



NEGOTIATING POSITION OF MONTENEGRO

**FOR THE INTERGOVERNMENTAL CONFERENCE ON ACCESSION OF
MONTENEGRO TO THE EUROPEAN UNION FOR CHAPTER 24 – JUSTICE,
FREEDOM AND SECURITY**

Podgorica, October 2013

I SUMMARY OF THE NEGOTIATING POSITION

Montenegro accepts the *acquis* in the area encompassed by the chapter on justice, freedom and security, as in force on 23 May 2012, and does not expect any difficulties in implementing the European legislation under this chapter by the date of the accession to the European Union.

Montenegro does not request any permanent exemptions or transitional periods within this chapter.

Montenegro does not expect to enter the Schengen Area concurrently with the date of accession to the EU, i.e. that, by the EU membership, it will be connected to the SIS II. However, through adoption and implementation of the National Schengen Action Plan, a timeline for accession to the Schengen Area will also be projected.

II THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

1. Migration

The strategic framework in the area of migration is regulated by the Strategy for Integrated Migration Management 2011-2016 and the Action Plan for implementation of the Strategy for 2013 and 2014 is also in force. The Strategy established the Coordinating Body for monitoring implementation of the Strategy with the tasks of managing, organising and coordinating the activities of state administration bodies and of other competent organisations in implementing the Strategy and the Action Plan, defining the priorities, dynamics and deadlines for implementation, assessing the achieved results and proposing the Action Plan for implementation of the Strategy.

The general regulations dealing with the area of migrations in Montenegro are the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13) and the **Law on Border Control** (Official Gazette of Montenegro 72/09, 20/11, 40/11 and 39/13).

The Law on Foreigners prescribes that a **foreigner** whose permanent residence in Montenegro has been approved shall have the right to: work and employment; education and professional development; recognition of diplomas and certificates; social assistance; health and pension insurance; tax reliefs; market access for goods and services; freedom of

association, connection and membership in organisations that represent the interests of workers or employers. A foreigner exercises these rights pursuant to the laws that regulate the manner of exercising the mentioned rights.

Also, the regulations governing certain aspects of **regular migrations** are the following: the **Law on Employment and Work of Foreigners** (Official Gazette of Montenegro 22/08, 32/11), the **Law on Asylum** (Official Gazette of the Republic of Montenegro 45/06 and Official Gazette of Montenegro 73/10 and 40/11), the **Labour Law** (Official Gazette of Montenegro 49/08, 59/11, 66/12), the **Law on Voluntary Work** (Official Gazette of Montenegro 26/10, 31/10, 14/12), the **Law on Social and Child Welfare** (Official Gazette of Montenegro 27/13), the **Family Law** (Official Gazette of the Republic of Montenegro 01/07), the **Law on Pension and Disability Insurance** (Official Gazette of the Republic of Montenegro 54/03, 39/04, 61/04, 79/04, 81/04, 14/07, 47/07 and Official Gazette of Montenegro 79/08, 14/10, 78/10, 34/11 and 66/12), the **General Law on Education** (Official Gazette of the Republic of Montenegro 64/02, 31/05, 49/07 and Official Gazette of Montenegro 45/10, 45/11), the **Law on Recognition of Foreign Education Documents and Equalisation of Qualifications** (Official Gazette of Montenegro 57/11), the **Law on Vocational Education** (Official Gazette of the Republic of Montenegro 64/02, 49/07 and Official Gazette of Montenegro 45/10), the **Law on Gymnasium** (Official Gazette of the Republic of Montenegro 64/02, 49/07 and Official Gazette of Montenegro 45/10, 39/13) and the **Law on Higher Education** (Official Gazette of the Republic of Montenegro 60/03 and Official Gazette of Montenegro 04/08, 45/10, 47/11).

Montenegrin legislation is **partially aligned** with: **Directive** 2003/86/EC on the right to family reunification; **Directive** 2003/109/EC concerning the status of third-country nationals who are long-term residents; **Directive** 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, **Directive** 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research.

As regards the **Directive** 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and the **Directive** 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights of third-country workers legally residing in a Member State, the relevant national regulations are **not aligned**.

Regarding the institutional framework, the bodies competent for implementation of the mentioned regulations are the Ministry of Interior, Ministry of Foreign Affairs and European Integration, Ministry of Justice, Ministry of Labour and Social Welfare, Ministry of Education, Employment Office.

Irregular migrations in Montenegro are regulated primarily by the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13), the **Law on Border Control** (Official Gazette of Montenegro 72/09, 20/11, 40/11 and 39/13) and the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11 and 40/13).

Article 67 of the Law on Border Control stipulates that a fine in the amount of two to twenty minimum wages in Montenegro shall be imposed on a natural person crossing the border outside the border crossing or a person crossing or attempting to cross a border crossing without a valid passport or other documents required for crossing the state border outside of the time period allowing traffic at the border crossing or contrary to the intended purpose of border crossings.

The same article also stipulates that a fine in the amount of two to twenty minimum wages in Montenegro shall be imposed on a natural person failing to show the documents required for crossing the state border or a person failing to undergo border checks or leaving the border crossing area before the border check, or avoiding i.e. trying to avoid border checks.

Article 8 of the Law on Foreigners stipulates that a foreign national shall not be allowed to enter Montenegro if: he or she does not possess a valid travel document including a visa or residence permit, unless otherwise provided by the law or international agreement; he or she has insufficient financial resources to support himself or herself during his or her stay in Montenegro and to return to his or her country of origin or to travel to a third country; he or she is in transit and fails to satisfy the requirements for entry into a third country; a pronounced protective measure of expulsion or deportation is in force or if the person's residence permit was cancelled; this is required by reasons of national security, public order or public health; he or she is on the corresponding records as an international felon. A denial of entry shall be entered into the foreign persons' travel document.

Article 61 of the Law on Foreigners stipulates that any stay in Montenegro with no visa or residence permit or other legal grounds shall be regarded as illegal residence. A foreign person illegally residing in Montenegro shall leave its territory immediately or within a specified deadline.

The Police shall issue a decision specifying the deadline within which a foreign person must leave the territory of Montenegro, and also, if so required the point of crossing of the state border and an obligation to report to the competent official at the border crossing. An appeal against the above decision may be lodged to the Ministry of Interior within three days following that of its delivery. The execution of the decision shall not be deferred by the appeal.

In case of misdemeanour liability stipulated by the Law on Foreigners, a foreign person may be imposed a protective measure of expulsion from the territory of Montenegro for up to one year, either independently or with a fine.

A foreign person who illegally resides in Montenegro or who fails to leave Montenegro within the set deadline shall be forcibly removed by the Police. If this is required by reasons of ensuring the removal, a foreigner may be exceptionally held in the premises of the Police, but not longer than the time provided in the regulations in the field of police affairs.

A foreign national who cannot be forcibly removed immediately or whose identity was not determined will be restricted freedom of movement by accommodation in the centre for foreigners. Exceptionally, a foreign national who has medical or other special needs or reasons shall be provided other appropriate accommodation. A foreign national who has provided accommodation and means of subsistence, and cannot be forcibly removed, can be imposed a measure of mandatory stay in a particular place.

The provisions of Article 405 of the Criminal Code define the criminal offence of “Illegal crossing of the state border and smuggling of persons”.

Following the latest amendments to the Criminal Code, Montenegrin legislation in this area is **fully aligned** with **Directive** 2002/90/EC defining the facilitation of unauthorised entry, transit and residence, and **Framework Directive** 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

Montenegrin legislation in this area is partially aligned with **Directive** 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, while it is not aligned with **Directive** 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Montenegro is aware of the need for amending certain regulations so as to solve the issue of sanctioning employers who hire nationals of third countries who reside in Montenegro illegally.

The irregular migrations in Montenegro have a transit character, because the irregular migrants search for a way into the countries of the EU through Montenegro, mostly due to economic reasons. The final activities towards establishing the **Reception Centre for Foreigners** are under way, with the assistance of the International Organisation for Migration (IOM) through the project Support to Migration Management in Montenegro. The construction of the Reception Centre for Foreigners with the capacity for 46 persons was carried out in two phases. The first phase was carried out through the project Support to Migration Management in Montenegro as provided by the IPA 2008 Programme, while the second phase was carried out by using funds from the 2011 Capital Budget. In case of

reception of minor migrants, their accommodation is provided in the Group Home for Children and Youth *Ljubović*, after they are appointed legal guardians.

The Rulebook on Internal Organisation and Job Descriptions of the Ministry of Interior regulates that, as an organizational whole in the Police Administration – Border Police Department, the Reception Centre for Foreigners is to function within the Section for Foreigners and Suppression of Irregular Migration. According to the Rulebook, engagement of 36 employees is foreseen for the Reception Centre. The Capacity of the Reception Centre for irregular migrants is sufficient for the migration pressures Montenegro is currently facing.

Furthermore, the Plan of Action was developed in case of influx of a larger number of irregular migrants. The plan envisages provision of conditions for accommodation of up to 200 irregular migrants, in cooperation with the Red Cross of the Municipality of Danilovgrad and other competent institutions. The accommodation of a larger number of irregular migrants would be carried out within the existing facility of the Reception Centre for Foreigners, which would imply that the same standards are provided for all accommodated persons regarding the accommodation, food and health care.

The strategic framework in the area of **readmission** is defined by the Strategy for Reintegration of Repatriated Persons under the Readmission Agreement for 2011-2015, and the Action Plan for implementation of the Strategy for 2013 and 2014 is also in force. The Strategy established the Coordinating Body for monitoring implementation of the Strategy with the tasks of managing, organising and coordinating the activities of state administration bodies and of other competent organisations in implementing the Strategy and the Action Plan, defining the priorities, dynamics and deadlines for implementation, assessing the achieved results and proposing the Action Plan for implementation of the Strategy.

In the area of **readmission**, the Readmission Agreement between the Republic of Montenegro and the European Community was signed on 18 September 2007. Pursuant to **Article 19 of the Agreement**, implementation protocols were concluded with the Republic of Slovenia, Malta, Republic of Austria, Bulgaria, Czech Republic, Federal Republic of Germany, Benelux Countries and the Slovak Republic. The Delegations of Montenegro and the Republic of Estonia harmonised and initialled the text of the implementation protocol and it is ready to be signed.

Montenegro has concluded **readmission agreements** with the Kingdom of Norway, Swiss Confederation, Republic of Croatia, Bosnia and Herzegovina, Republic of Albania, Republic of Kosovo, Former Yugoslav Republic of Macedonia and the Republic of Moldova. The readmission agreements with the Republic of Turkey and Serbia were signed in April 2013. These agreements shall start to be applied once the national procedures for their entry into

force are met. Montenegro also has the obligation to align the bilateral agreements that it will sign with the third countries in the future with agreements with the EU.

2. Asylum

The Constitution of Montenegro (Official Gazette of Montenegro, 01/07 and 38/13) (Article 44) stipulates that a foreign national reasonably fearing from persecution on the grounds of his/her race, language, religion or association with of a nation or a group or due to own political beliefs may request asylum in Montenegro. According to the **Law on Asylum** (Official Gazette of the Republic of Montenegro 45/06), asylum is granted to foreign nationals in need of international protection in accordance with the **Convention** on the Status of Refugees from 1951, the **Protocol** on the Status of Refugees from 1967, the **European Convention** for the Protection of Human Rights and Fundamental Freedoms from 1950, and other ratified international treaties and generally accepted rules of international law.

The **area of asylum** in Montenegro is regulated by the **Law on Asylum** (Official Gazette of the Republic of Montenegro 45/06 and Official Gazette of Montenegro 73/10 and 40/11), which is the comprehensive law regulating the area, as well as by the following secondary legislation: the **Decision** on Establishment of State Asylum Appeals Commission (Official Gazette of Montenegro 8/11); the **Rulebook** on procedure and manner of taking photographs, fingerprints, signatures and other data from asylum seekers (Official Gazette of Montenegro 4/07); the **Decision** on layout and content of forms and manner of issuing documents to an asylum seeker, a person being granted refugee status, a person being granted subsidiary protection and a person being granted temporary protection (Official Gazette of Montenegro (Official Gazette of Montenegro 13/09), the **Decree** on content and manner of keeping records in the area of asylum(Official Gazette of Montenegro 09/08); the **Decree** on financial aid to asylum seekers, persons being granted refugee status and persons being granted subsidiary protection (Official Gazette of Montenegro 56/08); the **Rulebook** on forms of asylum application and records on orally submitted asylum applications(Official Gazette of Montenegro 4/07); the **Rulebook** on exercising the right to health care for an asylum seeker, a person being granted refugee status, a person being granted subsidiary protection and a person being granted temporary protection (Official Gazette of Montenegro 31/10); the **Rulebook** on the manner of issuing work permits for foreigners (Official Gazette of Montenegro 81/08). Montenegro is a signatory to the Geneva Convention and its Protocol relating to the status of refugees.

Prior to lodging an application for asylum and after the decision upon the asylum application becomes final, the provisions of the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13) shall be applied to a person who continues to reside in Montenegro.

The mentioned regulations are **partially aligned** with: **Council Regulation** (EC) 2725/2000 of 11 December 2000 concerning establishment of “EURODAC“ for the comparison of fingerprints for the effective application of the Dublin Regulation, **Council Regulation** (EC) 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) 2725/2000 concerning establishment of “EURODAC“ for the comparison of fingerprints for the effective application of the Dublin Regulation, **Council Regulation** (EC) 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, **Council Regulation** (EC) 1560/2003 of 2 September 2003 laying down detailed rules for the application of the Council Regulation (EC) 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, **Council Directive** 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, **Directive of the European Parliament and of the Council** 2011/95/EU of 13 December 2011 on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, **Council Directive** 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, **Council Directive** 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between the Member States in receiving such persons and bearing the consequences thereof, **Council Directive** 2003/9/EC of 27 January 2003 laying down the minimum standards for the reception of asylum seekers.

