

**FIRST
EU-MONTENEGRO SUB-COMMITTEE MEETING
ON JUSTICE, FREEDOM AND SECURITY
Podgorica, 6 July 2010**

MINUTES

GENERAL REMARKS

The first meeting of Subcommittee on Justice, Freedom and Security since the entry into force of Stabilisation and Association Agreement was held in Podgorica on 6 July 2010. Prior to the entry into force of the SAA, matters in this area were discussed in the framework of the Enhanced Permanent Dialogue.

Representatives of Montenegrin institutions presented detailed and updated data on progress that Montenegro has achieved since the submission of Questionnaire and expert missions in the area of justice, freedom and security.

- Issues in the area of justice, freedom and security, crucial for creation of final EC Opinion were discussed in the meeting;
- Comprehensive contributions relating to the agenda's points have been prepared and submitted to the European Commission including updated statistics in all areas;
- Good participation of Montenegrin institutions has been ensured;
- In the meeting, European Commission asked for submission of additional written contributions and information relating to certain subjects;

1. MONITORING OF REALISATION OF COMMITMENTS AFTER THE VISA LIBERALISATION

a. Mechanisms for monitoring the realisation of commitments after visa liberalisation

Montenegrin representatives provided detailed information on the state of play of implementing post visa liberalisation obligations as well as data related to border management, number of passengers crossing and implementation of activities in the area of personal data protection. On this occasion, statistics on the number of persons who have crossed in the first 5 months of 2010 at border crossings were presented as well as data on the share within the overall number of Montenegrin nationals and persons whose exit from Montenegro was denied.

The Commission requested that the Minister of Interior and Public Administration notifies on the appointment of a high official (focal point) in charge of implementation and coordination of visa liberalisation process at national level, through an official letter.

The Commission asked to officially respond to the letter of 20 February 2010 of [REDACTED]

The Commission expressed its expectation to receive regular reports on updates on visa liberalisation obligations.

b. Displaced persons / Internally displaced persons / Updated data – Status of implementation of EC recommendations after the mission in February 2010

c. Updated data on cooperation of Coordination Body with UNHCR and other donors? Joint assessment of undertaken measures?

Montenegrin delegation informed the Commission on status of implementation of activities in the area of antidiscrimination, displaced and internally displaced persons as well as on the status of implementation of activities relating to the amount of administrative fees for personal documents of non-Montenegrin nationals, which is specially defined by the Law on Enhancement of Business Environment and the Law on Amendments to the Law on Foreigners. Montenegrin delegation emphasised that the Government shall soon adopt the Decree on manner of realisation of rights of displaced and internally displaced persons on basis of which this category of persons will have free access to labour market in Montenegro.

Following the Commission question the government confirmed that in line with the Decree DPs and IDPs will have access to all rights until 7 November 2011 on the basis of the DP/IDP ID card. The Commission welcomed all the measures undertaken by the government and expressed hope that more DPs/IDPs will apply. If not, additional measures will need to be considered in order to ensure effective implementation of the Law on foreigners.

The Commission will continue to closely follow the issue and asked the government to continue to inform on new developments.

d. Border management

Montenegrin representatives noted that so far 19 border crossing points have been equipped and that until the end of 2009 Montenegro was not in the position to equip all border crossing points. Border crossings which were not equipped within the planned timeframe are small and non-transit points in mountain areas and equipping them with optical readers was not possible during the winter. However, there are mechanical readers in every border crossing point which have the possibility of reading biometric documents. The Police Directorate notified that connecting the remaining border crossing points into a single system is expected by the end of September 2010.

The Commission expressed its concern that all border crossing points were not equipped with optical readers until 31 December 2009 and emphasised that IPA funds are not a single solution in this respect. The Commission put special attention on maritime border crossings and on related implementing activities in order to build capacities and a blue border system network. In addition, the Commission was interested in the status of the Law on Border Control and its implementation.

The Commission asked for further explanations on the reasons for the delays in connecting border crossing points with the national and Interpol databases and for an update on plans for completing the process and on the supply of equipment for passport reading and for taking fingerprints.

The Commission also asked for details on law enforcement cooperation, in particular for more detailed information on the setting up of the Joint Investigative Team and on measures taken to ensure avoidance of overlapping with the work done for establishing a National Coordination Unit.

e. Personal data protection

In the area of data protection the Commission expressed the opinion that activities should be directed to the creation of simpler organisational structures and pointed to the analysis of previous implementation of the Personal Data Protection Strategy with the possibility of its revising.

Montenegrin representatives noted that preparation of Report on Implementation of Personal Data Protection Strategy Action Plan is planned to be completed by the end of IV quarter this year.

