety of Bosnia and Herzegovina on organizing and holding meetings at national, regional and local levels between representatives of Border Departments;
  - The Government of Montenegro and the Council of Ministers of the Republic of Albania signed the Agreement on Cross-Border Police Cooperation on 01.02.2008,
  - Steps are taken towards harmonizing Draft Strategic Agreement between the EUROPOL and the Police Administration (two meetings were held for this purpose: in October 2007 and in April 2008),
  - It is expected that Montenegro will become a full member of SECI beginning of June 2008,
  - Text of the Memorandum of Cooperation between Montenegrin Police and Austrian Police is harmonized, and it is expected to be signed soon.

The Customs Administration has implemented the following obligations:

- The Regulation on Harmonization of Nomenclature of Custom Tariff for 2008 is in force as of 01.01.2008;
- The Regulation on Changes to the Regulation on Conduct of Custom Authorities in relation to goods reasonably suspected of violating intellectual property rights ("Official Gazette of Montenegro", no. 16/08) entered into force on 15.03.2008;
- The Book of Regulations on the Verification of Requirements, the Form and Content of Certificates and Fees for the imported second-hand motor vehicles ("Official Gazette of Montenegro", no. 16/08) entered into force on;
- The Law on Changes and Amendments to the Customs Law entered into force on 04.04.2008, and was published in the Official Gazette no. 21/08;
- The Book of Regulation on detailed requirements, types and quantities of food of animal origin, combined food, food for pets and plants and herbal products that are used for traveling or are brought to Montenegro, ordered or used for supplying crews and passengers in international transportation ("Official Gazette of Montenegro" 27/08) entered into force on 01.05.2008;
- The Book of Regulation on detailed requirements, types and quantities of food of herbal origin after primary processing, combined food and other food that is used for traveling, or which is brought to Montenegro, ordered or which is used for supplying crews and passengers in international transportation ("Official Gazette of Montenegro", 32/08) entered into force on 27.05.2008;
- In March 2008, the text of the Draft Law on International Trading of Weapons, Military Gear and double-purpose goods was harmonized, and the drafting involved an officer of the CA, who is a member of Cross-Sectoral Group for drafting this Law;
- Implementation of the Interim Agreement on Trade and Trade-Related Matters between the European Community on one hand, and the Republic of Montenegro on the other hand, started on 01.01.2008;
- The Agreement between the Government of the Republic of Montenegro and the Government of the Republic of Albania on mutual assistance in customs-related matters entered into force on 01.01.2008;
- The Parliament of Montenegro adopted on 19.05.2008 the Law on Ratification of the Convention on Temporary Importation (Istanbul Convention – ATA Convention);
- The Agreement between the Government of the Republic of Montenegro and the Government of the Republic of Slovenia on the cooperation in customs-related

maters and mutual assistance in customs-related matters entered into force on 01.06.2008;

- Activities are continued towards signing the Agreement with Moldova on cooperation in customs-related matters and mutual assistance. Also, the Administration initiated activities aimed at signing the Agreement on cooperation in customs-related matters with Belarus;
- On 22.04.2008, a meeting was held in the premises of the PE Railways Serbia in Belgrade between the Delegation of the Government of Montenegro and the Delegation of the Republic Serbia for the purpose of harmonizing the final text of the Agreement between the Government of Montenegro and the Government of the Republic of Serbia on border control in rail transportation, which will facilitate and accelerate the work of State Authorities at the border and shorten the time the trains spend at border-crossings;
- The Commission of the Customs Administration worked with the Commission of the Police Administration to harmonize the text of the Agreement on Cooperation, while Annex to the Agreement will stipulate technical and other details related to the method of exchange of data and using databases of contractual parties;
- The Memorandum of Understanding – text of the Memorandum of Understanding with the Company “Barska plovidba” is harmonized. It is expected to be signed soon. The Draft Memorandum is offered to all airline companies in Montenegro, and the Administration is awaiting replies from these companies;
- The Guidelines for Citizens were produced in February, and are intended to private entities. The Guidelines offer necessary information on customs procedures with goods in passenger transportation;
- In March 2008, the Customs Administration produced 6 brochures: “How to import and export goods”, “Rules of Origin of Goods and Preferential Trade”, “Application of Customs Tariff”, “Identifying value of goods”, “Simplification of procedures” and “How to file an appeal to the Customs”, which use plain language to explain laws and procedures related to these matters. These brochures are published on the web-site, and brochures “How to import and export goods”, Guidelines for Citizens, and “How to file an appeal to the Customs” are printed and will be available at border-crossings and custom points;
- In May, 90 copies of the Practicum on rules of origin of goods in relation to preferential trade under the Agreement on Changes to and Joining the Central European Free Trade Agreement - CEFTA 2006 and the Stabilization and Accession Agreement between European Communities and their member states and the Republic of Montenegro, were printed and submitted to CA, ministries, the Chamber of Commerce, Business Associations and enterprises;
- On 15.01.2008, the Customs Administration accepted the first TIR Time Book in accordance with regulations and the Customs Convention on international transportation of goods based on TIR Time Book;
- The Project named “Technical Assistance to Customs and Tax Administrations” (Tasta) started on 01.02.2008, and it is funded from IPA 2007 budget;
- Additionally, the CA Work Program TASTA for 2008 envisages activities related to drafting of the Law on Customs Administration;
- At the end of March 2008, the Customs Administration, in cooperation with the European Agency for Reconstruction (EAR), drafted a standard Project Diche TOR for the IPAS 2008 program, that the EAR submitted to the European Commission;

- The Customs Administration procured a mobile scanner for inspecting vehicles with goods and containers. The scanner is expected to be commissioned in September 2008. The scanner will be placed in the Port of Bar;
- In 2008, it is planned to implement the project related to video surveillance of border-crossings, and installation for 2009;
- Weigh-bridges are installed on a number of border-crossings with the bearing capacity of 50 tons. Nine weighs are placed on border-crossings, and two weighs in inland custom points. One more weigh will be placed in 2008, and weighs will be placed on all cargo custom points and inland custom points with cargo terminals in 2009;
- Procurement of two or three X-rays is planned for 2008 and 2009, and they will be installed at Podgorica and Tivat Airports, and potentially in the Port of Bar;
- SECI Centre – at the meeting in Bucharest held on 06.06.2008, Montenegro became a full member of this organization. Montenegro will have a representative in the SECI Centre, which addresses exchange of information and organizing joint actions;
- The National Crime Intelligence System – this project is implemented in cooperation with OEBS with involvement of all State Authorities. A proposal is prepared for establishing a National Coordination Office;
- Membership in the RILO (Regional Intelligence Liaison Offices) – intelligence information and information on seizures are exchanged through RILO and the CEN within the World Customs Organization. The Head of the Intelligence Department is nominated as the National Contact Point for RILO;
- CARIN – Application is submitted for admission of the Customs Administration in the “CARIN”, which deals with inter-agency exchange of information. We expect that the Customs Administration will obtain a status of observer at the session in Paris to be held in 2008;
- The IT and Statistics Sector of the Customs Administration implemented the Decree on Harmonizing the nomenclature of the customs tariff for 2008 in the customs information system (CIS) of the Customs Administration;
- A Contract is signed with the ZZI Company from Ljubljana on the maintenance of applications and support is ensured for customs procedures in all custom points where there is a CIS;
- The Customs Administration signed a Contract with the Montenegrin Telecom on obtaining telephone lines for border-crossings. The Administration networked custom points into its information system, wherever Telecom had its infrastructure in place. IT and Statistics Sector monitors the overall situation in order to network the remaining custom points into information system in the most efficient and the quickest manner;
- The Customs Administration and the Police Administration, based on the Contract on Cooperation, established a physical link based on optic fibers between information systems, thus creating conditions for a quality exchange of information between the two Administrations;
- Training of staff of border services, officers and servants, permanent trainings, seminars and workshops;
- The continuous analysis of motivation for work is used for implementing measures of rewarding extraordinary performance. Based on Article 3 of the Decree on the type of reward and the rewarding procedure for the Government Employees and Civil Servants (“Official Gazette of the Republic of Montenegro”, no. 20/05), 21 financial

rewards were granted in the period from 01.01.05 to 31.05.2008 for quality and efficient performance and results.

The Veterinary Administration and Phytosanitary Inspection have implemented the following responsibilities:

- The Law on Food Safety enacted ("Official Gazette of Montenegro", no. 14/07);
- The Law on Wellbeing of Animals;
- The Book of Regulation on detailed requirements, types and quantities of food of animal origin, combined food products, food for pets and plants, and herbal products which are used in traveling or are brought to Montenegro, ordered by collected delivery or used for supplying crews and passengers in international transportation ("Official Gazette of Montenegro", no. 27/08);
- The Decision on sharing the responsibilities for combined food products between the Sanitary and Veterinary Inspections is in the process of adoption;
- Written instructions and plans for sampling of imported parcels are drafted in order to improve efficiency and standardize the work of veterinary inspectors;
- Veterinary inspectors and officers underwent basic border control training under the CARDS 2001- IUG Project and TAIX Program.
- The component of construction and equipping facilities at the Port of Bar border-crossing is identified under MIDAS – Project – World Bank, for Veterinary and Phytosanitary Border Inspections. Formulation of the Feasibility Study is underway. The value is 300.000 EUR;
- 14 seminars were organized with the participation of 207 representatives of Border Police, and 15 courses which were attended by 270 representatives of these Police structures.

## **2.2 Taking necessary budgetary and other administrative measures ensuring efficient infrastructure, equipment, IT technology at the external borders, and stating priorities in relation to these**

### **2.2.1 Infrastructure and equipment, including budgetary resources and investments**

The donation of the US Agency for International Development in the previous period was used to construct the following border-crossings: "Dobrakovo", "Dračenovac", "Ranče", "Ilino Brdo", "Kobila", "Metaljka", "Sitnica", "Vračenovići" and "Sukobin".

In addition to these, the following border-crossings are constructed, their construction is ongoing or the construction and reconstruction is planned for: "Debeli Brijeg", "Ščepan Polje", "Božaj", "Murićani", "Gostun", "Sitnica", "Kula", "Kućište", "Virpazar"; "Dračenovac", from the EAR donation and the funds allocated from the budget of Montenegro. The border-crossing "Murićani" will be a joint crossing with the Republic of Albania. It is funded by the EAR and it will be the first border-crossing of this type in the region.

Border-crossings "Dobrakovo" and "Dračenovac" – the construction is funded by the EU through the IPA 2008 Program in the amount of 2.450.000,00 EUR. The responsibility of Montenegro is to ensure funds for the construction of buildings for the work of border departments in the amount of 850.000,00 EUR, and the EU is financing transport infrastructure and parking lots. Additionally, the responsibility of Montenegro is to ensure funds for project documents, resolving property rights, expert supervision, and construction permits. All this should be finalized by the end of this year, and a tender for the construction of buildings and access roads should be launched after signing of the Agreement between the Government and the EU in January 2009.



Border-crossing “Šćepan Polje” – the costs of finalizing cargo terminal and a way of raising funds will be identified based on measurements and bill of quantities.

Border-crossing “Kućište” – the Transport Administration prepared a project for reconstruction of the “Murino-Cakor-Pec” road based on the conclusions of the Government of Montenegro, with the budget of 2.500.000, 00 EUR.

Joint border-crossing “Kula” – the EU Delegation to Kosovo drafted a project for joint border-crossing and they will finance its construction. Discussions need to be continued regarding the location and our responsibilities in terms of our contribution.

Joint border-crossing “Murićani – Sukobin” (in Murićani – Republic of Albania) – In this phase, Montenegro has completed its commitments.

Border Police on border-crossings is equipped with specialized equipment which allows for more efficient operations and flow of people and cargo. This equipment is related to specialized devices for discovering radioactive substances, manual detectors and digital devices for measuring the content of carbon-dioxide indoors. Additionally, the Border Police is equipped for discovering false documents and passports, they have passport OCRs, and a part of IT and other equipment is procured from donations.

The construction of “Podgorica” Airport and the reconstruction of “Tivat” Airport created very good conditions for the work of Police, Customs and other State Authorities at airport border-crossings, which are strategically important and provided for improving the level of control, safety and security which is now in line with the European standards.

### **2.2.2 IT systems, handling data on borders and communication infrastructure**

The following has been done in order to raise the security level on border-crossings:

- Communication infrastructure –

1. there is a local computer network on all border-crossings,
2. border-crossings Božaj, Kula, Dobrakovo, Draženovac, Luka Bar, Debeli Brijeg, Podgorica Airport, Tivat Airport, belong to the same computer network.

- IT systems on border-crossings –

Machine document readers are introduced as part of technical modernization of the border surveillance system (border-crossings Podgorica Airport, Tivat Airport, Port of Bar, Debeli Brijeg), which are a donation of the European Agency for Reconstruction. This system is networked the Interpol system, which allows Border Policemen to immediately receive information whether a document, or number plates, is stolen. The system was commissioned in May 2008. At average, around 100.000 inquiries are sent monthly to the Interpol database, which result in 7 to 10 hits. All scanned documents are stored in the database.

A mobile state border surveillance system is also installed on the Skadar Lake. A modern HARRIS KT system for transfer of classified data is installed in all Border Police Regional Offices, except in the Regional Border Police Office in Bar, where the installation is expected to be completed soon.

A local far-reaching radar and remote functioning of day camera are installed in the stationary centre for electronic surveillance of south-eastern Adriatic Sea, on the “Crni rt” micro location.

### **2.2.3 Priorities in terms of infrastructure, equipment and IT technology**

The priorities defined in relation to infrastructure, equipment and IT technology are the following:

1. improvement of infrastructure and procurement and commissioning of equipment for control of the state border crossings (control cabins, docubox, OCRs for documents and number plates),
2. integration of all border-crossings into one computer network of the Police Administration,
3. further networking of border crossings into the Interpol data system I-24/7,
4. construction of joint border-crossing "Murićani" with the Republic of Albania,
5. construction of joint border-crossings with B&H and the Republic of Serbia,
6. construction and modernization of border-crossings in marine ports.

### **2.3 Establishing training programs and adopting ethical codes on anti-corruption targeting the officials of border police, customs and other authorities involved in border administration**

Special attention is paid to regular and specialized training. Fifty-five forms of training were delivered in the first term of 2008, which were attended by 549 employees and servants of Border Police.

The Police Ethical Codes ("Official Gazette of the Republic of Montenegro", no 1/06) are used in Montenegro. These Codes stipulate that the Police, including Border Police, conduct their duties with respect to human rights and freedom. The Police are obliged to act in accordance with the Law, in professional and fair manner.

The Ethical Codes for the Government Employees and Civil Servants ("Official Gazette of the Republic of Montenegro", no. 81/05), are used by all Government Employees and Civil Servants, and by the Customs Control Authorities and other officials involved in border administration.

### **2.4 Conclude a working arrangement with FRONTEX**

Initiative for concluding working arrangement with FRONTEX will be started in the period to come.

### **2.5 Carriers' responsibility: legal framework (sanctions for offences), implementation**

The Criminal Code ("Official Gazette of the Republic of Montenegro", no. 70/03, 47/06 and 40/08), Article 405, paragraph 2 stipulates that a criminal offence is considered to be illegal transfer of people across the state border, or assisting someone to illegally cross the border, illegally reside or transit, which entails imprisonment of three months to five years. Paragraph 3 of the same Article stipulates that if the criminal offence referred to in paragraph 2 was performed by a number of people in an organized manner by abuse of office, or in a way that threatens lives of persons whose entry across the border, residence or transit is facilitated, or in cases when a larger number of persons are smuggled, the offender(s) will be sentenced with imprisonment from one to ten years.

The new Draft Law on Foreign Citizens will regulate this field adequately.

### **2.6 Adopting and implementation of legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol), and the EU legal framework and standards**

**The Asylum Law** was enacted on July 17, 2006, and entered into force on July 25, 2006, and its enforcement started on 25.01.2007.

The Asylum Law stipulates the main principles to be followed in implementing procedures; procedure of granting asylum (acknowledging status of refugees and approval of additional and temporary protection); authorities responsible for deciding upon the asylum procedure; rights and responsibilities of persons seeking asylum, people who are recognized to be refugees and are granted additional and temporary protection, as well as reasons for the cease and termination of the status of refugees and additional protection, and the suspension of temporary protection in Montenegro.

The main principles to be followed in implementing procedures are: the principle of subsidiary protection, (non-refoulement), confidentiality, non-discrimination, protection of data, family unity, non-punishment for unlawful entry or residence, protection of people with special needs, respect for gender, legal protection, etc.

The Law especially stipulates receiving of people who seek asylum and sets responsibilities of authorities in relation to providing support: allowing for immediate filing of application, accommodation, providing information (on procedures, rights and obligations and legal aid), etc.

### **2.6.1 Progress achieved in drafting, adopting and enforcement of legislation outlining principles of international protection (including subsidiary protection) in line with 1951 Convention on the status of refugees, 1967 Protocol which relates to the status of refugees and the Directive 2004/83/EC**

The Law itself contains the statement that the Convention of the Status of Refugees and the Protocol laid the foundation of the legal system for administering protection of refugees, supported by documents on human rights. Legal provisions, aligned with the Convention are the following: requirements which are used for identifying whether a person is in need of protection, or acknowledging a status of a refugee; reasons for exclusion; the rights of people who are recognized as refugees; reasons for the cease of the status of refugees and the cease of the status of an internally displaced person; temporary protection; identification and travel documents.

Additional protection is subsidiary protection and applies to persons who do not meet the requirements for obtaining a status of refugees, but still need protection because there are reasons to believe that returning to home country would expose them to risks which are not compliant with Article 3 of the European Convention on Human Rights and Fundamental Freedoms, or their life and safety would be at risk. Granting additional protection in accordance with the Asylum Law, duration of additional protection, rights and responsibilities of people who are under additional protection, and the cease and suspension of additional protection rely on standards set by the Directive 2004/83/EC, and Recommendations (2001) 18 of the Committee of Ministers presented to member countries on additional protection.

### **2.6.2 Progress achieved in drafting, adopting and implementing procedural rules related to investigating applications for international protection, taking into consideration the Directive 2005/85/EC.**

Although most of the provisions of the Directive 2005/85/EC is incorporated in the Asylum Law (access to procedures, obligations of asylum seekers, the right to have legal aid, unaccompanied minors, confinements, suspension of status, the UNHCR role, first-instance procedures, the right of asylum seekers to remain in the country until the finalization of the process, actions following appeals, data protection), interviewing procedure, taking photographs, interrogation procedure, etc., are regulated in detail by by-laws drafted by the Ministry of Interior Affairs and Public Administration, which were adopted in 2007:

1. The Book of Regulations on asylum application forms and records on verbally presented asylum application. This by-law was adopted to allow asylum seekers to file asylum application as soon as possible, and it should contain appropriate

- data on the asylum seeker, origin, reasons for seeking asylum and other data that are important for initiating and administering the procedure;
- 2. The Book of Regulations on the procedure and method of taking photographs, finger prints, signature and other data from asylum seekers;
  - The State is responsible for verifying identity of asylum seekers, verifying whether the person has already applied for asylum in Montenegro or some other country, and for verifying the data against the data held by the Police and other State Authorities.
    - o The Decree on the content and keeping records related to asylum;
  - On the grounds of Article 70 of the Asylum Law, the Asylum Offices, as a decision-making authority that administers the procedure, is obliged to keep, update and use records on persons: who seek asylum, who are recognized as refugees and who are under approved additional or temporary protection, on the rights they practice, on their documents which are issued or temporarily withheld.

The provisions of the Directive which regulate procedures on the border, although outlined in the Asylum Law, are detailed in the Memorandum on Cooperation in the field of asylum, and its text is harmonized between the representatives of the Ministry of Interior Affairs and Public Administration, the Border Police Sector and the Office for Refugees. It will stipulate instructions for procedures and a clear distinction between responsibilities of the State Authorities in the asylum procedure, for cases which are not fully regulated by the Law and by-laws.

### **2.6.3 Progress achieved in drafting, adopting and enforcement of provisions which define the rights granted to asylum seekers, taking into account the Directive 2003/9/EC (including *inter alia* approach to education and access to labor market)**

Considering the rights of asylum seekers that are covered with the abovementioned Directive, the provisions of the Asylum Law, *inter alia*, also guarantees the following rights: residence and freedom of movement; legal aid and access to High Commissariat and non-governmental organizations for obtaining legal aid in the asylum procedure; identification and travel documents; free elementary and secondary education in public schools; accommodation; healthcare in accordance with separate regulations; family unity; work within the Centre or other facility for collective accommodation; social welfare.

Practicing of all rights is still not in place in practice, i.e. conditions are currently being created for this. Asylum seekers have an option of using free legal aid during the procedure, and access to the UNHCR Office, the right to have accommodation and family unity. However, the rights to have documents, education and healthcare will be practiced in the period to come, with adoption of separate documents that regulate this field. The right to work in the Centre will be defined by the construction of this building, while the right to use social welfare is regulated by the Decree on financial support to asylum seekers, who are recognized as refugees and who are granted additional protection. The Decree was adopted in July 2008.

Provisions of this Law ensure protection of people with special needs, including minors, persons completely or partially deprived of work capacity, minors and unaccompanied children, people with mental or physical disabilities, elderly, pregnant women, single parents with minor children, persons subjected to torture, rape or other serious forms of mental, physical or sexual violence, and other vulnerable persons.