As regards the following two Directives, the relevant national regulations are **not aligned with**: **Regulation of the European Parliament and of the Council** (EU) 439/2010 of 19 May 2010 establishing a European Asylum Support Office, **Decision** 573/2007/EC of 23 May 2007 of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008-2013 as part of the General programme “Solidarity and Management of Migration Flows“ and repealing Council Decision 2004/904/EC.

The main principles that are incorporated into the Law on Asylum are the prohibition of repatriation and expulsion, non-discrimination, confidentiality and protection of data, family reunification, non-punishment for illegal entry or residence, protection of persons with special needs, provisions regarding gender, respect of legal order, legal protection, cooperation with the UNHCR, free legal aid.

The institutional framework is regulated in such a manner that the first instance body to act upon a request for asylum – **Asylum Directorate** of the Ministry of Interior – conducts the first instance procedure, receives the applications and makes decisions upon applications, conducts the procedure and makes decisions on cessation and revocation of asylum and performs other tasks pursuant to the law.

The procedure upon appeals lodged against decisions of the first instance body is conducted by the **State Asylum Appeals Commission** which is established by the Decision of the Government of Montenegro in 2007 and it is composed of a president and four members who are judges of the Administrative Court of Montenegro or professional associates within the same court.

The care of persons in the asylum system is conducted by the state administration body responsible for the tasks regarding the care of refugees - Ministry of Labour and Social Welfare – **Refugee Care and Support Office**. The care includes providing accommodation and appropriate standard of life and assistance in exercising the right to: education, health care, social protection, work, legal aid, freedom of religion, access to humanitarian and non-governmental organizations, humanitarian aid, reunification of family, inclusion into the society and other rights prescribed by the Law on Asylum.

The Government adopted the Rulebook on Internal Organisation and Job Descriptions of the Ministry of Labour and Social Welfare which also includes the Refugee Care and Support Office – **Accommodation Centre for Asylum Seekers**. The Accommodation Centre is projected for 65 asylum seekers, with the possibility for increasing the capacity to 100 beds in case of a need, while the Rulebook on Internal Organisation provides for 40 positions. Also, continuously, depending on the number of asylum seekers for the period from July 2013 until December 2016, alternative accommodation capacities will be engaged (lease of private facilities) with the capacity of up to 150 beds. Currently, asylum seekers are accommodated in alternative facilities (private buildings lease) at two locations in Konik – Podgorica. As much as 250 beds are being leased now, while it is possible to rent another 50 if necessary. The members of vulnerable groups are treated in such a way that immediately upon their reception a social medical history of each member of these groups is established.

Free legal aid is provided by the NGO “Legal Centre”, an implementing partner of UNHCR in Montenegro.

3. Visa policy

The main **legislative framework** for regulating the visa regime in Montenegro consists of the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13), the **Decree on Visa Regime** (Official Gazette of Montenegro 18/09 and 61/11), **the Rulebook on Visas and Visa Forms and consular instructions on visa issuance** (Official Gazette of Montenegro 64/09). These normative acts determine the basis for normative harmonisation of the visa policy with the standards of the European Union and the Schengen. **The Montenegrin national legislation and visa policy are partially aligned with the *acquis*, i.e. the positive and negative list of the EU contained in Regulation 539/2001, as well as with Regulation 810/2009 establishing a Community Code on Visas.**

Montenegro has **23 diplomatic and consular representations** abroad that issue visas. Montenegro plans to expand the network of diplomatic and consular representations in the future, in accordance with the financial possibilities.

Given the limited number of own representations, Montenegro signed **bilateral agreements on mutual representation and visa issuance** with two members of the EU, Bulgaria (with 5 countries) and Croatia (with 3 countries), as well as with a third country, Serbia (with 42 countries). In expanding its consular network, Montenegro will establish a closer cooperation with the EU Member States rather than with third countries.

Montenegro has made documentation proofs and procedures needed for issuance of visas for entry and residence in Montenegro significantly stricter for nationals of the countries from the **so-called blacklist** (risk countries), thus expressing its deep commitment and cooperation towards implementing the EU recommendations. The entry visa to Montenegro is still issued by placing a stamp in travel documents, with the data in the visa filled out in handwriting, which is not in accordance with the existing standards.

Montenegro is acting in accordance with the guidelines of the European Union when it comes to **issuance of visas** at the border crossings. In this respect, an important role in the strategy of issuing is played by analyses and reports on irregular migration and the percentage of asylum seekers from the so-called “third countries”, as well as the fact that issuing visas at the borders is not in line with Schengen standards, except in exceptional cases prescribed by Articles 35 and 36 of the Visa Code.

The visas at border crossing points are issued solely for humanitarian reasons, urgent business visits, and participation in proceedings before state bodies, sporting events, cultural events and cruiser visits.

Montenegro has **fully met the standards of the EU** concerning security features and biometrics in passports and travel documents. Montenegrin passports are developed in accordance with the standards of the International Civil Aviation Organization and the EU.

Montenegro has an organised system of **issuing identity cards to foreign citizens**. Pursuant to the Law on Foreigners, an identity card for a foreign citizen is issued to a foreigner who has been granted permanent residence in Montenegro and to a foreigner who has been granted temporary residence and who does not have a valid travel document. An identity card for a foreign citizen is a separate document in ID 1 form. The form of identity card is developed in accordance with the standards ISO/IEC 7810 for dimensions and physical features and ISO/IEC 10373 for testing physical features.

Montenegro does not have an electronic system for issuing visas or electronic connection between the Ministry of Foreign Affairs and diplomatic and consular missions in the field. In this regard, the Ministry of Finance is undertaking measures in order to evaluate the possibility of providing financial resources, while the Ministry of Foreign Affairs and European Integration established contacts with local and foreign experts in software programming, with a view to design an adequate VIS in Montenegro, which would be fully aligned with the EU acquis in this area (512/2004, 767/2008 and 633/2008) and the Schengen standards. Also, we expect the support of the EU through adequate IPA funds and possibly donations in this segment. Accordingly, Montenegro will prepare and adopt the Schengen Action Plan, which will include the legal, financial, administrative and procedural measures for the implementation of the EU policy in this area.

4. External borders and Schengen

The strategic framework is regulated by the **Integrated Border Management Strategy 2013-2016**, as well as by the accompanying **Action Plan**. The Strategy and the Action Plan are developed on the basis of: the **EC's Guidelines** for Development of National IBM Strategies in the Western Balkans, and partially on the basis of the EU concept of IBM, **Schengen Catalogue** on External Borders Control, Return and Readmission, **Schengen Borders Code**, bearing in mind the current position of Montenegro, degree and evaluation of further dynamics of integration of Montenegro.

With the aim of fully implementing the Integrated Border Management Strategy, synchronising and coordinating the activities of border services in implementing the border control procedures, **the following agreements** have been signed between the Ministry of Interior, Customs Administration and inspection services for veterinary, phytosanitary and health inspections: the **Agreement** on mutual cooperation in integrated state border management, the **Special Agreement** on establishment of coordination teams for

implementation of the Integrated Border Management Strategy at the regional and local level, the **Special Agreement** on rules of conduct at the border crossing points. The mentioned Agreements are in accordance with the provisions of the Schengen Borders Code (Article 15 point 3 which recommends permanent cooperation between the national services responsible for border control).

The comprehensive law that regulates this area in Montenegro is the **Law on Border Control** (Official Gazette of Montenegro 72/09, 20/11, 40/11 and 39/13), which is modelled on the basis of the **Regulation** (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). The Law on Border Control defines the procedures for check of persons at border crossing points and supervision over the border between the border crossing points, minimum and detailed border checks, special rules for border checks for certain categories of persons, special rules for border checks in international railway, air, sea, lake and river transport. Through the recent amendments to the Law on Border Control, the area of border control has been further aligned with the EU acquis.

Through these amendments, Montenegro has additionally determined the measures of border controls of means of transport, with a view to preventing illegal border crossings of the national border. Also, the measures are taken within minimal border checks – establishing a person's identity and passport control – have been additionally determined. In case of deviation from the regime of border checks, the situation when no entry or exit stamp is entered in the passport has been provided for. Air carriers' responsibilities have also been envisaged so that now they are required to submit complete and accurate information about the passengers to the Police at the border crossing where the passengers are to enter Montenegro, immediately after check-in of passengers for the flight. Likewise, the obligations of commander of a vessel or ship have been set forth, so that after the completion of border checks, the vessels is required to leave the territorial waters of Montenegro using the shortest waterway. It has also been determined that a crew member of a foreign ship may be issued an approval to move in the area where there is a border crossing, port or airport. Additionally, the Police powers in terms of gathering personal and other data from persons against whom powers are applied in accordance with this Law have been additionally regulated, so that such data are entered and processed in the records kept in accordance with the Law. Also, amendments have been made to the penal provisions for violations by legal and natural persons.

Pursuant to the Law on Border Control, the **Rulebook on the manner of conducting certain police duties and use of powers in conducting those duties** (Official Gazette of Montenegro 5/07, 25/12 and 51/12) was adopted, which, among other things, regulates the

manner of supervision and security of state border and performance of border control: protection of state border, border control and residence and movement of foreigners. The national legislation regulating local border traffic at the common borders and the signed international treaties have been partially aligned with the EU legislation. Montenegro will fully align the area of border control with the relevant EU legislation in the EU accession process.

Montenegro has a **partially established electronic system for surveillance of the blue border**, i.e. Adriatic sea, territorial waters and the coastal zone of Skadar Lake and the River Bojana. The electronic system also conducts surveillance of the green border with Albania following the area from Skadar Lake to Šasko Lake. A project of importance to the Montenegrin border police is the installation of phase III of the electronic system for surveillance of the “blue border”. The implementation of this project has improved the existing system of border security of Montenegrin maritime zone and created the necessary preconditions for success in taking the required actions and measures to suppress and prevent all security risks in Montenegrin waters and coastal areas.

By the decision of the Ministry of Interior, in accordance with the conclusion of the Government of Montenegro, on 11 March 2013, the **Commission that conducts affairs of demarcation and establishment of state borders**, establishment of border crossing points, establishment of border traffic regime with the neighbouring countries, and the implementation of the Integrated Border Management Strategy was set up.

The Agreement between the Government of Montenegro and the Council of Ministers of Bosnia and Herzegovina on border crossing points and border traffic was signed on 7 October 2010 in Podgorica. The harmonisation of the Agreement between the Government of Montenegro and the Government of the Republic of Serbia and the Government of the Republic of Croatia is under way, as well as the negotiations with the Government of the Republic of Kosovo on border crossings and regulating the border traffic regime.

In principle, the Agreement on border crossings and the Agreement on local border traffic between Montenegro and Croatia have been agreed upon at the expert level, with a commitment to exchange the agreements after certain adjustments of technical nature.

The third initiative was sent to the Republic of Serbia to resume negotiations and prepare for the signing of an agreement on border crossings and border traffic (in 2011 four out of six agreements were agreed upon).

An initiative was sent to Bosnia and Herzegovina to amend the Agreement on border crossings for local border traffic, in order to define the manner of crossing the state border

out of the open border crossings for border traffic, in accordance with the EU directives on local border traffic at the external borders of the EU.

An initiative was also sent to the Republic of Kosovo in order to prepare an agreement on border crossings and local border traffic. Draft agreements were also sent for harmonisation.

The operational cross-border cooperation is established by the protocols on joint patrols with the neighbouring countries which, among other things, define the procedures of work of mixed patrols and common focal points. The **Protocols** were signed with Albania, Serbia and Bosnia and Herzegovina. The mentioned protocols should also be signed with Croatia and Kosovo.

The Police Administration of Montenegro signed the Working arrangement on establishing operational cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) on 18 June 2009, in accordance with Article 14 of **Regulation** 2007/2004.

In cooperation with the neighbouring countries, Montenegro will demolish all alternative roads suitable for crossing the state border. In this regard, a study was prepared with Bosnia and Herzegovina, identifying 44 secondary crossings, where each side is committed to demolish 22. Montenegro will carry out its duty in 2014. As regards other neighbouring countries, Montenegro initiated the process of agreeing upon the demolition of alternative roads, as well as the establishment of joint teams and preparation of a study, which will contribute to identification and demolition of all alternative roads suitable for crossing the state border. Until then, all alternative crossings will be under the full control of the border police, which is achieved through the involvement of regular and special patrols, joint patrols, ambushes, checkpoints and the use of technical assets available to the border police in Montenegro and the neighbouring states.

Preventive measures in the fight against corruption at the borders are defined by the Code of Police Ethics (Official Gazette of the Republic of Montenegro 1/06), training and professional development aimed at identification and suppression of all forms of corruption (small value, administrative and organised crime) at the national and international level, as well as the implementation of the national strategic documents for the fight against corruption, the adoption and implementation of integrity plans, awareness raising campaigns, establishing video surveillance systems at border crossings and the plans for their installation on all border crossings, exercising control and monitoring function in border police, and using the available control and monitoring mechanisms – internal control.

5. Judicial cooperation in civil and criminal matters

5.1. Judicial cooperation in civil and commercial matters

The judicial cooperation in civil and commercial matters is achieved on the basis of laws and international treaties to which Montenegro is a contracting party.

The **key laws** in this area are: the **Law on Civil Procedure** (Official Gazette of the Republic of Montenegro 22/04 and 76/06) and the **Law on Resolving the Conflict of Laws with the Regulations of Other Countries** (Official Gazette of the Socialist Federal Republic of Yugoslavia 43/82, 72/82 and 46/96). The relevant provisions are also contained in the **Law on Courts** (Official Gazette of the Republic of Montenegro 5/02, 49/04 and Official Gazette of Montenegro 22/08, 39/11 and 46/13), the **Law on Enforcement and Security** (Official Gazette of Montenegro 36/11), the **Law on Bankruptcy** (Official Gazette of Montenegro 1/11), the **Law on Mediation** (Official Gazette of the Republic of Montenegro 30/05 and Official Gazette of Montenegro 29/12).