In addition, the Commission expressed interest in the functioning of register of foreigners with approved temporary or permanent residence and asked whether regional units of Police Directorate have access to this register. Montenegrin representatives clarified that the Register of Foreigners is part of Central Population Register, that regional units do not have access at this moment but that softer solution is designed in such a manner that regional units could be enabled to dispose of register's data.

The Commission requested for the submission of the Statement and Table of Concordance of the Law on Personal Data Protection with relevant EU Directive.

2. JUDICIARY REFORM

Montenegrin representatives informed the Commission that a decision was taken to implement the Criminal Procedure Code only gradually, starting with the areas of the fight against organised crime, corruption, money laundering and war crimes; only afterwards (by September 2011) all other areas will become subject of the new criminal procedure. This decision has been taken due to a lack of preparation for the new CPC's implementation.

Furthermore, the Montenegrin side informed that an analysis has been prepared assessing a possible new set-up of a first-instance courts network; this analysis is currently being assessed by experts.

The Commission encouraged the preparation of this assessment and expressed its willingness to provide assistance.

The Commission took note of the decision on the gradual implementation of the CPC and requested for a detailed explanatory report on the reasons that led to this decision.

The Commission took note of the status of preparation court management system (PRIS), containing an overview and the status of court cases. ,

The Commission was informed that a proposal for amending the Constitution in order to strengthen the independence of the judiciary is envisaged. A working group will present its findings having taken into account the Venice Commission's recommendations in this field, in September..

The Commission encouraged the Montenegrin side to take into account the recommendations of the Twinning Advisors, in particular in the field of the judicial reform, as these are valuable and tailor made suggestions.

The Commission enquired on the state of play regarding the Law on Electronic Signature and was informed that the law has been adopted but due to lack of adequate technical support its full implementation is not yet ensured..

The Commission was especially interested in a recent first instance judgment [REDACTED] war crimes case and in particular, in receiving an explanation on why the sentences imposed were below the statutory minimum.

The representative of the Supreme Court announced that a translation of the judgment which will be published soon will be submitted to the Commission.

Concerning court statistics, the Montenegrin side committed to provide more detailed statistics on corruption cases (differentiating between high-level and other levels of corruption) and also to detail lists concerning backlog cases (in particular with the type of ruling/decision with which a backlog was solved, e.g when a judgement became final, was appealed, was solved otherwise, etc.).

The Montenegrin government will provide updated statistics in all areas (corruption, organised crime, defamation, backlog cases) in September.

3. JUDICIAL COOPERATION IN CIVIL AND CRIMINAL MATTERS

Montenegrin representatives informed that in the area of cooperation in criminal matters, Montenegro ratified international conventions while in the area of building regional cooperation, a bilateral agreement with Republic of Serbia was signed and an agreement with Bosnia and Herzegovina will be signed on 8 July. Regarding cooperation in civil matters, it was emphasised that the draft Law on Conflict of Laws will be harmonised with the Hague Convention and that three draft ratification laws for three key international conventions in this area are under Parliamentary procedure.

The Commission expressed concern about and interest in the cooperation in criminal matters with the Republic of Serbia in [REDACTED]

[REDACTED]. For this reason, signing an agreement which will define the extradition of own nationals concerning certain criminal offences is expected soon. Montenegro had responded positively in all other matters concerning rogatory letters of the Republic of Serbia.

The Commission asked for a list of ratified international conventions/treaties on criminal and civil cooperation matters.

4. ANTICORRUPTION POLICY

Montenegrin representatives informed that the draft Strategy for Fight against Corruption and Organised Crime and draft Strategy for Fight against Terrorism, Money Laundering and Terrorism Financing will be processed to public hearing until 20 July. Furthermore, they emphasised that legislative framework was harmonised with EU policy to the greatest possible extent. It was noted that it was not possible to fully incorporate the Commission's recommendations since they were submitted only two days prior to the adoption of the draft Strategy by the Government. However, the Strategy's duration was prolonged until 2014, as recommended by the Commission. The Commission's recommendations will be further considered in detail.

The Commission took note of positive trends in the efforts to solve cases with elements of corruption.

Montenegrin representatives informed that on 31 May 2010 there was no unsolved cases in the area of corruption before Supreme and Appellate Courts and that, in accordance with the courts' work plan, the concrete measures on the rotation of judges have been taken. Thus, high level of realisation has been achieved in this area.

The Commission enquired on the Law on Amendments to the Law on Prevention of Conflict of Interest and asked if these amendments will differentiate between politicians and civil servants, so as to better tackle different kinds of conflict of interest. It also encouraged the increase of the powers of the Conflict of Interest Commission so as to enforce recommendations.