Enforcement of provisions of the Directive 2003/9/EC which relate to applying and implementing procedures in the language understandable to applicants, free legal aid, assistance with filing an appeal and the right to appeal are detailed in the Chapter

“Monitoring human and financial resources and buildings in order to meet the needs of asylum seekers (including healthcare, accommodation, legal and material aid)”.

#### **2.6.4 Establishing a relevant administrative framework for evaluating requests for international protection**

The first-instance asylum procedures in Montenegro, as per the Asylum Law, are under the competence of the Ministry of Interior Affairs and Public Administration. Activities that are under the competence of the Ministry are dealt with by the Asylum Office. The Asylum Office was established in 2007 under the Ministry of Interior Affairs and Public Administration, the Sector of Administrative Internal Affairs. It receives asylum applications, administers the procedure and makes decisions upon asylum applications, makes decisions on the cease and suspension of asylum, administers the procedure and decides upon the status of persons who already have the status of refugees or internally displaced people, issues IDs and documents for traveling abroad, legal status and the rights in accordance with regulations, keeps records on the situation in the country of origin, or suspension of additional protection, temporary protection and performs other asylum-related affairs. The Book of Regulations envisages six employees for the Office: Office Manager, three Procedure Managers, one Employee for collecting information on states of origin and one Administrative Officer. Four positions are currently occupied; one Procedure Manager and the Officer for collecting information on the countries of origin are not in place.

In June 2007, following the establishment of the Asylum Office, the UNHCR Office in Podgorica, the Ministry of Interior Affairs and Public Administration and the Office for Refugees signed the Memorandum on Cooperation and interim assistance in enforcing the Asylum Law in order to establish cooperation in administering the procedure for evaluating asylum applications, and providing for asylum seekers, refugees and persons who are granted additional protection. The Memorandum envisages training of the Asylum Office staff by the UNHCR, providing training on interviewing technique, but also providing technical and legal assistance to the Asylum Office. The Memorandum stipulates the responsibilities of the UNHCR to implement the procedure and interview asylum seekers until the end of 2007, and the responsibility of the Ministry, or the Asylum Office to make decisions based on written recommendations of the UNHCR.

As of January 01, 2008, the Ministry of Interior Affairs and Public Administration, i.e. the Asylum Office, assumed from the UNHCR the administration of the procedure and deciding upon asylum applications.

#### **2.6.5 Establishment of an independent appeal court authority (which meets the requirements in terms of efficient legal compensation for requests for international protection)**

The procedures related to appeals on the first-instance decisions are managed by the State Asylum Appeals Commission. It is established by the Decision of the Government of Montenegro in November 2007, and it is composed of the Chairman, Deputy Chairman and three members.

The Chairman and the Deputy of the Commission are judges of the Administrative Tribunal of Montenegro, while the Commission members are associates of this Tribunal. Administrative procedure cannot be initiated against the decision of the second-instance authority. Administrative affairs for the needs of the State Commission are performed by the Asylum Office.

## **2.6.6 Monitoring human and financial resources and buildings in order to meet the needs of asylum seekers (including healthcare, accommodation, legal and material aid)**

The provisions of the Asylum Law of Montenegro guarantee these persons the following rights: to use legal aid and access to High Commissariat and non-governmental organizations for the purpose of obtaining legal aid in the procedure of granting of asylum; applying for asylum and giving statements in the language he/she understands; residence and free movements; identification document to verify identity, legal status and other rights stipulated by this Law; a foreigner's travel document for traveling abroad pursuant to the regulations on the residence of foreigners; free elementary and secondary education in public schools; provision of accommodation to the extent necessary and appropriate living standards; healthcare in accordance with separate regulations; family unity; work within the Centre or other facility for collective accommodation; social welfare; freedom of religion; humanitarian aid. The Bureau for the Care of Refugees, as the authority responsible for care, is obliged to provide assistance to all these persons in practicing the stated rights.

Although the practice in the asylum system in Montenegro is relatively modest, asylum seekers are, from the moment they apply for asylum until the final decision is made, provided with practicing a large number of rights stipulated by the Asylum Law. The Asylum Office allows all these persons to apply for asylum, give statements on facts and circumstances that are important for decision-making, and submission of written statements in the language they stated they understood. Also, they are provided with information on requirements and procedures of granting of asylum, rights and obligations, and establishing communication with officers who provide legal aid and with the High Commissariat.

A special attention is paid to the right to use free legal aid in a way that asylum seekers, when applying for asylum, receive from the Asylum Office written information and in the language they understand, which allows them to become fully aware of the way of practicing their rights and of organizations that offer opportunities for practicing of these rights. Namely, asylum seekers may practice their rights to use free legal aid by using assistance that is offered in the procedure of applying for asylum, during interviews, by practicing rights stipulated by the Asylum Law, and by preparing written submissions, including appeals.

Also, as stipulated by the Law on Asylum, deciding upon asylum applications is envisaged to take place in two instances. The asylum seekers, whose applications were decided negatively upon by the Asylum Office in the first-instance procedure, have an opportunity to practice their rights in terms of filing an appeal to the second-instance authority, the State Asylum Appeals Commission. After the final decision is made, it is communicated to applicant in the language he/she stated to understand.

After the submission of the asylum application, the Bureau for the Care of Refugees, as the authority responsible for the care of such persons, provides for adequate conditions for their temporary accommodation, since the Centre for Accommodation of Asylum Seekers is still under construction. Also, this authority is obliged to provide assistance to all persons, who are in the process or who are approved to have protection, to practice their rights to have accommodation, education, healthcare, to work and other rights.

As for the construction of the Centre for accommodation of persons who seek asylum, it was started as a complex of three pavilions of the total size of 5000 m<sup>2</sup>. One pavilion was intended to be used for reception, working with asylum seekers; the second pavilion was intended to be accommodation complex; and the third one was planned to be canteen and used for personal hygiene. Since the efforts made in the last couple of years were invested in constructing only one pavilion, i.e. only rough construction works are completed, doors and window are mounted, and plastering works are completed, it is estimated that it needs an investment of additional 400 000 EUR, and around 1.000.000 EUR is needed for completing the entire complex. Consequently, the original construction plan was abandoned.

A part of the land is given for the construction of the Centre for Accommodation of Foreigners, which will be a separate complex, and changes to the project documents are underway, aimed at finalizing the construction of the building for the reception of asylum seekers in the near future, with reasonable funds, but with implementing all necessary standards.

It is important to point out that before the asylum system was established in Montenegro, the UNHCR Office in Podgorica provided not only training for the Asylum Office staff, but also technical equipment necessary for processing applications, interviews, computers, internet connection, etc.

#### **2.6.7 Measures aimed at providing appropriate training for authorities involved in reception of asylum seekers**

In 2007, training of the Asylum Office staff started in relation to interpreting the Convention of Status of Refugees and its Protocol, and the Asylum Law itself, as well as in relation to interviewing persons seeking asylum and deciding upon their applications. UNHCR participated in delivering training.

In the first six months of 2008, UNHCR organized two seminars for the purpose of training the Asylum Office staff and other parties involved, who deal with asylum-related matters in Montenegro: the first seminar addressed standards for receiving and treating asylum seekers, while at the second seminar, which was organized by the UNHCR Office and the OSCE, participants started drafting and harmonizing the text of the Memorandum of Cooperation and Asylum Procedure. Then, in addition to representatives of the Ministry of Interior Affairs and Public Administration, representatives of the Bureau for the Care of Refugees, the Border Police Sector, the State Asylum Appeal Commission, and non-governmental organization which deals with providing free legal aid to asylum seekers, had an opportunity to go on a three-day study tour to Hungary and learn about the asylum system in that country at the meetings held with representatives of: the Ministry of Justice and Law Enforcement, the Ombudsman Office, UNHCR, the Border Police of Hungary, Office for Immigration and Citizenship and the Centre for Reception of Refugees Bischa.

AENEAS Project, named "Strong institutions and uniform approach to managing asylum, migration and visas in the Western Balkans", funded by the EU Commission and organized by the Swedish Migration Board, Danish Migration Department and the Norwegian Immigration Administration, with ICMPD as a partner, was commissioned in May 2007. Its objective is to build institutions for administration of asylum-related matters, migrations and visas. As for the asylum-related matters, there have been a number of missions of Danish experts and three regional seminars were organized. During these missions, expert presented to the Asylum Office staff the functioning of the Danish asylum system, partly the EU legislation, and a method for collecting information on the states of origin, with a special reference to interviewing techniques and verifying authenticity of documents.

There was also two-day mission of Danish Police, which was based on the procedure of discovering counterfeited documents, and two national workshops were organized. The first national workshop was a combination of presentations of the systems in Sweden, Norway and Denmark in the fields of asylum-related matters, migrations and visas and workshops, while the second one was aimed at drafting National Guidelines in the fields of asylum, migration and visas. The same or similar topics were discussed on regional seminars, and a study tour was organized mid July for focal point persons of the Western Balkan countries to Denmark and Sweden. It was based on visits to their authorities in charge of AMV fields: the Danish Police, the Border Department, the Danish Immigration Department, the Red Cross, the Swedish Immigration Department, etc. Danish specialized mission on the standards of reception and accommodation of persons seeking asylum, refugees and returnees was held in the Bureau for the Care for Refugees, and it was attended by the Asylum Office staff as well.

### **2.6.8 Statistics on asylum trends (applications, percentage of rejected and accepted applications)**

Three asylum applications were filed in 2007, and the procedure was administered by the UNHCR as per the concluded Memorandum, and the Ministry of Interior Affairs and Public Administration made the first-instance decisions. One person was recognized as a refugee, while two applications were rejected as not having grounds. Two persons filed an appeal to the second-instance authority – the State Asylum Appeal Commission, and were rejected.

Five persons filed asylum applications in the first six months of 2008. The Ministry of Interior Affairs and Public Administration – the Asylum Office administered the procedure and made decisions. Two applications were rejected, the procedure for two applications was discontinued, and one application is in the process. Two persons filed an appeal to the second-instance authority, and were rejected.

### **2.7 Setting up and starting to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for Montenegro, with data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows**

#### **2.7.1 Administrative structures that deal with migration flows**

The Migration, Visa and Readmission Department is established under the Ministry of Interior Affairs and Public Administration.

The Department for Foreigners and Fighting Illegal Migration is established under the Police Administration.

The Strategy for Integrated Migrations Management is in the process of adoption for the period 2008-2012, as well the Action Plan for its implementation for the period 2008-2009. This Strategy should be adopted by 15.10.2008.

The procedure for adopting the Law on Foreigners is underway. This Law should be adopted by 15.11.2008.

#### **2.7.2 Human resources for collecting and analyzing of available data**

The Law on Registers of Temporary and Permanent Residence (“Official Gazette of Montenegro”, no. 13/08) stipulates that the Register of foreigners with permanent residence, and the register of temporary residence of foreigners in Montenegro will be managed by the Ministry of Interior Affairs and Public Administration, and the Register of foreigners with residence up to 90 days in Montenegro will be managed by the Police Administration.

The Register of foreigners with permanent or temporary residence in Montenegro contains: citizen’s unique ID number, first and last name, last name at birth, place of birth, father’s name, mother’s name, place of permanent residence, address, citizenship, occupation, level and type of education, marital status, father’s and mother’s unique ID number, or guardian’s unique ID number, last name and first name of the household holder and kinship with him/her, members of the household, and the information since when a foreign resides in the country and for which period the residence is permitted.

The Register of foreigners with up to 90 days of residence contain: last name and first name, last name at birth, place of birth, citizenship, place of temporary residence, address, date of registration, duration of temporary residence and the date of cancellation.

The Register of foreigners who reside in Montenegro based on the work permit is managed by the Employment Agency of Montenegro.



### **2.7.3 Updating of migration profile - statistics**

In 2008, temporary residence in Montenegro was approved or renewed for 3845 foreigners.

Permanent residence in Montenegro is granted to 413 foreigners.

The Employment Agency of Montenegro issued 553 work permits to foreigners in 2008.

The Ministry of Interior Affairs and Public Administration will establish electronic database on foreigners with approved temporary and temporary residence by the end of 2008.

By the end of 2008, the Police Administration will establish electronic database of foreigners with residence up to 90 days in Montenegro.

By the end of 2008, the Employment Agency will create electronic database of foreigners who reside in Montenegro based on work permits.

The Law on Central Register stipulates that the previous databases are incorporated into the database of the Central Register of population.

The statistics on migration trends on border-crossings, data on entries and exits of foreigners, data on returns, non-documented migrations are managed by the Police Administration – Border Police Sector.

The Department for Foreigners and Fighting Illegal Migration is established under the Border Police Sector, which is responsible for collecting and analyzing the data on migration flows.

Also, positions of Senior Commissaries for foreigners are envisaged under the Border Police branch offices, and they are responsible for monitoring movements and residence of foreigners in the territory of Montenegro. The work of Senior Police Commissaries for foreigners is coordinated by the Department for Foreigners and Fighting Illegal Migration.

In order to implement the abovementioned activities, the Border Police Sector cooperates with all competent State Authorities.

### **2.8 Taking measures to ensure reintegration of returnees, including sustainable financial and social support**

As for the measures necessary for reintegration of returnees, especially in relation to employment, healthcare and social support, we emphasize that the returnees practice these rights under the same and equal conditions as other residents.

The Bureau for the Care of Refugees is responsible for providing material aid and accommodation to returnees during a period of time following their return.

### **2.9 Definition and application of inland detection and taking measures improving the capacity to investigate cases of organized facilitated illegal migration**

A position which covers operations related to illegal migration, organized smuggling and trafficking in human beings is planned under the Sector for Fighting Organized Crime, which is under the Judiciary Police Sector.

The previous practice indicated that Montenegro is considered to be a country in transition based on its geographic position, and the countries from which the people are smuggled are the Republic of Albania, Kosovo and Turkey, with the EU countries as destination countries.

## **2.10 Adopting and implementing a Law on Foreigners governing the admission and stay of the third country nationals, defining rights and obligations for the persons concerned (including family members of the third country national), and implementing the Law on registers of permanent and temporary residence, including implementing of legislation**

The enactment of the new Law on Foreigners in Montenegro should establish and initiate monitoring and supervising migration flows, i.e. administration of migration policy.

Draft Law on Foreigners, which the Government of Montenegro drafted in 2006 in accordance with the Government Work Program applicable at the time, is submitted to the Parliament for discussion and adoption.

Having in mind that Draft Law has not been reviewed so far, and several laws were adopted meantime, which *inter alia* address the rights and obligations of foreign citizens (the Asylum Law, the Law on Registers of Permanent and Temporary Residence, the Law on Employment and Work of Foreigners), the Ministry agreed to start reviewing some provisions contained in the Draft Law on Foreigners and to prepare amended Draft Law on Foreigners.

This Law regulates requirements for entering, movements and residence of foreigners on the territory of Montenegro, visa regime, ways to obtain temporary and permanent residence permits; it defines enforced deportation and under which conditions, issuance of travel documents to foreigners and in what cases, identification documents for proving identity, movements of foreigners in uniforms, options to collect data on foreigners, supervision of authorities which enforce provisions of laws and by-laws, penalties and final provisions of the Law.

In addition to the Law on Foreigners, some provisions of the Law on Registers of Permanent and Temporary Residence also apply to foreign citizens.

It also stipulates administration of the Register of Permanent and Temporary Residence of Foreigners, the way of using the Register, updating of data, and protection of the data. The Register of Residence is administered by the State Administration Authority responsible for residence-related matters, and the Register of Temporary Residence of Foreigner is administered by the Police.

## **2.11 Ensuring effective expulsion of illegally residing third country nationals from its territory**

### **2.11.1 The procedure of expulsion of third country nationals with illegal residence**

According to the Law on Movement and Residence of Foreigners, a foreigner who was prescribed the measure of non-refoulement or the protection measure of excluding the person from the territory of the country, or whose residence is cancelled, or who does not have a permit issued by authorities, is obliged to leave the territory of Montenegro in the period set by the authorities.

If a foreigner does not leave the territory of Montenegro, and has a valid travel document, he/she will be transported to the state border and subjected to enforced exclusion from Montenegro.

### **2.11.2 Concluded readmission agreements and agreements which are under negotiations**

As for the Readmission Agreement, the ten-year implementation of Bilateral Readmission Agreements created appropriate organizational and personnel structure in the Ministry of Interior Affairs and Public Administration – the Department for Migration, Visas and Readmission, which act on submitted applications, and in the Police Administration – the

Department for Foreigners, in cases of receiving rogatories for third countries citizens, as well as sending rogatories.

The Decision on the proclamation of independence of Montenegro outlines that Montenegro will apply and accept international contracts and agreements which were signed and concluded by the Federal Republic of Yugoslavia or the State Union of Serbia and Montenegro, which apply to Montenegro and which are compliant with its judiciary system.

In that respect, the Ministry of Interior Affairs and Public Administration implements Readmission Agreements that the Federal Republic of Yugoslavia signed with the Government of the Republic of Germany, the Government of the Kingdom of Belgium, the Government of the Grand Duchy of Luxembourg, the Government of Holland, the Government of the Republic of Italy, the Government of Hungary, the Government of the Kingdom of Denmark, the Government of the Kingdom of Sweden, the Government of the Republic of Slovenia, etc..

The Law on Ratification of the Readmission Agreement signed between the Republic of Montenegro and the European Union (return and reception) ("Official Gazette of Montenegro", no. 7/07) ratified the Agreement that was signed on September 18, 2007 in Brussels. As per Article 19, paragraph 1 of the Agreement, its immediate implementation requires signing of Protocols of Implementation, which regulate matters that relate to authorities, border-crossing points, exchange of contacts, requirements for return with escort, etc.

So far, the Protocol of Implementation is signed with the Republic of Slovenia. The Protocol was signed by the Minister of Interior Affairs and Public Administration of Montenegro and the Minister of Interior Affairs of the Republic of Slovenia, in Podgorica on May 09, 2008. The Government of Montenegro adopted the signed Protocol at the session held on 10.07.2008.

On 06.08.2008, the Ministry of Interior Affairs and Public Administration of Montenegro presented an initiative to the Ministry of Interior Affairs of Montenegro to notify the EU countries who had accepted the Readmission Agreement that Montenegro was ready to draft Protocol of Implementation with individual countries.

Regarding Bilateral Readmission Agreements with countries in the region, at the session held on 03.04.2008., the Government of Montenegro adopted the Information on the need to sign Bilateral Readmission Agreements (return and reception of persons), who reside without residence permits between Montenegro and the Republic of Croatia, the Republic of Albania, Bosnia and Herzegovina, the Republic of Macedonia and the Republic of Serbia. The Government nominated a Delegation of Montenegro to participate in the negotiations for concluding Bilateral Agreements.

The text of the Agreement between the Government of Montenegro and the Government of Croatia on the return and reception of people whose entry or residence is illegal is adjusted and ready for signing, as well as the text of the Protocol between the Ministry of Interior Affairs and Public Administration of Montenegro and the Ministry of Interior Affairs of the Republic of Croatia on the implementation of the Agreement.

As per the conclusions of the Government of Montenegro, negotiations are initiated with other countries in the region.

In the field of regional cooperation, Montenegro implemented and is implementing the Agreement which was drafted in Belgrade on 23.04.2002 between the Government of the Federal Republic of Yugoslavia and the Government of the Republic of Croatia on the return and reception of persons whose entry or residence on the territory of other country is illegal.

Montenegro is fully implementing all commitments related to the Readmission Agreement.

### **2.11.3 Facilities where control is ensured of third countries nationals who are awaiting deportation**

There are ongoing comprehensive activities on the construction of the reception camp for foreigners. The location is selected and its construction is planned in Danilovgrad – KO Grbe. A process is initiated for obtaining the necessary urban and technical approval, which will be followed by the construction of the building.

## **BLOCK 3: PREVENTING AND FIGHTING ORGANIZED CRIME AND CORRUPTION**

### **3. Ensure efficient implementation of the Action Plan of the Strategy to Fight Organized Crime and Corruption (with an emphasis on cross-border aspects), notably by strengthening the relevant law enforcement authorities with sufficient human and financial resources**

#### **3.1. Report on implemented measures from the IAP and achieved results**

The National Commission established by the Decision of the Government of Montenegro of 10.07.2007 is continuously monitoring implementation of measures defined by the Action Plan in cooperation with authorities and institutions that are obliged to submit reports.

The implementation of the Action Plan indicated the need to make changes to it, and the Government of Montenegro adopted innovated Action Plan for monitoring implementation of the Action Plan for implementing the Program for Fighting Corruption and Organized Crime at its session of 29.05.2008.

The National Commission prepared the following reports on the implementation of the measures from the Innovated Action Plan: the **First** – adopted on July 10 for the period September 2006 - May 2007, the **Second** adopted on February 18 for the period September 2006 - December 2007, and the **Third** adopted on July 28 for the period January 2008 - June 2008.

The third report of the National Commission, with recommendations, will be submitted to the Government of Montenegro, and the State Prosecutor, courts and the Parliament of Montenegro, and its English version will be submitted to representatives of the International Community.

At the session of July 28, 2008, the National Commission adopted the Third Report on the implementation of measures from the Action Plan. It was concluded that a satisfactory progress in implementing the measures is achieved, given that the Innovated Action Plan was adopted at the end of May 2008, and involves a whole set of measures and activities that are necessary to be implemented by the end of 2009.

From a statistical point of view, 38 measures were implemented over a six-months period (14%), while 104 measures (38%) are implemented in continuity, which makes 52% of the total number of the measures planned for 2008 (142 measures implemented against 275 planned for this year). At the same time, there are 45 (16%) of partly implemented measures and 88 (32%) measures that have not been implemented.