Montenegro is a contracting party to **20 multilateral treaties** in this area: 11 Hague Conventions (1954 Convention on Civil Procedure (Official Gazette of the Federal People's Republic of Yugoslavia – International treaties 6/62), 1961 Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1965 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (Official Gazette of Montenegro – International treaties 7/11), 1970 Convention on the Taking of Evidence Abroad in Civil and Commercial Matters (Official Gazette of Montenegro – International treaties 7/11), 1971 Convention on the Law Applicable to Traffic Accidents, 1973 Convention on the Law Applicable to Products Liability, 1980 Convention on the Civil Aspects of International Child Abduction, 1980 Convention on International Access to Justice, 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and 2006 Convention on Jurisdiction, Applicable Laws, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children); as well as the Convention on the Issue of Multilingual Extracts from Civil Status Records (Vienna, 1976), Convention on the Issue of Certain Extracts from Civil Status Records for Use Abroad (Paris, 1956), European Convention on Information on Foreign Law (London, 1968), Convention providing a Uniform Law on the Form of an International Will (Washington, 1973), Vienna Convention on the Succession of States in Respect of Treaties (Vienna, 1978), Convention on the Recognition and Enforcement of Foreign Arbitral Awards New York, 1958), European Convention on International Commercial Arbitration (Geneva, 1961), Protocol

on Arbitration Clauses (Geneva, 1923) Convention on the Execution of Foreign Arbitral Awards (Geneva, 1927) and Convention on the Recovery Abroad of Maintenance (New York, 1956).

Montenegro is also a contracting party to **35 bilateral treaties** that regulate the area of international judicial cooperation in civil and commercial matters – out of which 26 treaties are with 15 EU Member States.

All the valid regulations give a necessary space for unhindered provision of international legal aid in civil and commercial matters.

In the part relating to jurisdiction, recognition and enforcement of judgments, as well as in the part concerning the applicable law in the area of contractual obligation, the Montenegrin legislation is **partially aligned** with the relevant **acquis**: **Council Regulation** 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, **Convention** on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters – Lugano, **Regulation** 593/2008 on the Law Applicable to Contractual Obligations, **Convention** on the Law Applicable to Contractual Obligations – Rome I. The existing legislation is **not aligned** with the **Regulation** of the European Parliament and of the Council 864/2007 on the Law Applicable to Non-contractual Obligations (Rome II). The future normative amendments will ensure full alignment with the **Regulation** 1393/2007 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil and Commercial Matters, **Regulation** 1206/2001 on Cooperation between the Courts of the Member States in Taking of Evidence in Civil or Commercial Matters, **Regulation** 805/2004 creating a European Enforcement Order for Uncontested Claims, **Regulation** 1896/2006 creating a European Order for Payment Procedure and **Regulation** 861/2007 establishing a European Small Claims Procedure.

As regards the **acquis** covering the area of insolvency, the **Law on Bankruptcy** (Official Gazette of Montenegro 1/11) is **partially aligned** with the **Regulation** 1346/2000 on insolvency proceedings, while the **Law on Mediation** (Official Gazette of the Republic of Montenegro 30/05 and Official Gazette of Montenegro 29/12) is **fully aligned** with **Directive** 52/2008 on Certain Aspects of Mediation in Civil and Commercial Matters.

The Law on Free Legal Aid (Official Gazette of Montenegro 20/11) is aligned with the **Directive** 8/2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

For the purpose of further harmonisation of the Montenegrin legislation with the **acquis** covering the area of international judicial cooperation in civil and commercial matters, at its session held on 21 June 2012, the Government adopted the **Proposal for the Law on**

Private International Law. This Law provides the highest level of standards for harmonisation with the Regulation 44/2001 and other EU standards. The Proposal for the Law on Private International Law is currently in the Parliamentary procedure – it will be adopted in 2013.

This area is also represented in the **national strategic documents** – the Strategy for Judiciary Reform 2007-2012 and the Action Plan for implementation of the Strategy, and the Action Plan for Chapter 24 – Justice, Freedom and Security.

The institutional framework for judicial cooperation in civil and criminal matters consists of the Ministry of Justice as a central body of communication and the courts, as well as the Ministry of Labour and Social Welfare. Given that the normative harmonisation implies introduction of novelties in the area of judicial cooperation in civil and commercial matters, the need arises for an intensive education in this area, particularly from the point of application of the relevant *acquis* (substantive law and case-law). In that context, the Judicial Training Centre, in cooperation with the academic institutions, develops and implements education programmes in the area of application of the European Private Law through the programmes of initial and continuous training with the participation of international experts. Also, there is a need for strengthening the administrative capacities of central bodies of communication (Ministry of Justice and Ministry of Labour and Social Welfare) towards quality and timely fulfilment of obligations in this area. Practice has also shown a need for improving the IT capacities of the Ministry of Justice as the central authority, as well as of judicial authorities, particularly emphasising the goal of increasing the efficiency of work and precision in record keeping and statistical monitoring. The implementation of legislation should be supported by strengthening the technical and administrative capacities and using the adequate system of managing data in these authorities.

5.2. Judicial cooperation in criminal matters

In Montenegro, the basis for provision of international legal aid in criminal matters is contained in multilateral and bilateral treaties, as well as in the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08 and 36/13), the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13) and the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09, 49/10).

The international judicial cooperation in criminal matters is achieved on the basis of multilateral treaties of the Council of Europe and the United Nations. Montenegro is a signatory to all the most important international instruments in this area: the European Convention on Extradition of 1957, with the Additional Protocol of 1975 and the Second Additional Protocol of 1978, European Convention on Mutual Assistance in Criminal

Matters of 1959, with the Additional Protocol of 1978 and the Second Additional Protocol of 2001, the Council of Europe Convention on the Transfer of Sentenced Persons of 1983, the Criminal Law Convention on Corruption of 1999 with the Additional Protocol, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990, the European Convention on the Suppression of Terrorism of 1977, with the Additional Protocol to the European Convention on the Suppression of Terrorism, the Convention on Cyber crime of 2001 with the Additional Protocol, the United Nations Convention against Transnational Organized Crime of 2000, the United Nations Convention against Corruption of 2003, and the Convention for the Protection of Human Rights and Fundamental Freedoms, with Additional Protocols.

Also, in order to **bilaterally** create the conditions for stronger, more obligatory and more effective cooperation with the countries of the region in the fight against all forms of crime, and especially organised crime and corruption, in the previous period Montenegro has concluded extradition agreements with the Republic of Serbia (2009, amendments in 2010), Republic of Croatia (2010), the former Yugoslav Republic of Macedonia (2011), and Bosnia and Herzegovina (2012), as well as bilateral agreements on the enforcement of court decisions with Serbia (2009), Croatia (2011) and Bosnia and Herzegovina (2010), and bilateral agreements on legal assistance in criminal matters with Serbia (2009) and Bosnia and Herzegovina (2010). In order to additionally improve cooperation, bilateral agreements with Serbia, Croatia and Bosnia and Herzegovina stipulate the procedure of extradition of the country's own nationals. Also, in July 2013, an Additional Bilateral Agreement to the European Convention on Extradition of 13 December 1957, which aims to facilitate its application, and the Additional Bilateral Agreement to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 were signed with the Republic of Italy.

In 2012, the negotiations have been initiated with a view to signing the Agreement on mutual enforcement of court decisions in criminal matters, the Agreement on mutual legal assistance in criminal matters, and the extradition Agreement with the Republic of Kosovo. Also, the negotiation process is underway with the Republic of Turkey to sign an agreement on mutual legal assistance in criminal matters, extradition and the transfer of sentenced persons.

In the absence of international agreements, mutual legal assistance in criminal matters is provided in compliance with local regulations. The most important regulation in this area is the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08 and 36/13). The law is comprehensive and covers all the mechanisms of international legal assistance: extradition, recognition and enforcement of foreign court

decisions, assigning and assuming criminal prosecution, transfer of sentenced persons, and the so-called small legal aid (submission, delivery, etc.).

With the aim of increasing efficiency of application of legal assistance in criminal proceedings with an international element, the amendments to the **Law on Mutual Legal Assistance in Criminal Matters** have been adopted. Among the most important novelties in the Law is a possibility of extradition of accused persons without lodging an appeal for the purpose of alignment with Article 3 paragraph 2, Articles 9, 10 and 11 of the Convention of 10 March 1995 on simplified extradition procedure between the Member States of the European Union, i.e. towards providing normative preconditions for application of the European Arrest Warrant, as well as introducing the possibility of renouncing the principle of specialty in extradition proceedings, the abolition of restrictions on the assignment of criminal prosecution and ensuring protection of the rights of the accused and other persons in criminal proceedings with an international element. The new Law also provides for enforcement of final court decisions of a foreign court, rather than just court decisions as a previously prescribed, which increases the possibility of recognition of foreign court decisions. Also, the conditions for the recognition or denial of recognition of court decisions in criminal matters are defined for the first time, as well as the protection of the information contained in the request or response, while joint investigation teams and delivery of banking data are introduced as other forms of international legal assistance.

Montenegrin legislation is not aligned with the requirements of the Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between the Member States. Montenegrin Law on Mutual Legal Assistance in Criminal Matters does not provide for the surrender procedure from one country to another on the basis of an arrest warrant.

As for the procedural rights of suspected or accused persons in criminal proceedings, the Montenegrin legislative framework **is fully aligned** with Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings and the provisions of the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings of November 2009.

Seizure and confiscation of proceeds of crime are regulated by the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13), the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09), the **Law on the Management of Seized and Confiscated Assets** (Official Gazette of Montenegro 49/08 and 31/12), the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08 and 36/13) and the **Law on Enforcement and Security** (Official Gazette of Montenegro

36/11). Montenegrin legislative framework is **partially aligned** with the Framework Decision 2005/212/JHA on Confiscation of Crime-Related Proceeds, Instrumentalities and Property. With a view to full alignment the following changes are necessary: the alignment of the national legislation in order to provide for the possibility of confiscation of proceeds gained through tax criminal offences; providing for the possibility of confiscation if it is determined that the assets are significantly higher than the legal income of the convicted person and if it is proved before the court that the assets were derived from criminal activities.

Montenegrin legislation **is not aligned** with the Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders. Montenegrin legislation is **partially aligned** with the Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence and the Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties. In this regard, it is necessary to align the definition of criminal offences and to define the legal grounds for non-recognition of financial penalties in the Law on Mutual Legal Assistance. The standard form of certificate for a decision imposing fines needs to be translated into the official language, and then entered in the regulation.

Montenegrin legislation **is not aligned** with the decision 2007/845/JHA on cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime, since Montenegro has no Asset Recovery Office.

With regard to the protection of victims in criminal proceedings, Montenegrin legislative framework **is partially aligned** with the Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings and the Council Directive 2004/80/EC relating to compensation to crime victims. Namely, the Law on Amendments to the Criminal Code prescribes the definition of a “victim”, and the preparation and adoption of the Law on the Compensation of Victims of Crime is also underway.

As regards the criminal records, the Montenegrin legislation **is not aligned** with the Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States and Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS). Montenegro adopted a new Rulebook on criminal records in September 2011 (Official Gazette of Montenegro 51/11), which was amended by the Rulebook on Amendments to the Rulebook on the manner of keeping criminal records (Official Gazette

of Montenegro 12/13), and will continually invest in new IT infrastructure in order to align with EU acquis.

With regard to cooperation with EUROJUST, Montenegro has appointed a contact person – the public prosecutor in the Basic Court in Kotor. Montenegro is committed to concluding the agreement on cooperation with EUROJUST and in this context the Law on Amendments to the Law on Personal Data Protection (Official Gazette of Montenegro 79/08, 70/09 and 44/12) was submitted for opinion, while a visit by the EUROJUST expert team is expected in October 2013, in order to define further steps towards meeting the requirements for the conclusion of the agreement on cooperation.

The competent institution to send and receive requests for international legal assistance is the Ministry of Justice. High courts (in Bijelo Polje and Podgorica) are responsible to act upon the requests of international judicial authorities. The Action Plan for Judicial Reform (2007-2012) contains the measures to improve the legislative and administrative framework. Montenegro has ratified several conventions of the Council of Europe in this field.

The current state of human resources and administrative capacities of the Ministry of Justice as the central body of communication is not at the satisfactory level in terms of quality and timely fulfilment of obligations in the field of judicial cooperation in criminal matters.

The international judicial cooperation of Montenegro in criminal matters is increasingly important, and it is evident that the cooperation instruments, particularly those with the countries of the region, the EU and various international organizations (EUPM, MARRI, UNODC, SEESAC, INTERPOL, ICMPD, RAI, SELEC, RACVIAC, PCC SEE Secretariat, Geneva Centre for the Democratic Control of Armed forces, GIZ, the Council of Europe, UNOB, OSCE Mission to Bosnia and Herzegovina, Treptower group, etc.), fulfil its purpose. In addition, The Supreme Public Prosecutor's Office is an active member of the Consultative Council of the European Prosecutors, Southeast European Prosecutors Advisory Group and the Western Balkans Prosecutors' Network. The Supreme Public Prosecutor's Office has an observer status in the Network of the General Prosecutors at the Supreme Courts of the European Union (2013). The Judicial Training Centre is gaining an observer status in the European Judicial Training Network (2013). At the General Assembly of the European Network of Councils for the Judiciary (08-10 June 2012), the Judicial Council was selected as an observer, while the President of the Supreme Court of Montenegro is an observer in the Network of the Presidents of Supreme Courts of the European Union, and is attending the meetings of the Network. Also, the Supreme Court has an observer status in the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union (February 2013), while the Ministry of

Justice has an observer status in the Network for legislative cooperation between the Ministries of Justice of the European Union (2013).

6. Police cooperation and the fight against organised crime

6.1. Police cooperation

The legal framework regulating the police cooperation in Montenegro consists of: the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09 and 49/10), the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04 and Official Gazette of Montenegro 40/08, 25/10, 73/10, 32/11, 64/11 and 40/13), the **Law on Internal Affairs** (Official Gazette of Montenegro 44/12, 36/13), the **Law on Personal Data Protection** (Official Gazette of Montenegro 79/08, 70/09, 44/12), the **Law on Data Confidentiality** (Official Gazette of Montenegro 14/08, 76/09, 41/10, 40/11, 38/12, 44/12, 14/13), the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08 and 36/13), the **Law on Ratification of the Convention on Police Cooperation in South-East Europe (PCC Convention)** (Official Gazette of Montenegro 1/08), and the bilateral and multilateral agreements.