Montenegrin representatives informed the Commission that until now 232 officials have been imposed pecuniary penalties and that amendments stipulate extension of the number of public officials as well as more detailed definition of public officials and civil servants. This will contribute to adequate distinction between officials as politicians and civil servants.

Regarding financing of political parties, the Commission expressed its interest in manner of donating for political parties' campaign and the amounts of private donations to political parties.

Montenegrin representatives informed about deadline for ongoing submission of reports on spending of funds for financing election campaign and noted that until now 291 physical persons have been identified as financers of certain political party. Concerning the 2009 elections, 16 criminal charges have been lodged for failure to report (8 against political parties and 8 against parties' leaders). The Commission wanted to know if there is any financial resource outside campaigns which is not reported. Montenegrin representatives explained that basic pillar of the Law on Financing the Political Parties is prohibition of anonymous financing and that reports indicated that certain political parties have not submitted the accounts of revenues on grounds of membership fee, which will be treated in accordance with the law.

5. FUNDAMENTAL RIGHTS

Montenegrin representatives informed that proposal for the Law on Prohibition of Discrimination was adopted by the Government and that it is currently in Parliamentary procedure. Proposal for the Law on Amendments of the Law on Rights and Freedoms of Minorities was adopted by the Government but it cannot be adopted prior to defined three-month deadline, which has already expired.

The Commission asked when the Law on execution of criminal sanctions will be put in line with the International and European standards, namely European Prison Rules from 2006 and enquired in what stage is the preparation of the strategy for the closure of the Konik camp.

Montenegrin representatives informed that the amendments to the Law on criminal sanctions would be adopted by the end of the year. Regarding the issue of Konik Camp, several meetings have been held at level of line ministries led by the Ministry of Labour and Social Welfare, Refugee Care and Support Office and the Capital with a view to preparing the activity plan which will be discussed by the Government and then forwarded to Delegation of European Union.

The Commission underlined that it is ready to financially contribute to the resolution of the Konik camp issue if the government takes ownership over the process and presents sustainable and long term strategy.

6. VISA AND ASYLUM POLICY

The Commission was particularly interested in Montenegro's visa policy in third countries in which Montenegro does not have diplomatic missions or consular offices and in the list of persons to whom a Montenegrin visa was granted, whether there are special visa and applications and whether there were certain amendments to the visa legislation.

Montenegrin representatives explained that Montenegro decides upon granting visa to third country applicants by issuing approvals, after which diplomatic missions and consular posts representing Montenegro in a particular third country (e.g. of Serbia or Bulgaria) grant visa for their own countries which are also valid for Montenegro. Furthermore, it was stated that Montenegro has a registry of all persons to whom Montenegrin visa have been issued.

The Commission suggested organising in the autumn of 2010 a technical meeting between colleagues responsible for implementing the Schengen Agreement, in order to create clear guidelines for further work in the area of visa policy.

In the area of asylum policy, the Commission raised the issue of completing the construction and operating the Centre for Reception of Asylum Seekers. Montenegrin representatives explained that the infrastructural phase of the project will be completed by the end of the year, after which equipment will be purchased. It is expected that the Centre will become operational by mid-2011. It was emphasised that activities have simultaneously been carried out as regards the construction of the Centre for Reception of Foreigners.

Following an additional question put forward by the Commission regarding the implementation of the EU – Montenegro readmission agreement, Montenegrin representatives informed that the signing of bilateral implementation protocols is under way.

The Commission requested to receive a written report on all issues related to visa policy with special emphasis on the system of Serbia and Bulgaria issuing visa on behalf of Montenegro (in particular on the question whether this is a long strategy or only an intermediary solution) and on the security protection of visa stickers and preparations for issuing visa. The Commission suggested to organise a technical meeting in Brussels.

The Commission also requested further information concerning the EU – Montenegro readmission agreement – detailed information/statistics as regards readmissions/denied readmissions for 2009 and 2010 (differentiated between EU Member States) including the reasons for denial; a list of EU Member States with which an implementing protocol has been signed and when or is being negotiated. This information is particularly relevant in view of the upcoming readmission committee at the end of 2010 or beginning of 2011.

The Commission was also interested to receive detailed information on Montenegrin citizens who had been denied exit to the EU – legal basis of these decisions, information on which ports/airports are concerned, number of Montenegrin citizens concerned in relation to all exits of Montenegrin citizens since visa liberalisation, details on implementation and reasons for denial).