The Innovated Action Plan also includes 20 measures that relate to drafting and adoption of important regulations in the field of the reform of judiciary system and the reform of state administration, or fighting corruption and organized crime. Six important draft laws were prepared during this period, while a considerable number of these regulations are in the process in the Parliament and their adoption is expected soon.

#### **3.1.1 Report on planning of the remaining measures and defining priorities**

Details on the implementation of the measures from the IAP are given below.

### 3.1.2 Overview of the used (planned) human and financial resources

The measure is implemented continuously by monitoring of the National Commission.

### 3.1.3 Statistics on the trends in organized crime, including investigations, criminal charges and verdicts

The measure is implemented continuously. The National Commission for the Implementation of the Action Plan established a Three-Partite Commission composed of representatives of judicial and prosecution systems and representatives of the Police Directorate, with the main task to identify uniform methodologies and process statistical data that are necessary for assessing the scope and spreading of corruption-related criminal offences and offences related to organized crime.

In the period January 01, 2006 to June 30, 2008, 663 criminal charges were filed against 1067 people, of which: 271 charges against 449 people **in 2006**; 274 charges against 435 people **in 2007**; and 118 charges against 183 people **in the first six months of 2008**.

Deciding on the criminal charges, state prosecutors, after collecting the necessary notifications in pre-trial period, dismissed 286 criminal charges against 469 people: 143 charges against 250 people **from 2006**, 105 charges against 171 people **from 2007**, and 38 charges against 48 people **from the first six months of 2008**.

For the purpose of verifying charges, courts received nine enquiries for specific investigation proceedings against 19 people: eight enquiries against 18 people in 2006 and one enquiry for one person in 2007.

The competent state prosecutors filed 13 information against 18 persons: seven information against nine persons **in 2006**, five information against eight people **in 2007**, and one information against one person **in the first six months of 2008**.

The competent state prosecutors filed: **14 criminal charges for investigation** against 17 people; five criminal charges against six people **in 2006**, four criminal charges against four people in **2007**, and five criminal charges against seven people **in the first six months of 2008**.

236 requests for investigation were files against 376 persons: 108 requests against 166 people in **2006**, 101 requests against 158 people in **2007**, and 27 requests for investigation in **the first six months of 2008**.

At the end of the reporting period (30.06.2008), 105 criminal charges against 168 people remained unresolved with other authorities in pre-trial proceedings following orders of prosecutors for collecting the necessary information: 58 criminal charges against 93 people **in 2007** (71 charges against 152 people at the end of 2007), and 47 criminal charges against 75 people **in 2008**. The comparison of data for the first six months of 2008 with the status on 31.12.2007 indicates that the number of unresolved charges dropped from 2006 and 2007 by 31 charges filed against 65 persons.

Namely, 126 charges against 165 people were in the process during the reporting period.

Also, during the reporting period (01.01.2006-30.06.2008), the Special Prosecutor for Organized Crime received thirty-six (36) criminal charges against 196 persons for criminal offences of organized crime. There were 13 court cases against 68 people that were resolved by verdicts.

A table with summary data for criminal offences that contain elements of corruption and organized crime is given in Annex 1 and makes an integral part of the Report on Readiness.

### **3.2. Implementation of the National Anti-Trafficking Strategy with allocation of sufficient human and financial resources for its implementation**

Financial means and human resources for implementing the Strategy for fighting against trafficking in human beings are defined by budgets of all the Ministries that are responsible for the implementation thereof. The main funds are allocated to the Office of the National Coordinator for Fight Against Trafficking in Human Beings, which has own budget for implementing own activities. Human resources are hired as per the signed agreement and teams which take part in the Strategy implementation.

#### **3.2.1. Report on implemented measures of the Strategy to Fight Trafficking in Human Beings and achieved results**

The measure is continuously implemented.

The Government of Montenegro is consistent and comprehensive in implementing the Strategy for Fighting against Trafficking in Human Beings in a way that:

- the mechanisms of the Trafficking Public Policy are established and elaborated and such Public Policy is implemented by drafting of modern legislation in this field, as well as by training of adequate institutions and by specific actions of authorities;
- the legal framework is permanently improving as a response to newly identified European standards in this field.

The first step in establishing mechanisms for fighting trafficking in human beings was providing support to establishing of the Project Board and its work. The Project Board is composed of: the National Coordinator for Fighting Against Trafficking in human beings, the Ministry of Justice, a representative of the Supreme State Prosecutor, a representative of the Office for Gender Equality of the Government of Montenegro, a representative of the Ministry of Internal Affairs and Public Administration, representatives of OSCE, the International Organization for Migrations (IOM-a), the Council of Europe, UNICEF, Save the Children, USAID and two local non-governmental organizations: the Montenegrin Women's Lobby and the Safe House for Women.

The Working Group for monitoring and implementing activities outlined by the Strategy was established after the Strategy for Fighting Trafficking in Human Beings was adopted (2003).

On the initiative of the Working Group of the Stability Pact, a sub-group for fighting trafficking in children was established under the Project Board for fighting trafficking in human beings, and it prepared Draft National Action Plan based on the Guidelines of the Stability Pact for developing national strategies for fighting trafficking in human beings, which is composed of eight categories: research and assessment, raising awareness, prevention, support and protection of victims, return and reintegration, legal reform, judiciary system and criminal service, cooperation and coordination amongst criminal departments.

A shelter for victims of trafficking in human beings is opened in cooperation with the OSCE, and it is managed by activists of the NGO – the Montenegrin Women's Lobby.

Address book of all institutions and organizations addressing this problem is published.

The Criminal Code and the Law on Witness Protection provide for practicing of procedural rights of victims-witnesses and provision of mechanisms for providing support and help to victims – witnesses in investigation processes and court proceedings, or providing protection in pre-trial procedure.

The Guidelines on requirements and regulating the residence of foreign citizens-victims of trafficking in human beings, which is drafted by the Ministry of Interior Affairs and Public Administration, create conditions for and regulate the residence of foreign citizens-victims of

trafficking in human beings, as a way of providing help and protection within the implementation of the Strategy of Montenegro for Fighting Trafficking in Human Beings.

The Office of the National Coordinator for Fight against Trafficking in Human Beings is continuously implementing activities that are identified by the Action Plan for implementing the recommendations of the European partnership.

Progress has been made in the areas specifically related to eliminating some legal weaknesses aimed at fighting trafficking in human beings. This is supported by the fact that, as already indicated, modification has been made to a set of applicable regulations, which address the problem of trafficking in human beings and which are harmonized with the EU standards. In addition to the criminal offence of “trafficking in human beings” that was introduced by the 2002 Criminal Code of the Republic of Montenegro, it is important that the 2006 changes and amendments to the Criminal Code created conditions for imposing penalties on offenders for “illegal border crossing and smuggling of human beings” (Article 405 of the Criminal Code).

Draft Action Plan for fighting trafficking in children is harmonized with the Guidelines of the Stability Pact for preparing action plans and guided by the UNICEF Guidelines on the Children’s Rights.

In regards to regional cooperation, it is important to point out that the International Centre for Migration Policy Development has started the Project “Program to Support the Development of Transnational Referral Mechanisms for Trafficked Persons in South-Eastern Europe”. The Project is implemented in Montenegro in close coordination with the Office of National Coordinator. The main expected output of this Program is a functional, institutionalized, transnational mechanism for referring victims, a mechanism that is approved by participating countries, including standard operational procedures in the form of Guidelines. Activities planned to be implemented were carried out over a period of 24 months (starting from June 30, 2006 to June 28, 2008).

The International Centre for Migration Policy Development has started implementing the project which assumes establishment of two databases: one that relates to victims and the other that relates to offenders. The software for collecting data will be installed in the Office of National Coordinator, and in the existing databases for the purpose of establishing coordination between the relevant institutions. In 2005, the OSCE in Montenegro and the Office of National Coordinator, as well as the Ministry of Tourism, started implementing the project aimed at improving and ensuring commitment of companies that want to operate in tourism of Montenegro to join the efforts invested in fighting trafficking in human beings, i.e. abuse of children by adopting and enforcing voluntary and self-regulatory “Code of Conduct for the Protection of Children from Commercial Sexual Exploitation in Travel and Tourism”. This is the Project that is implemented in Albania and Montenegro.

### **3.2.2. Taking steps towards developing Action Plan for implementing Anti-Trafficking Strategy**

At the end of May 2008, the Office of National Coordinator for Fight against Trafficking in Human Beings organized a meeting with the aim to establish a Working Group which will participate in the development of innovated Action Plan for fighting trafficking in human beings. As expected by the Office, this document should be adopted by the end of 2008, and it would identify activities to be implemented in 2009 by the relevant authorities in the field of fighting against trafficking in human beings.

### **3.2.3. Overview of engaged – planned human and financial resources**

Financial means and human resources for implementing the Strategy for fighting against trafficking in human beings are defined by budgets of all the Ministries that are responsible

for the implementation thereof. The main funds are allocated to the Office of the National Coordinator for Fight Against Trafficking in Human Beings, which has own budget for implementing own activities. Human resources are hired as per the signed agreement and teams which take part in the Strategy implementation.

### **3.2.4. Statistics on trends of trafficking in human beings, including investigations, criminal charges and verdicts**

In 2005, the Police Administration officers filed five criminal charges for criminal offences stipulated in Article 444 of the Criminal Code of Montenegro – trafficking in human beings, against seven people (1 citizen of the Republic of Serbia and 5 citizens of Montenegro), when eight victims of the trafficking in human beings were identified (4 citizens of the Republic of Serbia and 4 citizens of Bangladesh).

In 2006, one criminal charge was filed for the criminal offence stipulated in Article 444 of the Criminal Code of Montenegro – trafficking in human beings, against one person (female citizen of Montenegro), and one victim was identified (female citizen of Montenegro).

In 2007, two criminal charges were filed for the criminal offence referred to in Article 444 of the Criminal Code of Montenegro – trafficking in human beings, against three people (citizens of Montenegro), for four victims (1 female citizen of Montenegro, 2 female citizens of the Republic of Serbia and 1 female citizen of Bosnia and Herzegovina).

In 2008, by July 31, two criminal charges were filed against nine people (4 citizens of the Republic of Serbia and 5 UNMIK Kosovo), for three victims (2 female citizens of Moldova and 1 female citizen of the Republic of Serbia – UNMIK Kosovo).

### **3.3. Adopt and ensure efficient implementation of the legislation to combat money laundering and adequate monitoring of all financial transactions, including those related to real-estate, investments, strengthening of the Administration for prevention of money laundering and its coordination with agencies for law enforcement; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects).**

#### **3.3.1. Report on preparation and adoption of the adequate legislation in the area of prevention of money laundering**

The new Law on Prevention of Money Laundering and Financing of Terrorism („Official Gazette of the Republic of Montenegro“, no. 14/ 07), sets measures and activities for prevention of money laundering and financing of terrorism in accordance with the international standards in this area.

With this Law, Montenegrin legislation is almost fully harmonized with the requests of international organizations and institutions, and also with relevant regulations in the area of prevention of money laundering and financing of terrorism, such as:

1. Directive 91/308 /EEC on the prevention of the use of the financial system for the purpose of money laundering;
2. Directive 2001/97/EC of the European Parliament and the Council;
3. Directive 2005/60/EC of the European Parliament and the Council from October 26th 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
4. FATF Recommendations (40+8+1);
5. UN Convention against corruption.

The Parliament of Montenegro, at its session held on July 30th 2008, adopted the following laws:



- Law on ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no.198);
- Law on ratification of the Convention on prevention of terrorism (CETS no.196) and
- Law on ratification of the Convention on suppression of terrorism (CETS no.190)

### **3.3.2. Report on implementation of the new legislation in the area of prevention of money laundering**

Administration for prevention of money laundering and financing of terrorism adopted the Act on Internal Organization and Systematization, in accordance with the Law on Prevention of Money Laundering and Financing of Terrorism. In accordance with the Act, Reporting Entities Control Department was organized (seven new employees were recruited).

The Administration adopted:

- Rulebook on the method of work of an authorized person, exercising internal control, keeping and protecting data, keeping records and the training of the employees;
- Rulebook on provision of data on any transaction carried out in cash in the amount of €15,000 or more and suspicious transactions;

Both rulebooks are harmonized with the new Law on Prevention of Money Laundering and Financing of Terrorism.

The analysis of the current state and needs assessment for the development of an integrated **indicator list** are continuously conducted. Analysis of implementation of co-operation agreements with regional financial intelligence units and needs assessment for a new co-operation agreements are also continuously conducted (seven reports are delivered). Within the activities for improvement of the regional co-operation, regional meetings are held on regularly basis, and the Regional Protocol for Prevention of Money Laundry and Financing of Terrorism has been signed.

Analysis of implementation of co-operation agreements is conducted, the aim of which is to raise level of internal co-operation. In line with that, 18 reports on suspicious transactions have been delivered to the Prosecutors Office and Police, as the result of intergovernmental co-operation.

The Administration is also participating at working meetings of **EGMONT group**, and international seminars (4 seminars, 7 participants) and conferences, **MONEYVAL** Committee and the Council of Europe Committees on criminal matters. Trainings, seminars and symposiums on money laundering topic are conducted for authorized officials and employees who are in direct contact with clients.

### **3.3.3 Report on implementation of the new legislation on confiscation of property, including the provisions addressing cross-border aspects, and achieved results.**

The Bill on Criminal Procedure will be soon in the parliamentary procedure. This Law will introduce the institute of **the reverse burden of proof** in the procedure of seizure of property gained in criminal activities.

Montenegro is working on creation of conditions for the fight against all forms of criminal offences – the Bill on Property-Legal Relations and the Bill on electronic communication have been prepared. The Law on obligatory relations is adopted. The following laws are in the parliamentary procedure: the Law on management of the temporarily and permanently confiscated property, the Law on Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no.198), the Law on Ratification of the Convention on suppression of terrorism (CETS no.190), and the Law on Ratification of the Convention on prevention of terrorism (CETS no. 196.) are in the Parliament procedure.

### **3.3.4. Mechanisms for the monitoring of financial transactions (including those related to real-estate, inside investments) and reporting on their efficiency.**

Administration for prevention of money laundering and financing of terrorism as financial intelligence service collects data from entities, processes the data and deliver information to the competent state bodies, especially to the Police Administration and the Public Prosecutors Office.

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

Business organizations, other legal persons, entrepreneurs and natural persons are obliged to undertake this measures.

For the purpose of single record keeping on money laundering and terrorist financing the Competent court, State Prosecutor and other state authorities are obliged to provide data to the competent administration body about misdemeanor and criminal offences related to money laundering and terrorist financing.

They are obliged to provide the following data:

- date of filing criminal charge
- personal name, date of birth and address or company name, registered office of the company and residence of reported person
- nature of criminal offence and place, time and manner of carrying out the activity, which has elements of a criminal offence, and
- previous criminal offence and place, time and manner carrying out the activity, which has elements of previous criminal offence.

State prosecutor and the Competent Courts are obliged to, at least semiannually, provide data, to the competent administration body, referring to:

- personal name, date of birth and address or registered office of the company, address and residence of the reported person or the person that submitted the request for court protection within misdemeanor proceeding of the Law;
- phase of the misdemeanor proceeding and final decree;
- legal elements of the nature of criminal offence or misdemeanor
- personal name, date of birth and address or company name, address and residence of the person for whom is ordered temporary request for the seizure of unlawfully acquired assets or temporary confiscation.
- date of ordering and duration of the order on temporary request for the seizure of unlawfully acquired assets or temporary confiscation;
- the amount of the assets or property value, referring to temporary request for the seizure of unlawfully acquired assets or temporary confiscation;
- date of issuing the order on assets and money confiscation, and
- the amount of confiscated assets or value of the seized property

### **3.3.5. Mechanisms for coordination of the administration for the monitoring of measures against money laundering with other agencies for implementation of laws, and reporting on their efficiency.**

The Article 86 of the Law on Prevention of Money Laundering and Financing of Terrorism sets supervisory bodies for the supervision of implementation of the Law on Prevention of Money Laundering and Financing of Terrorism. Supervisory bodies are:

The Central bank of Montenegro

The Agency for Telecommunication and Postal Services

The Securities Commission

The Insurance Agency

Administration for game of chance  
Public Revenue Office  
Ministry of Finance

Administration for prevention of money laundering and financing of terrorism through authorized official, in accordance with the Law that defines inspection control.

Supervisory bodies are obliged to inform the competent administration body on measures taken in process of supervising in accordance with this Law, and within 8 days from the date on which the measures were taken.

### **3.3.6. Other measures in the area of money laundering and confiscation of assets of criminals**

To fill in free working positions in the Reporting Entities Control Department of the Administration for prevention of money laundering and financing of terrorism by the end of 2008.

To continue with trainings of employees.

To continue co-operation with relevant international institutions, especially with FATF, in order to protect financial systems of abuse for the aims of money laundering and financing of terrorism.

The measures will be taken to enhance activities on the implementation of the Law on management of the temporarily and permanently confiscated property, and adoption of the new Law on Criminal Procedure.

### **3.3.7. Supervision of planned and used human and financial resources**

Administration for prevention of money laundering was constituted by the Decree of the Government of Montenegro, from December 15<sup>th</sup> 2003 (Official Gazette of Montenegro, no. 67/03), as administrative body for prevention of money laundering and financing of terrorism. The Administration for prevention of money laundering started to work on February 5<sup>th</sup> 2004, when the Director was appointed. It could be said that the operational start of the Administration for prevention of money laundering was on July 26<sup>th</sup> 2004, when reporting of entities started. Administration for prevention of money laundering and financing of terrorism is an independent administrative body (financial intelligence service). Supervision of the legality of the Administration activities is conducted by the Ministry of Finance. By the Decree on amendments and supplements to the organization and the manner of work of the state administration ( Official Gazette of Montenegro, No. 26/08 from April 18<sup>th</sup> 2008), the name of the Administration changed and now the name is: Administration for prevention of money laundering and financing of terrorism.

In accordance with the Act on Internal Organization and Systematization, which was adopted by the Government of Montenegro on December 30<sup>th</sup> 2004, and which became effective on January 13<sup>th</sup> 2005, organizational units of the Administration for prevention of money laundering and financing of terrorism are as follows:

- Analytics Department
- Suspicious Transactions Department
- International and Domestic Co-operation Department
- General Affairs, Finance and Public Relations Department

In accordance with the Act on Internal Organization and Systematization of the Administration for prevention of money laundering and financing of terrorism from 2004, 19 working positions were foreseen. During 2005, the Administration had 17 employees (14 full time positions and 3 interns).

The educational profile of employees was as follows:

- 1 Master of Economy,

- 6 Bachelors of Economics,
- 4 Bachelors of Laws,
- 2 Bachelors of Mathematics,
- 1 Bachelor of Philology,
- 1 economist, and
- 2 employees with a high school degree.

During 2005, the Administration also had 17 employees (13 full time positions and 4 interns). The educational profile of employees was as follows:

- 1 Master of Economy,
- 7 Bachelors of Economics,
- 3 Bachelors of Laws,
- 2 Bachelors of Mathematics,
- 1 Bachelor of Philology,
- 1 economist, and
- 2 employees with high school degree.

During 2005, the Administration also had 19 employees working full time and one intern with university degree working to improve professional qualifications.

According to the Law on amendments and supplements to the Law on Prevention of Money Laundering that was published in the Official Gazette No. 17/05 , from March 18<sup>th</sup> 2005, the title of the Law is changed and the new title is: Law on Prevention of Money Laundering and Financing of Terrorism. The amendments also include provisions on prevention of financing of terrorism. This Law is harmonized with the FATF Recommendations 40 +8+1.

The new Law on Prevention of Money Laundering and Financing of Terrorism was published in the Official Gazette No. 14/07 from December 21<sup>st</sup> 2007, and it became effective on December 29<sup>th</sup> .

The Law is harmonized with relevant regulation in the area of prevention of money laundering and financing of terrorism:

1. Directive 91/308 /EEC on the prevention of the use of the financial system for the purpose of money laundering;
2. Directive 2001/97/EC of the European Parliament and the Council;
3. Directive 2005/60/EC of the European Parliament and the Council from October 26<sup>th</sup> 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
4. FATF Recommendations (40+8+1);
5. UN Convention against corruption.

The Administration had adjusted its internal organization and systematization in accordance with the new Law. The Government of Montenegro, at its session held on February 7<sup>th</sup> 2008, approved the new Act on Internal Organization and Systematization of the Administration for prevention of money laundering and financing of terrorism. According to this Act, 34 working positions have been systemized. This Act also sets out organizational units for execution of tasks which are within the competencies of the Administration. The organizational units are:

- Analytics Department
- Suspicious Transactions Department
- International and Domestic Co-operation Department
- Information Technology Department
- Reporting Entities Control Department
- Conducting First Instance Misdemeanor Proceeding Department
- General Affairs, Finance and Public Relations Department

Currently, the Administration has 23 civil servants and employees who are working full time, two interns with high school degree and one intern with university degree working to improve professional qualifications. Currently, filling up of staff vacancies is taking place.