As of 19 September 2006, Montenegro has been a full-fledged member of **INTERPOL**. Within the Police Administration, job descriptions have been provided for the Section for International Police Cooperation, which is also the National Central Bureau of INTERPOL Podgorica. The Department has 28 employees. The National Central Bureau of INTERPOL is connected to the INTERPOL database through the I-24/7 secure communication linkage through which the data is exchanged with other Member States of INTERPOL. The National Central Bureau of INTERPOL has installed the so-called MIND system through which the direct checks of databases of INTERPOL are conducted concerning stolen motor vehicles (SMV database) and stolen and lost travel documents (SLTD database) at all Montenegrin border crossings. An intensive and continuous cooperation is conducted through INTERPOL towards exchange of data necessary for collecting evidence for persons – criminal offenders, exchange of evidence necessary for court proceedings (international legal assistance), exchange of requests for assistance between the competent prosecutor's offices and organisation of joint police operations, as well as exchange of data towards locating and depriving of liberty of persons who are wanted at the international level. The data is exchanged through the secure communication link I-24/7.

On 19 September 2008, Montenegro signed the **Strategic Agreement on Cooperation with EUROPOL** (Official Gazette of Montenegro – International Treaties 2/09). In November 2010, a secure communication linkage was established and it was advanced to the SIENA secure communication linkage in April 2012. Montenegro intends to conclude an

operational agreement with EUROPOL and to appoint a liaison officer who is to help in intensifying cooperation with the EU Member States. The national focal point for cooperation with EUROPOL is the Section for International Police Cooperation.

During 2011, Montenegro ratified the **SELEC Convention** (Official Gazette of Montenegro – International Treaties 2/09). Montenegro has its liaison officer in SELEC, as of November 2009. As of July 2010, Montenegro has an established secure communication linkage with SELEC. The national focal point for SELEC (where the secure communication linkage is located) is the Section for International Police Cooperation.

Among other ways, the **international operational police cooperation** takes place through the foreign police liaison officers who are accredited for Montenegro, as well as through the police liaison officers of Montenegro in INTERPOL and SELEC. Currently, there are 22 police liaison officers and police attachés from other countries accredited in Montenegro. Regarding the communication with police authorities of other countries, information are exchanged through INTERPOL and direct communication, in line with the existing bilateral and multilateral agreements.

In Montenegro, there is an appropriate **institutional structure** responsible for international police operational cooperation. The central national contact point for international cooperation is the Section for International Police Cooperation INTERPOL-EUROPOL-SELEC, functioning within the Police Administration of the Ministry of Interior. The Section structurally belongs to the Criminal Police Department and has 28 employees. The Section for International Police Cooperation perform tasks related to/or acts as: international police cooperation, the National Central Bureau Interpol (NCB INTERPOL), the National Bureau of Europol (EUROPOL NB), the national contact point for cooperation with the SELEC Centre and other international police organisations involved in combating crime, central contact point for cooperation with a network of domestic and foreign liaison officers, conducting international operational police and judicial cooperation under bilateral and multilateral treaties and ratified conventions and protocols governing international cooperation, national contact point for the exchange of information pursuant to PCC convention.

In the area of **safety at football matches** of international character, Montenegro has implemented certain alignment with the EU acquis (EU Council Decision 2002/348/JHA of 25 April 2002 concerning security in connection with football matches with an international dimension). Namely, the Section for Public Peace and Order has been formed within the Police Administration of the Ministry of Interior, as the national focal point for activities

related to the provision of public peace and order, including the coordination of activities aimed at securing international football matches. This Section is directly responsible for the implementation of the Law on the Prevention of Violence and Misbehaviour at Sports Events (Official Gazette of Montenegro 27/07).

In the area of **protected persons**, the Montenegrin legislation is aligned with EU Council Decision 2002/956/JHA of 28 November 2002 setting up a *European* Network for the Protection of Public Figures. In this context, the Department for the Protection of Persons and Buildings has been formed within the Police Administration of the Ministry of Interior, as the national focal point that will participate in the European Network for the protection of public figures. The Department for the Protection of Persons and Buildings performs tasks relating to the protection of persons subject to protection mechanisms, in accordance with the Decree of the Government of Montenegro, the protection of foreign public figures subject to the measures of protection, protection of buildings where people under protection work and live, protection of diplomatic and consular missions in Montenegro.

A particular attention and capacities are directed towards the implementation of the Decision 2008/615/JHA on intensifying the cross-border cooperation, particularly in combating terrorism and cross-border crime (**Prum Decision**) and Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (**Swedish Initiative**). Montenegrin legislation is partially aligned with the provisions and standards of the Swedish initiative. At the level of the Section for International Police Cooperation, a data workflow has been established, with a view to a centralised data exchange with foreign states. Also, the mechanisms and appropriate applications were developed for the timely handling of urgent requests. As regards the handling of foreign requests, the Section has access to all police databases as well as databases of citizens. All the data exchanged with foreign states are exchanged through the established secure communication links (INTERPOL I-24 /7, EUROPOL - Siena, SELEC), and the exchange is carried out solely on the basis of pre-defined rules: for needs of the police/criminal investigation or to conduct criminal proceedings and to provide mutual legal assistance in criminal matters. All the communication is in English/French as the official languages of communication, while the capacities for communication within the Section in one of the official languages are also fully developed, as all the employees speak English, and there are translation/interpretation capacities for English/French in addition. All the information that are exchanged are subject to the standards of personal data protection, meaning that every piece of information is classified in relation to records of personal data that is kept, and that the deadlines are defined for keeping the information, and given that all the data are stored electronically and

that a system of automatic warning of expiry of the deadline for keeping personal information has been developed as the application, in accordance with the law and the automatic deletion of personal data. However, not all of the standards defined by the Swedish Initiative are fulfilled. Therefore, in order to meet the standards and to ensure full alignment, activities will be conducted to develop written procedures for international police cooperation, which will specify the deadlines for dealing with urgent requests. Within this framework, standard formats for requests in the framework of international police cooperation will be adopted, while Siena link will be defined as the primary communication link according to the Swedish Initiative. It is also necessary to conduct an analysis of the current situation and to develop an appropriate communication network between the law enforcement institutions at the national level, in order for the Section to be able to timely exchange information and to have access to all the databases at the national level (principle of Data Availability/Accessibility/Reciprocity). Within these activities, it is necessary to establish a 24/7 contact points in the Customs Administration and the Public Prosecutor's Office.

In the area of police education and training, the Police Academy has a key role in providing training for law enforcement officers. Bearing in mind that Montenegro is a small country (620,000 inhabitants), the Police Academy is the only security and educational institution that conducts:

- education, vocational and specialised training of employees of the Police Administration of the Ministry of Interior;
- vocational and specialised training of employees from other security services (Customs Administration, Institution for Enforcement of Criminal Sanctions);
- education and vocational training of persons from the civil security sector;
- other activities that contribute to the improvement of the education and training process (research, publishing and librarian, co-operation with the University of Montenegro, international cooperation, etc.).

Thanks to the constant improvement of its capacities and the harmonisation of the educational process with the relevant international standards in the area of police training, the Police Academy has met the requirements and signed a Cooperation Agreement with the European Police College (CEPOL). By signing this Agreement, officers of the Police Academy and the Police Administration will have the option to participate in numerous courses and seminars organised by the EU member States, which will further improve the capacities of the Montenegrin police through the exchange of information.

The Section for International Police Cooperation INTERPOL-EUROPOL-SELEC functions within Criminal Police Department of the Police Administration of the Ministry of Interior. The Section for International Police Cooperation perform tasks related to/or acts as: international police cooperation, the National Central Bureau Interpol (NCB INTERPOL), the National contact point for Europol (future Europol NB), the national contact point for cooperation with the SELEC Centre and other international police organisations involved in combating crime, central contact point for cooperation with a network of domestic and foreign liaison officers, conducting international operational police and judicial cooperation under bilateral and multilateral treaties and ratified conventions and protocols governing international cooperation, the direct exchange of information with the police and judicial authorities of other countries and the implementation of activities related to the prevention and detection of crimes and their perpetrators, the search for the perpetrators of criminal offences for the purpose of bringing them before the judicial authorities in order to conduct proceedings or execute criminal sanctions, collecting and processing of information on the perpetrators of criminal offences in accordance with the applicable legislation and police powers, implementation of international operational police and judicial cooperation in accordance with the obligations resulting from the membership in INTERPOL, EUROPOL, SELEC, FRONTEX and other international police organisations, and in compliance with bilateral and multilateral international treaties and ratified conventions and protocols.

The Section for International Police Cooperation has 28 officers, distributed in three groups: the Group for international search and extradition, the Group for international operational cooperation, and the Group for support.

The international police cooperation of the Police Administration with police services of other countries is exercised through this Section. This is done on various grounds, including:

- On the basis of INTERPOL cooperation;
- On the basis of SELEC cooperation;
- On the basis of bilateral cooperation through the network of liaison officers (local and foreign);
- On the basis of cooperation with EUROPOL (strategic cooperation and ad-hoc operational cooperation through a EUROPOL member state)

The cooperation is carried out in the following areas:

- Exchange of intelligence data and information, which is conducted at one's own initiative or upon request, through secure communication links (via INTERPOL's I-24/7, EUROPOL's Siena or SELEC's communication link), in order to prevent and combat crime. The cooperation takes place for all criminal offences with a foreign

element, with a special focus on serious crime and organised crime. The most important cooperation is exercised in the field of searching for persons under international wanted notices and in the field of combating general crime, economic crime, drug trafficking, and organised crime.

- Organisation of joint police operations (implementing parallel and coordinated investigative activities, in coordination with the competent prosecutor's offices and simultaneous prosecution of persons before the competent courts of the participating countries), organisation of the joint meetings, participation of police officers from other countries in investigations with the Montenegrin police, the direct exchange of information and planning joint activities. The most important activities are conducted in the field of combating international drug trafficking.
- Organisation of joint police teams during the tourist season.
- Expert and technical support and assistance, exchange of expert experiences and best practices.
- Organisation of joint trainings.

6.2. Fight against organised crime

In the area of combating organised crime, Montenegro largely aligned its criminal substantive and procedural legislation with the EU acquis. The **normative framework** in the area is defined by the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09, 49/10), the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13), the **Law on Internal Affairs** (Official Gazette of Montenegro 44/12, 36/13), the **Law on Personal Data Protection** (Official Gazette of Montenegro 79/08, 70/09, 44/12), the **Law on Data Confidentiality** (Official Gazette of Montenegro 14/08, 76/09, 41/10, 40/11, 38/12, 44/12, 14/13), the **Law on the DNA** (Official Gazette of Montenegro 39/11), the **Law on the Management of Seized and Confiscated Assets** (Official Gazette of Montenegro 49/08, 31/12), the **Law on witness Protection** (Official Gazette of the Republic of Montenegro 65/04), the **Law on Criminal Liability of Legal Entities** (Official Gazette of the Republic of Montenegro 2/07, 13/07), the **Law on the Prevention of Money Laundering and Terrorism Financing** (Official Gazette of Montenegro 14/07, 04/08, 14/12), and the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08, 36/13).

The protection of witnesses as a special kind of fight against organised crime and terrorism has been introduced to the Montenegrin legal system by the **Law on Witness Protection** (Official Gazette of the Republic of Montenegro 65/04), while the specialised unit for the

protection of witnesses was established in 2005. Ever since, the Law on Witness Protection is fully implemented and enforced. The activities towards the promotion of the protection of witnesses are constantly implemented through specialised trainings and improving the normative component in the regional project WINPRO II - IPA 2012, "Protection of witnesses in the fight against organised crime and corruption".

Through amendments from 2012, the Law on Prevention of Money Laundering and Terrorism Financing has been aligned with the FATF (the Financial Action Task Force) recommendations, on the basis of which the European Parliament adopted the relevant **Directives** (91/308/EEC, 2001/97/EC, 2005/60/EC and EUR lex 52013PC0045) on prevention of the use of the financial system for the purpose of money laundering and terrorism financing.

The **Administration for the Prevention of Money Laundering and Terrorism Financing** has been established by a Decree of the Government of the Republic of Montenegro on 15 December 2003 (Official Gazette of the Republic of Montenegro 67/03), as the authority responsible for the prevention of money laundering. The Administration for the Prevention of Money Laundering and Terrorism Financing is an independent state authority organised as a financial intelligence service of administrative type.

The **Law on the Prevention of Money Laundering and Terrorism Financing** was first enacted in 2003. With a view to alignment with international standards, several amendments to the Law were made, while the most recent ones were adopted in March 2012 (Official Gazette of Montenegro 14/07, 04/08 and 14/12). Through the amendments from 2012, the Law on the Prevention of Money Laundering and Terrorism Financing has been largely aligned with the FATF (the Financial Action Task Force) recommendations on the basis of which the European Parliament the European Parliament adopted the relevant Directives (91/308/EEC, 2001/97/EC, 2005/60/EC) on prevention of the use of the financial system for the purpose of money laundering and terrorism financing.

In March 2012, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) adopted the Second Report of the Third evaluation round on Montenegro's progress in the area of money laundering and terrorist financing. However, the above Report was adopted with a commitment of Montenegro to remedy the identified deficiencies relating to the alignment of the Law on Prevention of Money Laundering and Terrorism Financing. MONEYVAL recommendations concerning the amendments to the Criminal Code have been incorporated in the latest amendments to the Criminal Code.

Montenegro is a **member of the EGMONT Group** as of 2005, and since 2007 a member of the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering and Financing of Terrorism (MONEYVAL). Since June 2010, Montenegro has an observer status in the Eurasian group on combating money laundering and financing of terrorism (EAG).

Montenegro has signed **memoranda of understanding** relating to the exchange of financial intelligence data with 26 countries, out of which there are seven EU Member States.

The Administration is **exchanging financial intelligence data** with the competent authorities of other countries and has signed cooperation agreements with financial intelligence services of 30 states.