7. POLICE COOPERATION, FIGHT AGAINST ORGANISED CRIME AND TERRORISM

Upon the Commission's request, Montenegrin representatives informed on the work of Joint Investigation Team, explaining that the Team has been established for the purpose of more efficient exchange of intelligence data. So far, the Team has reacted in four cases in which the investigation is under way. The Commission was also informed about the idea for establishment of the National Coordination Office, which would support operation of the Team, was proposed for IPA 2011.

The Commission asked about the method of division of tasks and exchange of information between the Joint Investigation Team and the National Coordination Office, with emphasis put on possible overlapping of competences.

The Commission was informed that each state body conducts investigation within its competences and afterwards submits data to the Team, on the basis of bilateral agreements signed between institutions whose representatives are in fact members of the Team.

Montenegrin representatives provided detailed information on reasons for postponement of implementation of the Code, emphasising that the main problems lie in infrastructural and technical capacities: the Supreme Public Prosecutor's Office has the problem with premises and surveillance measures within mobile providers that constantly enhance their technologies, while the courts do not have organisational capacities to implement all the measures, since the innovations introduced by the Code entail measures requiring major organisational changes.

The Commission expressed concern over the decision on the gradual implementation of the CPC but also emphasized the need for preparations to be completed in order for the CPC to be smoothly and efficiently implemented.

The Commission expressed special interest in information about the institution responsible for confiscation of property, the management of such property and nature of property that could be confiscated as provided by the legislation. The Commission was also interested in activities of the Public Property Administration, especially as regards capacity strengthening, expressing its concern over the fact that only four employees deal with confiscation of property.

Concerning competences in the area of property confiscation, Montenegrin representatives explained that under the new CPC, the courts have been made the competent body to decide on confiscation while enforcement is with the Police Directorate. The new Rulebook on Internal Organisation and Job Description of the Public Property Administration will be adopted at the forthcoming session of the Government, thus creating basis for further improvement of capacities of this state administration body.

The Commission expressed its readiness to provide additional support and assistance in this area.

The Commission was also informed on activities related to preparation of the Strategy for the Fight against Organised Crime and Corruption, along with preparation of the Action Plan. The Commission expressed the opinion that the Strategy has not been thoroughly elaborated and that there is no risk analysis provided.. Montenegrin representatives responded that this will be partly covered by the Action Plan but also through improvements to the final text of the Strategy.

The Commission requested to receive a report on work of the Joint Investigation Team.

8. DRUGS – DEMAND AND SUPPLY REDUCTION

Montenegrin representatives informed that the Government established the National Council for Fight against Drugs in March 2010, chaired by the President of Montenegro. Thus far, the Council has adopted a set of recommendations, including the establishment of 21 municipal offices for fight against drug addiction which will communicate with Police regional units and local self-government units as well as with users of narcotics, their parents and interested citizens. Representatives of the Police Directorate informed on activities since the submission of the report to [REDACTED]

[REDACTED] Also, a new Rulebook on Internal Organisation and Job Description of the Police Directorate is expected to be adopted, through which the Division for Fight against Narcotics will be strengthened.

The Commission expressed its expectations that activities of the border police will be intensified in the forthcoming period, as well as that cooperation with the Customs Administration in this area will be improved.

The Commission expressed special interest in delay in adoption of the new Law on Police, and requested to receive a report on the status of activities related to adoption of the new law and of the new Rulebook on Internal Organisation and Job Description of the Police Directorate.

9. IPA ASSISTANCE IN THE AREA OF JUSTICE, FREEDOM AND SECURITY

The Commission was interested to hear the Montenegrin representatives' opinion on effects of IPA funds in the previous period, as well as their opinion on areas that could be subject to further EU attention in allocation of IPA funds and creation of EU financial framework in this area.

Montenegrin representatives were unanimous in position that the policy had been previously focused on enhancement of capacities of Montenegrin institutions in terms of infrastructure and human resources. They expressed their belief that support in the area of justice, freedom and security will continue to be provided in the future at the same level as before.

The Commission invited the Montenegrin side to make good links between the policies pursued and targets to be achieved and the IPA programmes submitted and funds requested. It encouraged the Montenegrin side to focus on priority areas and to avoid dispersing funds as well as to use lessons learnt to bring about improvements.

10. CONCLUSIONS

The Commission requested the Montenegrin side to submit the requested additional information by 15 July, including the official letter of the Minister of Interior and Public Administration on appointment of a high official responsible for implementation and coordination of visa liberalisation at national level.

The Commission expressed its satisfaction with the information already received and the quality in the organisation of the meeting. Assessing that the meeting will assist Montenegrin authorities in further streamlining their work and coordination of activities.

For the European Commission



For Montenegro