By the Law on Budget of the Republic of Montenegro from 2005, €223.919,55 were designated for the work of the Administration for prevention of money laundering and financing of terrorism. These funds were fully realized during 2005. In addition to the funds designated by the Budget, The Budgetary Commission, in September 2005, approved for the Administration the use of funds from the current budget reserve in the amount of €5.000, for the financing of official travels that were not adequately included in the Budget for 2005. In 2006, on the basis of the Law on Budget of the Republic of Montenegro (Official Gazette no.77/05) €331.363,31 were designated for the work of the Administration for prevention of money laundering and financing of terrorism. This means that the funds designated for the work of the Administration were increased by 47,98% comparing to 2005. These funds were fully realized during 2006. In addition to the funds designated by the Budget, The Budgetary Commission, approved for the Administration the use of funds from the current budget reserve in the amount of €11.000,00, for the purchasing of equipment and maintenance of equipment.

On the basis of the Law on Budget of the Republic of Montenegro for 2007, €393.078,45 were designated for the work of the Administration for prevention of money laundering and financing of terrorism. This means that the funds designated for the work of the Administration were increased by 18,62% comparing to 2006. These funds were mostly realized during 2007.

For 2008, €441.440,22 are designated for the work of the Administration, which represents increase of 12,30%, comparing to 2007.

From the situation presented it can be concluded that the budgetary funds followed dynamics and needs of the Administration for salaries of employees, for purchasing and maintenance of equipment, and for other expenditures necessary for the normal functioning of the Administration.

### **3.3.8. Statistical data on current trends regarding money laundry and confiscation of assets of criminals, including investigations, criminal charges and verdicts.**

#### **TOTAL NUMBER OF PROCESSED AND PROCEEDED CASES TO THE COMPETENT STATE BODIES – POLICE ADMINISTRATION/ STATE PROSECUTOR**

**(Article 26, paragraph 1 of the Law on Prevention of Money Laundering and Financing of Terrorism – reasonable grounds for suspicion of committed criminal offence-money laundering)**

**27 (2005) + 29 (2006) + 43 (2007) + 7(2008) = 106**

**For other criminal offences / 13 notifications**

**TOTAL NUMBER OF PROCESSED AND PROCEEDED CASES TO THE COMPETENT STATE BODIES**

PERIOD	2005	2006	2007	2008
Number of cases	27	29	43	7
Number of cases with suspended transactions	8	21	15	3
Amount of suspended transactions	3.000.000	22.800.000	18.880.000	890.000
<b>TOTAL: 45.570.000€</b>				

(reasonable grounds for suspicion of other criminal offences)

PERIOD	2006	2007
Number of cases	8	5

The following cases of criminal offences are not related with real-estate trading: Document forgery, Abuse of the official position, Fraud, Tax evasion, etc.

**TOTAL NUMBER OF REPORTED SUSPICIOUS TRANSACTIONS**

44(2004) + 500(2005) + 186(2006) + 116(2007) + 37(2008) = 883

**TOTAL NUMBER OF SUSPENDED TRANSACTIONS**

8 (2005) + 73 (2006) + 23 (2007) + 2 (2008) = 106

**AMOUNT OF SUSPENDED TRANSACTIONS (2005-2007)**

45.570.000€

**International exchange (2004-2008)**

- 2004 (8 requests sent and 9 requests received)
- 2005 (26 requests sent and 15 requests received)
- 2006 (44 requests sent and 24 requests received)
- 2007 (46 requests sent and 42 requests received)
- 2008 (33 requests sent and 21 requests received)

**3.4. Adopt and implement National Drugs Strategy and National Action Plan for Drugs; make the information on drug seizures and persons involved accessible at border crossing points; further develop co-operation and information exchange with relevant international bodies in drug field.**

**3.4.1. Report on development and adoption of National Drugs Strategy and National Action Plan for Drugs.**

At the session held on 27.05.2008, the Government of Montenegro adopted the document named the National Strategic Response to Drugs 2008-2012, with the Action Plan 2008-2009, which offers a comprehensive plan for strategic framework of interventions related to drugs and abuse of drugs in Montenegro.

This document is aligned with international framework, Conventions of the UN, Council of Europe and the European Union, as well as other international agreements and recommendations in this field, but also takes into account experiences of other countries. It is based on multidisciplinary, integrated and balanced approach, which consolidates measures and interventions aimed at reducing supply of drugs and reducing the demand for drugs.

The concept of strategic framework relies on the so-called “**four-pillar policy**”, which envisages even distribution of both funds and development plans into four broad areas: **areas of prevention of the use of drugs, areas of treatment and rehabilitation of drug addicts, areas of mitigating the consequences resulting from the use of drugs, and in the area of police and customs interventions.**

In addition to these four areas, the National Strategic Response to Drugs 2008-2012 is designed in relation to the two most general principles, which are also general goals – “**reducing demand for drugs**” and “**reducing the supply**” of drugs.

The introductory section of the document addresses the methodology of developing the Strategy, and then the principles it incorporates (the principle of constitutionality and legality, the principle of human rights protection, the principle of comprehensive and continuous dealing with drug-related matters, the principle of global phenomenon of abuse of drugs and global cooperation, the principle of decentralization, the principle of guaranteed safety, the principle of adjusting to various population groups, the principle of providing for healthy lifestyles, the principle of partnership – balanced and multidisciplinary approach, consistency and complementarity, and the principle of centralized coordination, funding, monitoring and evaluation).

In the field of **reducing demand for drugs**, the Strategy tackles the field of prevention of the use of drugs, treatment and rehabilitation of drug addicts, and the field of mitigating the consequences resulting from the use of drugs.

The area of preventing the use of drugs defines strategic approach in various systems – education system, healthcare system, social welfare system, in local communities, in working environment and in media.

Strategic framework of interventions within healthcare system is defined in the field of treating and rehabilitation of drug addicts, as well as in the field of the so-called “program for addressing social problems of drug addicts”, then the framework for treatment of addiction in penitentiary institutions, and the field of rehabilitation and reintegration of drug addicts, and scientific and research activities targeted at addiction.

The field of reducing harmful consequences of the use of drugs is separately elaborated in this document.

The field of **reducing supply of drugs** offers description of strategic framework of interventions within the Police Departments, Customs Departments, and the use of drugs as a subject of regulations addressing criminal offences.

The field of specific goals and target interventions involves a strategic framework under specific programs of prevention, treatment and rehabilitation and mitigating harmful consequences of the use of drugs, especially in the field of penalty system, with involvement of non-governmental sector.

The issue of the coordination of implementation of the National Strategic Response to Drugs 2008-2012 is defined by the establishment and operations of the National Office for Drugs under the Government of Montenegro, which also has a key coordination role both in monitoring and evaluation of activities outlined in the Strategy.

A separate Chapter is dedicated to information system in the field of drugs and drug addiction, which must be quickly established in Montenegro in all areas and at the central level as well.

Research work is another important field covered by this Strategy and it supports this field, especially implementation of population-related surveys.

This Strategic Framework defines international cooperation as extremely important field, and assumes building of capacities for the cooperation in all areas and active involvement of our country in the regional and international cooperation.

Implementation of the National Strategic Response to Drugs 2008-2012 requires allocation of funds from the national and local budgets, whose amount will ensure quality and continuous implementation of activities in line with the scope of work and obligations of each and every party involved in their implementation.

Action Plans for implementation of the National Strategic Response to Drugs 2008-2012 provides detailed description of individual goals and ways to achieve identified objectives, as well as specific tasks of individual parties for the planned period, based on the Guidelines outlined in this document.

The Action Plan for drugs is drafted for two consecutive periods – 2008/2009 and 2010-2012.

#### **3.4.2. Draft the Strategy Action Plan, including overview of priorities of initial results**

Every program (process – evaluation of outcomes, and in case of long-term programs – performance assessment) will be evaluated over the period to come both in the Government and non-governmental sectors for the purpose of implementing the Strategy of Drugs, which requires cooperation amongst all involved, notably those dealing with the data collection and analysis (healthcare, police, customs, judiciary system, social welfare, education institutions, etc.).

Evaluation will also be conducted of all programs which are based on and/or result from the Strategy in order to establish a uniform evaluation system in all phases of the program planning and implementation. Professional criteria and guidelines for implementing of all evaluation phases will be defined, i.e. evaluation framework will be defined and it must meet standards such as: quality, balance, transparency and fairness.

#### **3.4.3. Monitoring administrative capacities for implementation of the Strategy / Action Plan, including involved human and financial resources**

All authorities and institutions are obliged to monitor and evaluate programs and activities whose implementation is under their competence, and to report on results to the National Office for Drugs, who will, once it is established, conduct monitoring and evaluation at national level by producing the **Report on Implementation of the National Strategic Response to Drugs 2008-2012**. Until the National Office is established, reports will be submitted to the Commission for Drugs of the Government of Montenegro.

Implementation of the National Strategic Response to Drugs 2008-2012 requires allocation of funds from national and local budgets, whose amount will ensure quality and continuous



implementation of activities in line with the scope of work and responsibilities of individual parties involved in their implementation.

The funds for implementation of the National Strategic Response to Drugs 2008-2012 at the level of state administration authorities in Montenegro, and based on inter-sectoral adjustments, will be allocated from the budget of Montenegro, in budget lines of competent ministries. Additional sources of funds will be provided from the profit generated by the game on chance and the funds donated by international organizations, as well as the funds collected by the seizure of properties of persons convicted of criminal offences related to drugs.

The funds planned for implementation of activities for 2008 and 2009 account for 4.651.600€.

2.868.000€ is planned for 2008, out of which 2.444.200 EUR is allocated from the current budget and based on decisions of the Government, with addition of 71.000€ from donations. Additional funds that are needed for this year are 352.800€.

The funds proposed for 2009 account for 1.783.600€, of which 25.000€ are ensured from donations for the time being.

#### **3.4.4. Information on confiscated drugs and persons who are involved in such activities, and which are available at border-crossings**

Comparative data indicate that 276 criminal charges were filed in 2006 against 351 persons, and 1117882.02 grams were confiscated in 354 confiscation procedures; 327 criminal charges were filed in 2007 against 455 persons, and 289239.93 grams of drugs were confiscated in 491 confiscation procedures.

#### **3.4.5. Co-operation with relevant international bodies in the field of combating drugs.**

In addition to the permanent strengthening of the capacities for international co-operation of the State and non-governmental organizations, which is very intensive in this field, adequate measures will be taken to encourage and strengthen co-operation with international organizations and institutions and other subjects, such as Pompidou group of the Council of Europe, UNODC, WHO, EMCDDA, etc.

Measures for supporting of mechanisms for regional co-operation, which include every country along the „Balkan drug route“ will be also developed.

Co-operation with EU member countries will be established through CARDS and PHARE programs, in the framework and in accordance with EU accession dynamics.

#### **3.4.6. Report on harmonization with EMCDDA standards (European Monitoring Centers for drugs and drug addiction).**

Montenegro is not yet a member of European Monitoring Centers for drugs and drug addiction (EMCDDA), which is the main agency for data collection on drugs. In the following period Montenegro will conduct activities aiming at acquiring a full member status in EMCDDA. In 2007, realization of the Project on strengthening of capacities for data collection on drugs in accordance with EMCDDA standards, started in Montenegro.

In the framework of this Project, Police Administration is undertaking measures from its competencies in order to recognize EMCDDA standards and to take actions for their adoption and implementation.

To this end, the Police Administration-Department for Criminal Police participated in the work of the European Monitoring Centers for drugs and drug addiction Conference.

### **3.5. Adopt and implement legislation on preventing and fighting corruption in accordance with the Action Plan on fight against corruption.**

#### **3.5.1. Report on implemented measures from the IAP and achieved results.**

**The harmonization of national legislation with international standards** in the area of fight against corruption and organized crime is being analyzed and provided on a regular basis. In the reporting period, Agency for anti-corruption initiative delivered to the UNDP Office in Podgorica list of laws in order to provide their harmonization with the UN Convention against corruption. Among others, the following laws were also on the list: the Law on Liability of Legal Entities for Criminal Offences, the Law on Free Access to Information, the Law on Civil Servants and State Employees, the Law on Salaries of Civil Servants and State Employees and the Law on Commercial Companies.

The Parliament of Montenegro adopted: the Law on Obligatory Relations. The Law on ratification of Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no.198), the Law on ratification of Convention on the Suppression of Terrorism (CETS no.190) and the Law on ratification of Convention on the Prevention of Terrorism (CETS no.196) are in the parliamentary procedure.

The Government of Montenegro, at its session held on May 29<sup>th</sup> 2007, approved the Draft Law on prevention of conflict of interests in execution of public tasks. Currently, final activities are conducted in preparation of the Bill on prevention of conflict of interests in execution of public tasks that will be considered by the Government by September 30<sup>th</sup> 2008, the latest.

The Parliament of Montenegro at its session held on July 30<sup>th</sup> 2008, adopted the Law on Civil Servants and State Employees. The provisions of this Law prescribe protection of employees who report cases of corruption.

Regarding the implementation of measures foreseen by the Declaration on 10 Joint Measures to Curb Corruption, Agency for anti-corruption initiative conducted significant activities for improvement of co-operation with business sector with the aim to plan joint activities for research and analysis of corruption phenomena, causes and harmful consequences of corruption in judiciary, education and local self-government; and to conduct public awareness campaigns for more active citizen's participation in the fight against corruption.

Coordination Board for Local Self-Government Reform, in co-operation with the Union of Municipalities of Montenegro and experts of the Council of Europe prepared the **Model Program on fight against corruption at the local level and the Model Action Plan for the realization of the Program on fight against corruption at the local level**. Both Models are developed using the methodology of the Council of Europe and in accordance with the Strategy for Administrative Reform of Montenegro 2002-2009, Work Program for Better Local Self-Government, National Training Strategy (NTS), Action plan for local self-government reform for 2008, and Work Program of the Government of Montenegro for 2008.

#### **3.5.2. Report on realization of the remaining measures**

**The next scheduled Report on realization of the remaining measures from IAP**, with the assessment and recommendations from the National Commission (**4th Report**), will be prepared in January 2009, by the National Commission. All National Commission reports (and individual reports on realization of measures from IAP of 54 Institutions) are available on the web-site of the Agency for Anti-Corruption Initiative, in Montenegrin and in English [/www.antikorupc.vlada.cg.yu/](http://www.antikorupc.vlada.cg.yu/).

### **3.5.3. Existing institutional arrangements and inter-institutional co-operation including available human and financial resources and future steps for their strengthening.**

**Inter-institutional cooperation between the Tax Administration** and other authorities is conducted in accordance with legal provisions, signed agreements and in the spirit of good practice. Thus, the Administration for the Prevention of Money Laundering submitted in the reporting period **53 requests for verification of data** for 26 legal and 90 private entities to the Tax Administration – Sector for Service to Tax Payers and Registration. Verification and provision of the requested information were finalized in a short period, based on official records and tax register. The Tax Administration submitted **64 cases** to the Administration for the Prevention of Money Laundering during this period for further investigation, and these cases relate to buying and selling of real estate. Inspectors of the Tax Administration and the Police Administration started **joint inspection** of businesses of two tax payers. The Police Administration received data for **8 cases** during the reporting period, following inspection, or surveillance. The Tax Administration is producing reports regularly on implemented measures from the Action Plan for implementation of the Program for Fighting against Corruption and Organized Crime, which also involves these activities, and the reports are published on the web-site.

**Cooperation with the Police Administration** takes place in accordance with applicable legislation, signed Agreement on Cooperation and good business practice. Activities aimed at amendments of the Agreement on Cooperation are initiated, which allows the Police Administration a direct access and the use of electronic database of the Tax Administration.

In order to improve the cooperation with the Police Administration and the Supreme State Prosecutor, the Customs Administration signed the **Agreement on Cooperation with the VDT and the Police Administration**, while the harmonization of the innovated agreement with the Police Administration is in the final stage. Based on the Agreement signed with the Police Administration, a physical connection based on optic cables is established between their information systems, and the procurement of additional equipment will follow, as well as the definition of the method of data exchange.

The Commission for Conflict of Interest controls accuracy of the reported data by continuous implementation of a number of measures, notably: five information were sent to the State Prosecutor on reporting false data on property; however, since the Government of Montenegro has not defined yet the Draft Law on Preventing Conflict of Interest when doing public functions (the procedure of public hearing has recently been finalized), the Commission is not able to adjust its organizational structure as stipulated by the future Law.

**3.5.4. Statistical data on trends in the field of corruption, including the high level of corruption, investigations, criminal charges and verdicts.**

<b>TABLE CUMULATIVE DATA FOR CRIMINAL ACTS WITH ELEMENTS OF CORRUPTION</b> In cases following criminal charges received within the period January 1st 2006 – June 30th 2008			
<b>Police administration and other authorities that file criminal charges</b>		<b>Number of cases</b>	<b>Number of persons</b>
		663	1067
<b>STATE PROSECUTORS</b>	<b>Prosecutors' decisions on the criminal charges</b>	<b>Number of cases</b>	<b>Number of persons</b>
	Dismissed indictments	286	469
	Proposal of indictment	13	18
	Indictments without investigation- direct indictments	14	17
	Requests for investigation	236	376
	Enquiries for specific investigation proceedings	9	19
	At the end of the reporting period, criminal charges that reminded unresolved with other authorities in pre-trial proceedings following orders of prosecutors for collecting the necessary information	105	168
<b>COURTS</b>	<b>Preliminary procedure -investigation</b>	<b>Number of cases</b>	<b>Number of persons</b>
		236	376
	Received requests for investigation	176	264
	Decision on investigation	60	112
	Without decision on investigation	114	148
	Investigations completed and rolls returned to prosecutor	62	116
	Ongoing investigations		
<b>STATE PROSECUTORS</b>	<b>Prosecutors' decisions following completed investigations</b>	<b>Number of cases</b>	<b>Number of persons</b>

<b>TORS</b>	Abandonment of prosecution	<b>15</b>	<b>18</b>
	Indictment following investigation	<b>99</b>	<b>130</b>
	<b>Total:</b>	<b>114</b>	<b>148</b>
	<b>Indictments at court</b>	<b>Number of cases</b>	<b>Number of persons</b>
	Received indictments (proposal of indictment, direct indictment and indictment following investigation)	<b>126</b>	<b>165</b>
	<b>Primary inquest and verdict</b>	<b>Number of cases</b>	<b>Number of persons</b>
	<b>Criminal proceedings resolved by verdict</b>	<b>70</b>	<b>81</b>
<b>COURTS</b>	Current criminal proceedings	<b>56</b>	<b>84</b>
	Condemnations	<b>35</b>	<b>41</b>
	Verdicts of abandonment	<b>4</b>	<b>5</b>
	Verdicts of release	<b>31</b>	<b>35</b>
	<b>Remedy proceedings</b>	<b>Number of cases</b>	<b>Number of persons</b>
	Appeals of Prosecutor	<b>45</b>	<b>51</b>
	Appeal proceedings completed	<b>21</b>	<b>21</b>
	Appeal proceedings not completed	<b>24</b>	<b>30</b>
	Appeal accepted	<b>10</b>	<b>10</b>
	Appeal refused	<b>11</b>	<b>11</b>
	Appeal of Accused	<b>2</b>	<b>2</b>
	<b>Legally-binding verdicts</b>	<b>37</b>	<b>39</b>

<b>CRIMINAL OFFENCES OF ORGANIZED CRIME</b>		<b>Number of cases</b>	<b>Number of persons</b>
	<b>Total:</b>	<b>36 charges</b>	<b>196 persons</b>
	Dismissed criminal charges	1	1
	Ceded criminal charges	2	11
	Requests for investigation	33	183
	Indictments following investigations	24	137
	Ongoing investigations	8	40
	Suspension of investigation	1	5
	Direct indictment	--	1*
	Number of resolved cases	13	68
	Number of cases not resolved	11	69
	Resolved in another manner – witness associate	1	1
	<b>Remedy proceedings</b>	<b>Number of cases</b>	<b>Number of persons</b>
	Appeals of prosecutor	5	26
	Appeal proceedings completed	2	10
	Appeal proceedings not completed	3	16
	Appeal accepted	2	10
Appeal refused	---	---	

### 3.5.5. Implementation of relevant UN and Council of Europe conventions, as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.

Detailed information on implementation of **relevant UN and Council of Europe conventions** in the fight against organized crime, corruption and terrorism are given in the Third Report of the National Commission on realization of IAP measures for the period 2008-2009.

### 3.5.6. Report on implementation of UN Convention against transnational organized crime and three additional protocols.

In the organization of the Office of National coordinator against trafficking in human beings and OEBS Mission in Montenegro, Co-operation Agreement was signed by the Ministry of Labor, Health and Social Welfare, the Ministry of Education and Science, the Supreme State Prosecutor, the Police Administration and non-governmental organizations.

This Agreement is in accordance with the **UN Convention against transnational organized crime** and Protocol on prevention, combating and punishment on trade in human beings, especially women and children. The agreement is also in accordance with the national legislation and the Strategy Against Trafficking in Human Beings of the Government of Montenegro.

The Agreement has obligatory nature in the field of co-operation in prevention, education, reporting, prosecuting of perpetrators of this crimes, and protection of potential victims of trafficking in human beings, with the full respect of their human rights.

Project supported by ICMPD and USAID «Program of support for development of transnational referral mechanisms for victims of trafficking in human beings in the South East Europe» is being realized through phase IV until the end of 2009. Implementation of the

Project will be carried out by the National Team which is composed of employees from Police, State Prosecutor's Office, Health care system, non-governmental organizations and the Office of National coordinator against trafficking in human beings of the Government of Montenegro.

At the end, the high level of the implementation of the UN Convention and its Protocols should be emphasized.