The Law on Mutual Legal Assistance in Criminal Matters also contains a number of provisions on the international cooperation of judicial authorities, used in the prosecution of cases of organised crime.

Montenegro **ratified the United Nations Convention** against Transnational Organised Crime (2000) and the **Protocol** to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, ratified the Council of Europe Convention on Action against Trafficking in Human Beings, **UN Convention** on the Rights of the Child and both of its Protocols (Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and Optional Protocol on the Involvement of Children in Armed Conflict).

The Montenegrin legislation in this area is **aligned** with the **Decision** 2000/642/JHA concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information and the **Framework Decision** 2001/413/JHA on combating fraud and counterfeiting of non-cash means of payment.

The Montenegrin legislation is **partially aligned** with the **Framework Decision** 2008/841/JHA on the fight against organised crime, **Directive** 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, **Directive** 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography, **Decision** 2000/375/JHA to combat child pornography on the Internet, 2009 **Resolution** on the Exchange of DNA analysis results (2009/C 296/01), **Directive** 2006/24/EC on the retention of data generated

or processed in the connection with the provision of publicly available electronic communication services or of public communications networks and **Directive** 2002/58/EC concerning the processing of personal data and protection of privacy in the electronic communications network.

The Montenegrin legislation is **not aligned** with the **Directive** 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, **Joint Declaration** 2003/C 24/02 on the protection of commercial drivers engaged in export trades from becoming victims of organised crime, **Decision** 2003/170/JHA on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States, **Decision** 2002/384/JHA and **Decision** 2002/956/JHA setting up a European Network for the Protection of Public Figures, **Decision** 2004/919/EC on tackling vehicle crime with cross-border implications, **Framework Decision** 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union and Decision 2008/615/JHA on intensifying the cross-border cooperation, particularly in combating terrorism and cross-border crime (Prüm Decision).

Montenegro takes active participation in developing and enhancing **regional cooperation** for efficient and quality implementation of the laws. Also, it has established a practical cooperation with some of the EU Member States.

The strategic framework in this area consists of **the 2011-2016 Strategy for the fight against organized crime and corruption, the 2011-2016 Strategy for the fight against terrorism, financing of terrorism and money laundering and the 2012-2018 Strategy for the fight against trafficking in human beings.**

The **Intelligence-led Policing** (ILP) model is implemented in the police, although the process is still not fully implemented in all the organisational units at the local level. The capacities of the relevant sector have been increased, especially in terms of the training courses in the fields of strategic and operational analyses, data collection via investigations and surveillance, as well as in the field of police management. The first annual operational plan of activities in fight against organised crime was adopted in 2012 and it introduces operational measures and indicators in line with the priorities identified within the Organised Crime Threat Assessment (OCTA). The classified version of the OCTA is available to the Prosecutor's Office.

Appropriate institutional structure to suppress organized crime was set up in Montenegro. Fight against organized crime is the responsibility of the following institutions: Special

departments for organised crime, corruption, terrorism and war crimes in high courts and High Public Prosecutor's Office, Ministry of Interior (Police Administration), Ministry of Finance (Tax Administration, Customs Administration), and Administration for Prevention of Money Laundering and Terrorism Financing.

In the area of fight against trafficking in human beings, the normative framework has been established which provides effective criminal prosecution and sanctioning of perpetrators of criminal acts of trafficking in human beings/children and provides assistance and protection to victims of trafficking in human beings/children through adoption of the following set of laws: the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06, Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13), the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09, 49/10), the **Law on Witness Protection** (Official Gazette of the Republic of Montenegro 65/04), the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13), the **Law on Free Legal Aid** (Official Gazette of Montenegro 20/11), the **Law on the Liability of Legal Entities for Criminal Offences** (Official Gazette of the Republic of Montenegro 2/07, 13/07), the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 4/08, 36/13), the **Law on Personal Data Protection** (Official Gazette of Montenegro 79/08, 70/09, 44/12) and the **Law on Treatment of Juveniles in Criminal Proceedings** (Official Gazette of Montenegro 64/11). The Montenegrin legislation in this area is **mostly aligned** with the United Nations Convention against Transnational Organised Crime and the accompanying Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, while it is **partially aligned** with the **Council of Europe Convention** on Action against Trafficking in Human Beings, **Directive** 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, **Directive** 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

In accordance with the Group of Experts on Action against Trafficking in Human Beings (GRETA)'s recommendations, recent amendments of the Criminal Code from August 2013 introduced novelties for the purpose of combating trafficking in human beings more successfully. One of the novelties is the fact that we introduced the definition of a victim. The victim is a person who was inflicted physical or mental pain or suffering, who suffered property damage or violation of human rights and freedoms by an unlawful act which is defined in the law as a criminal offence. At the same time, two new offences were

criminalised: “**trade in human body parts**” and “**advertising trade in human body parts**”. The statutory description of the offence of trafficking in human beings (Article 444) was extended both in terms of the basic form referred to in paragraph 1 – in which we introduced slavery and "slavery-like" relationship and trade in view of unlawful marriage, and in terms of the severe form referred to in paragraph 3 - if the crime was committed by an official against a juvenile. A provision was also introduced that eliminates the possible dilemma if the consent of the victim of trafficking excludes this offence (paragraph 10). Also, the criminal offence of trafficking of children for adoption (Article 445) was extended to include juveniles (person from fourteen to eighteen years of age), so that now we provide a wider criminal law protection against trafficking in minors.

At the institutional level, the coordination of work of all state bodies, non-governmental and international organisations included in the implementation of activities concerning fight against trafficking in human beings is under the competence of the Office for the Fight against Trafficking in Human Beings. Other institutions included in the fight against trafficking in human beings are: Ministry of Interior, Police Administration, Ministry of Health, Ministry of Labour and Social Welfare, Ministry of Justice, Ministry of Education, Ministry of Foreign Affairs and European Integration, Ministry of Culture, Ministry for Human and Minority Rights, Supreme Court of Montenegro and Supreme Public Prosecutor's Office. The inter-institutional cooperation in solving concrete cases of trafficking in human beings is also defined by the Agreement on Cooperation¹ by which the obligations of institutions have been legally prescribed and specified through clearly determined operational procedures which the signatories to the Agreement are to implement when solving a concrete case of trafficking in human beings.

Trafficking in human beings cases are dealt with by the competent investigative and judicial authorities under the principle of priority. Significant results were also achieved in terms of encouraging victims of trafficking in human beings/children to participate in proceedings before investigative and judicial authorities. Support services for the damaged parties/witnesses were set up in all Montenegrin courts competent to handle trafficking in human beings cases.

Since 2004, 20 criminal charges were filed for the criminal offence of trafficking in human beings and trafficking of children for adoption. The competent state prosecutors filed 19 indictments against 52 persons for the criminal offence of trafficking in human beings and against 6 persons for the criminal offence of trafficking of children for adoption. There were

¹Signed in 2007 between the Supreme Public Prosecutor's Office, Ministry of Education and Sport, Ministry of Labour and Social Welfare, Ministry of Health, Police Administration and three non-governmental organisations

15 cases related to trafficking before the competent courts, out of which 12 have been finally adjudicated, while the remaining three cases are pending.

The Government finances, from the budget of the Office for the Fight against Trafficking in Human Beings, the functioning of the **Shelter for the Victims of Trafficking in Human Beings**, which has the capacity for separate accommodation of juvenile and adult victims of trafficking in human beings and which is capable of providing non-stop help to victims of trafficking in human beings – starting from safety, medical, legal, as well as the one that is necessary for their basic existence.

The basic form of trafficking in human beings is punishable by a prison term of one to ten years. Where the offence was committed against a minor, it is punishable by a prison term of three years minimum; maximum penalty of up to 20 years in prison may be imposed in this case if the criminal offence resulted in the death of the person in question. If the offence was committed in an organized manner, it is punishable by a prison term of at least ten years, which is the statutory minimum, in which case the maximum sentence of 20 years in prison may be imposed. Anyone who uses the services of a person knowing that the person is a victim of trafficking in human beings will be punished by a prison term from six months to five years. Where trafficking in human beings was committed against a minor, the perpetrator shall be punished by a prison term from three to fifteen years.

In 2005, Montenegro signed the **Budapest Convention on Cyber crime** (ratified in 2010), as well as the Additional Protocol to the Convention on Cyber crime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Following their ratification, Montenegro has aligned its criminal legislation with the provisions of these Conventions, as well as with the **Council Framework Decision 2005/222/JHA** on attacks against information systems and the **Council Framework Decision 2000/375/JHA** to combat child pornography on the Internet. The Criminal Procedure Code of Montenegro provides for measures that can be defined as partially aligned with this Framework Decision – urgency of procedure and exclusion of the public when these offences are concerned – although these are the general provisions on procedures relating to minors.

The strategic framework in this area is defined by the **2013 - 2017 Strategy on cyber security of Montenegro**, which among other things defines the key steps in strengthening the law enforcement capacities and trainings, with a view to efficient fight against cyber crime.

Also, pursuant to the Convention on Cyber crime, Montenegro is actively participating in the work of TC-Y Committee of the Council of Europe, which monitors the implementation of

the Convention on Cyber crime, as well as in 24/7 Network of the Council of Europe, established on the basis of the Convention, committed to be available at all times to provide assistance in matters relating to cyber crime in Montenegro.

Section for the fight against organized crime and corruption was set up at the Ministry of Interior-Police Administration, Criminal Police Department, which includes a team in charge of suppressing organized economic crime. The Team includes staff specifically in charge of fighting cyber crime and abuse of copyright. A CERT team was set up within the Ministry of Information Society, which is among other things responsible for reacting in emergencies, in cases of unauthorized intrusion into protected databases.

The Law on Weapons (Official Gazette of Montenegro 49/04, 49/08 and 20/11) governs the following: acquisition, possession, carrying, manufacture, trade in and transportation of arms and ammunition, as well as the handling of weapons, weapons and ammunition seizure, as well as its movement across the state border. The provisions of this law relate to foreigners, but do not apply to weapons and ammunition for the military, police and other public administrative bodies which acquire and keep weapons under special regulations, as well as museum exhibits. The Ministry of Interior, which includes the Police Administration, is responsible for the implementation of this Law.

The strategic framework includes the **2013-2018 Strategy and action plan for the control and reduction of small arms and light weapons and ammunition.**

Montenegro will reduce the amount of weapons, including weapons owned by individuals and legal entities, in accordance with the guidelines and decisions of the United Nations, especially those that are listed in the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, in order to prevent illegal trafficking, possession and accumulation of small arms and light weapons.

7. Fight against terrorism

Montenegro has ratified **key international and instruments of the Council of Europe** for the fight against terrorism.

Strategic goals have been defined and further activities planned which are required for achieving the vision describing future state of prevention of terrorism. On 30 September 2010, the Government adopted the 2010-2014 **Strategy for prevention and suppression of terrorism, money laundering and terrorism financing** with the Action Plan for its implementation for the period of 2010-2012 and 2013-2014. The Strategy is in line with the objectives and values defined in the United Nations Global Counter-Terrorism Strategy and

the EU Counter-Terrorism Strategy. National Commission is in charge of overseeing the implementation of the Strategy and its Action Plan.

In the previous period Montenegro has not been confronted with the crime of terrorism. The criminal offence of terrorism is **largely aligned with the relevant international conventions**. Montenegro promotes cooperation in this field in accordance with: Resolution 1373 (2001), Resolution 1535 (2004), Resolution 1624 (2005) and other relevant UN resolutions, international conventions and other instruments. Through its Permanent Representative Montenegro actively cooperates with the Counter-Terrorism Committee (CTC), the UN Security Council, which was established by the Resolution 1373 (2001). Acting within the framework of various international organizations - particularly the United Nations and the Council of Europe, Montenegro became a contracting party to a series of international legal instruments.

The Montenegrin legislation in this area is **partially aligned** with the **Framework Decision 2002/475/JHA** on combating terrorism. The Montenegrin legal acts that include the provisions of this Decision are: the **Criminal Code of Montenegro** (Official Gazette of the Republic of Montenegro 70/03, 13/04 and 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 40/13), the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09 and 49/10), the **Law on Public Prosecution Office** (Official Gazette of the Republic of Montenegro 69/03, and Official Gazette of Montenegro 40/08, 39/11 and 46/13); the **Law on Courts** (Official Gazette of the Republic of Montenegro 5/02, 49/04 and Official Gazette of Montenegro 22/08 and 39/11 and 46/13), the **Law on Mutual Legal Assistance in Criminal Matters** (Official Gazette of Montenegro 2/07), the **Law on the Liability of Legal Persons for Criminal Offences** (Official Gazette of Montenegro 2/07), the **Law on Witness Protection** (Official Gazette of the Republic of Montenegro 65/04), the **Law on the Ratification of the European Convention on Extradition with additional protocols** (Official Gazette of the FRY - International Treaties 10/01), the **Law on the Ratification of the European Convention on the Compensation of Victims of Violent Crimes** (Official Gazette of Montenegro - International Treaties 6/09).

Montenegrin legislation is **partially aligned** with the Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences. The Strategic Cooperation Agreement between Montenegro and Europol was signed in Podgorica on 19 September 2008 and entered into force on 25 September 2009. Further to that agreement, strategic information (reports, analyses, questionnaires) are exchanged with Europol, which excludes the exchange of operational data (personal data, identification data, data on investigations carried out ...).

Montenegro **has aligned its legislation with the EU definition of terrorism**, and the definition of terrorism has been aligned with the Framework Decision 2002/475/JHA on combating terrorism.

Besides terrorism, the Criminal Code sets forth these offences: public call for the commission of terrorist acts; recruitment and training for commission of terrorist acts; use of a lethal device; destruction or damage of a nuclear facility; endangering persons under international protection; terrorist financing; and terrorist association.

Montenegrin legislation is not aligned with the Council Directive 2008/114/EC on the identification and designation of European Critical Infrastructures (ECI) and the assessment of the need to improve their protection.

Montenegro will continue to implement activities to increase counterterrorism capacities through regular and specialised **training courses** for officers dealing with terrorism and related offences and to advance international cooperation in the fight against terrorism.