### **3.5.7. Report on implementation of the UN Convention against corruption.**

Agency for Anti-Corruption initiative, in co-operation with the Ministry for Internal Affairs and Public administration and the Ministry of Justice, is permanently coordinating activities for the implementation of UN Convention against Corruption aiming to fully implement this international instrument. In line with that, the Analysis on Harmonization of Montenegrin Legislation with the Provisions from the UN Convention Against Corruption has been conducted.

The permanent activity is preparation of proposals for modifications in current legislation in accordance with the results of the Analysis on Harmonization of Montenegrin Legislation with the Provisions from the UN Convention Against Corruption, and undertaking of concrete measures for the full implementation of the UN Convention.

The new Law on prevention of conflict of interests in execution of public tasks will be soon adopted.

### **3.5.8. Report on the implementation of the following conventions of the Council of Europe: Criminal convention against corruption; Civil Convention against corruption; Convention against trafficking in human beings; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no.198).**

In order to raise awareness and encourage citizens to report corruption cases, the Agency for Anti-corruption Initiative, in co-operation with UNDP Office in Podgorica and Ministry of Finance, defined three areas to conduct a research (**judiciary, education and local self-government**). Research in judiciary is conducted in the framework of the project that is financed by the United Nations Democracy Fund (UNDEF), and implemented by the UNDP Office in Podgorica and DACI. Field research is conducted by the Center for entrepreneurship, educational and development. The analysis of the findings from the research regarding the size of corruption, and its phenomenal forms and characteristics will be presented to public.

The Agency for Anti-corruption Initiative published at its web-site findings of the research in high education institutions of the Republic of Montenegro in the framework of its campaign „Choose the right path and report corruption“, which was conducted at „Mediterranean“ University (Law Faculty and Faculty on business management in Bar) and Police Academy in Danilovgrad in 2007/2008.

In the framework of promotion of international conventions in the field of fight against corruption, the Agency for Anti-corruption Initiative in co-operation with the Council of Europe organized **Conference on Civil Convention against corruption of the Council of Europe**. The UNDP Office delivered updated list of laws for the purpose of analyzing the level of their harmonization with the UN Convention against corruption.

### **3.5.9. Report on the implementation of GRECO Recommendations.**

Within its competences, the Agency for Anti-Corruption Initiative coordinates activities in the framework of the Regional Anti-Corruption Initiative, and activities related to regular reporting to GRECO. In May 2008, the Agency for Anti-Corruption Initiative delivered to GRECO - Analysis on the level of realization of 24 mandatory recommendations. After it is adopted by the Council of Europe, the Report on the level of realization of GRECO recommendations will be delivered to the Government of Montenegro for consideration, and published on the web-site of the Agency for Anti-Corruption Initiative.

### **3.5.10. Report on the implementation of the FATF standards (international organization against money laundering).**

The Law on Prevention of Money Laundering and Financing of Terrorism is harmonized with FATF Recommendations (40+8+1)

The new Law is fully harmonized with :

- UN Convention against corruption from 2003.
- Directive 91/308 /EEC on the prevention of the use of the financial system for the purpose of money laundering from July 10<sup>th</sup> 1991.
- Directive 2001/97/EC of the European Parliament and the Council from December 4<sup>th</sup> 2001.
- Directive 2005/60/EC of the European Parliament and the Council from October 26<sup>th</sup> 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing from October 26<sup>th</sup> 2006.
- Directive 2006/70/EC of the European Parliament laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, from August 1<sup>st</sup> 2006.

### **3.5.11. Report on the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**

Although Montenegro has not yet acceded to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, provisions on bribery of foreign public officials are prescribed as criminal offences in Article 423, paragraph 5, and Article 424, paragraph 3 of the Criminal Code of Montenegro, in accordance with the Criminal Law Convention on Corruption of the Council of Europe that was ratified by Montenegro in 2006.

## **JUDICIAL CO-OPERATION IN CRIMINAL MATTERS**

### **3.6. Implementation of international conventions concerning judicial co-operation in criminal matters (in particular Council of Europe Conventions).**

The Law on Ratification of the Second Additional Protocol to the European Convention of mutual legal assistance in criminal matters is adopted. The Law on international legal assistance in criminal matters is adopted. Permanent training is conducted for the employees in judiciary and the Ministry of Justice regarding the implementation of the Convention, the Protocol and the Law.



### **3.6.1. Take measures aimed at improving the efficiency of judicial co-operation with the EU Member States and with countries in the region in the area of:**

- a) justice system,**
- b) prosecution**

Montenegro has signed a significant number of bilateral agreements in order to strengthen judicial co-operation, especially with the countries from the Region.

Negotiation platform is set with the Republic of Serbia for signing the Agreement on mutual legal assistance in criminal and civil matters, Extradition Agreement and Agreement on mutual execution of court decisions in criminal matters.

With the representatives of the Ministry of Justice of the Republic of Italy it was agreed to sign the Agreement to amend and facilitate implementation of the European Convention of mutual legal assistance in criminal matters from 1959.

At the Ministerial Conference, held on April 13th 2007 in Zagreb, Memorandum of Understanding on Co-operation in Fight Against Corruption through Anti-corruption Initiative of the countries of the South-East Europe was signed.

Memorandum for Co-operation with the Ministry of Justice of Albania is signed.

Memorandum for Co-operation with the Ministry of Justice of Bosnia and Herzegovina is signed.

State Prosecutor Office of Montenegro has signed Memorandum for Co-operation with State Prosecutor Offices of Serbia, Croatia, Bosnia and Herzegovina, Macedonia, Albania, Russia and Ukraine. State Prosecutor Office of Montenegro is a member of SEEPAG.

Montenegro has acceded the following international conventions related to judicial co-operation in criminal matters:

- European Convention of mutual legal assistance in criminal matters with its Additional Protocol;
- European convention on extradition with two Additional Protocols;
- European Convention on transfer of convicted persons with its Additional Protocol;
- European Convention on transmission of criminal procedures;
- Convention on prevention of terrorism;
- Convention on suppression of terrorism;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism;
- Convention against trafficking in human beings;
- UN Convention against transnational organized crime.

The Law on Ratification of the Second Additional Protocol to the European Convention of mutual legal assistance in criminal matters is adopted.

The Convention on Computer Crime is signed; ongoing activity is preparation of the Bill on Ratification of the Convention .

The Law on international legal assistance in criminal matters is adopted (Official Gazette of Montenegro No. 04/08). The Law sets out procedure for providing of international legal assistance in accordance with international treaty. In case that there is no international treaty or certain issues are not regulated by international treaty, international legal assistance will be provided in accordance with this Law, provided that there is a reciprocity or it could be expected that a foreign country could submit request for international legal assistance to the domestic judicial body. Processing of requests for international legal assistance is taking, generally, three to six months.

Extradition procedure takes six to eight months. In this year (until August 8th 2008), Montenegro submitted 15 requests for extradition, and 5 extradition requests were received from foreign countries. In 2007, Montenegro submitted 14 requests for extradition and Minister of Justice made Decision on 15 extradition cases authorizing the extradition upon foreign countries requests.

Regarding the execution of foreign court decisions, Montenegro signed the Second Additional Protocol to the Convention on transfer of convicted persons which prescribes possibility of execution of foreign court decisions for criminal offences sentenced to a prison

term longer than six months. After Montenegro became an independent state, on the basis of this Protocol, the agreement with Serbia was concluded for mutual execution of court decisions for criminal offences sentenced to a prison term longer than three months. Montenegro has also signed Agreement on mutual execution of court decisions in criminal matters with Bosnia and Herzegovina (2005). In this year (until August 8th 2008) there were 52 requests for execution of foreign court decisions.

In the framework of the reform process a special attention was given to the permanent education of judges, prosecutors, employees of the Ministry of Justice and other civil servants and employees. The legal framework for education is created where education is the right and the obligation of every employee, and specialized training institutions are established –the Judicial Education Center and the Agency for Human Resources Management .

Employees of the Ministry of Justice, judges and prosecutors participated in a number of seminars and workshops in the area of international legal assistance, especially in the area of international legal assistance in criminal matters. The greatest achievement in the education of employees was accomplished through the implementation of the regional EU CARDS 2003 Project that lasted until 2007. Within its Module 3 related to international and European judicial co-operation, the Project enabled continuous training of judges, prosecutors and employees of the Ministry of Justice, in the period of three years, aim of which was to make implementation of international conventions and practice easier and simplest. Special attention was given to the training of judges and prosecutors in the area of organized crime and corruption, and this activity will be continued in future.

This year a series of seminars were held on the topic of organized crime with special accent on a pre-trial proceedings and surveillance techniques. These seminars were organized for judges and prosecutors including the Special prosecutor for suppression of organized crime and judges of the higher courts specialized for criminal offences of organized crime. A number of trainings were also conducted on the topic of international legal assistance in criminal matters, especially in relation to the implementation of international documents and the Law on international legal assistance in criminal matters, with special attention on extradition, transmission of criminal procedures, transfer of convicted persons, data exchange (determining identity of person, residence, etc..)

### **3.6.2. Working relations with EUROJUST, mainly through the EUROJUST contact point**

The Government of Montenegro is continuously working on strengthening of co-operation with EUROJUST. The Government has appointed a contact person for relations with EUROJUST, Mr. Boris Savic, basic state prosecutor in Kotor .

Representatives of the Ministry of Justice were invited by EUROJUST to participate to the meeting which was held on July 22nd 2008, in Hague, in order to agree on future co-operation between Montenegro and EUROJUST, which would follow upon signing of the Agreement of Co-operation.

### **Law enforcement co-operation among national agencies**

### **3.7. Take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers, as well as co-operation with the judicial authorities.**

#### **3.7.1. Mechanisms of co-operation among national agencies.**

There is a very intensive informal co-operation among all state bodies that execute their tasks on border crossings and along border line. To this end, there is a constant exchange of data and information of importance for prevention of all forms of cross-border crime.

In order to make co-operation among relevant agencies formal, preparation of Protocol/Agreement on co-operation among agencies is being prepared.

### **3.7.2 Steps taken and planned, including timetable for improvement of co-operation among agencies, and progress achieved in this area.**

The final activities are being conducted on realization of the proposal for establishment of National coordination office of the state administration bodies, with the aim of coordination and intelligence exchange among Police Administration, Customs Administration, Public Revenue Office and Administration for prevention of money laundering and financing of terrorism.

### **3.7.3 Regional law enforcement co-operation among relevant agencies and implementation of bilateral and multilateral operational co-operation agreements, including by sharing on time relevant information with competent law enforcement authorities of EU Member States.**

Setting up regional co-operation through conclusion of bilateral agreements provides a successful international co-operation in fight against corruption and organized crime. The significant results in regional co-operation are achieved by the Police Administration, Customs Administration and Administration for prevention of money laundering and financing of terrorism.

During the period 2004-2007, Administration for prevention of money laundering and financing of terrorism has signed cooperation agreements with financial intelligence units of the region and cooperation agreements with Russia and Poland.

In 2007, Parliament of Montenegro adopted the Law on Ratification of the Vienna Convention on Southeast Europe Police Cooperation.

Customs Administration and Directorate for Public Revenues also signed regional bilateral cooperation agreements.

### **3.7.4. Report on results of regional co-operation in the area of law enforcement.**

During the reporting period, in the field of international police co-operation, Police administration made progress in co-operation on bilateral and regional level. Consultation meetings were held that regulated in planning and implementation of joint activities.

During 2007, the Police Administration, in co-operation with the Special State Prosecutor for organized crime and Senior State Prosecutor, and in co-operation with polices of Macedonia, Croatia, Bosnia and Herzegovina and Serbia, has conducted eight international police operations. All 8 operations resulted in filling criminal charges against several persons from different states, for several criminal offences (3rd Report of the National Commission).

In accordance with activities taken on expanding of **Interpol** services on border crossings, direct search of the Interpol database is currently enabled on the two border crossing. It is planned in the near future to set in motion two additional border crossings. The Draft of Strategic Co-operation Agreement with **Europol** is prepared and it is approved by the Executive Board of Europol. Verification of the Agreement by the European Council is expected. After verification, signing of the Agreement is expected by October 2008.

Administration for prevention of money laundering and financing of terrorism is permanently conducting analysis of implementation of co-operation agreements with regional financial intelligence units and needs assessment for conclusion of new co-operation agreements. In the first six months of 2008, seven reports on suspicious transactions that are result of international co-operation and implementation of bilateral agreements, have been delivered to the State Prosecutor's Office and Police. Within the activities on improvement of the regional co-operation, regional meetings are held on regularly basis, and the Regional Protocol for Prevention of Money Laundry and Financing of Terrorism has been signed.

### **3.7.5. Report on regional co-operation in the area of law enforcement.**

With the aim of implementation of the Police Co-operation Convention in South East Europe from February 2008, the following bilateral agreements i.e. protocols have been signed during the 5th Ministerial Conference dedicated to the safety of borders of Southeast European countries:

- Protocol on organizing joint patrols along the border line, between the Minister of Internal Affairs and Public Administration of Montenegro and the Minister of Internal Affairs of the Republic of Albania;
- Protocol on organizing regular meetings of representatives of the border services at national, regional and local level, between the Minister of Internal Affairs and Public Administration of Montenegro and the Minister of Internal Affairs of the Republic of Albania;
- Protocol on organizing regular meetings of representatives of the border services at national, regional and local level, between the Minister of Internal Affairs and Public Administration of Montenegro and the Minister of Internal Affairs of the Republic of Serbia;
- Protocol on organizing regular meetings of representatives of the border services at national, regional and local level, between the Minister of Internal Affairs and Public Administration of Montenegro and the Minister of Public Safety of the Bosnia and Herzegovina.

Government of Montenegro and the Council of Ministers of the Republic of Albania signed Agreement on cross-border police co-operation. The Agreement was signed by the Minister of Internal Affairs and Public Administration of Montenegro, on behalf of the Government of Montenegro and Minister of Internal Affairs of the Republic of Albania, on behalf of the Government of the Republic of Albania.

### **3.7.6. Steps taken and planned in order to improve information exchange among agencies.**

See points 3.7.1. and 3.7.2.

### **3.7.7. Mechanisms planned in order to define mechanisms of coordination.**

See points 3.7.1. and 3.7.2.

### **3.7.8. Report on concrete measures and cases of information exchange with EU member states, and relevant results.**

Department for International Police Co-operation and European Integrations provides permanent exchange of information through EU police attachés.

Data for 2007: Nordic countries (10 cases); Sweden (13 cases); Netherlands (2 cases); Austria (5 cases); Germany (10 cases); France (5 cases); Greece (2 cases); Estonia (2 cases); Slovakia (2 cases); Czech Republic (2 cases); Slovenia (2 cases); Great Britain (2 cases); Spain (1 case); Belgium (12 cases); Italy (1 case);

Data for 2008- Nordic countries (5 cases); Germany (1 case); Netherlands (4 cases); Czech Republic (1 case); Austria (1 case); Belgium (1 case); Slovenia (1 case); Spain (1 case); Romania (1 cases);

Cases resulted in identification of persons, deportations, operation information exchange and concrete operation actions.

### **3.8. Operational and specialized investigation capacities of departments for enforcement of the Law for the purpose of more efficient dealing with cross-border criminal**

#### **3.8.1. Implemented and planned steps aimed at improving operational and investigation capacities of departments for the Law enforcement, including types of equipment that is used, training of staff, etc.**

A number of activities in organizational, normative, educational and technical fields are initiated for the purpose of building **operational capacities of the Border Police Sector**. The Border Police Officers are involved in the process of continuous training and education, which is implemented through various forms of development in Montenegro and abroad. Modern material and technical means are procured from the budget and donations for the needs of the Border Police, which allows for quicker and more efficient operation under the state border surveillance. The activities towards further technical modernization and procurement of equipment will continue.

Activities are continuously implemented towards **building capacities of the Police in the field of criminal-intelligence affairs and implementation of secret surveillance measures (SIMS)**. For that purpose, the changes to the Book of Regulations on internal organization and systematization of the Police Administration will **provide for the organization of the existing Department for Specialized Investigations** by:

- establishing DESK affairs at central and regional level;
- introducing criminal-intelligence affairs in the Police regional offices;
- recruiting separate staff and developing the recruiting model;
- delivering basic and specialized training in order to produce a necessary number of instructors for criminal and intelligence operations.

Draft Manual "**Police Affairs Based on Intelligence Work in Montenegro**" is produced and presented.

Donation of Sweden was used to procure and install the I2 Analyst's Notebook 7 software with licenses for three users (at the same time), which allows using of this analytical tool in offices in the region, and the I2 Base SSE software which is in the designing phase aimed at adjusting it to the needs of the Police Administration.

The Police Administration, the Anti-Corruption Agency and the Administration for Prevention of Money Laundering and Financing of Terrorism have selected Twinning Partner for the implementation of the Project "Fighting Corruption and Organized Crime".

Representatives of the Police Administration, the Agency for Telecommunications and mobile telephony operators ProMonte, M:Tel and T-Mobile are initiating activities on establishing links with telecommunication operators.

#### Establishing crime-intelligence units in pilot regions

Steps are taken on the establishment of the Department for Crime and Intelligence Affairs based on appropriate preparations for the implementation of **pilot projects**, which will start in January 2009, and covers the central level and pilot regions (Budva and Bar with Ulcinj). Eleven employees are hired (for crime-intelligence department in the RO Bar 8, and 3 officers for Ulcinj); the RO Bar will make two offices available for this Department.

#### DESK establishment at central level

Draft Changes to the Book of Regulations on the systematization and organization of the Department for Specialized Investigation is drafted and submitted, together with recommendations related to the harmonization of this document with the Police Model

guided by intelligence operations, recommendations for field work (pilot regions) and activities planned for 2009.

The design of facilities is initiated, as well as the needs analysis for the DESK at central level.

Training of officers of the Department for instructors of crime-**intelligence analysis** based on the Anacap model is completed under the development project: "Building capacities of Police guided by intelligence operations in Montenegro", which is implemented in cooperation with the Swedish National Police Board. Officers of the Department for Specialized Investigation are continuously undergoing professional development for implementing complex tasks, but also through specific activities in the field. A number of successfully completed tasks are indicators of well-trained officers, and the training should be continuously raised to a higher level.

Procurement of technical equipment is performed for the needs of the Department (5 passenger cars, 3 video cameras, and a procedure is initiated for the procurement of one additional camera, 4 digital cameras, 7 computers for operators and 8 work stations with two monitors for analysts, operational equipment and observation and documenting).

A visit to the Police of the Republic of Croatia was organized under international cooperation with the purpose of exchanging experiences in the field of information technologies related to crime-intelligence affairs and operational affairs related to observation, documenting and operational technology.

Activities are underway targeted at implementing the educational proposal "**National coordination offices of the state administration authorities**" with a goal of establishing coordination and exchange of data between the Police Administration and the Administration for Preventing Money Laundering and Financing of Terrorism.

#### Establishing crime-intelligence departments in pilot regions

A meeting was held in the RO Bar at the end of April where joint steps were agreed upon towards establishing a Department for Crime and Intelligence Affairs in the RO Bar.

The goal was to implement appropriate preparations for the implementation of the pilot project in January 2009, which involves central level and pilot regions (Budva and Bar with Ulcinj).

A minimum number of officers, needs in terms of facilities and other steps were agreed upon based on the process of intelligence operations:

- for crime-intelligence department in the RO 8, and 3 officers for Ulcinj;
- the RO Bar will make two offices available for this department;
- harmonizing systematization and organization with the Guidelines and the Model;
- the necessary equipment will be procured from the Project budget;
- selection of officers will be finalized by September;
- more training programs planned for the period September-December 2008.

#### Establishing DESK at central level

Proposal of changes to the Act on Systematization and Organization of the Department for Specialized Investigations was drafted and submitted by the end of April, together with recommendations related to harmonizing this document with the Police Model guided by intelligence work, with addition of recommendations for field work (pilot regions), and with activities planned for 2009.

The design of facilities is initiated, as well as the needs analysis for the DESK at central level.

Delivering of training of prosecutors is the measure that is continuously implemented. Consequently, 12 seminars were organized with the purpose of informing prosecutors about presenting comparative practices of the countries in the region related to fighting corruption and organized crime; seven seminars were organized with the purpose of educating prosecutors in relation to criminal offences with elements of corruption and organized crime, notably their new forms; three seminars were organized on delivering training programs on criminal offences of transactions and commercial dealings, and cyber criminal offences, and one seminar was organized with 45 participants on delivering training on secret surveillance based on comparative experiences of the countries in the region.

### **3.8.2. Report on the results of cases where special investigation measures were used**

There are two groups for secret surveillance under the Sector of Crime Police – Department for Specialized Investigations:

- 1) Monitoring Group,
- 2) Group for Observation and Documenting.

Courts and Prosecution Service are in charge of evaluation of results, and officers of the Police Officers who work on cases

### **3.9. Take necessary steps for conclusion of an operational agreement with EUROPOL, with the special emphasis on data protection.**

#### **3.9.1. Progress report.**

The Proposal of the Strategic Co-operation Agreement between Montenegro and EUROPOL is prepared and it is accepted by the Executive Board of EUROPOL and approved by the European Council. Strategic Co-operation Agreement between Montenegro and EUROPOL will be signed on September 19<sup>th</sup> 2008. The Police administration has already started procedure to provide the necessary equipment to set up secure communication line for data exchange with EUROPOL. This equipment will be put in motion after the Agreement signing and technical conditions for data exchange will be met.

Upon the Agreement signing activities on harmonization of the system with EUROPOL's standards will start, in order to create preconditions for the signing of the Operational Co-operation Agreement with EUROPOL.