When it comes to the institutional level, the Public Prosecution Office of Montenegro is in charge of prosecuting perpetrators of crimes related to terrorism. At the operational level activities are conducted by the Police Administration, Administration for Prevention of Money Laundering and Terrorism Financing, National Security Agency, the Armed Forces of Montenegro.

On the basis of a 2007 Study on the technical **condition of ammunition**, the Ministry of Defence has improved conditions for the storage of arms and ammunition, with three warehouses having potential to be used in future after reaching the required international standards (Taraš, Brezovik and Pljevlja, with Taraš that has already been reconstructed in line with NATO standards).

8. Cooperation in the area of drugs

In the area of drugs, Montenegro acceded to the **relevant United Nations Conventions:** 1961 **Single Convention** on Narcotic Drugs, 1972 **Protocol** Amending the 1961 Single Convention on Narcotic Drugs, 1971 Convention on Psychotropic Substances, 1988 United Nations **Convention** against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, as well as to United Nations **Convention** against Transnational Organised Crime and accompanying Protocols, Council of Europe **Convention** on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Council of Europe **Convention** on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

In the area of **strategic policy**, after conducting external reviews of the previous four-year strategy, a new “**Strategy of Montenegro for the Prevention of Drug Abuse 2013-2020**” is being implemented, through the first accompanying Action Plan for the period of 2013-2016. The documents were developed with the involvement of an external consultant, an EU expert in the field of drugs with the technical support of UNODC. In accordance with the recommendation of the European Commission, the new strategic documents are aligned with the strategic policy of the European Union designed for the next seven-year period. Measures in the Action Plan 24 provide for mid-term external evaluation of the strategy, according to the recommendation of the European Commission, as well as continuous implementation monitoring.

The area of prevention and suppression of abuse of drugs is defined by the following legislative framework: the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13), the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09 and 49/10), the **Law on Internal Affairs** (Official Gazette of Montenegro 44/12, 36/13), the **Law on the Prevention of Drug Abuse** (Official Gazette of Montenegro 28/11, 35/13) and the **Law on Control of Production and Traffic of Substances that Can be Used for Production of Narcotic Drugs and Psychotropic Substances** (Official Gazette of Montenegro 83/09). The **Rulebook on establishing a list of drugs, psychotropic substances and plants that can be used for production of drugs** (Official Gazette of Montenegro 56/12) is also in force in accordance with the list of drugs in the UN Conventions and it also includes the part with new synthetic substances. The **Rulebook on the form of special permit for import, export and transit of drugs** (Official Gazette of Montenegro 44/12) also came in force, as well as the **Rulebook on the list of substances that can be used in the production of narcotic drugs and psychotropic substances (precursors)** (Official Gazette of Montenegro 58/10).

The Montenegrin legislation in this area is **partially aligned** with: the **Joint Action 96/750/JHA** concerning the approximation of the laws and practices of the Member States of the European Union to combat drug addiction and to prevent and combat illegal drug trafficking, **Council Recommendations** on improving investigation methods in the fight against organised crime linked to organised drug trafficking (2002/C 114/01) and on the prevention and reduction of health-related harm associated with drug dependence (2003/488/EC); with the **Framework Decision 2004/757/JHA** laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, **Decision 2001/419/JHA** on the transition of samples of controlled substances, **Decision 2005/387/JHA** on the information exchange, risk assessment and control of new psychoactive substances and **Joint Action 96/699/JHA** concerning the

exchange of information on the chemical profiling of drugs to facilitate improved cooperation between Member States in combating illicit drug trafficking.

Montenegro participated in the programmes of training and standards adoption with the European Monitoring Centre for Drugs and Drug Addiction (**EMCDDA**). In the forthcoming period, cooperation with this agency will be intensified after increasing the staff capacities of the Drugs Division. This was foreseen and planned in a detailed manner through the measures within the Action Plan for negotiating Chapter 24 with the final goal of developing a national monitoring system for drugs (National information system and national information Unit/ NFP/on drugs and drugs addiction), as well as of establishing an Early Warning System on new psychoactive substances.

The **Drugs Division within the Ministry of Health** also has the role of a national unit for information and data on drugs and of a national focal point for international cooperation with the relevant agencies and bodies in accordance with the provisions of the existing Law on Prevention of Drug Abuse.

Montenegro has been a member of the **Pompidou Group of the Council of Europe** since 2011. Montenegro takes active participation in the regional cooperation programmes with the United Nations Office on Drugs and Crime (UNODC).

The **State Council for the Prevention of Drug Abuse**, headed by the President of Montenegro promotes activities of all entities making contribution to the overall efforts of the country in suppressing drug abuse.

As for **repressive activities**, the tasks of suppression and smuggling of drugs are organisationally centralised at the level of the Ministry of Interior – Criminal Police Department, within which there is a specialised unit – Section for the fight against drugs and smuggling. The Section consists of one central and five regional units, in which about 10% of positions included in the job descriptions act need to be filled. The Action plan for Negotiating Chapter 24 includes plans to increase human resource capacities by filling vacancies and training the staff on the topics of efficient use of measures of secret surveillance, international investigations and new forms of drugs. Equipping the Section with material and technical resources is also planned.

The Section for fight against drugs can boast of its significant international cooperation; operational information is exchanged with the police services of countries from the region, the EU and the USA. On the national level, it cooperates primarily with the Border Police Department and Customs Administration through joint actions, especially as regards the control of passengers and goods at border crossing points.

In order to further develop security measures and supervision in the Port of Bar, intensive training of the operational team is carried out within UNODC's project "Promoting the Rule of Law and Human Security in South Eastern Europe". The training is focused on the control of goods, passengers and container traffic.

In the area of prevention, educational and preventive programmes are being conducted in the educational system, as well as in cooperation with the municipal offices for prevention of addiction diseases. Some of the preventive activities are also conducted by the non-governmental organisations which also implement certain programmes of support in rehabilitation and re-socialisation. The rehabilitation and re-socialisation programmes are available in the Public Institution for Accommodation, Rehabilitation and Re-Socialisation of Users of Psychoactive Substances. The costs of treatment in the health system for all persons having difficulties due to addiction diseases and who ask for help are covered by the state budget.

9. Customs cooperation

The legal framework that governs customs cooperation consists of: the **Customs Law** (Official Gazette of the Republic of Montenegro 7/02, 38/02, 72/02, 21/03, 29/05, 66/06 and Official Gazette of Montenegro 21/08) and the **Law on Customs Service** (Official Gazette of the Republic of Montenegro 7/02, 29/05), the **Decree for the implementation of the Customs Law** (Official Gazette of the Republic of Montenegro 15/03, 81/06, and Official Gazette of Montenegro 38/08), the **Rulebook on the form, contents, manner of submission and filling out customs declarations and summary declarations** (Official Gazette of the Republic of Montenegro 16/03,43/04, 2/05, 14/05, 48/07).

Article 14 of the **Customs Law** stipulates that, when performing customs surveillance and control and, when necessary with the aim of reducing risk, the customs authority may exchange data regarding import, export, transit, transfer and final use of goods moving between the customs area of Montenegro and other territories, as well as concerning the presence of foreign goods, with international institutions and bodies of other countries.

The **Law on Customs Service** defines the scope of work of the body responsible for customs affairs, as well as the rights, obligations and responsibilities of customs officers.

Customs legislation is explained in more details under the Chapter 29 – Customs Union.

In the area of customs cooperation, legislation in Montenegro is **partially aligned** with the acquis. EU acquis in this field consists of the **Convention** on Mutual Assistance and Cooperation between Customs Administrations (Naples II Convention), adopted on 18

December 1997, and **Council Decision** 2009/917/JHA of 30 December 2009 on the use of information technology for customs purposes.

Customs cooperation with the EU MSs is carried out in accordance with the **Stabilisation and Association Agreement between Montenegro and the European Union** (Official Gazette of Montenegro 7/07), on the basis of **Protocol 6 to the Agreement** (Protocol on mutual administrative assistance in customs matters).

Customs cooperation is also based on **bilateral agreements** on cooperation and mutual assistance in customs matters. The Memorandum of Understanding was signed with the Italian Customs Agency on exchange of information between the custom houses of Bar and Bari. The Agreements on Systematic Electronic Exchange of Data (SEED Project) were signed with the customs services of Serbia, Bosnia and Herzegovina, Kosovo and Albania. Customs Administration is actively involved in **customs investigations in cooperation with international organizations and institutions** such as OLAF, SELEC, WCO, as well as with partner agencies.

The Agreement on mutual cooperation in integrated border management was concluded in Montenegro on 3 February 2009. The signatories to the Agreement were: Ministry of Interior, Police Administration, Customs Administration, Veterinary Administration and Phytosanitary Administration. The **Agreement on Mutual Cooperation between the Customs Administration and the Police Administration** was signed, prescribing the cooperation procedures, fast and efficient exchange of information. Also, the Customs Administration signed the Agreements on Cooperation with the Tax Administration, Administration for Prevention of Money Laundering and Terrorism Financing, Administration for Inspection Affairs, Administration for Anti-Corruption Initiative, Administration for Medicines and Medical Devices, Montenegrin Employers Federation and the Environmental Protection Agency.

The Customs Administration signed the **Agreement on the Establishment of the Joint Investigation Team** within the Special Prosecution Office, in which it has a permanent representative, as well as the **Agreement on Improvement of Cooperation in the Area of Suppression of Crime** (ILECU Project).

With reference to meeting the conditions needed for the implementation of the Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes, **the Customs Information System** of Montenegro supports the customs procedures. Activities are underway to upgrade the system. TIR carnet is monitored electronically, in accordance with the TIR Convention. TARICG is implemented into the IT system of the Customs Administration, with entered Control List, list of goods subject to sanitary and phytosanitary control, list of non-military weapons, list

of goods subject to veterinary control and CITES species. The data on all significant seizures is entered into the Customs Enforcement Network – CEN.

Customs Administration's 2013-2015 Business Strategy was adopted, while the development of the ICT Strategy of the Customs Administration is underway, in accordance with the Business Strategy.

Regarding the contents of the said Council Decision, the area of classified and personal data protection is governed in Montenegro by the Law on Data Confidentiality (Official Gazette of Montenegro 14/08, 76/09, 41/10, 38/12, 44/12 and 14/13) and the Law on Protection of Personal Data (Official Gazette of Montenegro 79/08, 70/09 and 44/12). The competent institutions in this field are the Directorate for Protection of Classified Data and the Personal Data Protection and Free Access to Information Agency.

10. Euro counterfeiting

The legislative framework in Montenegro in the area of euro counterfeiting as a criminal offence consists of: **Law on Internal Affairs** (Official Gazette of Montenegro 44/12, 36/13), **Criminal Procedure Code** (Official Gazette of Montenegro 57/09, 49/10), **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06, Official Gazette of Montenegro 40/08, 25/10, 32/11 and 64/11) and the **Law on Central Bank of Montenegro** (Official Gazette of Montenegro 40/10, 46/10, 06/13).

Article 258, paragraph 2 of the Criminal Code defines the crime of currency counterfeiting, Article 262 stipulates the making, supplying and providing other resources and materials for counterfeiting, and Article 142, paragraph 23 of the Criminal Code defines the concept of money.

Important acts in this field are also the Central Bank of Montenegro's 2011 Decision on the handling of suspect euro notes and coins and other activities aimed at protecting the euro against counterfeiting and the Protocol on cooperation in the field of counterfeit euro and euro coins concluded on 10 July 2012 between the Police Administration of Montenegro, the Public Prosecution Office and the Central Bank of Montenegro.

The Montenegrin legislation in this area is **partially aligned** with the framework decisions concerning the protection of Euro, in particular with the **Framework Decision 2000/383/JHA**, **Framework Decision 2001/888/JHA** and **Decision 2001/887/JHA**.

In 2008, the Central Bank of Montenegro concluded the **Agreement on Cooperation regarding coins** with the European Commission - OLAF. In 2009, the Central Bank of

Montenegro concluded the Agreement on Cooperation regarding banknotes with the European Central Bank.

At the level of state institutions of Montenegro, Public Prosecution Office of Montenegro, Police Administration and the Central Bank of Montenegro signed a **protocol on cooperation** in 2012 with the aim of improving cooperation in the fight against euro counterfeiting. In respect of what is mentioned, an analysis was created, on the basis of which agreements were signed with OLAF and the European Central Bank, which have been implemented in a quality manner, through regular reporting, via exchange of data, submission of reports, planning and implementation of training courses and seminars, which will also be continued in the forthcoming period.

The process of establishing the National Central Office for the fight against euro counterfeiting (NCO) is underway. According to the plans, its seat will be in the Ministry of Interior of Montenegro, Police Administration, Criminal Police Department, and Section for Suppression of Economic Crime.

III HARMONISATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK WITH THE ACQUIS

Overall, the Legal system of Montenegro is partially aligned with the acquis covering the area from negotiating Chapter 24 – Justice, Freedom and Security. Until the accession into the EU, Montenegro will not be in possibility to become fully aligned on certain issues due to the fact that only by acceding will it be given the possibility to access certain legal documents of the EU.

Until the full-fledged membership, Montenegro will undertake normative activities with the aim of reaching harmonisation with the acquis in the segments in which it is currently not aligned. Concurrently with the normative activities, Montenegro will undertake measures towards reaching an adequate level of institutional and administrative readiness for accepting all the obligations deriving from the EU membership.

1. Migration

In the area of migration, Montenegro will implement activities aimed at three directions: regular migration, readmission and irregular migration.

As regards **regular migration**, Montenegro will prepare a comprehensive analysis of the

regular migration system, develop amendments to the relevant regulations and then monitor the overall process of harmonisation and implementation of regulations and standards from the area of regular migrations.

With a view to full alignment with the Council **Directive** 2003/86/EC of 22 September 2003 on the right to family reunification, Council **Directive** 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, Council **Directive** 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, Council **Directive** 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long term residents, by the end of 2015 appropriate amendments to the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11, and 27/13), **Law on Voluntary Work** (Official Gazette of Montenegro 26/10, 31/10, 14/12) and regulations in the area of family law will be adopted.

With a view to full alignment with the **Council Directive** 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and the **Directive 2011/98/EU of the European Parliament and of the Council** of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State Montenegro will adopt appropriate amendments to the **Law on Foreigners**.

The improvement of the normative framework will be continuously followed by the training of all entities included in the migration system (through adoption of a comprehensive training plan aimed at ensuring unhindered implementation of the new legal framework). Also, Montenegro will periodically conduct informative campaigns aimed at raising the awareness regarding respect for defined rules and the benefits brought by the respect for the system in this area.

The activities in the area of regular migration will also be dedicated to development of an analysis for future technical solutions (until the end of 2016) regarding the implementation of the **Directive 2009/50/EC** – concerning »EU blue card« form, in accordance with the **Council Regulation** 1030/2002.

As regards irregular migration, Montenegro is planning additional activities aimed at reaching a full degree of harmonisation with the *acquis*, with the particular emphasis on amendments to the **Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04,

47/06, Official Gazette of Montenegro 40/08, 25/10, 32/11) and **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11, 27/13).

Montenegro will make the **Reception Centre for Foreigners** up and running at the latest by the end of 2013, and will create all the necessary conditions for its unhindered functioning, in accordance with the EU standards and practice. In the context of planning and conducting activities regarding adequate treatment of unaccompanied juvenile migrants, as well as other vulnerable groups, Montenegro will increase the capacities for their accommodation, protection and rehabilitation.

During 2014, further to the plan that was drawn up, in addition to officers of the Border Police Department, training courses will encompass the employees of the Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Justice and the Employment Office.

Montenegro will prepare the action plan for securing accommodation facilities by the end of 2013 in the event a large number of irregular migrants come over a short period of time. In this regard, a meeting was proposed with the competent authorities, primarily with the Armed Forces of Montenegro in Danilovgrad.

In the future, but not later than by the end of 2015, Montenegro will take measures to increase its accommodation, care and rehabilitation facilities for vulnerable groups of migrants. The new Reception Centre for Foreigners will have special rooms for families and minors under 16 if accompanied by a parent or legal guardian, as governed by the Law on Foreigners, while unaccompanied minors will continue to be accommodated at the Group Home for Children and Youth 'Ljubović', following the appointment of legal guardians.

As for **readmission**, along with the implementation of the **Strategy for Reintegration of Repatriated Persons under the Readmission Agreement for 2011-2015** and adoption of a new strategy upon expiry of that period, Montenegro will sign Protocols on implementation of the Readmission Agreements between Montenegro and the European Communities with the remaining EU Member States, in accordance with joint assessments of the potential signatory states. Also, Montenegro will continue to maintain the level of open policy for signing readmission agreements with third countries such as: Russian Federation, Iceland, Georgia and Ukraine.

2. Asylum

Montenegro will perform a detailed analysis of the existing asylum system for the purpose of adopting a **new Law on Asylum** and new secondary legislation that regulates this area. Through the adoption of a new Law on Asylum (in 2015) and secondary legislation (in 2016), Montenegrin legislation will be fully aligned with the **following EU documents:**

Council Regulation (EC) 2725/2000 of 11 December 2000 concerning establishment of “EURODAC“ for the comparison of fingerprints for the effective application of the Dublin Regulation, **Council Regulation** (EC) 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) 2725/2000 concerning establishment of “EURODAC“ for the comparison of fingerprints for the effective application of the Dublin Regulation, **Council Regulation** (EC) 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, **Council Regulation** (EC) 1560/2003 of 2 September 2003 laying down detailed rules for the application of the Council Regulation (EC) 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, **Council Directive** 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, **Directive of the European Parliament and of the Council** 2011/95/EU of 13 December 2011 on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, **Council Directive** 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, **Council Directive** 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between the Member States in receiving such persons and bearing the consequences thereof, **Council Directive** 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

Also, Montenegro will conduct activities aimed at meeting the technical conditions for cooperation within the system of EURODAC and Dublin Regulation and will establish databases that are harmonised with both, the EURODAC system and the Dublin Regulation. For this purpose, an analysis of working processes towards the establishment of the national database (DATA Base) of asylum seekers will be conducted, as well as the analysis of the situation in the field of necessary technical requirements to ensure adequate electronic transfer of data to and from the EURODAC system.

As regards the accommodation for asylum seekers in Montenegro, the key step is making the **Centre for Asylum Seekers** up and running, with 65 beds and the possibility to upgrade to 100 beds, along with establishing an appropriate information system in the

centre. Along with this step, Montenegro will provide accommodation capacities outside the centre (so-called alternative accommodation) in case of a sudden influx with approximately 150 additional beds. In addition, in 2016, Montenegro will provide additional capacities for accommodation of asylum seekers (approximately 150 persons).

The administrative capacities of the Asylum Directorate will be increased in accordance with the EU standards (by the end of 2016), number of employees and translators will be increased, technical conditions for the establishment of a mechanism for the purposes of translation with the countries in the region will be created and reorganisation will be conducted by forming special Departments within the Directorate including:

- Section for procedures (receiving applications and conducting procedure)
- Section for research of information on countries of origin of asylum seekers, networking and electronic update on relevant sources of information concerning the countries of origin of asylum seekers
- Section – Dublin Unit

Montenegro will also prepare adequate staff and other necessary capacities for cooperation with the European Asylum Support Office and use of, in case of need, the European Refugee Fund.

Furthermore, Montenegro will introduce court protection in line with the EU legislation and practice, as under the current Law on Asylum the second instance body – the State Commission in charge of resolving appeals against asylum decisions - is only an administrative body.

In parallel with the aforementioned activities, Montenegro will continuously implement training courses for civil servants and other actors in the asylum system. Among other issues, trainings will touch upon the recognition of asylum seekers, treatment of vulnerable categories, international human rights standards, and other humanitarian standards. Also, upon adopting the new Law and secondary legislation, multilingual brochures for asylum seekers and persons who have been granted protection will be periodically published, so that they can become familiar with their rights and obligations within the asylum system.

3. Visa policy

Montenegro will fully align its visa policy with the EU visa policy before becoming a full-fledged member of the EU. In that respect, the **Schengen Action Plan** will elaborate issues

related to increasing the capacity for receiving confidential information on security details of travel documents and visa forms and their application in practice, several months prior to the full-fledged membership in the EU. The Schengen Action Plan will cover, among other things, the following: **EU Visa Regulation** 539/2001, capacities for reception of confidential information on security details of travel documents and visa forms and their application in practice, several months prior to the accession, **EU Visa Code**, **Visa Information System** and networking with the diplomatic and consular representations of Montenegro, as well as finding alternatives for consular representations of Montenegro abroad by using the EU Member States. Along with the abovementioned, Montenegro will amend the **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11, 27/13) and the appropriate secondary legislation, in accordance with the valid acquis regarding issues of documents safety.

Priorities in the consular representation of Montenegro by other countries are enhancing the present cooperation with the EU Member States representing Montenegro, along with the future conclusion of the representation agreements with the EU Member States and phasing out agreements with countries that are not members of the EU, in line with the Visa Code.

Montenegro will gradually abolish agreements on non-visa regime with third countries. Also, Montenegro will implement concrete activities regarding the development of a quality visa information system and networking of diplomatic and consular representations of Montenegro.

4. External borders and Schengen

Montenegro will implement activities in the area of external borders and Schengen through **four pathways of action**: adopting the Schengen Action Plan, revising the Strategy on integrated border management in line with the EU's IBM concept, improving protection, protecting the external borders and preventing corruption at border crossing points.

In line with the EU Schengen Catalogue, the concept of integrated border management will consist of the following dimensions: border control, detection and investigation of cross-border crime, four-layered model (measures in third countries, cooperation with neighbouring countries, border surveillance, surveillance measures within the free movement area, including return), interdepartmental cooperation and international cooperation and harmonisation of actions taken by member states and Community and Union's authorities.

As regards the **adoption of the Schengen Action Plan**, Montenegro will include the Roadmap regarding the steps that are required to align the national legislation with the Schengen acquis into the Plan. The Schengen Action Plan will contain the following areas:

border control (crossing internal borders, crossing external borders, airports, maritime and river transport, cooperation between the stakeholders, risk analysis); **visas** (common visa policy, single visa form, visa categories, requests for visa issuance, visas with limited territorial validity, consular representation abroad, cooperation, exchange of information and statistics, visa fees); **migrations** (conditions for managing the movements of foreigners, deportation of foreigners, cooperation, exchange of information and statistics, liability of carriers); **police cooperation** (cross-border police cooperation including the establishment of the SIRENE Bureau, exchange of information and statistics for the purpose of meeting the obligations of exchange of information with other Member States under the 24/7 principle); **judicial cooperation** (legal assistance in criminal matters, application of the 'ne bis in idem' principle, extradition, transfer of sentenced persons), the Schengen Information System and personal data protection.

As regards further alignment of the national strategic framework with the EU IBM Strategy, Montenegro will revise the national strategy, in accordance with the defined principles and standards of the EU IBM Strategy and adopt the Action Plan for its implementation. With the aim of quality monitoring of the national strategy implementation, Montenegro will regularly report on the results of implementation on a six-month basis.

Taking into account the importance of the protection of external borders, Montenegro will undertake concrete measures for improving state border protection through a better operational cooperation with the neighbouring countries. Montenegro will particularly implement activities aimed at effective prevention of cross-border traffic via alternate routes.

Through the full implementation of phase IV and V of the system installation, Montenegro will fully establish the system of electronic surveillance of the state border.

As regards the prevention of corruptive actions at the border, Montenegro will implement a set of measures for advancing the fight against corruption at borders, based on the anti-corruption code of ethics, through inter-ministerial cooperation between the competent institutions and joint planning and implementation of activities.

Also, Montenegro will undertake the following activities in the field of external borders and the Schengen system:

- Development of a comprehensive analysis in the field of border control (control of the green and blue borders and border checks at BCPs), in terms of legal, technical, personnel and infrastructure requirements and their costs in view of aligning with the relevant acquis and the EU Schengen Catalogue for external borders control, return and readmission, recommendations and best practices, before EU accession and for

Schengen accession, which improve border control procedures in road, air and maritime transport.

- Conducting training courses on the development, implementation and adaptation to EUROSUR standards - European external border surveillance system and implementation of standards in this area; development of the blue and green border electronic surveillance system in order to get ready for the future connection to the aforementioned system. Since 2011 Montenegro has embraced this idea through various forms of international cooperation and signed a document in which Montenegro accepts to develop CESUR - EUROSUR for the Western Balkan countries.
- Training of border police officers, as required by the EU and the development of a training system based on the EU Common Core Curriculum.
- Training in the field of risk analysis at the state border in accordance with FRONTEX's CIRAM standards and in the field of corruption suppression and detection at the border in accordance with the Study on Anti-corruption measures in EU border control and the best practices from the EU Schengen Catalogue.
- Establishing joint teams, preparing a Study to identify all the alternative roads suitable for the illegal crossing of the state border and the demolition of all secondary roads suitable for the illegal crossing of the state border with the Republic Kosovo, Republic of Albania and the Republic of Serbia.

5. Judicial cooperation in civil and criminal matter

5.1. Judicial cooperation in civil and commercial matters

In the forthcoming period, Montenegro will continue legislative, institutional and administrative reforms with the aim of increasing the level of compliance with the *acquis*.

In the area of judicial cooperation in civil and criminal matters, Montenegro will improve the normative framework, until reaching full alignment with the *acquis* covering this area. Full alignment in this area will be achieved by the date of acquiring fully-fledged membership in the European Union, when the EU regulations in this area will start being directly applied in Montenegro. Until then, Montenegro will incorporate relevant regulations into its system by amending the legislation.

In the field of harmonising national legislation with the *acquis*, as regards judicial cooperation in civil and commercial matters, Montenegro will continue activities launched by

passing the **Law on Private International Law** (*please see part II, 5.5.1*). Apart from that, in 2014 Montenegro will prepare an analysis of national civil and executive legislation aimed at assessing the level of compliance with the *acquis*, and amend the relevant laws on the basis of the results of the analysis (measures foreseen for 2015-2016). For the purpose of additional alignment, Montenegro will undertake activities towards signing and ratifying the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance from 2007 (2015).

In addition to the normative reforms, for the purpose of readiness for full application of regulations as of the date of becoming a member, Montenegro will increase its administrative capacities with adequate planning and additional filling of posts in the relevant institutions, developing and organising training courses in all relevant bodies. In this respect, Montenegro will adequately plan and fill positions in the Ministry of Justice and the Ministry of Labour and Social Welfare for tasks of mutual legal assistance and cooperation in civil and commercial matters as of 2015. In the second half of 2013, Montenegro will enhance inter-institutional cooperation through signing of a memorandum of understanding between the Ministry of Justice, Judicial Training Centre and faculties of law aimed at implementing trainings in the area of international private law and EU law. By December 2013, Montenegro will prepare a general programme of education for judges and prosecutors and representatives of legislative and executive authorities, while the implementation of continuous trainings will start in January 2014.

Also, in the forthcoming period, Montenegro will improve the **mechanisms of statistical reporting** in the area of mutual legal assistance in civil and commercial matters. This will contribute to higher quality analyses of the level of achieving international judicial cooperation and assessing and showing efficiency in dealing with third-country requests. Quality record keeping and operational methods of statistical reporting will present efficient monitoring tools for assessment of the level of regional and international cooperation in the area of judiciary. In this context, Montenegro will establish the information system that will support record keeping in the areas of mutual legal assistance in civil, commercial and criminal matters in 2014. Montenegro, being a contracting party to the Convention on Jurisdiction, Applicable Laws, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, will establish record on application of the Convention during 2014.

5.2. Judicial cooperation in criminal matters

Montenegro will continue the activities regarding the implementation of the Convention of March 1995 on simplified extradition procedure between the Member States of the

European Union, aimed at transposing the Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between the Member States, while taking into account the 2000 Convention on mutual assistance in criminal matters between Member States of the European Union and its Protocol.