According to the EUROPOL's plan, signing of Operational Co-operation Agreement for all Western Balkan countries is planned for the end of 2009, or the beginning of 2010.

### **3.10 Adopt necessary legislation on the protection of personal data and implement its provisions and ensure the independence of a supervisory body for data protection.**

#### **3.10.1 Report on progress achieved in preparation, adoption and implementation of the national legislation in compliance with the EU Acquis, or more precisely with the Directive 95/46/EC of the European Parliament.**

The Bill on Personal Data Protection is prepared.

It is expected that the Bill will be approved by the Government of Montenegro by September 2008, and delivered to the Parliament of Montenegro for its adoption.

### **3.10.2 Report on progress achieved in the establishment of a supervisory body for data protection and measures taken to make the body operational (human and financial resources, trainings).**

The Government of Montenegro adopted the Strategy on Personal data Protection, on its session held on July 3rd 2008.

The Action Plan, which is an integral part of the Strategy sets out concrete activities, responsibilities, timetable and financial consequences of the realization of the Strategy, as follows:

- 1) legislation activities (preparation of bylaws, preparation of a review of all regulation that prescribe the obligation of management of the collections of regulation, identification of regulation that needs to be harmonized with the system law, first modification of the Law, etc).
- 2) Activities on institutional establishment and capacity building of the independent supervisory body for data protection.
- 3) Activities on capacity building of human resources (in: independent supervisory body for data protection, state bodies, public institutions, private sector, etc),
- 4) Activities on pilot projects,
- 5) Activities on information sharing.

### **3.11 Sign, ratify and implement relevant international conventions, such as the Additional protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.**

#### **3.11.1 Progress Report.**

The Government of Montenegro adopted decision on the signing of the Additional Protocol to the Convention of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data, in connection with supervisory bodies and cross-border data flow. The Government also appointed a representative who will sign the Protocol.

When the Additional Protocol is signed, the Government will approve the Bill on Ratification of the Additional Protocol, which will be delivered to the Parliament of Montenegro for adoption.

## **BLOCK 4: EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS**

**4.1 Freedom of movement of citizens of Montenegro is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.**

**4.1.1 Legal provisions related to freedom of movement, including mechanisms for treatment of incidents/appeals of citizens in this area.**

According to Article 39 of the Constitution of Montenegro («Official Gazette» no. 1/07), every citizen of Montenegro has the right to freely move within the territory of the state. Freedom of movement and residence may be restricted only if required so for conducting the pre-trial procedure, prevention of contagious diseases spreading or for the security of Montenegro. Article 7 of the Constitution prescribes that infliction or encouragement of hatred or intolerance on any grounds is prohibited, and Article 8 prescribes that any, direct or indirect, form of discrimination on any grounds (sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, etc) is prohibited.



Montenegrin citizen submits request for issue of travel document to a regional organization unit or division of the Ministry of Internal Affairs and Public Administration, in the area of permanent residence of the Montenegrin citizen; and to diplomatic or consular representative of Montenegro in the area of permanent residence of the Montenegrin citizen for longer than three months. Montenegrin citizen has obligation to enclose to the application for the issue of a travel document, confirmation on Montenegrin citizenship and extract from the births registering book or births register.

One of parents with written consent of other parent or a legal representative shall submit the application for a person younger than eighteen years of age or for a person who is incapable of operating, and presence of the person subject to submission is necessary. Old, sick, and disabled citizen is provided to submit request out of the offices of the Ministry of Internal Affairs and Public Administration or in other way that would facilitate submitting of the request for these citizens and in accordance with the Law. Authorized person in a regional unit of the Ministry of Internal Affairs and Public Administration or an authorized person in a diplomatic and consular representative of Montenegro will decide to issue the passport to Montenegrin citizen when they establish that the conditions for issue of travel document are met and that there are no restriction prescribed by Article 38 of the Law on Travel Documents. Article 38 of the Law on Travel Documents prescribes that the authority to whom an application for the issue of a travel document is submitted can reject the application, if:

- 1) against the Montenegrin citizen a decision is made on performing investigation or is indicted - at the demand of Court or State Prosecutor
- 2) the Montenegrin citizen, effect is unconditionally sentenced onto prison with going into effect, until serving out of sentence;
- 3) movement of the Montenegrin citizen, based upon decision of the International organization recognized by Montenegro or to which Montenegro joined, is limited.

The same Article also prescribes that the authority to whom an application for the issue of a travel document was submitted, at the request of the state administrative authority competent for the affairs of public health, can reject an application for the issue of a travel document if such is necessary in order to prevent an infective disease.

Against the decisions of the first instance, Montenegrin citizen has a right to lodge an appeal to the second instance - Ministry of Internal Affairs and Public Administration.

#### **4.1.2 Cases / difficulties in connection with certain groups.**

Cases of discrimination are not known, and there is no concrete group that expressed difficulties in relation to the realization of the right to acquire the travel document.

#### **4.2 Conditions and procedures for issue of travel documents and identification documents for all citizens of Montenegro including women, children, people with disabilities, people belonging to minorities and other vulnerable groups**

The Law on Travel Documents prescribes that every Montenegrin citizen who is 18 years old has the right to have travel document. No restrictions are prescribed on grounds of nationality, religion, race, sex, ethnic origin or other affiliation. Old, sick, and disabled citizen is provided to submit request out of the offices of the Ministry of Internal Affairs and Public Administration or in other way that would facilitate submitting of the request for these citizens and in accordance with the Law.

The Montenegrin citizen personally submits the application for the issue of a passport, upon establishing of the identity. After the decision to issue a passport is made, personalization of the passport will be done in the Department for Information Technology – Personalization Center of the Ministry of Internal Affairs and Public Administration in Podgorica.

Restrictions related to the issue of passport are given under the point 4.1.1.

A Montenegrin citizen takes over travel document personally, with the biometric proving of identity done by authorized person of the Ministry.

The Law on Identity Card («Official Gazette » no.12/07) prescribes that Identity Card is a public document used by the citizen with the Montenegrin citizenship to prove identity and citizenship. The Law also prescribes that a citizen who is 18 years old, with the residence in Montenegro is obliged to have identity card. Citizen older than 14 years, with the residence in Montenegro, has right on the identity card.

No restrictions are prescribed on grounds of nationality, religion, race, sex, ethnic origin or other affiliation regarding realization of the right to acquire Identity card.

#### **4.2.1 Target group**

There is no affiliation that is put in unequal position.

#### **4.2.2 Positive steps**

All Montenegrin citizens are equal in realization of the rights and the obligations regarding the acquisition of travel documents and personal identification documents.

With the aim of realization of the right on use of language and writing, Article 15 of the Law on Travel Documents prescribes for the members of minority nations or other minority or ethnic communities, name and first name in the travel documents form to be filled in the language and writing of minority he/she belongs to. At the request of applicant name and first name can be filled also in Cyrillic writing.

Also, with the aim of realization of the right on use of language and writing, Article 7 of the Law on Identity Cards prescribes for the citizens who officially use Serbian, Bosnian, Albanian or Croatian language, the ID form content and data filled out in these languages, except name and surname, which are filled out in language and alphabet of submitter of the request, in case that he/she requests it.

### **4.3 Access to identity documents for displaced persons, internally displaced persons and refugees.**

#### **4.3.1 Legal Arrangement**

According to the Decree on Refugee Care («Official Gazette of Montenegro» No..37/92 45/06 and 72/06), the identity cards for displaced persons are issued by the Ministry of Internal Affairs and Public Administration, and the identity cards for internally displaced persons are issued by the Office for refugees.

By November 15<sup>th</sup> 2008, the competent authorities will adopt the Decree on appearance, content and the manner of issuance of the documents for the asylum seekers, recognized refugees and persons under the additional or temporary protection.

#### **4.3.2 Current procedures**

The Procedure for issue of identification documents to displaced persons and internally displaced persons is prescribed by the Decree on Refugee Care mentioned in the point 4.3.1.

#### **4.3.3 Statistical data (number of displaced persons, internally displaced persons and refugees).**

There are about 8000 displaced persons from Bosnia and Herzegovina and Republic of Croatia and about 16000 internally displaced persons from Kosovo currently in Montenegro. These groups have the identity card for displaced person, i.e. the identity card for internal displaced person.

#### **4.4 Legislation that ensures effective protection against discrimination.**

##### **4.4.1 Current legislation and planned legislation.**

Montenegro is an independent and sovereign state, with the republican form of government. Montenegro is a civil, democratic, ecological and the state of social justice, based on the rule of law. Bearer of sovereignty is the citizen with Montenegrin citizenship. Montenegro guarantees and protects rights and liberties to every Montenegrin citizen. The rights and liberties are inviolable. Everyone is obliged to respect the rights and liberties of others. The official language in Montenegro is Montenegrin. Serbian, Bosnian, Albanian and Croatian also are in the official use.

Persons belonging to minority nations and other minority national communities are guaranteed the rights and liberties, which they can exercise individually or collectively with others, as follows:

- the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities;
- the right to choose, use and publicly post national symbols and to celebrate national holidays;
- the right to use their own language and alphabet in private, public and official use;
- the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities;
- the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings in the language of minority nations and other minority national communities;
- the right to establish educational, cultural and religious associations, with the material support of the state;
- the right to write and use their own name and surname also in their own language and alphabet in the official documents;
- the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written in the language of minority nations and other minority national communities;
- the right to establish councils for the protection and improvement of special rights, etc.

The Constitution of Montenegro prescribes that the State has a duty to protect persons belonging to minority nations and other minority national communities from all forms of forceful assimilation.

The Montenegrin legislation provides equality of all Montenegrin citizens, including members of minority nations, minority nations communities and ethnic groups.

- The Law on Primary Education («Official Gazette» no.64/02 and 49/07),

The State of Montenegro provides free primary education.

- The Law on Secondary Education, («Official Gazette» no.35/91,56/92,27/94 and 64/92),

The State of Montenegro provides free secondary education.

- The Law on Higher Education, («Official Gazette» no. 60/03 and 4/08),

The State of Montenegro provides free higher education.

- The Law on Minority Rights and Freedom («Official Gazette» no.31/06, 38/07),

By this Law the state provides and guarantees minority rights and freedom.

- The Law on Montenegrin Citizenship («Official Gazette» no. 13/08),

By this Law, the state provides access to the Montenegrin Citizenship under equal conditions.

- The Law on Personal Name («Official Gazette» no.47/08).

The Law on Personal Name regulates concept, structure, definition and the use of personal name of the Montenegrin citizen. The Law prescribes that a personal name is inscribed in the matricular books in Montenegrin language. Upon the request of a Montenegrin citizen, the personal name is inscribed in the matricular books in a one of the official languages (Serbian, Bosnian, Albanian and Croatian language).

- The Law on Matricular Evidence (Official Gazette No. 47/08).

The Law on Matricular Evidence regulates recording of data on born, married and deceased persons, and other data regulated by law related to the personal and family status of Montenegrin citizens incurred in Montenegro and in a another state, as well as citizens of other states and persons without citizenships. The Law prescribes that matricular evidences on born, married and deceased persons are kept in Montenegrin language, and the certificates and records issued on the basis of matricular books are issued in Montenegrin language. The Law also prescribes that the data in matricular evidences related to members of minority nations and minority nations communities are inscribed in a language and alphabet of a minority concerned in accordance with the law. Personal name of a member of minority nation is inscribed in the matricular evidence in its language and alphabet in accordance with the Law. For a member of minority nation, certificates and records issued on the basis of matricular books are issued in a language and alphabet of his/hers minority nation.

- The Law on Labor Relations

The Law on Labor Relations provides equal access to the labor market for all citizens of Montenegro, under equal conditions and in accordance with education and knowledge acquired and working abilities, regardless of national, religious or other affiliation.

- The Law on Police

The Law on Police provides safety and security of citizens and rights and freedoms provided by the Constitution and law; protecting of property; preventing, detecting and solving of criminal offences and misdemeanors; finding and apprehending of perpetrators of criminal offences and bringing them before the competent authorities; maintenance of public order, guarding of national borders and controlling of border crossings; monitoring and controlling of traffic safety; controlling movement and stay of foreigners; providing conditions for unobstructed work of courts, etc.

- The Criminal Code

The Criminal Code of Montenegro, in its Articles 158-182, prescribes criminal offences against human rights and freedoms, as follows: infringement of the right to free use of language and alphabet; infringement of equality of citizens; infringement of the right to expression of national or ethnic affiliation; infringement of freedom of confession of religion and performance of religious rites; unlawful deprivation of freedom; infringement of freedom of movement and residence; abduction by force; coercion; extortion of confession or statement; maltreatment and torture; threat to security; infringement of inviolability of home; illegal search; unauthorized disclosure of secret; infringement of privacy of mail and other means of communications; unauthorized wiretapping and recording; unauthorized photographing; unauthorized publication and presentation of a somebody else's written texts, portraits and recordings; unauthorized collection of personal data; infringement of the right to legal remedies; infringement of freedom of speech and public appearance; prevention of printing and distribution of printed matters, and broadcasting; prevention of publication of responses and rectifications; prevention of public gathering; prevention of political, trade union or other association and activities.

#### **4.4.2 Implementation of the current legislation**

State bodies, judicial bodies and other competent bodies have the duty to act in accordance with the Constitution and law.

For the protection of the human and minority rights and freedoms, the Ministry for Human and Minority Rights Protection is established in Montenegro.

Government of Montenegro, on its session held on July 3<sup>rd</sup> 2008, adopted the Strategy on Minority Policy, which represents an important precondition for the full implementation of the Law on Minority Rights and Freedoms (Official Gazette of Montenegro, No. 31/06, 51/06 and 38/07).

#### **4.5 Conditions for the acquisition of Montenegrin citizenship.**

##### **4.5.1 Current Law and procedure.**

The Law on Montenegrin citizenship («Official Gazette « no.13/98) regulates modes and conditions for the acquisition of Montenegrin citizenship.

Montenegrin citizenship can be acquired by:

1. origin,
2. birth on the territory of Montenegro,
3. naturalization,
4. pursuant to International agreements and treaties.

##### **1. Acquisition of Montenegrin citizenship by origin**

Montenegrin citizenship is acquired by a child:

- a) if the child's father and mother were Montenegrin citizens at the time of the child's birth;;
- b) if one of the parents was Montenegrin citizen at the time of the child's birth and the child was born on the territory of Montenegro;
- c) if one of the parents was Montenegrin citizen at the time of the child's birth, and the other was without citizenship or of unknown citizenship or was unknown and the child was born in a foreign country
- d) if one of the parents was Montenegrin citizen at the time of the child's birth and the child was born in a foreign country, or if stays stateless.

Montenegrin citizenship is also acquired by :

- a) the child born on the territory of foreign state, if one of the parents was Montenegrin citizen at the time of the child's birth, if personally declares for the registration into Register of births and Register of citizenship of Montenegro prior to reaching 18 years of age, if does not hold the citizenship of foreign state;
  - b) the person who fulfilled 18 years of age, if one of the parents is Montenegrin citizen, and the second parent is citizen of foreign state, if personally declares for the registration into Register of citizenship of Montenegro prior to reaching 23. years of age;
  - c) the child in the case of total adoption, if one of adoptive parents is Montenegrin citizen.
- According to paragraph 1 item 1 of this Article the acquisition of Montenegrin citizenship for a child older than 14 years also requires his consent.

##### **2. Acquisition of Montenegrin citizenship by birth on the territory of Montenegro.**

A child born or found on the territory of Montenegro of unknown parentage or whose parents are of unknown citizenship or have no citizenship or if a child stays without citizenship shall acquire Montenegrin citizenship.

### **3. Acquisition of Montenegrin citizenship through naturalization.**

A petitioner may be admitted through the naturalization to the Montenegrin citizenship, in accordance to the interests of Montenegro if fulfils the following conditions:

- a) has reached 18 years of age;;
- b) has a release from foreign citizenship ;
- c) has been legally and without interruption staying in Montenegro for the period of 10 years, prior to the petition for admission into Montenegrin citizenship;
- d) has a guaranteed residence and guaranteed permanent source of income in Montenegro of an amount that enables material and social welfare;
- e) has not been irrevocably sentenced in Montenegro or a foreign state to a prison term longer than one year and for a criminal offence prosecuted "ex officio" or legal consequences of such sentence are cessated;
- f) posses active command of the Montenegrin language to the level which allows basic communication;
- g) poses no threat to the security and defense of Montenegro
  - a) discharged his/her tax obligations

As one of the forms for acquisition of Montenegrin citizenship, it is also prescribed that the person who has been married to a Montenegrin citizen for at least three years and has lived in Montenegro legally and continuously for at least five years may acquire Montenegrin citizenship by naturalization in accordance with the Law, and it doesn't have to renunciate previous citizenship.

#### **4.5.2 Dual citizenship and problems in connection with the former SFRY citizenship.**

According to the Law on Montenegrin Citizenship, a person can have only one citizenship, with the exception of the following cases:

- A Montenegrin citizen, who on the date of 3 June 2006 had citizenship of another state is entitled to keep the Montenegrin citizenship;
- A Montenegrin citizen, who on the date of 3 June 2006 acquired a foreign citizenship is entitled to keep the Montenegrin citizenship until signing of the bilateral agreement with a country whose citizenship he/she acquired, but not longer than one year since the date of passing the Constitution, which means until October 10th 2008.
- a person who acquires Montenegrin citizenship by marrying a Montenegrin citizen.

In order to avoid the situation where a person who has registered residence in Montenegro can stay without citizenship, and this refers to citizens of the Republic of former SFRY, the Law prescribed that a person with registered residence in Montenegro before 3 June 2006 may acquire Montenegrin citizenship through naturalization, holds no foreign citizenship or holds dismissal from the citizenship of foreign state, and fulfills conditions prescribed by the Law.

### **4.6 Ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities.**

#### **4.6.1 Procedures for the investigation of incidents**

The Law on Police prescribes police authorizations and duties.

For the purpose of the control of the police work, Parliamentary, Civic and Internal control is established.

Parliamentary control of the police work is performed by the Parliament of Montenegro, through the competent body of the Parliament. At least once a year, the head of police reads the report on police work to the competent body of the Parliament.

Civic control of police work is performed by the Council for Civic Control of Police Work. The Council assesses the use of police authorizations in order to protect rights and freedoms. Citizens and police employees can address the Council.

The Council is composed of five members who are appointed by: Bar Association of Montenegro; Montenegrin Medical Chamber, Association of Jurists of Montenegro, University of Montenegro and non-governmental organizations dealing with protection of human rights.

At the request of the Council, the Police Administration is obliged to give information and notifications.

Internal control of police work is performed by the special organizational unit of the police.

Tasks of the Internal Control are the following: control of the legality of performing of police tasks and control of the use of authorizations by the police employees, financial control and other controls that are important for efficient and legal work of the police.

Any physical or legal person has the right to file a complaint against a police officer, if they believe that the police officer has violated their rights or endamage them. The police has a duty to respond on the complaint in a written form to the person who filed a complaint. If the person who filed a complaint is not satisfied with the answer from the Police Administration, he/she can address the Ministry of Internal Affairs and Public Administration, within 15 days of service of the response from the Police Administration.

#### **4.6.2 List of cases.**

The Body for the Parliamentary Control, the Council for the Civic Control and the Internal Control of the Police didn't receive any complaint related to ethnically motivated incidents.

#### **4.6.3 Opinion of Ombudsman/NGO reports.**

There were no ethnically motivated incidents.

### **4.7 Implementation of Constitutional provisions related to protection of minority rights.**

#### **4.7.1 Current legislation**

The Law on Minority Rights and Freedoms («Official Gazette of Montenegro» No. 31/06, 51/06, 38/06) prescribes that, in accordance with the Constitution, the Charter on Human and Minority Rights and Civil Freedoms and generally received rules of international law and ratified international treaties, Montenegro will provide, besides general human and civil rights and freedoms that are guaranteed to all citizens, protection of the rights of authoton, numerically minor minority nations, minority national communities, ethnic minorities and their members. Protection of special minority rights and freedoms will be also provided by the state. A minority is any group of citizens of Montenegro, that is numerically minor to the majority of the population, possessing common ethnic, linguistic and religious characteristics, differentiating them from the rest of the population; who have a historic bond with Montenegro and whose members are motivated by desire to express and preserve national, ethnic, cultural, linguistic and religious identity. Persons belonging to minority nations and minority national communities can exercise their rights and liberties individually or collectively with others.

Members of minorities are equal with other citizens and they enjoy equal legal protection. Any infringement of the rights of minorities is illegal and punishable.

Minority nations and their members have the right to exercise, protect, develop and publicly express national, ethnic, cultural, religious and language particularities. Montenegro will develop and improve study and research of the history, tradition, language and culture of minorities. For the purpose of preservation and development of national or ethnic identity, minorities have the right to establish institutions, societies and non-governmental organizations. Competent authorities of Montenegro will participate in the financing of these activities in accordance with their financial capabilities.

Minorities and their members have the right to use their own language and alphabet.

The persons belonging to national minorities have the right to education in their own language (primary and secondary education in Albanian is provided for the members of Albanian national community, and Faculty for teachers in Albanian language is established within the University of Montenegro).

The right to information in their own language is provided for minorities and their members. Minorities and their members have the right to use national symbols in accordance with the Law.

Minorities and their members have the right to celebrate important dates, events and personalities from their tradition and history.

Minorities have the right to proportionate representation in public services, state authorities and local self-government bodies. Competent bodies in charge of personnel issues in cooperation with the Minority Council shall ensure minority representation.