As regards improvement of the system for keeping statistics, Montenegro will establish the information system, which will, if possible, be networked with the existing PRIS system with the aim of quality keeping and monitoring of cases of judicial cooperation in civil and criminal matters.

For the purpose of quality implementation of regulations and adequate follow-up of cases in this area, Montenegro will continue international cooperation, especially with the courts of third countries. In order to improve cooperation and conclude an Agreement between Montenegro and EUROJUST, the text of the Law on Personal Data Protection was submitted to EUROJUST in December 2012. The next step is the visit of EUROJUST Delegation to Montenegro, which is scheduled for October 2013.

Recognising that the existing state of human resources and administrative capacities of the central bodies of communication is not at a satisfactory level for meeting obligations in the area of judicial cooperation in criminal matters in a quality and timely manner, Montenegro will implement additional activities towards conducting trainings for all entities included in implementation of regulations in this area. In that context, Montenegro will enhance inter-institutional cooperation through signing of the Memorandum on cooperation between the competent authorities and the Judicial Training Centre.

6. Police cooperation and fight against organised crime

6.1. Police cooperation

Montenegro has identified the main challenges in implementation of the *acquis* covering the area of police cooperation. A special attention and capacities will be put on implementation of the Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (**Prüm Decision**) and Framework Decision 2006/960/JHA simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (**Swedish Initiative**). Special attention is paid to fully establish standards for the protection of personal data, data confidentiality, develop procedures in the field of international police cooperation and implement the most up-to-date IT tools for the use of international databases. Also, the need for signing the **Operational Agreement on Cooperation with Europol has been recognised, as well as for establishing the SIRENE Bureau.**

In that context, Montenegro will continue activities towards the full establishment of required standards for data protection so as to provide unhindered implementation of the operational agreement with Europol. Before that, Montenegro will continue to implement activities concerning the maintenance of the level of readiness for signing the operational agreement with Europol, and then for sending the liaison officer to Europol's seat in The Hague.

As regards development of cooperation in specific issues, Montenegro will establish a secure electronic communication network for mutual access to databases and exchange of information between the services in charge of the application of the law, including the Public Prosecution Office.

In parallel with the afore-mentioned activities, Montenegro will continuously work on increasing its administrative, technical and other capacities, with the aim of reaching the appropriate level of readiness for taking and implementing all the obligations deriving from the new cooperation arrangements and in accordance with the expected results.

One of the sub-areas within the police cooperation, within which Montenegro will implement additional activities, is further participation in cooperation on issues such as security of football matches, motor vehicles-related crime, protection of public figures, participation in joint police operations, fight against terrorism and establishment of joint patrols.

6.2. Fight against organised crime

In the area of fight against organised crime, Montenegro will implement a number of measures reflected both in harmonising the national legal system with the *acquis* and in increasing overall capacities with the aim of achieving concrete results in this area.

As regards the harmonisation of the legal framework, Montenegro will adopt **amendments to a number of existing statutory arrangements including, among others, the Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11, 64/11 and 40/13), the **Criminal Procedure Code** (Official Gazette of Montenegro 57/09, 49/10) and the **Law on Liability of Legal Entities for Criminal Offences** (Official Gazette of the Republic of Montenegro 2/07, 13/07).

Montenegro will conduct a comprehensive analysis of organisational structure, capacities and authorities of state bodies and administration bodies in charge of fighting organised crime and corruption, which will include an overview of key segments in the area of fight against organised crime, along with a proposal for measures for improving all the segments identified within the analysis.

With the aim of increasing the level of efficiency in work of certain structures in charge of the fight against organised crime, Montenegro will establish a separate Special Prosecution Office for the fight against organised crime, corruption, terrorism and war crimes, through adoption of a special law by which the jurisdiction and organisational structure of the Special Prosecution Office for dealing with the cases concerning organised crime and corruption will be regulated, and the basis will be created for establishing a functional connection between the Financial Investigation Unit of the Police Administration and the multidisciplinary team to the Special Prosecution Office.

With EU support, Montenegro will further develop the material and technical capacities of law enforcement authorities in the area of fight against organised crime both by means of implementing already approved projects and by means of applying for the funds from future support programmes, aiming to improve a balance of results achieved. Through implementation of the special activities, Montenegro will increase the capacities and resources of special units within the police for application of secret surveillance measures and increasing the organisational, administrative and technical capacities for implementation of the Intelligence-led Policing (ILP) model at the central, regional, local level in the police and the national (inter-institutional) level. Training courses related to the ILP are of fundamental importance for understanding ILP doctrine in order to successfully apply it and they will be periodically repeated at all levels.

The preparation of the new Law on Prevention of Money Laundering and Terrorism Financing is underway, which will be in compliance with the new recommendations of the Financial Action Task Force on Money Laundering (FATF) and the Fourth EU Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Also, the formation of a working body that will be in charge for development of the National Money Laundering and Terrorist Financing Risk Assessment is underway.

Also, Montenegro will increase the application of sanctions for failure to comply with the legislation and reporting obligations and upgrade the information system of the Administration for Prevention of Money Laundering and Terrorism Financing.

With a view to further improvement of the witness protection system, Montenegro will, among other things, **amend the Law on Witness Protection** (Official Gazette of the Republic of Montenegro 65/04), aiming to redefine the term of *close person*, the number of members and composition of the Commission for the Application of the Witness Protection Programme and other issues of importance for achieving the highest possible level for the functioning of this system.

In the area of **seizure of property**, Montenegro will ensure that the legislative and institutional framework provide for an efficient seizure, confiscation and custody over the property obtained through crime which would result with an increase in number of seizures and confiscations. More specifically, Montenegro will adopt a special law which will determine the procedure for conducting financial investigations and the institution of seizure of assets (substantive and procedural provisions on the seizure of assets, provisions concerning its management, custody and return). In addition to the above, Montenegro will establish an electronic register for seized property. At the organisational level, Montenegro will establish a special body that will handle and manage the seized property.

In the area of **fight against trafficking in human beings**, Montenegro will continue activities with the aim of fully implementing the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA) which will contribute to the improvement of the legislative and institutional framework in this area, in view of a more efficient prosecution of perpetrators of trafficking in human beings and protecting victims of this crime. In this connection, a list of indicators for early identification of victims of trafficking in human beings was developed and it was distributed to all the representatives of institutions whose jobs might cause them to come into contact with potential and real victims of trafficking in human beings/children.

In parallel, Montenegro will further implement the newly-adopted strategic documents in this area, by providing an intensive cooperation between the state institutions with the civil society organisations which are active in the area of fight against trafficking in human beings and with the international organisations. For the purpose of achieving the full level of harmonisation with the acquis covering this area, particularly with **Directive** 2011/36/EU and **Council Directive** 2004/81/EC, Montenegro will adopt **amendments to the Criminal Code** (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08, 25/10, 32/11 and 40/13), **Law on Foreigners** (Official Gazette of Montenegro 82/08, 72/09, 32/11, 53/11 and 27/13) by 2015 inclusive. Montenegro will work on increasing the professional capacities of the representatives of the institutions who, in accordance with their job description, can get into contact with potential and actual victims of trafficking in human beings/children, thus increasing the efforts in

adequately recognising and reacting in the fight against this occurrence. Also, Montenegro will undertake activities aimed at increasing HR and technical capacities of the Shelter for the Victims of Trafficking in Human Beings.

Montenegro will strengthen its capacity for prevention and fight against **cyber crime** and it will continue implementation of **Cyber Security Strategy 2013-2017** and the accompanying action plans. Montenegro will continue harmonisation of its criminal, substantive and procedural laws with the Directive 2013/40/EU on attacks against information systems and replacing Council Framework Decision 2005/222/JHA, as well as with the Directive 2011/92/EU of the European Parliament and of the Council on combating sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2000/375/JHA.

The capacities for fight against cyber crime will be strengthened by setting up of a new unit in the Ministry of Interior - Police Administration, for fight against cyber crime, dedicated to training of employees for various types of situations and the normative framework in the area of cyber crime.

In the area of small arms and light weapons reduction policy, Montenegro adopted the **2013-2018 Strategy for the control and reduction of small arms, light weapons and ammunition**, along with the accompanying action plan for its implementation, which will define all concrete activities that will be undertaken in this area. Apart from that, Montenegro will also **amend the Law on Weapons** (Official Gazette of the Republic of Montenegro 49/04, Official Gazette of Montenegro 48/08, 20/11) and the **Law on Administrative Fees** (Official Gazette of the Republic of Montenegro 55/03, 46/04, 81/05, Official Gazette of Montenegro 22/08, 77/08, 20/11), for the purpose of harmonisation with the acquis, particularly with the **EU Directives** 91/477/EEC and 2008/51/EC.

Montenegro will adopt a **new Law on Weapons**, in order to align with the acquis and to allow owners of weapons whose purchase, possession and carrying is forbidden to surrender these, and persons who do not have a weapon license to apply for the issuance thereof. It is necessary to lay down: the obligation to mark weapons transferred and the European Firearms Pass.

7. Fight against terrorism

With the aim of further developing the overall capacities for the fight against terrorism, Montenegro will implement clearly defined activities towards: prevention, suppression and protection against terrorism, as well as mitigation of damage after a terrorist attack.

Bearing in mind that Montenegro has adopted the National strategy for prevention and suppression of terrorism, money laundering and terrorism financing, Montenegro will implement the action plan for implementation of the said Strategy covering 2013-2014.

As regards the harmonisation with the *acquis*, Montenegro will improve the normative framework in accordance with the **Framework Decision** 2002/475/JHA of the European Parliament and of the Council on combating terrorism and the EU Action Plans for this sector. For the purpose of planning and possible implementation of the necessary activities in the area of protection of the European Critical Infrastructures (ECI), the procedure of identification of the ECI will be conducted, in accordance with the **Council Decision** 2008/114/EC. A special action plan will be adopted for implementation of the United Nations Security Council Resolution 1540.

As for improvement of the safety of warehouses and facilities for keeping explosives, weapons, dual-use goods and other items that can be used for terrorist attacks, Montenegro will continue the process of reconstruction of certain existing warehouses for ordnance. In addition to Taraš, the already reconstructed warehouse of ordnance, Montenegro will complete the initiated reconstruction of Brezovik, and will also reconstruct warehouses Pljevlja and Rogami.

8. Cooperation in the area of drugs

As for cooperation in the area of drugs, Montenegro will implement activities in the legislative, institutional and administrative part, with the aim of additionally increasing the positive results in the preventive and repressive context. The existing regulations provide help of necessary structures in the society for persons having difficulties due to diseases of drug addiction, so the activities of support in the overall treatment and rehabilitation will be continuously conducted, as well as in the process of re-socialisation.

In the legislative segment, Montenegro assesses that it is aligned with the key international standards and the *acquis* covering this area. In the forthcoming period, through implementation of measures from the Action Plan for negotiating Chapter 24 in the area of drugs, as well as through expert trainings, Montenegro will adopt the required standards and practical knowledge and implement them in a direct manner. At the same time, it will also follow future amendments to the *acquis*, so that they can be transposed into the national legal framework for the area of drugs in a due course.

In the area of increasing institutional capacities, Montenegro will enhance inter-institutional cooperation, with a special emphasis on drawing up a Risk analysis and establishing a joint operational team comprising members of the Customs Administration, Border Police Department and the Section for the Fight against Drugs.

As regards the increasing of administrative capacities, Montenegro will strengthen its resources and capacities by gradually upgrading the national monitoring system, building the capacities of the national information unit/NFP and by upgrading the EWS for new psychoactive substances.

Also, under the activities in this context, measures within the Action Plan 24 place a special emphasis on human resources building with a view to intensifying continuous cooperation with the international partners, specifically, among others, with Europol and the EMCDDA.

9. Customs cooperation

In the area of customs cooperation, special attention will be paid and capacities allocated in the near future to get ready for the implementation of **Council Decision** 2009/917/JHA of 30 September 2009 on the use of information technology for customs purposes and the **Convention** on mutual assistance and cooperation between customs administrations (Naples II Convention), adopted on 18 December 1997.

Activities have been conducted in order to **improve the Customs Information System**: in cooperation with DG TAXUD the technical specifications were prepared for the development of a new ICT strategy, on the basis of which the EU Delegation to Montenegro launched an international tender for the selection of the best bidder for the development of the ICT strategy. The procedure has been completed and experts in the field of European customs information systems with knowledge of business processes and experience in the enlargement process are working on the development of the ICT strategy.

Related to the creation of conditions for assuming the obligations under the **Convention** on mutual assistance and cooperation between customs administrations (Naples II Convention), **activities aimed at developing Amendments to the Criminal Procedure Code** (Official Gazette of Montenegro 57/09 and 49/10) are underway in Montenegro, given that the existing Code does not contain provisions relating to the powers of customs officers.

Montenegro will adopt amendments to the **Law on Customs Service** (Official Gazette of the Republic of Montenegro 7/02 and 29/05 Articles 5–35 that are related to the powers of customs officers), as well as certain secondary legislation acts. These activities will be the basis for creating the conditions necessary for the ratification of the NAPLES II Convention, after the accession of Montenegro to the EU. In the fourth quarter of 2015, Montenegro will also amend the Law on Customs Service.

Customs legislation is explained in more details under Chapter 29 - Customs Union.

10. Euro counterfeiting

In the area of Euro counterfeiting, Montenegro will finalise the process of harmonisation of the national legal system with the relevant international standards and the *acquis*, with respect to the 1929 Geneva Convention for the Suppression of Counterfeiting Currency.

With the aim of increasing staff capacities for the suppression of euro counterfeiting, Montenegro will revise the Rulebook on internal organisation and job descriptions of the Ministry of Interior, so as to form the National Central Office in the Division for Suppression of Economic Crime within the Police Administration that is to deal with the issue of euro counterfeiting. Also, Montenegro will technically equip this division of the Ministry of Interior and continuously train the staff aimed at implementing the necessary activities towards suppression of euro counterfeiting in a quality manner.

A particular progress and results in this area are also expected after planned signing of an operational agreement with Europol. Montenegro will continue the international cooperation regarding this issue, not only with Europol but also with the European Central Bank and OLAF, in accordance with the already signed agreements on cooperation.