Minorities have the right to participate in a decision-making process and propose decisions of the state bodies that are of interest for realization of minority rights in accordance with the law.

Minorities and their members have the right to establish councils for the protection and improvement of special rights.

In order to provide support to the activities for preservation and development of national and ethnic specificities of minorities and their members in the area of national, ethnic, cultural and religious identity, the Parliament of Montenegro established the Minority Fund.

Financial resources for the functioning of the Minority Fund are provided from the Budget of Montenegro, and from other sources.

For further information see point 4.4.1.

#### **4.7.2 Implementation of provisions on protection of minority rights**

The protection of minority rights is provided by the state administration bodies, local self-government bodies and courts.

### **4.8. Implementation of the relevant policy related to minorities, including Roma population**

#### **4.8.1 Current Policy**

The Government of Montenegro adopted the Strategy of Minority Policy on 03.07.2008 for the period 2008-2018.

In November 2007, the Government of Montenegro adopted the Strategy for Improving the Status of RAE population in Montenegro for the period 2008-2012.

For further information see section 4.7.1.

#### **4.8.2 Implementation – implementation of the Roma-related measures and achieved results**

Montenegro faces difficulties in identifying exact number of Roma population who are permanent residents of Montenegro. According to the official 2003 census, 2875 of Roma citizens live in the country. According to estimations of non-governmental organizations, around 20.000 of Roma, Askalia and Egyptians live in Montenegro, most of who are internally displaced persons.

For the purpose of improving the overall status of Roma and their inclusion in the society, the Government of Montenegro adopted the Action Plan in 2005 for the implementation of the “Decade of Roma Inclusion 2005-2015” Project, and the Strategy for improving the status of Roma was adopted in 2007. In addition to the funds already allocated for 2008, which are intended for improving the status of Roma, the Government allocated additional



400.000,00 EUR and established the Commission for Monitoring the Strategy Implementation at inter-sectoral level with involvement of the representatives of the Roma NGO sector. The Ministry of Education and Science paid special attention to integration of Roma into education system within the education system reform, with the purpose of providing quality elementary education to this population and thus supporting their overall integration into society. The Ministry implemented systemic measures and considerably improved the quality and integration of RAE children into the system of formal education. Although there are no reliable data on the number of RAE students in the formal education system, the surveys conducted by the Ministry indicate that the number of RAE students is continuously growing. The Ministry of Education and Science encourages enrolment of Roma children by providing free textbooks and school equipment, as well as through the cooperation with the NGO whose actions are aimed at the RAE inclusion. In 2007, the Ministry provided for printing of the school bulletins "Školarac" and "Školarka" in Roma language.

Providing information to Roma in Montenegro is implemented through programs of the public radio-broadcasting service. The programs are dedicated to integration of Roma population in Montenegro. These are prepared by Roma journalists who have graduated from the school of journalism of the Institute of Media. One of the key problems in implementing this program is the lack of representatives of highly educated Roma nationality. The contribution to providing information in Roma language is provided by regular broadcasting of the radio program "Roma speak – O Roma vakeren", which is prepared and broadcasted by the non-governmental organization Demokratski romski centar (Democratic Roma Centre), with the support of the Ministry of Culture, Sport and Media, and international organizations. Providing information to the Roma population through the National Television of Montenegro is implemented by the broadcasting of the documentary "Glas Roma" (The Voice of Roma).

## **Annex 1**

**Document Travel document issuing system – conformity with standards**

## Scope

Thus document provides information on compliance of Montenegrin passports ( Machine readable passport MRP ) and ID cards ( Machine readable ID card MRID )with the following documents : “Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States” and “International Civil Aviation Organization (ICAO), Machine Readable Travel Documents, Doc 9303, Part 1 Machine Readable Passports, Sixth Edition, of 2006 ”, regarding:

1. Production of blank documents ( passports )
2. Personalization of blank documents ( passports and ID cards)
3. Distribution of passports ( and ID cards)
4. Provision of information on newly issued MRPs
5. Provision of information on lost and stolen passport
6. Data acquisition and handout of documents
7. Production of blank documents ( ID cards )

### 1. Production of blank documents

In the chapter that follow, security features, techniques and other security measures are categorized according to the phases passed through during the production and personalization processes and the components of the travel document created thereby with regard to: 1) substrate materials; 2) security printing; and 3) protection against copying.

Security features and/or techniques are included in travel documents to protect against unauthorized reproduction, alteration and other forms of tampering, including the removal and substitution of pages in the passport book, especially the biographical data page. Apart from the printed security features, which are visible and non-visible to the human eye, the booklets also contain forensic security features, such as chemical reactants in the paper and inks, to allow detection of attempted fraud. The components are then securely sewn and bonded to avoid later detachment and substitution of any part of the booklet.

The manufacturer of passport datapage is Trueb AG Switzerland, and the manufacturer of passport booklet is OeSD Austria. Trüb-Switzerland is EMV and ISO 9001 certified, and OeSD Austria is Intergraph and ISO 9001 certified.

#### 1.1 Description of the booklet

Size: 125 x 88 mm

Pages:

- 1 polycarbonate page including page one of the passport and datapage on page 2
- 32 inner visa pages
- 2 inner cover pages

Cover: Protective Securalin cover provides protection against damp, sweat, heat, etc.

including gold hot foil stamping on the front cover of the passport

Stitching: UV-reactive thread from top to bottom, 2 visible colors and 2 UV fluorescent colors

Design: Provided by OeSD (software, hardware and human resources)

## 1.2 Material

### Passport covers and visa pages

- 120 gsm UV dull (non fluorescent) security paper for inner covers including
  - Visible and invisible UV fibers
  - Chemical sensitizers for reactivity against acids, alkalis, bleach and organic solvents
  - Composition of paper improved to 30% cotton and 70% wood pulp for better durability
- 90 gsm UV dull (non fluorescent) security paper for visa pages including:
  - Multi-tonal mould made customer specific, registered watermark
  - Visible and invisible UV fibers
  - Chemical sensitizers for reactivity against acids, alkalis, bleach and organic solvents

### Datapage

- The datapage is of 100 % polycarbonate (PC), not using any other kinds of plastics for the document body or inserting paper
- Datapage is fully laminated, meaning fused and not using any glues or other aids for collating the sheets
- Adequate for personalization using laser engraving technology
- The page binding is highly flexible with page not standing out when book is fully opened
- The page shall not contain optical brighteners which would cause it to fluoresce under ultraviolet light
- Guaranteed life time 10 years
- The datapage consists 6 layers of polycarbonate

## 1.3 Security printing

### Covers and visa pages

- Two-color guilloche security background design pattern
- Rainbow printing on all inner pages
- Microprint text including a deliberate error incorporated within the text
- Art screen design
- Two-color intaglio printing on the front and/or back cover, plus optical variable ink (OVI).
- Relief (3D) design feature
- 1 color UV fluorescent ink on all the visa pages
- Latent image and microprint text included in the intaglio design
- Register marks (visible and UV) included on all inner pages and back inner cover

## Datapage

- Multicolor guilloche security background design pattern overlapping the portrait area
- Rainbow printing
- Anti-scan pattern
- Microprint text
- Security background of the biographical datapage printed in a design that is Different from that of the other pages in the passport.
- Embedded OVD
- Optical variable ink (OVI)
- Positive or negative relief (3D) design feature
- Deliberate error within print
- Infra-red drop-out printing
- MLI variable image with changing intensity according to viewing angle
- 3 colors UV fluorescent ink on the biographical datapage

## Numbering

- Conical laser perforation of passport number on every page starting on page 3.
- The number length - 9 characters (combination of alphabets and digits).
- The number is unique to the document, it is not sequential and includes check digit calculated with custom algorithm.

## **1.4 RFID Specifications**

**Chip** Semi-Conductor: Philips P5CT072, 72 KB;

This chip is compliant with ISO14443 Type A . It supports transmission speeds of 106, 212 and 424 kbps.

### Features:

- EEPROM size is 72 KB
- ROM size is 160 KB
- RAM size is 4.5 KB
- CPU instruction set is Secure\_MX51
- Supply voltage is 1.62 V to 5.5 V
- Internal clock is 1 to 30 MHz
- Operating temperature range is  $-25^{\circ}$  to  $+85^{\circ}\text{C}$
- Minimum read/write cycles is 500,000
- Data retention for minimum of 10 years
- Technology is 0.18  $\mu\text{m}$
- ISO 14443 Type A
- Chip certification achieved is CC EAL5+

### Module

- :
- Copper based lead frame
  - Thickness: MOB 4: 320  $\mu\text{m}$

## Antenna and Inlet

### Antenna

- Compliant to ISO 14443 A

### Inlet Material

- Polycarbonate, with antenna and chip in module integrated into the data page

### Data Transmission Rate

- In contactless operation: up to 848 Kbit/s in both directions (card to terminal and terminal to card)

## Operating System (OS)

MTCOS ICAO Source: Masktech (Germany)

- Software OS solution which is compliant with the following ISO standards:
  - ISO 7816
  - ISO/IEC 14443 (>15Kbytes/sec)
- Supports all ICAO mandatory functions + basic access control
- EAL4+
- Strong secret key authentication
- Cryptographic functions and related algorithms: 3DES, DES

## 1.5 Protection against copying

The protection of documents from counterfeiting is ensured by the use of optical variable device (OVD) –Kinegram which is embedded on the page containing data, optical variable ink (OVI), and multiple laser image (MLI).

OVD is placed in the right bottom corner of the photograph and partly covers the face of the travel document holder. The process of embedding the OVD on the page containing data is patented by the manufacturer of the data page.

OVD is designed specifically for identification documents of Montenegro and the OVD contains the following security characteristics:

- Diffractive watermark
- Colorful eagle
- Nanotext 75 µm
- Transformation
- Color effect
- Pumping effect

OVI application changes colors by vertical axis from green to gold.

The photograph of the travel document holder and the year of his/her birth is engraved into the MLI structure.

## 1.6 Transport of blank documents

Blank passports are sent via Brink's Security Transport utilizing an armored vehicle, GPS tracking and armed guards.

## 1.7 Storing and keeping of blank documents

Blank documents are kept in a strictly controlled room (security level four of the Centre for Personalization) inside the Centre for Personalization. The room is under video surveillance and access is controlled based on finger prints. The policy for entering this room is that two persons are always entering it together, and the number of documents taken must match the number of documents produced. The conditions in the room ensure consistent quality of blank documents.

The personalization system includes a stock control system which provides a secure supply chain with full inventory and audit control. The system tracks each single document to item level through the whole personalization process. The system has inbuilt monitor and analysis functionality.

The stock management is tightly coupled with the production process. If a personalization machine wastes a document, this is instantly recognized by the stock control system via software agents. Personalization system reports the needed quantity of documents as well as wasted documents to the stock control module. The stock management is done with the aid of slips and control lists. The stock management has its own database.

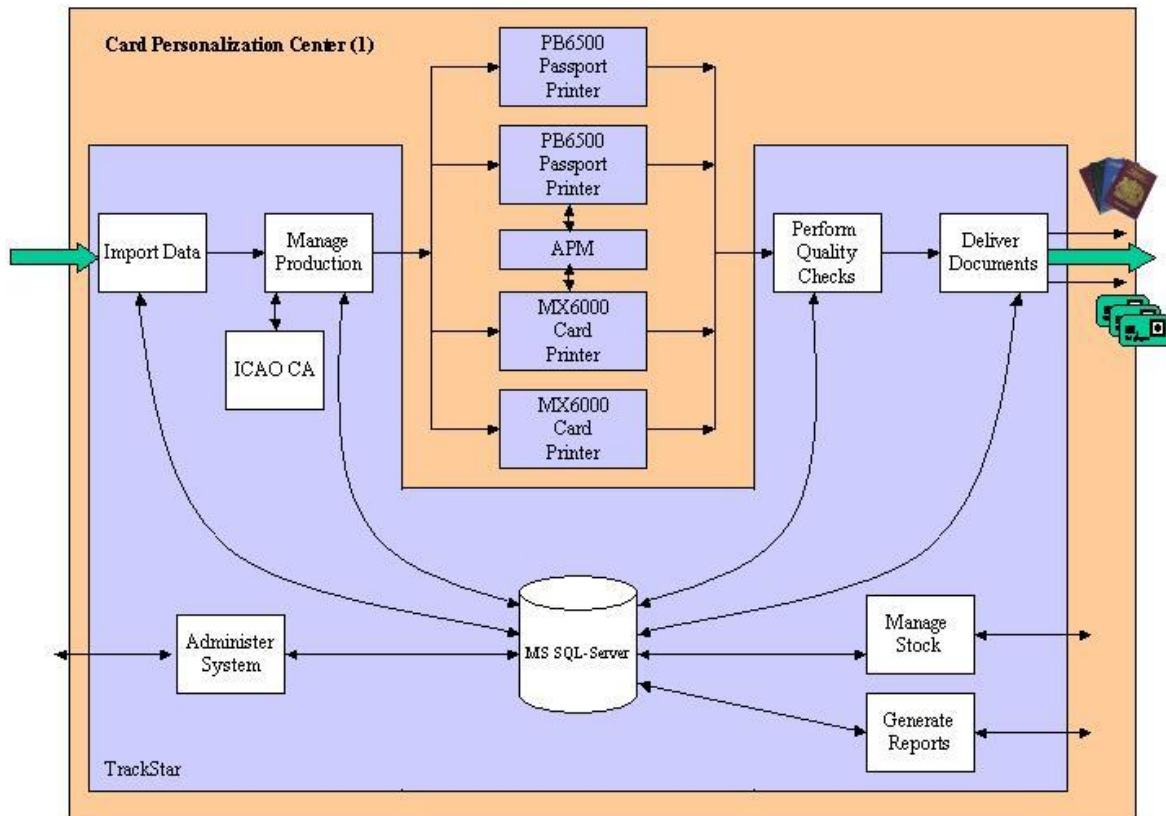
## 1.8 Laboratory tests

Datapage of the passport is examined and certificated by the *Forschungsanstalt der Graphischen Industrie*, FOGRA, in Munich. The following table presents the overview of tests performed.

Quality standards		
Description	Standard	Test standard
ID Card technology	ISO/IEC 7810	ISO/IEC 10373
ID Card dimensions	ISO/IEC 7810	ISO/IEC 10373
Delamination	ISO/IEC 7810	ISO/IEC 10373
Resistance to plasticiser	Internal test method	Internal test method
Blank Card dimensional stability and warpage with temperature	ISO/IEC 7810	ISO/IEC 10373
Light fastness	ISO/IEC 7810; DIN 54004	DIN 54004
Static force warping	DIN 32753/1	DIN 32753/1
Unilateral dynamic bending stress	ISO/IEC 7810 & DIN 32753/1	ISO/IEC 10373 & DIN 32753/1
Torsion strength	ISO/IEC 7810	ISO/IEC 10373
Resistance to scratches	Internal test method	Internal test method
Resistance to chemicals (incl. salt dust)	ISO/IEC 7810	ISO/IEC 10373
Resistance to perspiration and saliva	Internal test method	Internal test method
Cantilever method	DIN 32753/1	DIN 32753/1
Resistance to oils and fats	internal test method	internal test method
The Card is not detrimental to health in any way in normal use.	ISO/IEC 7810	ISO/IEC 10373
Supported chip Card standards	ISO 7816 parts 3,4,8,9	Certified

## 2. Document Personalization

### 2.1 Applied concept for the personalization of passports



Personalization process is centralized and it is done only within the Department for information technologies of the Ministry of Internal Affairs and Public Administration. The personalization solution includes:

- Personalization machines supporting laser engraving and chip encoding for e-Passports
- ICAO Certification Authority and HSM's to support the ICAO PKI required to implement personalization and the key and certificate sharing processes of ICAO
- Production and tracking management software to manage approved applications through the personalization systems and to batch applications into jobs for the different machines
- Data preparation software and HSM's to generate chip data for e-passports and chip-based cards
- Personalization software and HSM's to personalize chip data onto e-passports and chip-based cards
- Quality Control software to allow checking of documents after personalization
- Stock and inventory management and order processing support
- Integration with the central database servers.



## 2.2 Personalization technique and layout of the MRP datapage

### 2.2.1 Personalization technique

In addition to security characteristics which are incorporated to ensure protection of blank documents from counterfeiting, special attention is paid to protecting personal data from removal or alternation. In that respect, the personalization of travel documents is performed with laser engraving of poly-carbonate material.

The benefits of personalizing passport and Id cards by means of laser engraving on polycarbonate material include the following:

- Highest security – personalization is lasered into the card body and cannot be altered without leaving evidence (thermo transfer personalization is done on the surface and therefore there is a higher risk of counterfeit)
- No cost for consumables (ribbon, hologram protection overlay) since personalization is done into the card body and therefore no extra protection is required
- Longevity of personalized cards
- Easy and low maintenance of laser personalization machine
- No environmental impact, because no disposal of used consumables

### 2.2.2 Layout of the MRP datapage

#### 2.2.2.1 Visual inspection zone ( VIZ and MRZ )

Location of data elements as follows:

Top of the MRP data page		Code for issuing State or organization/ Code de l'État émetteur ou de l'organisation émettrice		
(01) (Name of issuing State or organization/Nom de l'État émetteur ou de l'organisation émettrice)				
(02) Passport/ Passeport	(03) Type/ Type	(04)	(05) Passport No./ N° de passeport	
	(06) Primary Identifier/Nom			
(19) (Holder's portrait/ Portrait du titulaire)	(07) Secondary Identifiers/Prénoms			
	(08) Nationality/Nationalité			
	(09) Date of birth/ Date de naissance		(10) Personal No./ N° personnel	
	(11) Sex/ Sexe	(12) Place of birth/Lieu de naissance		
	(14) Date of issue/ Date de délivrance		(15) Issuing authority or office/ Autorité ou bureau émetteur	
	(16) Date of expiry/ Date d'expiration		(18) Holder's signature/ Signature du titulaire	
	(Machine readable zone/Zone de lecture automatique)			

The data element 04 contain MNE.

The data elements 06 and 07 contain, for minority members, primary and secondary identifiers in the language of minority concerned.

Structure for data elements 09, 14 and 16 is dd.mm.yyyy.

When the MRP is issued to a person whose place of birth was outside the State issuing the document and it is desired that the State or territory of birth be shown, the three-letter code shall be used.

MRZ contain holders personal number.

### 2.2.2.2 Contain of the chip

According to ICAO 9303, following LDS data groups and files are prepared to be stored on the RFID chip during the personalization:

LDS File / Data group	Short description	Data preparation by Import Client
K <sub>ENC</sub>	K <sub>ENC</sub>	Symmetric key for basic access control
K <sub>MAC</sub>	K <sub>MAC</sub>	Symmetric key for basic access control
EF.COM	EF.COM	Common data
EF.DG1	MRZ data	Basic MRZ data without booklet number
EF.DG2	Encoded face	The Import Client prepares all data to set up this data group. It resizes the photo from the <i>order_record</i> and includes it in CBEFF data structure (ISO 19794-5) as required for DG2. All other data shall be delivered by the converter in the <i>order_file</i> .
EF.SOD	EF.SOD	Security data (digital signatures of used data groups)

The following table shows optional data groups:

LDS File / Data group	Short description	Data preparation by Import Client
EF.DG3	Encoded Finger (s)	The LDS file DG3 has to be protected by a key, this procedure is called EAC. EAC is not supported by the OS of the RFID chip being provided to the Montenegro Passport project. Therefore, TrackStar can only store DG3 without protection and this is not allowed in the European Union.
EF.DG11	Additional Personal Details	Optional: Additional Personal Details The data shall be delivered by the converter in the <i>order_file</i> .
EF.DG12	Additional Document Details	Optional: Additional Document Details The data shall be delivered by the converter in the <i>order_file</i> .
DG16	Person(s) to Notify	Optional: Person(s) to Notify The data shall be delivered by the converter in the <i>order_file</i> .

With the provided data, the personalization application generate a CBEFF compliant DG2 as defined in ISO/IEC 19794-5 with the following header:

ICAO Header Version	0101	
Format Owner	0101	ISO/IEC 10918
Format Version	0008	JFIF option / Jpeg-2000

Size of image in the chip is 18KB.

### 2.2.2.3 PKI

For chip access control Basic Access Control (BAC) is used.

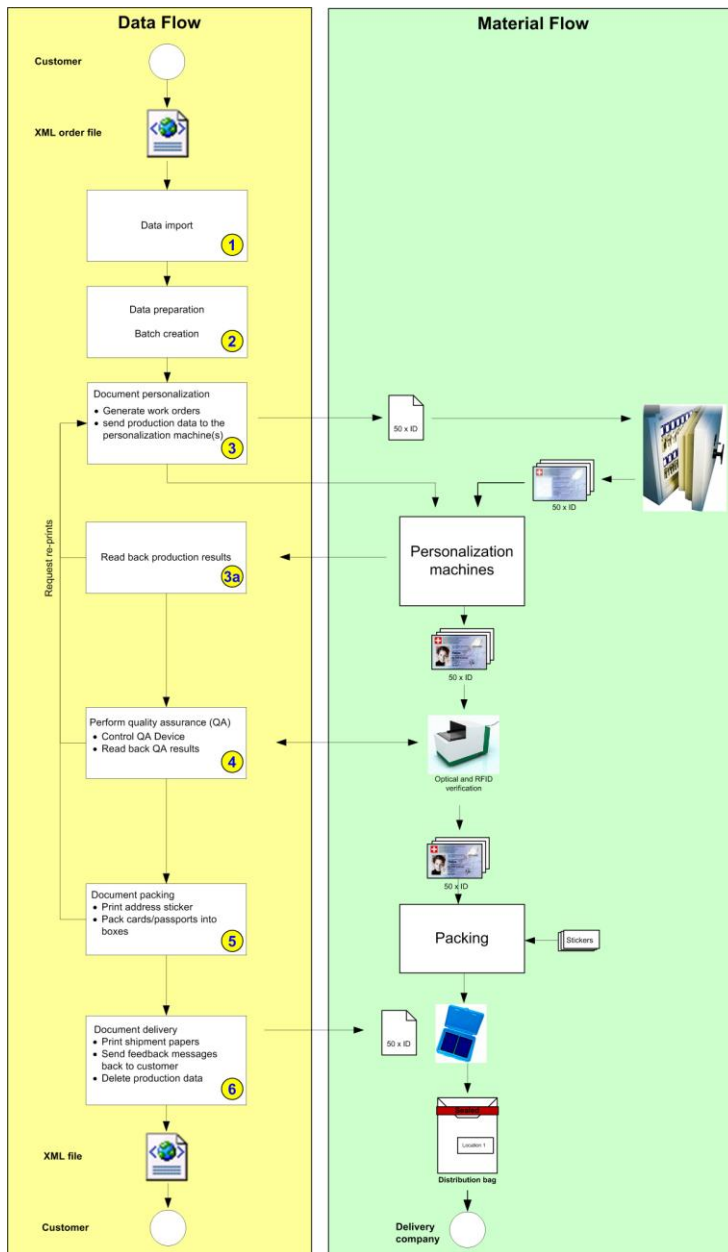
### CSCA Certificate

RSA Key length	4096 bits
RSA hashing algorithm	SHA-256
Validity period	15 years and 3 month
Issuing cycle	Every 5 years
Issuer DN	CN = csca montenegro OU = Ministry of Interior and Public Administration O = montenegro  C = ME (country code according ISO 3166)
Subject	Equal to Issuer DN. For root certificates (the CSCA certificate in question), the subject DN is always equal to the issuer DN because it is a self signed certificate.
Serial#	Starting with 1

### DS Certificate

RSA Key length	2048 bits
RSA hashing algorithm	SHA-256
Validity period	3 month
Issuing cycle	Once a year generate all DS for next 12 month
Issuer DN	(equal to CSCA certificate)
Subject	CN = ds montenegro YYYY QQ OU = Document Signer Organization OU = (equal to CSCA certificate) O = (equal to CSCA certificate) C = (equal to CSCA certificate) Examples CN CN=ds Montenegro 2008 Q1 CN=ds Montenegro 2008 Q2
Serial#	Starting with 1

## 2.3 Personalization concept and data flow



1. The central database system sends the orders via the network infrastructure to the personalization system (PS) onto the database server.
2. The PS imports and prepares all required data automatically
3. The PS prints work order papers which come out directly on the printer in the vault room
4. The vault room staff prepares the correct amount of raw documents for the work order and hands this over to the machine operator
5. With the help of the PS, the personalization machine operator assigns the work order to one of the personalization machines according to the document type.
6. When a work order has been personalized, the personalization machine operator hands the work order including the personalized documents to the quality assurance (QA) operator.
7. The QA operator checks the documents with document reader and corresponding software module. The quality check process is almost fully automatic. The QA

operator needs to put the document onto the document reader and immediately following checks can be performed fully automatic:

- Check syntax and check digits of MRZ line
- Check correct measurements of the MRZ line according to ICAO specifications.
- Compare data within the MRZ line with the data on the VIZ
- Check security elements such as UV text, OVD's, holographic elements, OVI's
- Read the RFID chip content and:
  - Compare the content with the data on the VIZ and MRZ
  - Compare the content with the data in the database
  - Check data integrity
  - Check data completeness

When all these checks are successful, the QA operator has to visually check the elements which could not be checked automatically such as:

- Photo image
  - Signature image
  - MLI
8. When all documents have been quality checked, the QA operator hands over the checked documents to the delivery operator.
  9. With the help of the delivery software of the PS, the delivery operator packs the documents according to the issuing office. The delivery software automatically prints the required shipping papers and lists for the delivery service.

During all the steps above, intense logging and reporting is done to assure traceability and the maintaining of correct workflow states for the work orders and for each single work order.

The personalization system reports back to the central database all document related status. This assures that the central database is updated at all times about the personalization process.

## 2.4 Room where personalization is performed

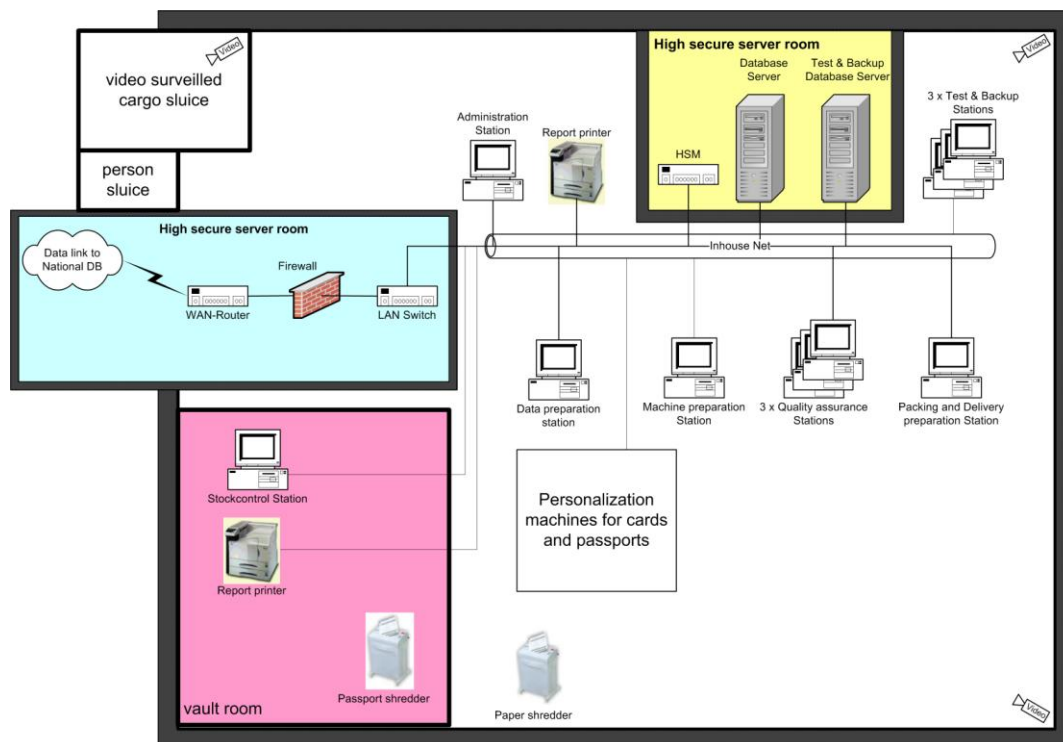
The room where personalization of travel documents is performed is a part of the ITD Department (ITD) of the Ministry.

### 2.4.1 Security of the rooms

The ITD room is secured with a system which is based on a modern technological application with integrated functions of surveillance, control and protection. The entire system is automated. The security zones are divided into four sections:

- Security zone 1 – entrance door, entrance hall, common rooms
- Security zone 2 – hall leading to offices of the ITD staff
- Security zone 3 (high security zone) – Personalization Centre, server room
- Security zone 4 (the highest security zone) – storage of blank documents

The structure of the system is established in a way that it does not allow all employees to have access to all zones. Independent access control is established between all zones, meaning that, for instance, a person working in the Personalization Centre must undergo three access controls to get to his/her office.



Digital CCTV (video) system controls separately the halls for staff, halls for the flow of material, all production rooms, server room, storage of blank documents, rooms for reception and storage, and some external sections of the building.

Electronic access system is with chip-cards and readers of finger prints. The system controls all doors between security zones, and all doors inside high-security zone. It can also produce reports on every specified user. All the data stored in the system offer information for the last 90 days.

## 2.4.2 Infrastructure of the room

UPS of 20kW capacity and UPS of 10kW capacity are installed to support the work of the Personalization Centre, server room and the security system, with generators which ensure independent work of up to 8 hours.

Special conditions are created in the Personalization Centre (temperature 18 – 24 ° C and humidity 20-80%, fresh air intake) and in the storage of blank documents (temperature 18 – 22 ° C and humidity 40-50 %).

## 2.4.3 Working Instruction

In order to provide control mechanisms for integrity assurance and safety of personalization and distribution of travel documents, the Ministry developed the following instructions for the work in the personalization center:

- Instruction for access control to the personalization center
- Instruction for blank documents storage and stock checking
- Instruction for working process in the perso center
- Instruction for job division and related obligations
- Instruction for blank document issuing
- Instruction for package and delivery of produced travel documents
- Instruction for destruction of wasted documents.

Instruction for access control to the personalization center defines who, when, and under which terms can enter the Center for information technology ( i.e. personalization center) and which zone of the Center. Procedures for employees and other parties are separately defined.

Instruction for blank documents storage and stock checking defines method and conditions for blank documents storage. It also defines method and dynamics for stock checking of the documents.

Instruction for working process in the perso center defines job description for each position in the perso center and process dynamics within a working day. Every month, on the basis of this Instruction, the Instruction for job division and related obligations is developed. This instruction defines when and what each employee does in a given month.

Instruction for blank document issuing defines who, when and how can take blank documents from the stock. It also defines who, when and how can return non-personalized and wasted documents to the stock.

Instruction for package and delivery of produced travel documents defines package procedure of personalized documents, handout of metal boxes ( personalized documents are transported in metal boxes) to the Transport Service, as well as the procedure for receiving of confirmation that the documents were delivered to a regional unit.

Instruction for destruction of wasted documents defines procedure for the destruction of documents wasted during the personalization process.

For the work of regional units, where data acquisition, request processing and handout of documents are done, the Ministry has developed the following instructions:

- Instructions on how to use computer systems
- Instructions on how to use applications for data acquisition and request processing
- Instructions on how to handout documents.

Instructions on how to use computer systems provides procedures for computer authorization and defines the level ( security role ) of the use of the system .

Instructions on how to use applications for data acquisition and request processing provides detailed description of procedures for request acceptance and decisions regarding the requests

Instructions on how to handout documents defines the procedure for handout of travel documents.

### **3. Distribution of travel documents**

After the verification of the quality of personalized documents, an operator for distribution packs the personalized documents and the related documents in metal safes, which are then locked. Every regional office uses one or more safes intended solely for the respective regional office. Every safe has two locks and two sets of keys. One set of keys is kept in the Centre for Personalization, and the other set is kept by the Head of the Regional Office. When the safe is locked, it is handed over to the service that performs transport of documents. This service is an organizational unit under the Ministry of Interior Affairs and Public Administration.

When the Head of the Regional Office receives the safe with documents, he/she unlocks it and reads bar code from the accompanying documents, which gives him/her the information about which documents are sent (software module for the reception of documents is used). After that, he/she performs comparison of the delivered documents and the list on the computer. After the comparison is completed, he/she confirms to have received the documents.

The documents can be delivered to their holders only after the abovementioned procedure is completed.

### **4. Provision of information on newly issued MRPs**

Three hundred specimens of standard, diplomatic and official passports have been sent to other countries through the Ministry of Interior Affairs. A specimen of a standard Keeping Reference Systems B.V. passport has also been sent.

### **5. Provision of information on lost and stolen passport**

According to the Law on travel documents passport holder has an obligation to report the disappearance or the theft of the travel document to the body that issued the document.

Data on lost and stolen travel documents are collected in a way that the passport holder files a report to the regional unit of internal affairs of the Ministry or to the Embassy or Consulate if the document was lost or stolen abroad. They first check the identity of the person that files a report, and then they enter the data from the report into the computer system of the Ministry.

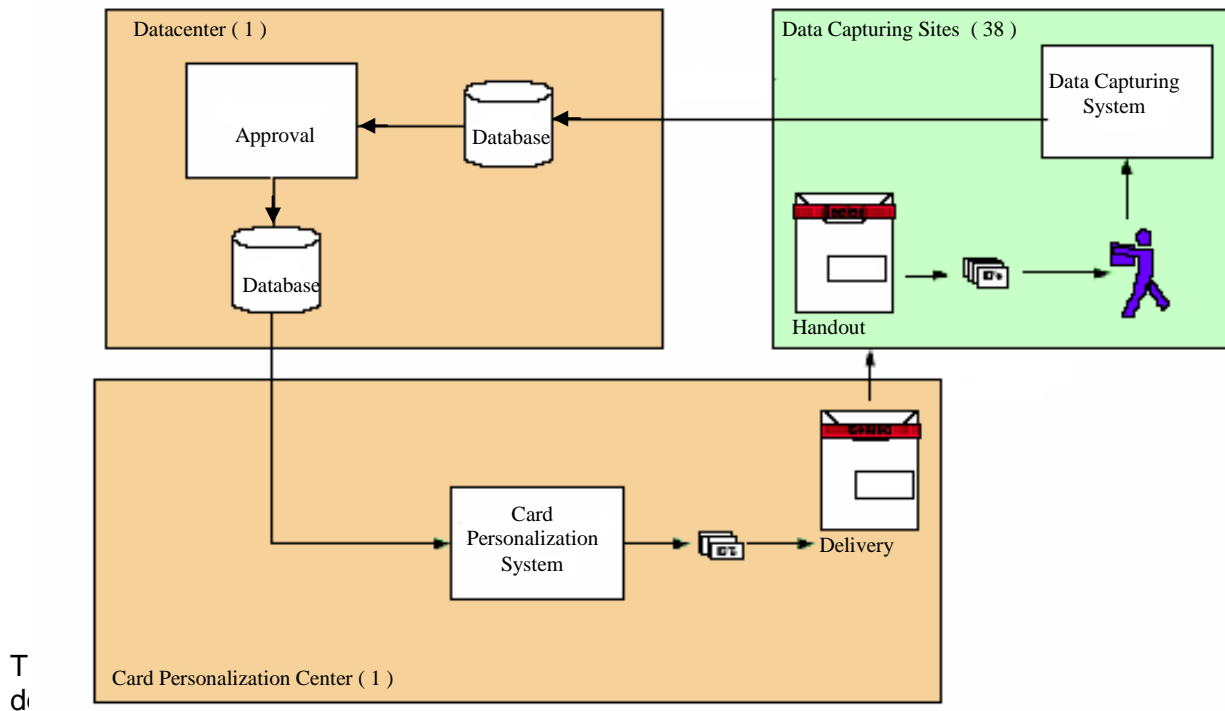
Data on lost and stolen travel documents are delivered, electronically, to the Police Administration –National Bureau of Interpol in Podgorica, and they enter the data into the Interpol database. The following data are delivered- the number of a travel document, type of a travel document, state code, information on whether the document was lost or stolen, date when the report was filed. Delivery is on a daily basis.

### **6. Data acquisition and handout of documents ( Enrollment )**

Applications for an identification document can be submitted only in the municipality of residence (organizational unit of MoIA). Applicants have to give necessary alphanumeric data (surname, name, birth day, address...) and appropriate accompanied documentation, while digital facial image, digital signature and fingerprints (at least two fingerprints) are taken. The data are directly transferred, through WAN, to the central database. In the central



location of the system (Centre for information system MoIA in Podgorica) documents personalization is done. Personalized documents are delivered to the regional units, where they are given to citizens. Handout of the document should be done after the applicant's fingerprint verification.



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1. Applicant should come to the regional office and should fill application form for specific document with appropriate breeder documents.
2. Text data from the application form should be checked (by unique personal identification number of the citizens) in current central database.
3. Photograph should be taken by live capture equipment, according ICAO 9303. Enrollment solution is electronically remove the backdrop of the image and replace with a configurable image color, supporting ISO/IEC FDIS 19794-5.
4. Fingerprints (at least two fingerprints) should be taken by live scan equipment, supporting ISO/IEC FDIS 19794 -4 standard.
5. Signature should be taken by a signature pad (with right and with left hand), , supporting ISO/IEC FDIS 19794 -7 standard.
6. Breeder documents documentation should be scan.
7. Automatically printed receipt with all collected data should be given to the applicant.
8. Handout of the document should be done after the applicant's fingerprint verification (1:1 comparison).

## 7. Production of blank documents

In the chapter that follow, security features, techniques and other security measures are categorized according to the phases passed through during the production and personalization processes and the components of the IC cards created thereby with regard to: 1) substrate materials; 2) security printing; and 3) protection against copying.

Security features and/or techniques are included in ID cards to protect against unauthorized reproduction, alteration and other forms of tampering. Apart from the printed security features, which are visible and non-visible to the human eye, the ID card also contain forensic security features to allow detection of attempted fraud.

The manufacturer of ID card is Trueb AG Switzerland. Trüb-Switzerland is EMV and ISO 9001 certified.

Format : 8.55 x 5.4 cm ( ISO 7810 Standard)

## 7.1 Material

- 100 % polycarbonate (PC), not using any other kinds of plastics for the document body or inserting paper
- Polycarbonate, white and transparent thickness 0.81 mm (Confirming ISO 7810/7816 Standard)
- IC card is fully laminated, meaning fused and not using any glues or other aids for collating the sheets
- Adequate for personalization using laser engraving technology
- The ID card shall not contain optical brighteners which would cause it to fluoresce under ultraviolet light
- Guaranteed life time 10 years
- The ID card consists 6 layers of polycarbonate

## 7.2 Security printing

Offset Printing                      Front side: 10 colors (max. 40% color coverage)

- 1 IRIS Print: Guilloche
- 1 Control color: Guilloche
- 2 UV colors
- 1 Microprint
- 5 Pantone colors

Screen Printing                      Reverse side: 5 colors (max. 40% color coverage)

- 1 IR-black color
- 4 Pantone colors

Front side: 1 color

1 OVI or 1 Superstar

Reverse side

Finishing                              Cards with shiny finish plasticized, punched with rounded corners, packed into boxes of approx. 200-250 cards each, properly labeled, stacked on pallets, wrapped in plastic, ready for inspection.

- 1 MLI
- Embedded OVD Kinegram

Quality control                      Machine and manual control. Trüb AG will execute a final control of the production lots according to the AQL- method (sample check). For the definition of the control see the corresponding chapter

- The Quality level is adjusted to “Swiss Prime”

### **7.3 Protection against copying**

The protection of documents from counterfeiting is ensured by the use of optical variable device (OVD) –Kinegram which is embedded on the ID card, optical variable ink (OVI), and multiple laser image (CLI).

OVD is placed in the right bottom corner of the photograph and partly covers the face of the ID card holder. The process of embedding the OVD on the Id card body is patented by the manufacturer of ID card.

OVD is designed specifically for identification documents of Montenegro and the OVD contains the following security characteristics:

- Diffractive watermark
- Colorful eagle
- Nanotext 75 µm
- Transformation
- Color effect
- Pumping effect

OVI application changes colors by vertical axis from green to gold.

The photograph of the travel document holder and the year of his/her birth is engraved into the CLI structure.

### **7.4 Transport of blank documents**

Blank ID cards are sent via Brink’s Security Transport utilizing an armored vehicle, GPS tracking and armed guards.

### **7.5 Storing and keeping of blank documents**

Blank documents are kept in a strictly controlled room (security level four of the Centre for Personalization) inside the Centre for Personalization. The room is under video surveillance and access is controlled based on finger prints. The policy for entering this room is that two persons are always entering it together, and the number of documents taken must match the number of documents produced. The conditions in the room ensure consistent quality of blank documents.

The personalization system includes a stock control system which provides a secure supply chain with full inventory and audit control. The system tracks each single document to item level through the whole personalization process. The system has inbuilt monitor and analysis functionality.

The stock management is tightly coupled with the production process. If a personalization machine wastes a document, this is instantly recognized by the stock control system via software agents. Personalization system reports the needed quantity of documents as well as wasted documents to the stock control module. The stock management is done with the aid of slips and control lists. The stock management has its own database.

## 7.6 Laboratory tests

ID cards is examined and certificated by the *Forschungsanstalt der Graphischen Industrie*, FOGRA, in Munich. The following table presents the overview of tests performed.

Quality standards		
Description	Standard	Test standard
ID Card technology	ISO/IEC 7810	ISO/IEC 10373
ID Card dimensions	ISO/IEC 7810	ISO/IEC 10373
Delamination	ISO/IEC 7810	ISO/IEC 10373
Resistance to plasticiser	Internal test method	Internal test method
Blank Card dimensional stability and warpage with temperature	ISO/IEC 7810	ISO/IEC 10373
Light fastness	ISO/IEC 7810; DIN 54004	DIN 54004
Static force warping	DIN 32753/1	DIN 32753/1
Unilateral dynamic bending stress	ISO/IEC 7810 & DIN 32753/1	ISO/IEC 10373 & DIN 32753/1
Torsion strength	ISO/IEC 7810	ISO/IEC 10373
Resistance to scratches	Internal test method	Internal test method
Resistance to chemicals (incl. salt dust)	ISO/IEC 7810	ISO/IEC 10373
Resistance to perspiration and saliva	Internal test method	Internal test method
Cantilever method	DIN 32753/1	DIN 32753/1
Resistance to oils and fats	internal test method	internal test method
The Card is not detrimental to health in any way in normal use.	ISO/IEC 7810	ISO/IEC 10373
Supported chip Card standards	ISO 7816 parts 3,4,8,9	Certified